



**DOH Contract #N16099**

**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 MOU replaces the following:

- 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

**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 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. This MOU establishes the following:

1. Coordination procedures for water rights administration in the review and approval of:
  - Water systems plans and water system updates.
  - Water system plan amendments.
  - Small water system management programs.
  - Intertie proposals.
  - Engineering documents requesting new source approval.
  - Engineering documents requesting an increase in approved number of connections from DOH's existing records.
  - Engineering documents requesting a new water system approval.

These procedures apply to all Group A water systems and Group B water systems where there is an instream flow water reservation (i.e. an instream flow rule that establishes a reservation allowing limited water use).

2. Procedures for expanding a municipal water supplier's water rights place of use through a planning or engineering document.
3. Coordination procedures between Ecology's Water Resources Program, Ecology's Shorelands and Environmental Assistance Program, and DOH in the "not inconsistent" review of planning and engineering documents with any watershed plan approved under chapter 90.82 RCW and adopted under chapter 90.54 RCW.
4. Procedures for determining compliance with the terms of a water system plan or small water system management program.
5. Procedures for determining when a water system is considered failing because of public health and safety concerns and for expediting the review of water right approvals and transfers for those water systems.
6. Procedures for how water use efficiency requirements will be considered when reviewing water right applications filed by water systems.
7. Procedures for determining and documenting which water systems are considered municipal water suppliers and which water rights held by such water systems are considered water rights for municipal supply purposes.
8. Procedures for determining sufficient reliability for water systems proposing the use of interruptible water rights.

#### **AGENCY RESPONSIBILITIES RELATED TO THE MOU**

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's Water Resource Program 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. Ecology's Shorelands and Environmental Assistance Program in conjunction with local planning groups, conducts watershed planning under chapter 90.82 RCW.

## **AGENCY ROLES**

DOH will:

1. Designate an interagency coordination liaison. The liaison will coordinate on any emerging statewide water resources issue affecting water systems and assist with consistency and coordination between regions in implementation. The liaison will coordinate joint procedures and outreach.
2. Provide an opportunity for Ecology to comment on planning and certain engineering documents. DOH will forward water system plans, small water system management programs, source approval projects, documents proposing an increase in a water system's number of approved connections, new water system approvals, and intertie proposals to Ecology. DOH will require the public water system to respond to Ecology's comments pertaining to water rights and watershed planning. DOH will provide the final approval to Ecology.
3. Determine whether the planning and engineering document is "not inconsistent" with local plans and regulations for purposes of modifying a municipal water supplier's water rights place of use, under RCW 90.03.386(2), to the water system's service area.
4. Under RCW 90.03.386(2) and 90.03.570, determine a municipal water supplier's compliance with its approved water system plan or small water system management program regarding the following elements:
  - Plan approval date.
  - Water use efficiency.
  - Service area identification.
  - Local government consistency.
  - Water systems with 1,000 or more connections – reclaimed water evaluation.

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.

5. Support appealable enforcement 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 not require a water system to disconnect existing customers.

6. Determine if a water system is failing under RCW 90.03.580 and WAC 173-152-050 and notify Ecology.
7. Annually consult with the following agencies per RCW 90.82.048(3), to identify if additional coordination is needed between watershed planning and water system planning:
  - Ecology.
  - Department of Community, Trade, and Economic Development.
  - Department of Fish and Wildlife.
8. Annually compile a list of water systems required to update their water system plan in the coming year and any others known who may develop a new water system plan. Share this information with Ecology electronically.
9. Provide Ecology access to water system data, including population and connection information, to use when determining whether a water system is a municipal water supplier and other data as appropriate and available.

Ecology will:

1. Designate an interagency coordination liaison. The liaison will coordinate on any emerging statewide water resources issue affecting water systems and assist with consistency and coordination between regions in implementation. The liaison will also coordinate joint procedures and outreach.
2. Review and submit comments on planning documents within 60 days and engineering documents within 30 days as resources permit. 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 other comments on water resources related topics where there is a statutory requirement.
3. Determine whether planning and applicable engineering documents are “not inconsistent” with any watershed plan 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).
4. Under RCW 90.03.386(2) and 90.03.570, determine a municipal water supplier’s compliance with its approved water system plan or small water system management program regarding water rights.

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.

5. 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.
6. Consult with and request comments from DOH when developing or updating water resources or watershed planning rules affecting water systems.
7. When making water right decisions, use water use efficiency plans developed under chapter 246-290 WAC and other water system data available in DOH's planning and engineering documents. If a water use efficiency plan has not been approved by DOH, Ecology may require a water use efficiency plan be developed that is consistent with DOH's rules and guidance. In certain situations, 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.
8. Ecology, including both the Water Resources Program and the Shorelands and Environmental Assistance Program, will participate in DOH's annual watershed consultation to identify if additional coordination is needed between watershed planning and water system planning.
9. Make evaluations as 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.
10. Work with local entities to maintain place of use service area maps for municipal water suppliers who expand their place of use under RCW 90.03.386(2).

### **GENERAL COORDINATION AND APPLICABILITY**

Ecology and DOH will develop or modify guidance documents in order to implement this MOU. Staff will consider these guidance documents operating procedures. When modifying documents that affect both agencies, both agencies must agree to the changes. The following list includes guidance documents that may be developed:

1. Joint Review Guidance for Planning and Engineering Documents (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 Form (DOH and Ecology).
3. How to Determine who is a Failing Water System and how to Expedite the Water Rights Process Guidance (DOH and Ecology).
4. Service Area Fact Sheet (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 Checklist (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 Approval (Ecology).

### **GENERAL PROVISIONS**

This MOU shall take effect and be fully implemented by both agencies when signed by both parties.

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.

<b>The Liaison for Ecology is:</b>	<b>The Liaison for DOH is:</b>
Doug Rushton Department of Ecology Water Resources Program PO Box 47600 Olympia, WA 98504-7600 Phone: 360-407-6513 FAX: 360-407-6574 E-mail: drus461@ecy.wa.gov	Mike Dexel Department of Health Office of Drinking Water PO Box 47822 Olympia, WA 98504-7822 Phone: 360-236-3154 FAX: 360-236-2252 E-mail: michael.dexel@doh.wa.gov

**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

Department of Health

\_\_\_\_\_  
Ken Slattery  
Water Resources Program Manager

\_\_\_\_\_  
Denise Addotta Clifford, Director  
Office of Drinking Water

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Department of Health

\_\_\_\_\_  
Contracts Office

Date: \_\_\_\_\_