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450.01 Introduction

This chapter combines several former EPM chapters dealing with land use, including Chapters 450 (Land Use), 451 (Land Use, Land Use Plans and Growth Management), 452 (Coastal Areas and Shorelines), 453 (Wild and Scenic Rivers), 454 (Farmland and Agriculture), and 455 (Public Lands, Section 4(f), 6(f), and Forests). It now identifies all of the statutes and regulations, policy guidance, interagency agreements, technical guidance, and permits and approvals pertaining to land use that should be considered in the Project Scoping and Design and Environmental Review process for a transportation project or program to:

- Determine if there are any environmental laws and regulations with land use-related requirements that may apply;
- Determine if the project or program will cause any land use impacts (i.e., any changes in the use of uplands, shorelands, or aquatic lands, or in the ability of property owners to use their land for an existing or allowed land use), either directly, indirectly, or cumulatively;
- Determine if those impacts are likely to be significant, or potentially significant, and thereby require preparation of a land use discipline report;
- Identify the information that should be included in a land use discipline report;
- Determine if the transportation project or program will be consistent with any applicable land use plans and implementing regulations;

*Web sites and navigation referenced in this chapter are subject to change. For the most current links, please refer to the online version of the EPM, available through the WSDOT Environmental Services Office (ESO) home page: <http://www.wsdot.wa.gov/environment/>

- Determine if a Section 4(f) Evaluation and/or Section 6(f) property conversion package will be needed for the project or program; and
- Determine if any land use permits or approvals will be required for the project or program.

For more information on the relationship between land use and transportation planning, and on the various land use-related permits identified in this chapter, see **Part 2 – Transportation Planning**, and **Part 5 – Environmental Permitting and PS&E**, respectively.

(1) **Summary of Requirements**

Washington State transportation projects must comply with a variety of federal, state, and local laws and regulations relating to land use. Some of these laws and regulations require decision-makers to consider the land use impacts of a project, as well as any potential mitigation for those impacts. Some also require compensation for certain land use impacts, such as any acquisitions of property that convert lands from their existing land use to a transportation land use. Other laws and regulations require special consideration or protection for lands devoted to certain uses (like farming and recreation) and mitigation for any unavoidable impacts to them. Others require permits for any proposed land uses or land development activities, and some of these also require consideration of a project's consistency with any applicable land use plans and implementing regulations or other requirements before a permit can be issued.

(2) **Abbreviations and Acronyms**

Abbreviations and acronyms used in this chapter are listed below. Others are found in the general list in **Appendix A**.

BNSF	Burlington Northern Santa Fe (Railway)
CFP	Capital Facilities Plan
CZMA	Coastal Zone Management Act
CZMP	Coastal Zone Management Program
FPPA	Farmland Protection Policy Act
GMA	Growth Management Act
LESA	Land Evaluation and Site Assessment
LOS	Level of Service
NRCS	Natural Resources Conservation Service
RCFB	Recreation and Conservation Funding Board
RTPO	Regional Transportation Planning Organization
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SMA	Shoreline Management Act
SMP	Shoreline Master Program

(3) Glossary

See **Appendix B** for a general glossary of terms used in the EPM.

All Possible Planning – All reasonable measures identified in the Section 4(f) evaluation to minimize harm or mitigate adverse impacts and effects.

Concurrency – Adequate public facilities and services are available when the impacts of development occur, or within a specified time thereafter. For locally-owned transportation facilities, the maximum specified time is six years from the time of development.

Constructive Use – A constructive use occurs when the transportation project does not incorporate land from a Section 4(f) property, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a property for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished.

De minimis Impact – For historic sites, de minimis impact means that the appropriate administering agency has determined, in accordance with 36 CFR Part 800, that no historic property is affected by the project or that the project will have "no adverse effect" on the historic property in question. For parks, recreation areas, and wildlife and waterfowl refuges, a de minimis impact is one that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

Enforceable Policies – Under the CZMA, legally binding policies (such as constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions) by which a state exerts control over private and public land and water uses and natural resources in the coastal zone.

Essential Public Facilities – Public facilities that are typically difficult to site, including airports, state or regional transportation facilities and services of statewide significance as defined in RCW 47.06.140 (including improvements to such facilities and services identified in the statewide multi-modal plan), and other public facilities that are typically difficult to site.

Farmland of Statewide or Local Importance – Farmland, other than prime or unique farmland, that is of statewide or local importance for the production of food, feed, fiber, forage, or oil-seed crops, as determined by the state or local government agency or agencies, using U.S. Department of Agriculture guidelines.

Feasible and Prudent Avoidance Alternative – A feasible and prudent avoidance alternative avoids using Section 4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property.

Level of Service – An established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need. [WAC 365-195-210] For transportation facilities and services, level of service may be measured at an intersection, road segment, traffic corridor or zone, and may be based on traffic volume compared to facility capacity, travel time, or multiple variables (e.g., distance traveled, road conditions, or safety hazards).

Navigable Waters or Navigable Waters of the United States – Those waters of the United States including the territorial seas that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity. [33 USC 1362(7) and 33 CFR 329.4]

Official(s) With Jurisdiction (Section 4(f)) – Means the official(s) with jurisdiction as defined in 23 CFR 774.17.

Prime Farmland – Land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion. Prime farmland includes land that possesses the above characteristics and may include land currently used as cropland, pastureland, rangeland, or forestland. It does not include land already in or committed to urban development or water storage.

Section 4(f) Evaluation – Documentation prepared to support the granting of a Section 4(f) approval under 23 CFR 774.3(a), unless preceded by the word “programmatic”. A “programmatic Section 4(f) evaluation” is the documentation prepared pursuant to 23 CFR 774.3(d) that authorizes subsequent project-level Section 4(f) approvals as described therein.

Section 4(f) Property – Publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or any land of an historic site of national, state, or local significance.

Section 6(f) Property – Any property acquired or developed with financial assistance under Section 6(f) of the federal Land and Water Conservation Fund Act.

Shorelands – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA, as designated by the department of Ecology. (However, local governments may include the entire 100-year floodplain and GMA critical area buffers in their regulated shorelands.)

Shorelines – All water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: shorelines of statewide significance; shorelines on stream segments with a mean annual flow of 20 cubic feet per second or less and their associated wetlands; and shorelines on lakes smaller than 20 acres and their associated wetlands.

Shorelines of Statewide Significance – Those shorelines of the state listed in RCW 90.58.030(2)(e).

Shorelines of the State – The total of all “shorelines” and “shorelines of statewide significance” within the state.

Substantial Development – Any development of which the total cost, or fair market value, exceeds \$5,000, or any development that materially interferes with normal public use of the water or shorelines of the state.

Unique Farmland – Land other than prime farmland that is used for production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include lentils, nuts, annually cropped white wheat, cranberries, fruits, and vegetables.

Urban Growth Area – Those areas designated by a county pursuant to the Washington State Growth Management Act, which are planned to support urban-type development and densities within the next 20 years.

Use (of Section 4(f) Property) – A “use” of Section 4(f) property occurs when land is permanently incorporated into a transportation facility; when there is a temporary occupancy of land that is adverse in terms of the statute’s preservation purpose as determined by the criteria in 23 CFR 774.13(d); or when there is a constructive use of a Section 4(f) property as determined by the criteria in 23 CFR 774.15.

Waters of the State or State Waters – Lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington. [RCW 90.48.020]

Waters of the United States – Those waters listed in 33 CFR 328.3(a). (See also Section 431.02(1)(b).)

450.02 Applicable Statutes and Regulations

This section lists the primary statutes and regulations applicable to land use and growth issues. For a complete list of statutes and regulations referenced in the EPM, see **Appendix D**. Permits and approvals required pursuant to these statutes are listed in **Section 450.06**.

(1) Federal**(a) National Environmental Policy Act**

The National Environmental Policy Act (NEPA), 42 USC 4321 et seq., requires that all actions sponsored, funded, permitted, or approved by federal agencies be reviewed to ensure that environmental considerations such as impacts on land use are given due weight in project decision-making. Federal implementing regulations are at 40 CFR 1500-1508 (CEQ) and 23 CFR 771 (FHWA and FTA). (CEQ regulations require that an EIS include discussion of possible conflicts between the proposed action and the objectives of federal, tribal, regional, state, and local land use plans, policies, and controls for the area concerned, and the extent to which the agency would reconcile its proposed action with the plan or law.) For details on NEPA requirements and procedures, see **Chapter 410**, **Chapter 411**, and **Chapter 412**.

(b) Clean Water Act

The Water Pollution Control Act (33 USC 1251 et seq.), better known as the Clean Water Act (CWA), provides for comprehensive federal regulation of all sources of water pollution, including discharges of dredged or fill material into waters of the United States, which include most wetlands. It also requires a U.S. Army Corps of Engineer's permit and certification by the Department of Ecology that a proposed discharge will meet state surface water quality standards and be consistent with the state's Coastal Zone Management Program. Refer to **Section 430.02** for more information.

(c) Rivers and Harbors Act

Section 10 of the Rivers and Harbors Act (33 USC 410 et seq.) requires authorization from the U.S. Army Corps of Engineers for construction of any structure in or over any navigable waters of the United States, the excavation/dredging or deposition of material in these waters, or any obstruction or alteration in a navigable water. It also requires certification by the Department of Ecology that the construction or alteration will meet state surface water quality standards and be consistent with the state's Coastal Zone Management Program. A Section 10 permit is also required for any structure or work outside the limits defined for navigable waters if it affects the course, location, condition, or capacity of any navigable water. For information on Section 10 permits, see **Section 520.03**. Section 9 of the Act requires USCG approval for any bridge over navigable waters; see **Section 520.04**.

(d) Coastal Zone Management Act

The Coastal Zone Management Act (CZMA), codified at 16 USC 1452 et seq., authorizes and encourages states to develop Coastal Zone Management Programs (CZMPs) that provide for the protection of natural

resources and the management of coastal development. All federal agency projects or other projects requiring a federal license or permit must be consistent with the enforceable policies of a state's approved CZMP. Implementing regulations are at 15 CFR 923-930.

Washington State has a Coastal Zone Management Program administered by the state Department of Ecology (Ecology) that applies to all activities within Washington's 15 coastal counties. Cities and counties can also develop local management plans that must be approved by Ecology.

In Washington, the primary enforceable policies of the CZMA are SEPA, the Shoreline Management Act (SMA), state Clean Water Act, and Clean Air Act, and their implementing regulations. Procedures for certifying consistency with these policies are described in **Section 540.03**.

(e) Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (PL 90-542, 16 USC Chapter 28) designates certain rivers (or river segments) for special protection (and administration by a specified federal agency) to preserve them in a free-flowing condition and protect their immediate environments for the benefit and enjoyment of present and future generations. The act also identifies various "Study Rivers" for possible inclusion in the Wild and Scenic Rivers System, and it sets up a process for states to propose additional state-administered components for approval by the Secretary of the U.S. Department of the Interior.

The act also requires the administering federal agency to prepare and implement a comprehensive management plan for each designated river segment (which is classified as a wild, scenic, or recreation river) to address resource protection, development of land and facilities, user capacities, and other management practices. The administering agency must also determine whether any development that would affect the free-flowing characteristics of a Wild and Scenic River or Study River would have a direct, adverse effect on the river's established values. For Wild and Scenic Rivers, considerable emphasis is placed on avoidance of in-water impact if possible.

Federally designated Wild and Scenic Rivers within Washington State (all of which are administered by the Secretary of Agriculture through the U.S. Forest Service in accordance with 36 CFR 297) include:

- Skagit River, including various segments of its Sauk, Suiattle, and Cascade tributaries, upstream of the pipeline crossing at Sedro Woolley, classified as a wild and scenic river.
- Klickitat River from Wheeler Creek to the confluence with the Columbia River, classified as a recreational river.

- White Salmon River from the confluence of Gilmer Creek (near the town of BZ Corner) to the confluence with Buck Creek, classified as a part wild and part scenic river.

Federally designated Study Rivers within Washington State include:

- Klickitat River upstream of the confluence of the Little Klickitat River to the Yakama Indian Reservation boundary.
- Skagit River from Mount Vernon to and including the mouth of Bacon Creek, plus additional segments of its Sauk, Suiattle, and Cascade tributaries.
- Snake River from the town of Asotin to the Oregon state line.
- White Salmon River upstream of the confluence with Gilmer Creek.

For more information about this legislation, designated rivers, Study Rivers, federal management agencies, and protection requirements, see **Section 520.12** and the National Wild and Scenic Rivers Web page at:

 <http://www.rivers.gov/>

Also, for information on a Presidential Directive requiring protection for rivers in the Nationwide Rivers Inventory in a fashion comparable to Wild and Scenic Rivers (if they are suitable for inclusion in the Wild and Scenic Rivers System), see **Section 450.03**.

(f) Farmland Protection Policy Act

The purpose of the Farmland Protection Policy Act (FPPA) of 1981 (7 USC 4201 et seq.) is to minimize impacts on farmland and maximize compatibility with state and local farmland programs. Farmlands are classified as prime, unique, or of statewide or local importance. The following types of land are exempt under the FPPA:

- Soil types not suitable for crops (such as rocky terrain and sand dunes).
- Urban sites where the right of way required for a highway project is wholly within a delineated urban area and the project requires no property from prime or unique farmland or farmland of statewide or local importance.
- Farmland that has already been converted to industrial, commercial, residential, or recreational activity.

Further information about the FPPA, including its implementing regulations in 7 CFR 658 for documenting compliance, is available on a Natural Resources Conservation Service (NRCS) Web site at:

 <http://www.nrcs.usda.gov/programs/fppa>

The regulations require the use of a Land Evaluation and Site Assessment (LESA) scoring system for determining a project's potential impacts as well as a Farmland Conversion Impact Rating Form (Form AD-1006) for documenting the final decision on a project.

(g) Section 4(f) – Department of Transportation Act

Section 4(f) of the 1966 Department of Transportation Act [now codified at 49 USC 303, but still popularly referred to as “Section 4(f)”] declares a national policy to preserve, where possible, “the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.” It also states that the FHWA and other USDOT agencies cannot approve any transportation program or project that requires the use of any Section 4(f) property (as defined in the glossary in Section 457 or **Appendix B**), unless:

- The transportation program or project will not have more than a de minimis impact on the area; or
- There is no feasible and prudent avoidance alternative to using the property; and
- The transportation program or project includes all possible planning to minimize harm to the property resulting from such use.

The provision for a de minimis impact determination was added to the statute in 2005 under SAFETEA-LU, along with some criteria for determining whether the impacts of a program or project will be de minimis. Definitions for the terms “de minimis impact,” “feasible and prudent avoidance alternative,” and “all possible planning” are provided in a new FHWA/FTA rule (at 23 CFR 774) that replaces the previous Section 4(f) provisions in 23 CFR 771. The new rule defines a feasible and prudent avoidance alternative as one that avoids using Section 4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property. It also outlines several factors that should be considered when determining whether any alternative is a feasible and prudent avoidance alternative.

When a project's proximity impacts are so severe that the protected activities, features, or attributes are substantially impaired, then a feasible and prudent avoidance alternative analysis must be completed (through a Section 4(f) evaluation) even if the project does not actually intrude into the Section 4(f) property. Such impacts constitute “Constructive Use” of the site and may include:

- Resources affected by noise levels.
- Aesthetic features of the resource compromised by the transportation facility.
- Access restricted, substantially diminishing the utility of the resource.

- Vibrations impair use of the resource and diminish the value of wildlife habitat.

To determine if a Section 4(f) evaluation is needed, and prepare one if needed, see **Chapter 457** and the WSDOT Land Use Discipline Report Checklist referenced in **Section 450.05**.

(h) Section 6(f) – Land and Water Conservation Fund Act

This statute [codified at 16 USC 4601-8(f)] applies to all projects that would convert any public outdoor recreation land purchased or developed with financial assistance from the Land and Water Conservation Fund to a use other than public outdoor recreation. In Washington State, the Recreation and Conservation Funding Board administers the fund in accordance with WAC 286-40. The Secretary of the Interior must approve any such conversions, which require the substitution of other recreation property of at least equal fair market value and reasonably equivalent usefulness and location along with a determination that the conversion is in accord with the existing Statewide Comprehensive Outdoor Recreation Plan.

For a checklist of information needed for approval of a Section 6(f) property conversion, see **Section 450.05**.

(i) National Trails System Act


The National Trails System Act (16 USC 1241-1251) was established in 1968 to provide for recreation, public access, enjoyment, and appreciation of the “open-air,” outdoor areas and historic resources of the nation.” It also requires federal agencies, including the USDOT, having jurisdiction or control over or information concerning the use, abandonment, or disposition of roadways, utility rights-of-way, or other properties suitable for the purpose of improving or expanding the national trails system to cooperate with the Secretary of the Interior and the Secretary of Agriculture to assure that such properties may be made available for such use. The Act is available at:

 <http://www4.law.cornell.edu/uscode/16/ch27.html>

(j) Wilderness Act

The federal Wilderness Act of 1964 (16 USC 1131-1136) establishes a national wilderness preservation system to protect unspoiled lands from encroachment by “permanent improvements or human habitation.” It also makes each agency administering a wilderness area responsible for preserving the wilderness character of the area, where no permanent or temporary roads, or any use of motor vehicles can be allowed.

The Act is available at:

 http://www4.law.cornell.edu/uscode/html/uscode16/uscode_sup_01_16_10_23.html

(k) Uniform Relocation Assistance and Real Property Acquisition Policies Act

This statute (42 USC 4601) passed in 1970 and amended, establishes a uniform policy on relocation assistance and on real property acquisition practices. The policy on relocation assistance is intended to ensure the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a federal agency or with federal financial assistance. (A displaced person can include any individual, family, partnership, corporation, or association who moves or moves their personal property from the real property affected.) The primary purpose of this subchapter of the Act is to minimize the hardship of displacement on such persons and ensure that they do not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public.

The policy on real property acquisition practices is intended to encourage and expedite the acquisition of real property by agreements with owners, avoid litigation, and relieve congestion in the courts, assure consistent treatment for owners in many federal programs, and promote public confidence in federal land acquisition practices.

The Act and USDOT's implementing regulations in 49 CFR Part 24 are available on an FHWA's Web site at:

 http://www.fhwa.dot.gov/realestate/row_legs.htm

(2) State

(a) State Environmental Policy Act

The State Environmental Policy Act (SEPA), requires that all major actions sponsored, funded, permitted, or approved by state and/or local agencies be reviewed to ensure environmental considerations such as impacts on land use are given due weight in decision-making. State implementing regulations are in WAC 197-11 (Ecology) and WAC 468-12 (WSDOT). Factors to consider in determining whether a project will cause any land use, housing, recreation, or other impacts are specified in WAC 197-11-960, available at:

 <http://apps.leg.wa.gov/WAC/default.aspx?cite=197-11-960>

For details on SEPA procedures, see **Chapter 410**, **Chapter 411**, and **Chapter 412**.

(b) Planning Enabling Statutes

Three planning enabling statutes and the home rule provisions of the state constitution authorize planning at the local level in Washington State. Counties can adopt a comprehensive plan and zoning regulations under the authority of the Planning Commission Act (RCW 35.63) or the Planning Enabling Act (RCW 36.70), and cities and towns can adopt a comprehensive plan and zoning regulations under the authority of the

Planning Commission Act or the Optional Municipal Code Act (RCW 35A.63). Cities with a population of 10,000 or more may instead choose a home rule form of government with a charter that may include planning and zoning powers. The Growth Management Act, as described below, specifies the elements that must be planned and additional criteria to be followed.

Under these statutes, the planning agency must indicate whether any proposed project does or does not conform to the comprehensive plan and may include proposals that would make the project conform. The Planning Enabling Act also requires that local comprehensive plans and development regulations discourage the siting of incompatible land uses adjacent to general aviation airports operated for the benefit of the general public (RCW 36.70.547).

(c) Growth Management Act

The Washington State Legislature adopted the Growth Management Act (GMA) in 1990, and significant amendments were made in 1991 under the Growth Strategies Act. The initial legislation established various goals and requirements to guide planning in the larger, fastest growing counties and cities within those counties. It required all cities and counties to protect natural resource lands and environmentally critical areas. It also established a regional transportation planning program to be administered by WSDOT through Regional Transportation Planning Organizations (RTPOs).

The county and city planning provisions of the amended GMA (as set forth in RCW 36.70A with implementing regulations in WAC 365-195) also require fully planning counties and cities to:

- Adopt county-wide or multi-county planning policies establishing a framework from which county and city comprehensive plans are developed and adopted.
- Work together to allocate the projected population within each county.
- Adopt local comprehensive plans that are consistent with the applicable county-wide planning policies and include a Capital Facilities Plan (CFP) and various elements, including a transportation element and a land use element. (WAC 365-195-305 indicates that the land use element must designate lands for agriculture, timber production, housing, commerce, industry, recreation, open spaces, public utilities, public facilities, and other land uses.)
- Establish urban growth areas and re-evaluate them every ten years.
- Ensure that development regulations are consistent with comprehensive plans.

- Ensure that adequate public facilities and services will be available at the time of development (to satisfy the GMA's public facilities and services "concurrency" goal).
- Establish a process for siting essential public facilities (including airports and state and regional transportation facilities and services of statewide significance).
- Ensure that comprehensive plan policies and development regulations do not preclude the siting of essential public facilities.
- Designate natural resource lands (agricultural, forest, and mineral resource lands of long-term significance) and adopt regulations to conserve them.
- Designate critical areas (wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas) and adopt regulations to protect them.
- Include the best available science when developing policies and development regulations to protect the functions and values of critical areas.
- Give special consideration to conservation or protection measures to preserve or enhance anadromous fisheries.
- Review and revise, if needed, the comprehensive plan and development regulations every seven years to ensure they comply with the GMA.

The GMA also requires state agencies to adhere to county-wide planning policies (RCW 36.70A.210) and comply with local comprehensive plans and development regulations (RCW 36.70A.103). In addition, it requires that all transportation projects, programs, and transportation demand measures with an impact on regional facilities or services be consistent with the applicable RTPO plans and adopted regional growth and transportation strategies (RCW 47.80.030).

WSDOT project managers should consult with RTPO and local government staff to evaluate their project for consistency with any applicable RTPO plans, county-wide planning policies, local comprehensive plan, and development regulations. (Development regulations include zoning, critical area, shoreline use, and other regulations.) WSDOT project managers should also discuss any inconsistencies with RTPO and local government staff, identify ways to reconcile them, and determine if any local government permits, such as those listed in **Section 450.06**, would be required.

The county and city planning requirements of the GMA are available online at:

<http://apps.leg.wa.gov/RCW/default.aspx?cite=36.70A&full=true>

The regional transportation planning program provisions of the GMA are available at:

<http://apps.leg.wa.gov/RCW/default.aspx?cite=47.80&full=true>

For more information on RTPOs and Regional Transportation Plans, see **Section 210.02** and **Section 230.04**, and for a WSDOT Web page on local GMA planning requirements, see:

<http://www.wsdot.wa.gov/planning/LandUse/localgmareqs.htm>

(d) **Local Project Review Act**

The Local Project Review Act of 2001 (RCW 36.70B) authorizes the Washington State Department of Commerce (formerly the Department of Community, Trade, and Economic Development) to develop (jointly with the Department of Ecology) and adopt (by rule) criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. This implements a basic principle of the GMA and Local Project Review Act – that land use decisions made in the process of adopting a comprehensive plan and development regulations should not be revisited during project review. When review of a project indicates that it is consistent with earlier land use decisions, the project should not be reevaluated or scrutinized with respect to whether those decisions were appropriate.

WAC 365-197 states that jurisdictions planning under the GMA must consider the consistency of a proposed project with the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan. Four factors should be considered when determining consistency:

- The type of land use allowed;
- The level of development allowed (e.g., dwelling units per acre or other measures of intensity);
- Infrastructure (e.g., adequacy of public facilities and services to serve the proposed project); and
- The characteristics of the proposed development (e.g., assessment of compliance with specific development regulations or standards).

(e) **Shoreline Management Act**

Washington's Shoreline Management Act (SMA), was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The SMA's goal is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

The Act (RCW 90.58) establishes a broad policy giving preference to uses that:

- Protect the quality of water and the natural environment.
- Depend on proximity to the shoreline (“water-dependent” and “water related” uses).
- Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

Under the SMA, each city and county is required to adopt a shoreline master program, based on state guidelines, that provides policies and regulations addressing shoreline use and protection and establishes a permit and enforcement system for administering the program. Ecology’s rules for the development of SMPs, which are now being updated under a schedule adopted by the legislature in 2003, are located in Part III of WAC 173-26, which is available at:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-26&full=true>

Ecology’s rules establishing Shoreline Management Permit and Enforcement Procedures (WAC 173-27) are available at:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-27>

More information on the Shoreline Management Act and local government Shoreline Master Programs can be accessed at:

<http://www.mrsc.org/Subjects/Environment/shorelin.aspx>

(f) **Aquatic Lands Act**

The state Aquatic Lands Act (RCW 79.105) recognizes the Department of Natural Resource’s responsibility to manage the state’s aquatic lands for the benefit of the public. Benefits include:

- Encouraging direct public use and access;
- Fostering water-dependent uses;
- Ensuring environmental protection; and
- Utilizing renewable resources.

The act also directs the DNR to prepare and furnish forms to applicants for the purchase of state-owned tidelands or shorelands, the purchase of valuable material there, and the lease of state-owned tidelands, shorelands, and harbor areas. It favors water-dependent uses over other uses in state-owned aquatic land use planning, and when resolving conflicts between competing lease applications. In cases of conflict between water-dependent uses, priority must also be given to water-dependent uses that enhance renewable resources, water-borne commerce, the navigational and biological capacity of the waters, and statewide interests over local interests.

DNR's implementing regulations (WAC 332-30) are available at:

☞ <http://apps.leg.wa.gov/WAC/default.aspx?cite=332-30>

(g) Scenic River System Act

The state Scenic River System Act (RCW 79A.55) declares that certain rivers, due to their “outstanding natural, scenic, historic, ecological, and recreational values,” shall be preserved in “as natural a condition as practical and that overuse of such rivers... shall be discouraged.” The legislation also establishes a program for managing publicly owned land on rivers in the state's scenic river system, which currently includes portions of the Skykomish, Beckler, Tye, and Little Spokane Rivers. However, no management plans have been developed due to lack of funding. Another 18 rivers have been evaluated for state scenic river status.

(h) Farmland Preservation Executive Order

Washington's Farmland Preservation Executive Order 80-01 of 1980 requires state agencies to consider farmland preservation during program development. The Executive order is available at:

☞ <http://www.wsdot.wa.gov/Environment/Compliance/ExecutiveOrder.htm>

(i) Washington Forest Practices Act

The Forest Practices Act (RCW 76.09) guides the management of public and private forest lands consistent with sound policies of natural resource protection. The Forest Practices Board is authorized to implement this act, including issuance of a permit to alter forest lands to non-forest uses. Implementing regulations, including definitions (WAC 222-16) and application and notification procedures (WAC 222-20), are available at:

☞ <http://apps.leg.wa.gov/wac/default.aspx?cite=222>

(j) Relocation Assistance – Real Property Acquisition Policy Act

This act, codified at RCW 8.26, is similar to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, except it deals with the public works programs and acquisition practices of state and local governments. However, local governments can choose not to comply if their program or project will not receive federal financial assistance.

WSDOT implementing regulations in WAC 468-100 are available at:

☞ <http://apps.leg.wa.gov/WAC/default.aspx?cite=468-100&full=true>

(3) *Local*

Many local government development regulations control land use and can affect the transportation system and specific projects. The primary development regulations include zoning ordinances, critical area ordinances, and Shoreline Master Program use regulations. Local governments may also have other development regulations for implementing their comprehensive plans. WSDOT project managers will need to determine whether any development regulations apply to their project. Most local government development regulations are available at:

 <http://www.mrsc.org/codes.aspx>

(a) **Zoning Ordinances**

Zoning ordinances are development regulations that establish classifications for lands where specific controls are identified to regulate the use of buildings, structures, and land for particular uses (residential, commercial, industrial, agriculture, forestry, recreation, conservation, and institutional/infrastructure uses). They also regulate the location, height, bulk, number of stories and size of buildings and structures; the size of yards and other open spaces; the density of housing; the percentage of a lot which may be occupied by buildings and structures; and the area required to provide off-street parking.

(b) **Critical Area Ordinances**

Critical area ordinances are adopted by all cities and counties in the state to protect their designated geologically hazardous areas, frequently flooded areas, critical aquifer recharge areas, fish and wildlife habitat conservation areas, and wetlands, all of which also have other requirements, as noted in Sections 420.02, 431.02, 432.02, 433.02, and 436.02, respectively. Critical areas within shorelines of the state are regulated under a local government's Shoreline Master Program use regulations rather than their critical area ordinance.

(c) **Shoreline Master Program Use Regulations**

Local Shoreline Master Programs developed to comply with the Shoreline Management Act must include use regulations, which are development regulations under the Growth Management Act. Use regulations apply to all uses and development within shoreline jurisdiction, whether or not a permit is required. They identify the uses (usually by category) and types of shoreline modification that will be allowed, allowed conditionally, or prohibited in certain shoreline "Environments". Most local jurisdictions use the standard shoreline Environment designations recommended by Ecology, but they may use additional ones. The four standard designations are: (1) urban, (2) rural, (3) natural, and (4) conservancy.

(d) Other Development Regulations

Local governments may also have other development regulations that specify requirements for particular types of development (e.g., roads, utilities, and roadside improvements) and development activities (e.g., clearing and grading, landscaping, and stormwater management). They are also required to have procedures for siting essential public facilities, which may contain siting or mitigation requirements. For a description of various types of local development regulations, see:

☞ <http://www.mrsc.org/subjects/planning/devregpg.aspx>

450.03 Policy Guidance

(1) FHWA policy on Coastal Zone Consistency Determinations

A March 2, 1983, FHWA policy letter on coastal zone consistency determinations is available at:

☞ <http://www.environment.fhwa.dot.gov/guidebook/chapters/v1ch3.asp>

(2) FHWA policy on the Farmland Protection Policy Act

A January 23, 1985, FHWA policy memorandum on the Farmland Protection Policy Act is available at:

☞ <http://www.environment.fhwa.dot.gov/guidebook/chapters/v1ch5.asp>

(3) FHWA policy on Section 4(f)

A March 1, 2005, FHWA policy paper on Section 4(f) is available at:

☞ <http://www.environment.fhwa.dot.gov/guidebook/chapters/v2ch15.asp>

(4) FHWA policy on the application of Section 4(f) to Wild and Scenic Rivers

Two FHWA policy memoranda (dated June 6, 1978 and May 26, 1981) on the application of Section 4(f) to Wild and Scenic Rivers are available at:

☞ <http://www.environment.fhwa.dot.gov/guidebook/chapters/v1ch15.asp>

(5) Presidential Directive and FHWA Policy on Rivers in the Nationwide Inventory

An August 1979 Presidential Directive requires federal agencies to protect and manage rivers in the Nationwide Rivers Inventory that are suitable for inclusion in the Wild and Scenic Rivers System. They must do so in a fashion comparable to rivers in the Wild and Scenic Rivers System as part of their normal planning and environmental review process. The Directive and information on rivers in Nationwide Rivers Inventory are available at:

☞ <http://www.nps.gov/nrcr/programs/rtca/nri/>

An October 3, 1980, FHWA memorandum outlines procedures for interagency consultation to comply with this directive. It is available at:

☞ <http://environment.fhwa.dot.gov/guidebook/chapters/v1ch15.asp>

(6) Governor's Directive on Acquisitions of Agricultural Resource Land

Governor Gregoire has directed WSDOT to notify the Governor's Chief of Staff when WSDOT is seriously considering the use of agricultural properties. The directive, as conveyed in a letter dated May 15, 2007, is available on the following Web page under General Guidance, Environmental Directives:

☞ <http://www.wsdot.wa.gov/Environment/Compliance/ComplianceGuidance.htm#general>

To implement the directive, the WSDOT Director of Environmental Services will ensure that WSDOT provides written notice to the Governor's Office at least two weeks prior to filing any formal action to condemn or purchase designated agricultural resource lands for environmental mitigation purposes as follows:

- For any condemnations of such lands for wetland mitigation purposes, a mandatory notice will be sent to the Governor's Chief of Staff.
- For any condemnations or purchases of such lands for other environmental mitigation purposes, a courtesy notice will be sent to the Governor's Office staff.

WSDOT Real Estate Services Office tracks conversions of agricultural resource lands for transportation purposes.

In general, WSDOT's approach is to first avoid the use of designated agricultural resource lands when looking for environmental impact mitigation sites. Then, if no other suitable sites are available, WSDOT will work with local jurisdictions to avoid any conflicts with policies and regulations relating to the protection of agricultural lands.

450.04 Interagency Agreements

The following interagency agreements pertaining to land use are available at:

☞ <http://www.wsdot.wa.gov/Environment/Compliance/agreements.htm>

(1) National Forest Lands Memorandum of Understanding

A July 12, 1991 Memorandum of Understanding (MOU), updated March 22, 2002, establishes procedures for coordination of transportation activities on National Forest lands. It states the WSDOT and the U.S. Forest Service (USFS) will agree on the needed environmental documentation and lead agency responsibility. The agreement covers coordination, project programming and planning, pre-construction, rights-of-way, construction/re-construction, maintenance, signs, access control, and third party occupancy.

(2) State Conservation Commission Memorandum of Understanding

This MOU between the State Conservation Commission and WSDOT aims to enhance cooperation to preserve agricultural and forest lands; to prevent and treat erosion problems adjacent to or associated with farmlands and state

highways; to maintain drainage ways; and to reclaim abandoned roadways for agricultural purposes.

(3) Other Interagency Agreements

See **Appendix E** for a guide to all interagency agreements referenced in the EPM.

450.05 Technical Guidance

(1) FHWA Technical Advisory

FHWA's Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents (October 1987) gives guidelines for preparing environmental documents, including specific sections on land use, farmland, relocation, and coastal zone impacts, joint development, wild and scenic rivers, Section 4(f) evaluations, and other land use related topics.

The guidance indicates that the land use section of an EIS or EA should identify the current development trends and the state and/or local government plans and policies on land use and growth in the project impact area. It should also assess the consistency of each alternative with any applicable comprehensive development plans (and other plans used in development of the regional transportation plan), which deal with land use, transportation, public facilities, housing, community services, and other areas. The guidance also states that any indirect social, economic, and environmental impacts of substantial, foreseeable, induced development should also be discussed for each alternative.

For details, see the "Land Use Impacts" section and other land use related sections of the technical advisory at:

 <http://www.fhwa.dot.gov/legregs/directives/techadv/t664008a.htm>

In most cases this guidance indicates that an EIS or EA needs to include evidence of close coordination with any agencies or officials with jurisdiction regarding any project impacts and mitigation for them.

(2) Washington State Department of Ecology SEPA Guidance

The Washington State Department of Ecology has several guidance documents available to help users understand and comply with SEPA and Ecology's SEPA rules (WAC 197-11). These documents include a SEPA Handbook (which includes guidance for integrating SEPA and the GMA and implementing the Local Project Review Act) and a SEPA Guide for Project Applicants that includes guidance for answering several SEPA Environmental Checklist questions on land use topics, including Land and Shoreline Use, Housing, and Recreation. These guidance documents are available at:

 <http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>

(3) ***Land Use Impacts of Transportation: A Guidebook***

This report prepared for the Transportation Research Board identifies various quantitative and qualitative analytical tools and procedures. These include land use models and “Delphi” methods, which are available for evaluating the land use impacts of transportation services and improvements. The report is available at:

[http://nepa.fhwa.dot.gov/ReNEPA/ReNepa.nsf/0/ccecf4d789db510e85256ce6006142a0/\\$FILE/land_use_guidebook.pdf](http://nepa.fhwa.dot.gov/ReNEPA/ReNepa.nsf/0/ccecf4d789db510e85256ce6006142a0/$FILE/land_use_guidebook.pdf)

(4) ***Guidebook for Evaluating the Indirect Land Use and Growth Impacts of Highway Improvements***

This report prepared for the Oregon Department of Transportation and FHWA describes a framework and step-by step process for evaluating the indirect impacts of highway improvements on land use. The report is available at:

<http://www.environment.fhwa.dot.gov/guidebook/results.asp?selSub=15>

(5) ***FHWA Guidelines for Implementing the Final Rule of the Farmland Protection Policy Act for Highway Projects***

These guidelines identify the process and criteria that must be used to determine if a proposed highway project will result in the conversion of farmland to nonagricultural uses, and if so, consider alternatives to lessen the impact. The guidelines are available at:

<http://www.environment.fhwa.dot.gov/guidebook/chapters/v1ch5.asp>

(6) ***FHWA Guidance for Determining De Minimis Impacts to Section 4(f) Resources***

This guidance provides answers to a variety of questions that may arise when determining whether a transportation project will have a de minimis, or greater, impact on any Section 4(f) resource. These include any publicly-owned land of a significant public park, recreation area, or wildlife and waterfowl refuge (in addition to any land of a significant historic site).

The guidance is available at:

<http://www.environment.fhwa.dot.gov/guidebook/chapters/v2ch15.asp>

(7) ***Airport Land Use Compatibility Guidance***

The following WSDOT Aviation Planning Web site has a variety of technical guidance materials on Airport Land Use Compatibility, which are designed to ensure that planned land uses, including other transportation facilities, do not interfere with general aviation airports, an essential public facility under the GMA:

<http://www.wsdot.wa.gov/aviation/planning>

(8) WSDOT Land Use Discipline Report Checklist

The checklist in **Exhibit 450-1** is a guide for completing a WSDOT Land Use Discipline Report when one is needed to satisfy NEPA and/or SEPA or determine if a Section 4(f) evaluation is needed due to land use impacts on Section 4(f) property.

A Land Use Discipline Report is needed for a project when there is a reasonable probability that the project would have more than a moderate effect on land use in the project area as a result of any direct, indirect, or cumulative land use impacts, despite any proposed mitigation. For example, a discipline report would be needed if the project would convert a substantial amount of land from its existing land use to a transportation land use (through right-of-way acquisitions, which have a direct effect on land use), or if it would indirectly cause a substantial amount of growth of a particular type in an area where such growth is not planned or prevent a substantial amount of growth of a particular type in an area where such growth is planned. For more information on how to assess indirect and cumulative impacts, see **Chapter 412**.

A Land Use Discipline Report may also be needed for a project when it is determined that the project may have more than a moderate effect on land use but further analysis (in an EA) is needed to establish whether there is a reasonable probability that such an effect will occur.

A Land Use Discipline Report may also be needed to verify (in a DCE) whether a project will have little impact on land use when that appears to be the case.

A land use discipline report should also be right-sized to adequately address the impacts or level of controversy regarding land use involved with a project, without over-analyzing the existing conditions or impacts or providing unnecessary information. For instance, the level of analysis provided for a project with little impact on land use should be less than the level of analysis provided for a project with more than a moderate effect on land use.

Any rationale for determining that a Land Use Discipline Report is not needed for a project (aside from one provided in an ERS or ECS) should be also documented in the project file.

For any example discipline reports on land use, see:

☞ http://www.wsdot.wa.gov/environment/compliance/NEPA_SEPA.htm

(9) WSDOT Farmland Conversion Checklist

The WSDOT Farmland Conversion Checklist (**Exhibit 450-2**) should be used by projects that will convert farmland to determine if the farmland is classified as prime or unique or farmland of statewide or local importance and obtain an NRCS Farmland Conversion Impact Rating for each project alternative for

consideration in the project decision making process. If a Land Use Discipline Report is prepared, the results of the Farmland Conversion Impact Rating should be summarized in the report. This documents compliance with the Farmland Protection Policy Act. For copies of the forms referenced in the checklist and instructions for filling them out, see:

☞ <http://www.nrcs.usda.gov/programs/fppa>

(10) WSDOT Section 6(f) Property Conversion Checklist

The WSDOT Section 6(f) Property Conversion Checklist (**Exhibit 450-3**) should be used by projects that will convert any outdoor recreation property acquired or developed with financial assistance from the Land and Water Conservation Fund. The checklist is used to process the necessary “conversion package” for review by the Recreation and Conservation Funding Board (RCFB) and approval by the Secretary of the Interior. It documents compliance with Section 6(f) of the Land and Water Conservation Fund Act. The package must demonstrate that the project provides for the substitution of other recreation property of at least equal fair market value and reasonably equivalent usefulness and location. It must also show that the conversions will be in accord with the existing Statewide Comprehensive Outdoor Recreation Plan. For information on how to prepare a conversion package, see Section 3 of RCFB General Policy Manual 7, which is available at:

☞ <http://www.rco.wa.gov/rcfb/docs.htm#apps>

(11) WSDOT Compliance Guidance

For additional guidance to achieve compliance with various environmental laws and regulations pertaining to land use, including NEPA and SEPA and Section 4(f) and Section 6(f), see the WSDOT Compliance Guidance Web site at:

☞ <http://www.wsdot.wa.gov/Environment/Compliance/ComplianceGuidance.htm>

(12) WSDOT GIS Workbench

Useful information can be obtained from the WSDOT GIS Workbench, a GIS interface for WSDOT users only. It has numerous layers of natural, cultural and social data. WSDOT works with federal, state, and local agencies to maintain a collection of the best available data for statewide environmental analysis. Available data sets relevant to land use include political and administrative boundaries data; demographic, land use and land cover data; city, county, state, and national parks; national and state recreation areas; wildlife refuges; and National Register Historic Sites, as well as archaeological sites (which have restricted access). For information on how to access the GIS Workbench, see:

☞ <http://www.wsdot.wa.gov/Environment/GIS/workbench.htm>

A list of current data sets is available at:

 <http://www.wsdot.wa.gov/mapsdata/geodatacatalog/default.htm>

450.06 Permits and Approvals

Permits and approvals relating to Land Use are addressed in the EPM sections referenced below:

Federal

Section 520.02 – Section 404 Permit

Section 520.03 – Section 10 Permit

Section 520.04 – Section 9 Permit

Section 520.06 – Section 4(f) Approval

Section 520.11 – Section 6(f) Approval

Section 520.12 – Wild and Scenic Rivers Review

Section 520.13 – Other Federal Approvals (Authorization for Use of Public Lands from Bureau of Land Management or U.S. Fish and Wildlife Service)

Tribal

Section 530.05 – Tribal Law (similar to permits and approvals required by counties and cities, on tribal land)

State

Section 540.03 – Coastal Zone Management Consistency Certification

Section 540.16 – Aquatic Lands Use Authorization

Section 540.17 – Easement over Public Land

Section 540.18 – Forest Practices Permit

Section 540.19 – Surface Mining Reclamation Permit

Local

Section 550.02 – Shoreline Permits

Section 550.03 – Floodplain Development Permit

Section 550.04 – Critical Areas Ordinance Compliance

Section 550.05 – Clearing, Grading, and Building Permits

Section 550.06 – Land Use Permits (outside right-of-way)

450.07 Non-Road Project Requirements

Ferry, rail, and aviation facility projects and programs often have to comply with many of the same environmental statutes as road projects, so they also have many of the same permit requirements, but participating agencies can have different regulations, policies, interagency agreements, and technical guidance for implementing the statutes. Also, Section 4(f) only applies to projects or programs requiring land, approval, or funding from a USDOT agency. Non-road projects and programs can also cause different land use impacts that may need to be discussed in a land use discipline report.

(1) *Ferry Facilities*

Ferry terminals are typically located in areas that provide natural harbor, and some are located in the navigable waters in front of, and within a mile on either side of, the corporate limits of cities where harbor lines have been established by the state Harbor Lines Commission. According to the State Constitution, harbor areas are “forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce,” and the Washington State Department of Natural Resources manages their use in accordance with the Aquatic Lands Act, but such areas are also subject to local land use regulations, including shoreline, critical area, and zoning regulations. Washington State Ferries takes proactive steps, such as working with US Coast Guard, Department of Natural Resources, local Port Authorities, Tribes, and local jurisdictions, to minimize land use and navigational conflicts.

U.S. Homeland Security regulations (in 33 CFR 165) also impose security zones at ferry terminals and around vessels that can limit other uses, and any such restrictions caused by a project should be discussed in any land use discipline report prepared for the project. (The Homeland security regulation requires a 25-yard separation zone when vessels are at the dock, and 100 yards en route.)

Ferry terminal projects may also be subject to FTA requirements, like those discussed below for rail and transit facility projects.

(2) *Rail Facilities*

Rail facility projects may occur on the BNSF Railway Company main line railroad (for Amtrak *Cascades* intercity rail passenger projects) or on short-line railroads (for freight rail projects), and either may involve maintenance on existing rail lines or construction of new rail lines or sidings.

For rail passenger projects, Federal Railroad Administration (FRA) requirements apply (along with FHWA requirements on some projects), and FRA procedures for complying with NEPA and related environmental and historic preservation laws and regulations, including Section 4(f), are set forth in a May 26, 1999, Federal Register Notice (64 FR 28545). WSDOT also has a December 21, 1995, MOU with the FRA and FHWA to establish the roles of

each agency and coordinate in implementing actions related to the Washington State Rail Passenger Program and ensure full compliance with NEPA and related statutes, regulations, and orders.

For freight rail projects, Surface Transportation Board (STB) requirements can also apply if the project involves the construction of new rail lines. STB procedures for implementing environmental laws are set forth in 49 CFR 1105, and this regulation indicates that a project's environmental documents must indicate whether the project is consistent with existing land use plans and any applicable coastal zone management plan.

Depending on the project, the federal lead agency may be the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), or the Surface Transportation Board (STB).

(3) **Aviation Facilities**

Land use compatibility is a critical issue for airport projects, and Federal Aviation Administration (FAA) instructions for implementing NEPA provide guidance on how land use compatibility should be addressed in airport planning and NEPA documents. The FAA instructions are available in two FAA Orders (FAA Order 1050.1E and FAA Order 5050.4B), which are available at:

☞ http://www.faa.gov/regulations_policies/orders_notices/index.cfm?fuseAction=c.dspTopicBrowse&parentTopicID=13

Among other things, the first FAA order indicates that the land use section of an environmental document for an airport action shall include documentation to support the required airport sponsor's assurance under 49 USC 47107(a) (10) that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

The second order also identifies the kinds of information on existing and planned land uses and zoning that should be provided in an environmental document, including a discussion of possible conflicts between the proposed action and the objectives of federal, state, regional, or local land use plans, policies, or controls in the affected area, and it provides some "significance thresholds" for various land use related topics, including land use (based on noise), Section 4(f), and farmlands.

The FAA also has several Advisory Circulars designed to protect airport approaches and ensure the safe and efficient use of navigable airspace, and the effect of these on land use may need to be discussed in any environmental document for an airport project. The Advisory Circulars are available at:

☞ http://www.faa.gov/airports_airtraffic/airports/regional_guidance/central_construction/part77/#ac

450.08 Exhibits

Exhibit 450-1 Land Use Discipline Report Checklist

Exhibit 450-2 Farmland Conversion Checklist

Exhibit 450-3 Section 6(f) Property Conversion Checklist

Exhibit 450-1 Land Use Discipline Report Checklist

Project Name: _____ Job Number: _____

Contact Name: _____

Date Received: _____ Date Reviewed: _____ Reviewer: _____

(SAT = Satisfactory; INC = Incomplete; MIS = Missing; N/A = Not Applicable)

Answers are required for questions which have no N/A box.

A Land Use Discipline Report can be highly detailed or extremely concise depending upon whether the level of impact or controversy (including any conflicts with applicable land use plans and development regulations) is substantial or minimal. Project teams should take care to “right-size” the discipline report so it adequately addresses the impacts and controversy without over-analyzing or providing unnecessary information.

I. Summary

This section should summarize key information in sections II through VII of the report and present any conclusions reached. It should be written in “Plain Talk” language (see <http://www.accountability.wa.gov/plaintalk/>) so it can be included in the EIS, EA, or DCE with only minor modification.

SAT INC MIS N/A

- | | | | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>A. Introduction. State the purpose of the report and summarize your methods and sources of information.</p> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>B. Project Description. State the project Purpose and Need and describe the project, including each alternative.</p> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>C. Existing Conditions. Summarize the existing land uses, planned land uses, and zoning, shoreline environment and critical area designations, and development trends in the study area.</p> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>D. Impacts. Summarize any direct, indirect, and cumulative land use impacts of the project and indicate whether the project is likely to have more than a moderate effect on land use in the study area.</p> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>E. Consistency with Land Use Plans and Implementing Regulations. Summarize the analysis of consistency with land use plans and implementing regulations, including county-wide planning policies.</p> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <p>F. Mitigation. Summarize any mitigation and enhancement measures identified for addressing the direct and indirect land use impacts of the project and reconciling any inconsistencies with land use plans and implementing regulations.</p> |

II. Introduction

This section should state the purpose of the report and describe your methods and sources of information.

SAT INC MIS N/A

- A. Purpose of Report. Identify any applicable statutes and discuss any determinations that must be made for NEPA and/or SEPA, Section 4 (f), Section 6(f), etc., including consistency with land use plans and implementing regulations.
- B. Methods and Data. Identify the study area(s) and methods and sources of data and other information used in preparing the report, including coordination with applicable agencies.

III. Project Description

This section should state the Purpose and Need for the project and describe and illustrate the project, including each alternative considered in the analysis.

SAT INC MIS N/A

- A. Purpose and Need
- B. Project / Alternatives. Describe and illustrate the project and each alternative.

IV. Existing Conditions

This section should map and describe the existing land uses (include any that must be protected or given special consideration), planned land uses, zoning, and any shoreline environment and critical area designations. Also, describe development trends in the study area.

SAT INC MIS N/A

- A. A map and description of existing land uses in the study area, classified according to their primary land use category (residential, commercial, industrial, agriculture, forestry, recreation, conservation, transportation, institutional/ infrastructure, or “other”). Identify and describe any lands within each category that must be protected or given special consideration including the following:
 - 1. Commercial:
 - a. Mineral resource lands designated under the GMA.
 - 2. Agriculture:
 - a. Agriculture resource lands designated under the GMA.
 - b. Prime, unique, and state or locally significant farmland protected under the Farmland Protection Policy Act.

SAT	INC	MIS	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Forestry:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a. Forest resource lands designated under the GMA.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b. National Forest lands.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Recreation:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a. Section 4(f) property (certain park and recreation area lands).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b. Section 6(f) property (certain outdoor recreation lands).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Conservation:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	a. Section 4(f) property (certain wildlife and waterfowl refuge lands).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	b. Other natural areas where human use is severely restricted by government or a conservation easement.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		B. For each Section 4(f) property, which may also be (or contain) a Section 6(f) resource, include:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. A detailed graphic that identifies any applicable Section 4(f) property(ies) and shows properties which are also Section 6(f) resources.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2. Size and location of the affected Section 4(f) property (ies).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Type of property(ies) (recreation, refuge, etc.) and ownership.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Any known activities on the property(ies).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Describe existing and planned facilities.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6. Describe access (pedestrian, vehicular) and approximate level of use of property.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7. Relationship to other similarly used lands in the area.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8. Describe effects on ownership, such as lease, easement, covenants, restrictions, or conditions, including forfeiture.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9. Unusual characteristics (flooding problems, terrain conditions, or other features) that either reduce or enhance the value of all or part of the property(ies).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		C. A map and description of planned land uses in the study areas as designated in any applicable comprehensive plans.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		D. A map and description of existing zoning in the study area.

SAT INC MIS N/A

- E. A map and description of any shoreline environment and/or critical area designations on lands (including aquatic lands) in the study area.
- F. A description of development trends in the study area.

V. Impacts

This section should describe the direct, indirect, and cumulative land use impacts of the project, and indicate if the project is likely to have more than a moderate effect on land use in the study area. Describe (and quantify where possible) the following by alternative:

SAT INC MIS N/A

- A. Direct Impacts. Describe any direct land use impacts of the project, including any caused by full or partial property acquisitions, disturbance during construction, and changes in existing access. For any Section 4(f) properties (in the Recreation and/or Conservation land use categories):
 - 1. Indicate if the project will require use of the Section 4(f) property.
 - 2. Indicate if the project will have more than a “de minimis impact” on the Section 4(f) property.
 - 3. Identify and discuss (and quantify where possible) any impacts on the Section 4(f) property as a result of direct use (or constructive use) of the Section 4(f) property during construction or operation. Discuss:
 - a. The amount of Section 4(f) property to be used.
 - b. The facilities, functions, activities, features, or attributes affected (include map);
 - c. Access;
 - d. Visual impact;
 - e. Air quality;
 - f. Noise;
 - g. Water;
 - h. Land use in the area, including any affects on growth caused by the project.

SAT INC MIS N/A

- B. Indirect Impacts. Describe any changes in land use that may occur later in time (e.g. during operation of the completed facility) or farther removed in distance, including any caused by increases or decreases in accessibility or mobility, right-of-way disposal, or changes in noise, air quality, or visual quality. If the changes are shown in comprehensive plan(s) and/or zoning map(s), and the impacts of such changes were considered in the regional or local planning process, then indicate if the changes will occur sooner as a result of the project and describe the extent of the environmental impact analysis performed at the regional or local level.

- C. Cumulative Impacts. Describe the overall effects of the direct and indirect land use impacts of the project combined with those of other past, present, and reasonably foreseeable future actions.

VI. Consistency With Land Use Plans and Implementing Regulations

This section should describe the consistency or inconsistency of the project with any applicable land use plans and implementing regulations, including county-wide planning policies.

SAT INC MIS N/A

- A. Federal. Describe the consistency of the project with any applicable federal land use plans, including any:
 - 1. Wild and Scenic River Comprehensive Management Plan.
 - 2. USDA Forest Service or Bureau of Land Management land management plan.

- B. State. Describe the consistency of the project with any applicable state land use plans, which may include the:
 - 1. Washington Transportation Plan.
 - 2. Washington State Coastal Zone Management Plan (reference any discussion of consistency with local Shoreline Master Programs).
 - 3. Washington State Statewide Comprehensive Outdoor Recreation Plan.
 - 4. Washington State Department of Natural Resources Habitat Conservation Plan.

- C. Regional. Describe the consistency of the project with any applicable regional land use and/or transportation plans and their associated capital improvement programs.

SAT INC MIS N/A

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | D. County. Describe the consistency of the project with any applicable county-wide planning policies and county land use plans and implementing regulations, including any: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Comprehensive plan. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Shoreline Master Program (including use regulations). |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Zoning ordinance. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Critical areas ordinance. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Sub-area plan. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | E. City. Describe the consistency of the project with any applicable city land use plans and implementing regulations, including any: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Comprehensive plan. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Shoreline Master Program (including use regulations). |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Zoning ordinance. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Critical areas ordinance. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Neighborhood plan. |

VII. Mitigation

This section should describe any potential and/or recommended mitigation and enhancement measures for addressing any direct and indirect land use impacts of the project and reconciling any inconsistencies with applicable land use plans and implementing regulations. Describe the following for:

SAT INC MIS N/A

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | A. Direct Impacts. Describe any potential or recommended mitigation and enhancement measures for addressing the direct land use impacts of the project, including any caused by full or partial property acquisitions, disturbance during construction, or changes in existing access, in the following order: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Avoiding the impact. (For each Section 4(f) property, identify any alternatives that would not require the use of Section 4(f) property and indicate if any are a feasible and prudent avoidance alternative.) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Minimizing the impact. (For each Section 4(f) property, consider the views of “officials with jurisdiction” and identify any measures that are prudent.) |

SAT INC MIS N/A

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Rectifying the impact. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Reducing or eliminating the impact. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Compensating for the impact: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | a. For each Section 4(f) property, consider the views of officials with jurisdiction and identify any measures that are prudent. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | b. For each Section 6(f) resource, identify any measures that would allow the affected property to be replaced with other recreation property of at least equal fair market value and reasonably equivalent usefulness and location. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 6. Enhancement. (For each Section 4(f) property, consider the views of officials with jurisdiction and identify any measures that are prudent.) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | B. Indirect Impacts. Describe any potential or recommended mitigation and enhancement measures for addressing any indirect land use impacts of the project, including any caused by increases or decreases in accessibility or mobility, or changes in noise, air quality, or visual quality, in the following order: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Avoiding the impact. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Minimizing the impact. (For each Section 4(f) property, consider the views of officials with jurisdiction and identify any measures that are prudent.) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Rectifying the impact. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. Reducing or eliminating the impact. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. Compensating for the impact. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 6. Enhancement. (For each Section 4(f) property, consider the views of officials with jurisdiction and identify any measures that are prudent.) |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | C. Consistency with Land Use Plans and Implementing Regulations. Describe any potential and/or recommended mitigation for reconciling any inconsistencies with land use plans and implementing regulations, or provide justification for proceeding without full reconciliation. |

VIII. References

SAT INC MIS N/A

A. List all published sources of data and other information used in preparing the report.

General Comments: _____

Exhibit 450-2

Farmland Conversion Checklist

Project Name: _____ Job Number: _____

Contact Name: _____

Date Received: _____ Date Reviewed: _____ Reviewer: _____

(SAT = Satisfactory; INC = Incomplete; MIS = Missing; N/A = Not Applicable)

Answers are required for questions which have no N/A box.

I. Studies and Coordination

(Refer to: Memorandum of Understanding, WSDOT-Washington State Conservation Commission Agreement GC 7141; Farmland Protection Policy Act [FPPA], 7 USC 4202, Rules, 7 CFR Part 658; FHWA Farmland Protection Policy Act Supplemental Guidelines for Implementing the Final Rule for Highway Projects, October 1984; Governor's Executive Order 80-01, Farmland Preservation, January 4, 1980; and FHWA Technical Advisory T 6640.8A.)

Include results of coordination with the Natural Resources Conservation Service and state and local agencies, as appropriate.

SAT INC MIS N/A

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A. Determined if project will convert farmland? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | B. Farmland Conversion Impact Rating (Form AD-1006 or NRCS-CPA-106) Part 1 and Part 3 completed. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | C. Form AD-1006 or NRCS-CPA-106 accompanied by: |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. Vicinity map. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. Project alternatives. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. Soil Survey Area number. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | D. Farmland Conversion Impact Rating (Form AD-1006 or NRCS-CPA-106) submitted to appropriate Natural Resources Conservation Service (NRCS) office return receipt mail. (Part 'D' retained for files.) |

Date Farmland Conversion Impact Rating (Form AD-1006 or NRCS-CPA-106) received at NRCS office. (NRCS has 45 days from receipt to complete evaluation. CFR 658.4(a) states that if 45 days have passed without an evaluation and this may hold up the project, proceed as if no farmland is being converted.)

SAT INC MIS N/A

- E. Completed Form AD-1006 or NRCS-CPA-106 returned by NRCS.
- F. Section VI and VII completed per CFR 658.5(b).
- G. Coordinated with FHWA (if federal funds) for review and concurrence.
- H. Incorporated evaluation in environmental document.

Exhibit 450-3 Section 6(f) Property Conversion Checklist

Project Name: _____ Job Number: _____

Contact Name: _____

Date Received: _____ Date Reviewed: _____ Reviewer: _____

(SAT = Satisfactory; INC = Incomplete; MIS = Missing; N/A = Not Applicable)

Answers are required for questions which have no N/A box.

I. Studies and Coordination

SAT INC MIS N/A

- | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A. Coordinated with the RCFB and determined if the project will convert outdoor recreation property acquired or developed with financial assistance from the Land and Water Conservation Fund? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | B. Identified owner of the outdoor recreation property. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | C. Coordinated with owner of the outdoor recreation property. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | D. Written agreement from owner to relinquish the outdoor recreation property included. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | E. Coordinated with WSDOT Real Estate Services for appraisal of property. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | F. Coordinated with owner to identify replacement property of equal value. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | G. Coordinated with RCFB and owner concerning conversion package. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | H. Prepared conversion package and submitted to owner (sponsor). <ol style="list-style-type: none"> 1. Sponsor submits conversion package to RCFB. 2. RCFB staff reviews conversion package. 3. If federal 6(f) funds involved, RCFB submits conversion package to National Park Service for review/concurrence. 4. RCFB sends approved conversion package to sponsor. 5. Sponsor signs conversion package and returns one copy to RCFB. 6. Sponsor sends copy of signed conversion package to WSDOT region. 7. RCFB will coordinate with sponsor and allow conversion to proceed. |

SAT INC MIS N/A

- I. Sent copy of signed conversion package to ESO and Region Real Estate Services.
- J. Sent copy of signed conversion package to Region Real Estate Services.
- K. Sent copy of signed conversion package to ESO.

General Comments: _____

