



Chapter 365-196 WAC – Preliminary Draft

GROWTH MANAGEMENT ACT (GMA) —PROCEDURAL CRITERIA FOR ADOPTING COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS

The Role of GMA Rules

The rules advise local governments on GMA compliance. The Growth Management Hearings Board must consider these rules when interpreting the GMA and determining compliance. Local governments must consider the minimum guidelines when designating critical areas and resource lands. Local governments may use the procedural criteria to guide their implementation of the GMA. The primary audiences for the rules are local governments with statutory obligations under the GMA, members of the public, state agencies, the Growth Management Hearings Board, Courts, Tribes, or other public entities who participate in the local planning process.

Commerce released a [project scope](#) on October 7, 2021. Our authority to make changes to the WAC is limited, and potential changes primarily reflect the following criteria:

- *New Legislation*
- *New Case Law*
- *Clarification of Existing Guidance Consistent with Underlying GMA Requirements*

Commerce is releasing a preliminary draft to encourage early feedback on proposed changes to our administrative rules. This allows us to work with stakeholders early in the rulemaking process to address your concerns and incorporate feedback before initiating the formal adoption process. Please submit written comments to gmarulemaking@commerce.wa.gov by January 19th, 2022.

This document provides an overview of the proposed changes. [Click here for a full copy of the recommended amendments to Chapter 365-196 WAC.](#)

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<p>WAC 365-196-060 Goals</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Subsection (2): Commerce is clarifying that attempts to balance GMA goals do not justify violating statutory requirements.</p>	
<p>WAC 365-196-060 Goals. *** (2) Balancing the goals in the act. (a) The act's goals are not listed in order of priority. The ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community. Differences in emphasis are expected from jurisdiction to jurisdiction. Although there may be an inherent tension between the act's goals, counties and cities must give some effect to all the goals. <u>Balancing the act's goals must not be interpreted to allow a violation of statutory requirements.</u> ***</p>	

<p>WAC 365-196-210 Definitions of terms as used in this chapter</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Commerce is adding definitions for clarity of terms used in chapter.</p>	
<p>WAC 365-196-210 Definitions of terms as used in this chapter. *** (7) "Concurrency" <u>or "concurrent with development"</u> means that adequate public facilities are available when the impacts of development occur, or within a specified time thereafter. This definition includes the concept of "adequate public facilities" as defined above. (8) <u>"Conservation of resource lands" means to ensure that the natural resource lands will remain available to be used for commercial production of the natural resources designated.</u> (9) <u>"Conservation of critical areas" means to ensure the long-term protection of critical areas and associated ecosystem functions and values, including maintaining populations of species and not creating isolated subpopulations.</u> *** (16) <u>"Ecosystem functions and values" are the conditions and processes that support an ecosystem.</u> *** (24) <u>"Mitigation" or "mitigation sequencing" means a prescribed order of steps taken to reduce the impacts of activities on critical areas. As defined in Chapter 197-11-768 WAC, mitigation means:</u> (a) <u>Avoiding the impact altogether by not taking a certain action or parts of an action;</u></p>	

- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- (f) Monitoring the impact and taking appropriate corrective measures.

<p>WAC 365-196-305 County-wide planning policies</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Subsection (4): Commerce is recommending that cities and counties collaborate on employment and population forecasts to effectively implement the requirements of RCW 36.70A.110 and WAC 365-196-310.</p>	
<p>***</p> <p>(4) Required policies. Consistent with RCW 36.70A.210(3) and 36.70A.215, county-wide planning policies must cover the following subjects:</p> <p>(a) Policies to implement RCW 36.70A.110, including:</p> <p>(i) Designation of urban growth areas;</p> <p>(ii) Selection and allocation of population <u>and employment forecasts, and the allocation of growth targets</u> between cities and counties as part of the review of an urban growth area;</p> <p>***</p>	
<p>Proposed Change: Subsection (7): Commerce is recommending that cities and counties engage in ongoing collaboration after adopting their comprehensive plans. Discussions should include the effectiveness of plan and policy implementation, and whether assumptions or revisions should be revisited in the next periodic update.</p>	
<p>***</p> <p>(7) Forum for ongoing coordination. Counties and cities should establish a method for ongoing coordination of issues associated with implementation of the county-wide planning policies <u>and comprehensive plans</u>, which should include both a forum for county and city elected officials and a forum for county and city staff responsible for implementation. <u>Cities and counties should review how actual growth and development aligns with assumptions in the comprehensive plans and adopted countywide policies to determine if adopted countywide planning policies need additional review or amendments.</u> These forums may also include special purpose districts, transit districts, port districts, federal agencies, state agencies, and tribes.</p> <p>***</p>	

<p>WAC 365-196-310 Urban growth areas</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Subsections (1)-(3): No proposed changes</p>	
<p>Proposed Change: Subsection (4)(a): Commerce is elaborating on the importance of using consistent growth forecasts and allocations during the planning process. Some cities and counties used inconsistent data and planning horizons during the last round of periodic updates.</p>	
<p>*** (4) Recommendations for meeting requirements. (a) Selecting and allocating county-wide growth forecasts. This process should involve at least the following: (i) The total county-wide population is the sum of the population allocated to each city; the population allocated to any portion of the urban growth area associated with cities; the population allocated to any portion of the urban growth area not associated with a city; and the population growth that is expected outside of the urban growth area. <u>Cities and counties should use consistent growth forecasts, allocations, and planning horizons.</u> ***</p>	
<p>Proposed Change: Subsection (4)(c)(vi): Commerce is encouraging cities and counties to consider potential adverse impacts from wildfires when expanding an urban growth area.</p>	
<p>*** (vi) Consideration of critical areas <u>issues and wildfires</u>. Although critical areas exist within urban areas, counties and cities should avoid expanding the urban growth areas into areas with known critical areas extending over a large area. <u>Counties and cities should also consider the potential impacts of wildfires when expanding the urban growth area in the wildland urban interface.</u> See RCW 36.70A.110(8) for legislative direction on expansion of urban growth areas into the one hundred-year flood plain of river segments that are located west of the crest of the Cascade mountains and have a mean annual flow of one thousand or more cubic feet per second. ***</p>	
<p>Proposed Change: Subsection (4)(d)(i): Commerce is elaborating on the need to consider costs of public services, facilities, and open space when conducting UGA analyses in this section. This recommendation is consistent with RCW 36.70A.070(3)(e) and WAC 365-196-415.</p>	

(i) The anticipated ability to finance the public facilities, public services, and open space needed in the urban growth area over the planning period. When conducting a review of the urban growth areas, counties and cities should develop an analysis of the fiscal impact of alternative land use patterns that accommodate the growth anticipated over the succeeding twenty-year period. Counties and cities should develop revenue projections for the twenty-year planning period to ensure consistency between the land use element and the capital facilities plan, and to demonstrate that probable funding does not fall short of the projected needs to maintain and operate public facilities, public services, and open space. This provides the public and decision makers with an estimate of the fiscal consequences of various development patterns. This analysis could be done in conjunction with the analysis required under the State Environmental Policy Act.

WAC 365-196-315

Buildable lands review and evaluation

Source of Change: Legislative Change

The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.

Proposed Change:

Subsection (1): Commerce is updating guidance to reflect new requirements approved through E2SSB 5254 in 2017, along with recommendations from the Buildable Lands Advisory Committee.

(1) Purpose. The review and evaluation program required by RCW 36.70A.215 is referred to as the "buildable lands program." The buildable lands program is intended to determine if urban densities are being achieved within urban growth areas by comparing local planning goals and assumptions contained in the county-wide planning policies and comprehensive plans with actual development and determining if actual development is consistent with the ~~comprehensive plan adopted plans~~. It also determines if there is sufficient commercial, industrial and housing capacity within the adopted urban growth area to accommodate the county's twenty-year planning targets. If, through this evaluation, it is determined that there is an inconsistency between planned and built-out densities or there is insufficient development capacity, counties and cities must adopt and implement measures, other than expanding urban growth areas, that are reasonably likely to increase consistency. These measures are referred to as "reasonable measures." Products derived through the program should be used as a technical resource to local policy makers for subsequent comprehensive plan updates.

(2) Required jurisdictions.

(a) The following counties, and the cities located within those counties, must establish and maintain a buildable lands program as required by RCW 36.70A.215:

- (i) Clark;
 - (ii) King;
 - (iii) Kitsap;
 - (iv) Pierce;
 - (v) Snohomish; ~~and~~
 - (vi) Thurston; and
 - (vii) Whatcom.
- ***

- (3) County-wide planning policies and supportive documents.
- (a) Buildable lands programs must be established in county-wide planning policies.
 - (b) The buildable lands program must contain policies that establish a framework for implementation and continued administration.
 - (c) The buildable lands program's framework for implementation and administration may be adopted administratively. The program's framework must contain policies or procedures to:
 - (i) Provide guidance for the collection and analysis of data;
 - (ii) Provide for the evaluation of the data no later than ~~one year~~ two or three years, as specified by RCW 36.70A.215, prior to the deadline for review of comprehensive plans and development regulations required by RCW 36.70A.130, commonly referred to as the buildable lands report;
 - (iii) Provide for the establishment of methods to resolve disputes among jurisdictions regarding inconsistencies in collection and analysis of data; and
 - (iv) Provide for the amendment of the county-wide policies and county and city comprehensive plans as needed to remedy inconsistencies identified through the evaluation required by this section, or to bring these policies and plans into compliance with the requirements of the act.
 - (d) The program's framework for implementation and administration should, in addition to the above, address the following:
 - (i) Establishment of the lead agency responsible for the overall coordination of the program;
 - (ii) Establishment of criteria and timelines for each county or city to:
 - (A) Make a determination as to consistency or inconsistency between what was envisioned in adopted county-wide planning policies, comprehensive plans and development regulations and actual development that has occurred;
 - (B) Determine whether there is sufficient suitable land to accommodate the countywide population projection, and the subsequent population allocations within the county and between the county and its cities;
 - (C) Adopt and implement reasonable measures, if necessary;
 - ~~(C)(D)~~ Report on the monitoring of the effectiveness of reasonable measures that have been adopted and implemented. Such reporting could be included in the subsequent buildable lands report;
 - ~~(D)(E)~~ Transmit copies of any actions taken under (d)(ii)(A), (B) ~~and~~ (C) and (D) of this subsection to the department.
 - (iii) Providing opportunities for the public to review and comment on the following:
 - (A) Refinement of data collection and analysis methods for the review and evaluation elements of the program;
 - (B) Determinations as to consistency or inconsistency between what was envisioned in adopted county-wide planning policies, comprehensive plans and development regulations and actual development that has occurred; and
 - (C) Adoption of reasonable measures, and reports on the monitoring of their effectiveness.

(iv) Public involvement may be accommodated during review and evaluation of a county or city comprehensive plan in consideration of the buildable land report information. This would generally include public review and comment opportunities before the planning commission or legislative body during the normal local government planning process.

(4) Buildable lands program reporting.

(a) No later than ~~one year~~ two or three years, as specified by RCW 36.70A.215, prior to the deadline for review of comprehensive plans and development regulations required by RCW 36.70A.130, the buildable lands program must compile and publish an evaluation, known as the buildable lands report. Each buildable lands report must be submitted to the department upon publication.

(b) The buildable lands reports must compare growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred since the adoption of the comprehensive plan or the last required buildable lands report. The results of this analysis are intended to aid counties and cities in reviewing and adjusting planning strategies.

(c) The publication, "*Buildable Lands Program Guidelines*," available from the department, may be used as a source for suggested approaches for meeting the requirements of the program.

(5) Criteria for determining consistency or inconsistency.

(a) The determination of consistency or inconsistency for each county or city maintaining a buildable lands program must be made under RCW 36.70A.215(3); at a minimum, the evaluation component of the program shall determine where there is sufficient land suitable for development or redevelopment within the twenty year planning period:

(i) Evaluation under RCW 36.70A.215 (3)(a) should determine whether the comprehensive plan and development regulations sufficiently accommodate the population projection established for the county and allocated within the county and between the county and its cities, consistent with the requirements in RCW 36.70A.110; the zoned capacity of land along is not a sufficient standard to deem land suitable for development or redevelopment within the twenty-year planning period.

(ii) Evaluation under RCW 36.70A.215 (3)(b) should compare the achieved densities, type and density range for commercial, industrial and residential land uses with the assumed densities that were envisioned in the applicable county-wide planning policies, and the comprehensive plan, including:
a) A review and evaluation of the land use designation and zoning/development regulations; environmental regulations (such as tree retention, stormwater, or critical area regulations) impacting development; and other regulations that could prevent assigned densities from being achieved; infrastructure gaps (including but not limited to transportation, water, sewer, and stormwater); and, b) use of a reasonable land market supply factor when evaluating land suitable to accommodate new development or redevelopment of land for residential development and employment activities. The reasonable market supply factor identifies reductions in the amount of land suitable for development and redevelopment. The methodology for conducting a reasonable land market factor shall be determined through the guidance developed in RCW 36.70A.217.

(iii) Evaluation under RCW 36.70A.215 (3)(c) should provide and analysis of county and/or city development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans when growth targets and assumptions are not being achieved. It is not appropriate to make a finding that assumed growth contained in the countywide planning policies and the county or city comprehensive plan will occur at the end of the current comprehensive planning twenty-year planning cycle without rationale; determine, based on actual development densities determined in the evaluation under RCW 36.70A.215 (3)(b), the amount of

~~land needed for commercial, industrial and residential uses for the remaining portion of the twenty-year planning period. This evaluation should consider the type and densities of each type of land use as envisioned in the county wide planning policies, comprehensive plan.~~

~~(vi) Evaluation under RCW 36.70A.215 (3) (d) should determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by RCW 36.70A.215 (1); and~~

~~(b) The evaluation used to determine whether there is a consistency or inconsistency should include any additional standards identified in the county wide planning policies or in other policies that are specifically directed for use in the evaluation.~~

~~(vii) Evaluation under RCW 36.70A.215 (3) (e) should, based on the actual density of development as determined under RCW 36.70A.215(3)(b), review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.~~

(6) Measures to address inconsistencies.

(a) The legislative bodies of counties and cities are responsible for the adoption of reasonable measures requiring legislative action to amend their individual comprehensive plans and development regulations. Counties, in consultation with cities, are responsible for amending the county-wide planning policies reasonably likely to increase consistency. Annual monitoring and reporting is the responsibility of the adopting jurisdiction, but may be carried out by either the adopting jurisdiction or other designated agency or person.

(b) If a county or city determines an inconsistency exists, the county or city should establish a timeline for adopting and implementing measures that are reasonably likely to increase consistency during the succeeding review and evaluation period. The responsible county or city may utilize its annual review or periodic update under RCW 36.70A.130(2) to make adjustments to its comprehensive plan and development regulations that are necessary to implement reasonable measures. Information regarding the adoption, implementation, and monitoring of reasonable measures should be made available to the public. Counties and cities may not rely on expansion of the urban growth area as a measure to address the inconsistency.

(i) Each county or city is responsible for implementing reasonable measures within its jurisdiction and must adopt measures that are designed to remedy the inconsistency within the remaining planning horizon of the adopted comprehensive plan;

(ii) Each county or city adopting reasonable measures is responsible for documenting its methodology and expectations for monitoring to provide a basis to evaluate whether the adopted measures have been effective in increasing consistency during the subsequent review and evaluation period;

(iii) If the monitoring of reasonable measures fails to show increased consistency relative to adopted policies, plans and development regulations during the subsequent review and evaluation period, the county or city should evaluate whether the measures in question should be revised, replaced, supplemented or rescinded;

(iv) If monitoring of reasonable measures demonstrates that such measures have remedied the inconsistency, the adopting county or city may discontinue monitoring;

(v) A copy of any action taken to adopt, amend, or rescind reasonable measures should be submitted to the department.

<p>WAC 365-196-320 Providing urban services</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Commerce is clarifying the relationship between water rights and the twenty-year GMA planning horizon. This encourages local government to ensure their available water rights matches projected growth when considering the provision of urban services.</p>	
<p>WAC 365-196-320 Providing urban services. *** (d) At a minimum, adequate public facilities in urban areas should include sanitary sewer systems, and public water service from a Group A public water system under chapter 70.119 or 70.119A <u>RCW 70A.120 or 70A.125</u> because these services are usually necessary to support urban densities. The services provided must be adequate to allow development at urban densities, and serve development at densities consistent with the land use element, <u>and meet all regulatory obligations under state and federal law.</u> (e) <u>Potable water demand from existing and projected development within the service area of a public water system should not exceed the system’s available water rights at the time of plan adoption.</u> ***</p>	

<p>WAC 365-196-400 Mandatory elements</p>	<p>Source of Change: Agency Recommendation</p>
<p><i>The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.</i></p>	
<p>Proposed Change: Subsection (2): Commerce is adding language to clarify that cities and counties should use consistent population projections and planning horizons. During the previous round of periodic updates, we observed some cities and counties using inconsistent figures and assumptions.</p>	
<p>(2) Recommendations for overall design of the comprehensive plan. (a) The planning horizon for the comprehensive plan must be at least the twenty-year period following the adoption of the comprehensive plan. <u>Cities and counties should use consistent population projections and planning horizons. The planning horizon should start on the relevant deadline specified in RCW 36.70A.130(5).</u> ***</p>	

<p>WAC 365-196-425 Rural element</p>	<p>Source of Change: Agency Recommendation</p>
<p><i>The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.</i></p>	
<p>Proposed Change: Subsection (3): Commerce is encouraging local governments to consider reducing rural densities in areas at high risk of wildfires.</p>	
<p>(3) Rural densities. *** <u>(b) Counties should consider the adverse impact of wildfires when establishing rural densities. Counties may reduce rural densities in the Wildland Urban Interface, or in other areas at risk of wildfire, to protect natural resource lands, critical areas, water quality, or rural character.</u> ***</p>	

<p>WAC 365-196-430 Transportation element</p>	<p>Source of Change: Agency Recommendation</p>
<p><i>The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.</i></p>	
<p>Proposed Change: Subsection (1): WSDOT and Commerce are proposing a number of amendments to reflect updated recommendations for transportation planning. This includes additional guidance on ensuring consistency between the land use and transportation elements. It includes new language emphasizing the role of active transportation in the transportation element, and new references to state transportation policy goals.</p>	
<p>(1) Requirements. Each comprehensive plan shall include a transportation element that implements, and is consistent with, the land use element. The transportation element shall contain at least the following subelements:</p> <p>(a) Land use assumptions used in estimating travel;</p> <p>(b) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state</p>	

facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(c) Facilities and services needs, including:

(i) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airports facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the county's or city's jurisdictional boundaries;

(ii) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) For state-owned transportation facilities, level of service standards for highways, as prescribed in ~~chapters RCW~~ [47.06.140](#) and [47.80.023\(9\) RCW](#), to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the department of transportation's ten-year investment program. The concurrency requirements of RCW 36.70A.070 (6)(b) do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in RCW 36.70A.070 (6)(b);

(iv) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(v) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(vi) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(d) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year improvement program developed by the department of transportation as required by RCW 47.05.030;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(e) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(f) Demand-management strategies;

(g) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles;

(h) The transportation element, and the six-year plan required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, RCW 35.58.2795 for public transportation systems, and the ten-year plan required by RCW 47.05.030 for the state, must be consistent.

(2) Recommendations for meeting element requirements.

(a) Consistency with the land use element, regional and state planning.

(i) RCW 36.70A.070(6) requires that the transportation element implement and be consistent with the land use element. Counties and cities should use consistent land use assumptions, population forecasts, and planning periods for both elements. Coordination of the land use and transportation elements should be dynamic and iterative. There should be an ongoing feedback loop coordinating land use and transportation in the plan development and in local implementation.

(ii) Counties and cities should refer to the statewide multimodal transportation plan produced by the department of transportation under chapter 47.06 RCW to ensure consistency between the transportation element and the statewide multimodal transportation plan. Local transportation elements should also reference applicable department of transportation corridor planning studies, including scenic byway corridor management plans, active transportation plans, and Recreation and Conservation Office state trails plan.

(iii) Counties and cities should refer to the regional transportation plan developed by their regional transportation planning organization under chapter 47.80 RCW to ensure the transportation element reflects regional guidelines and principles; is consistent with the regional transportation plan; and is consistent with adopted regional growth and transportation strategies. Considering consistency during the development and review of the transportation element will facilitate the certification of transportation elements by the regional transportation planning organization as required by RCW 47.80.023(3).

(iv) Counties and cities should develop their transportation elements using the framework established in county-wide planning policies, and where applicable, multicounty planning policies. Using this framework ensures their transportation elements are coordinated and consistent with the comprehensive plans of other counties and cities sharing common borders or related regional issues as required by RCW 36.70A.100 and 36.70A.210.

(v) Counties and cities should refer to the six-year transit plans developed by municipalities or regional transit authorities pursuant to RCW 35.58.2795 to ensure their transportation element is consistent with transit development plans as required by RCW 36.70A.070 (6)(c).

(vi) Land use elements and transportation elements may incorporate commute trip reduction plans to ensure consistency between the commute trip reduction plans and the comprehensive plan as required by RCW ~~70.94.527(5)~~70A.15.4020. Counties and cities may also include transportation demand management programs for growth and transportation efficiency centers designated in accordance with RCW ~~70.94.528~~70A.15.4030.

(b) The transportation element should contain goals and policies to guide the development and implementation of the transportation element. The goals and policies should be consistent with statewide and regional goals and policies, including state policy goals as outlined in RCW 47.04.280, and a practical solutions approach as outlined in Washington State Department of Transportation Secretary's Executive Order Number: E 1090.01. Goals and policies should address the following:

(i) Roadways and roadway design that provides safe access and travel for all users, including pedestrians, bicyclist, transit vehicles and riders, and motorist~~motorists, transit vehicles and riders, bicyclists, and pedestrians;~~

(ii) Public transportation, including public transit and passenger rail, intermodal transfers, and multimodal access to transit stations and stops by people walking, bicycling, or transferring from another vehicle;

(iii) Bicycle and pedestrian travel, including measures of facility quality such as level of traffic stress, route directness, and network completeness;

(iv) Transportation demand management, including education, encouragement and ~~law~~-enforcement strategies;

(v) Freight mobility including port facilities, truck, air, rail, and water-based freight;

(vi) Transportation finance including strategies for addressing impacts of development through concurrency, impact fees, and other mitigation; and

(vii) Policies to preserve the functionality of state highways within the local jurisdiction such as policies to provide an adequate local network of streets, paths, and transit service so that local short-range trips do not require single-occupant vehicle travel on the state highway system; and policies to mitigate traffic and stormwater impacts on state-owned transportation facilities and services as development occurs.

(c) Inventory and analysis of transportation facilities and services. RCW 36.70A.070 (6)(a)(iii)(A) requires an inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities. The inventory should include facilities for active transportation such as bicycle and pedestrian travel. The inventory defines existing capital facilities and travel levels as a basis for future planning. The inventory must include state-owned transportation facilities within the city's or county's jurisdictional boundaries. Counties and cities should identify transportation facilities which are owned or operated by others. For those facilities operated by others, counties and cities should refer to the responsible agencies for information concerning current and projected plans for transportation facilities and services. Counties, cities, and agencies responsible for transportation facilities and services should cooperate in identifying and resolving land use and transportation compatibility issues.

(i) Air transportation facilities.

(A) Where applicable, counties and cities should describe the location of facilities and services provided by any general aviation airport within or adjacent to the county or city, and should reference any relevant airport planning documents including airport master plans, airport layout plans or technical assistance materials made available by airport sponsor and in coordination with the Washington state department of transportation, aviation division.

(B) Counties and cities should identify supporting transportation infrastructure such as roads, rail, and routes for freight, employee, and passenger access, and assess the impact to the local transportation system.

(C) Counties and cities should assess the compatibility of land uses adjacent to the airport and discourage the siting of incompatible uses in the land use element as directed by RCW 36.70A.510, and WAC 365-196-455, and in accordance with the best practices recommended by the Aviation Division of the Washington State Department of Transportation.

(ii) Water transportation facilities and services.

(A) Where applicable, counties and cities should describe or map any ferry facilities and services, including ownership, and should reference any relevant ferry planning documents. The inventory should identify if a ferry route is subject to concurrency under RCW 36.70A.070 (6)(b). A ferry route is subject to concurrency if it serves counties consisting of islands whose only connection to the mainland are state highways or ferry routes.

(B) Counties and cities should identify supporting infrastructure such as parking and transfer facilities, bicycle, pedestrian, and vehicle access to ferry terminals and assess the impact on the local transportation system.

(C) Where applicable, counties and cities should describe marine and inland waterways, and related port facilities and services. Counties and cities should identify supporting transportation infrastructure, and assess the impact to the local transportation system.

(iii) Ground transportation facilities and services.

(A) Roadways. Counties and cities must include a map of roadways owned or operated by city, county, and state governments.

(I) Counties and cities may describe the general travel market (i.e., commuter, tourist, farm to market, etc.) served by the transportation network. The inventory may include information such as: Traffic volumes, truck volumes and classification, functional classification, strategic freight corridor designation, preferred freight routes, scenic and recreational highway designation, high occupancy vehicle lanes, business access and transit lanes, transit queue jumps, other transit priority features, bicycle facilities, sidewalks, and ownership.

(II) For state highways, counties and cities should coordinate with the regional office of the Washington state department of transportation to identify designated high occupancy vehicle or

high occupancy toll lanes, access classification, roadside classification, functional classification, and whether the highway is a state-designated highway of statewide significance, or state scenic and recreational highway designated under chapter 47.39 RCW. These designations may impact future development along state highway corridors. If these classifications impact future land use, this information should be included in the comprehensive plan along with reference to any relevant corridor planning documents.

(B) Public transportation and rail facilities and services.

(I) RCW 36.70A.070 (6)(a)(iii)(A) requires an inventory of transit alignments. Where applicable, counties and cities must inventory existing public transportation facilities and services. This section should reference transit development plans that provide local services. The inventory should contain a description of regional and intercity rail, and local, regional, and intercity bus service, paratransit, or other services. Counties and cities should include a map of local transit routes. The map should categorize routes by frequency and span of service. The inventory should also identify locations of passenger rail stations and major public transit transfer stations for appropriate land use.

(II) Where applicable, such as where a major freight transfer facility is located, counties and cities should include a map of existing freight rail lines, and reference any relevant planning documents. Counties and cities should assess the adequacy of supporting transportation infrastructure such as roads, rail, and navigational routes for freight, employee, and passenger access, and the impact on the local transportation system.

(d) If the planning area is within a National Ambient Air Quality Standards nonattainment area, compliance with the Clean Air Act Amendments of 1990 is required. Where applicable, the transportation element should include: A map of the area designated as the nonattainment area for ozone, carbon monoxide, and particulate matter (PM10 and PM2.5); a discussion of the severity of the violation(s) contributed by transportation-related sources; and a description of measures that will be implemented consistent with the state implementation plan for air quality. Counties and cities should refer to chapter 173-420 WAC, and to local air quality agencies and metropolitan planning organizations for assistance.

(e) Level of service standards. Level of service standards serve to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between city, county and state transportation investment programs.

(i) RCW 36.70A.070 (6)(a)(iii)(B) requires the transportation element to include level of service standards for all locally owned arterials. Counties and cities may adopt level of service standards for all travel modes. Counties and cities may adopt level of service standards for~~other~~ locally owned roads that are not classified as arterials.~~or travel modes at their discretion.~~

(ii) RCW 36.70A.070 (6)(a)(iii)(C) requires level of service standards for state-owned highways, as reflected in chapters 47.06 and 47.80 RCW, to gauge the performance of the transportation system. The department of transportation, in consultation with counties and cities, establishes level of service standards for state highways and ferry routes of statewide significance. Counties and cities should refer to the state highway and ferry plans developed in accordance with chapter 47.06 RCW for the adopted level of service standards.

(iii) Regional transportation planning organizations and the department of transportation jointly develop level of service standards for all other state highways and ferry routes. Counties and cities should refer to the regional transportation plans developed in accordance with chapter 47.80 RCW for the adopted level of service standards.

(iv) RCW 36.70A.070 (6)(a)(iii)(B) requires the transportation element to include level of service standards for all transit routes. To identify level of service standards for public transit services, counties and cities should include the established level of service or performance standards from the transit provider and should reference any relevant planning documents.

(v) Adopted level of service standards should reflect access, mobility, mode-split, or capacity goals for the transportation facility depending upon the surrounding development density and community goals, and should be developed in consultation with transit agencies serving the planning area. Level of service standards should also advance the state's vehicle miles per capita reduction goals as identified in RCW 47.01.044.

(vi) The measurement methodology and standards should vary based on the urban or rural character of the surrounding area. The county or city should also balance the desired community character, funding capacity, and traveler expectations when selecting level of service methodologies and standards for all transportation modes. A county or city may select different ways to measure travel performance depending on how a county or city balances these factors and the characteristics of travel in their community. For example, counties and cities may measure performance at different times of day, week, or month (peak versus off-peak, weekday versus weekend, summer versus winter). Counties and cities may also measure performance at different geographic scales (intersections, road or route segments, travel corridors, or travel zones), or in terms of the supply of multimodal capacity available in a corridor.

(vii) In urban areas RCW 36.70A.108 encourages the use of methodologies analyzing the transportation system from a comprehensive, multimodal perspective. Multimodal levels of service methodologies and standards should consider the needs of travelers using the four major travel modes (pedestrian, bicycle, public transportation, motor vehicle~~motor vehicle, public transportation, bicycle, and pedestrian~~), their impacts on each other as they share the street, and their mode specific requirements for street design and operation. For example, bicycle and pedestrian level of service standards should emphasize the availability of facilities and safety and comfort levels for users, to make these modes accessible to a broad share of the population.

(f) Travel forecasts. RCW 36.70A.070 (6)(a)(iii)(E) requires forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth. Counties and cities must include at least a ten-year travel forecast in the transportation element. The forecast time period and underlying assumptions must be consistent with the land use element. Counties and cities may forecast travel for the twenty-year planning period. Counties and cities may include bicycle, pedestrian, and/or planned transit service in a multimodal forecast. Travel forecasts should be based on adopted regional growth strategies, the regional transportation plan, and comprehensive plans within the region to ensure consistency.

Counties and cities should use the most current traffic forecasting methodologies that better account for the different traffic generating characteristics of different land use patterns. Traffic

forecasts are one piece of information and should be balanced with other data and goals in the formation of the transportation element.

(g) Identify transportation system needs.

(i) RCW 36.70A.070 (6)(a)(iii)(D) requires that the transportation element include specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below established level of service standards.

(ii) System needs are those improvements needed to meet and maintain adopted levels of service over at least the required ten-year forecasting period. If counties and cities use a twenty-year forecasting period, they should also identify needs for the entire twenty-year period.

(iii) RCW 47.80.030(3) requires identified needs on regional facilities or services to be consistent with the regional transportation plan and the adopted regional growth and transportation strategies. RCW 36.70A.070 (6)(a)(iii)(F) requires identified needs on state-owned transportation facilities to be consistent with the statewide multimodal transportation plan.

(iv) Counties and cities should cooperate with public transit providers to analyze projected transit services and needs based on projected land use assumptions, and consistent with regional land use and transportation planning. Coordination may also include identification of mixed use centers, and consider opportunities for intermodal integration and appropriate multimodal access, particularly bicycle and pedestrian access.

(v) Counties and cities must include state transportation investments identified in the statewide multimodal transportation plan required under chapter 47.06 RCW and funded in the Washington state department of transportation's ten-year improvement program. Identified needs must be consistent with regional transportation improvements identified in regional transportation plans required under chapter 47.80 RCW. The transportation element should also include plans for new or expanded public transit and be coordinated with local transit providers.

(vi) The identified transportation system needs may include: Considerations for repair, replacement, enhancement, or expansion of pedestrian, bicycle, transit, vehicular ~~vehicular, transit, bicycle, and pedestrian~~ facilities; enhanced or expanded transit services; system management; or demand management approaches.

(vii) Transportation system needs may include transportation system management measures increasing the motor vehicle capacity of the existing street and road system. They may include, but are not limited to signal timing, traffic channelization, intersection reconfiguration, exclusive turn lanes or turn prohibitions, bus turn-out bays, grade separations, removal of on-street parking or improving street network connectivity.

(viii) When identifying system needs, counties and cities may identify a timeline for improvements. Identification of a timeline provides clarity as to when and where specific transportation investments are planned and provides the opportunity to coordinate and cooperate in transportation planning and permitting decisions.

(ix) Counties and cities should consider how the improvements relate to adjacent counties or cities.

~~(x)~~ State policy goals as outlined in RCW 47.04.280, and a practical solutions approach as outlined in Washington State Department of Transportation Secretary's Executive Order Number: E 1090.01.

(xi) The transportation element may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070(6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(a) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(b) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(h) Local impacts to state transportation facilities. RCW 36.70A.070 (6)(a)(ii) requires counties and cities to estimate traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the Washington state department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities. Traffic impacts should include the number of motor vehicle, and, ~~as information becomes available~~, bicycle, public transit, and pedestrian trips estimated to use the state highway and ferry systems throughout the planning period. Cities and counties should work with the Washington State Department of Transportation to understand the limits of state facilities throughout the planning period and should avoid increasing vehicle demand beyond planned capacity of state facilities.

(i) Transportation demand management.

(i) RCW 36.70A.070 (6)(a)(vi) requires that the transportation element include transportation demand management strategies. These strategies are designed to encourage the use of alternatives to single occupancy travel and to reduce congestion, especially during peak times.

(ii) Where applicable, counties and cities may include the goals and relevant strategies of employer-based commute trip reduction programs developed under RCW 70.94.521 through 70.94.555. All other counties and cities should consider strategies which may include, but are not limited to ridesharing, vanpooling, promotion of bicycling, walking and use of public transportation, transportation-efficient parking and land use policies, and high occupancy vehicle subsidy programs.

(j) Pedestrian and bicycle component. RCW 36.70A.070 (6)(a)(vii) requires the transportation element to include a pedestrian and bicycle component that includes collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(i) Collaborative efforts may include referencing local, regional, and state pedestrian and bicycle planning documents, if any. Designated shared use paths, which are part of bicycle and pedestrian networks, should be consistent with those in the parks, recreation and open space element.

(ii) To identify and designate planned improvements for bicycle facilities and corridors, the pedestrian and bicycle component should include a map of bicycle facilities, such as bicycle lanes, shared use paths, paved road shoulders. This map should identify state and local designated bicycle

routes, and describe how the facilities link to those in adjacent jurisdictions. This map should also identify the level of traffic stress for each of the facilities.

(iii) To identify and designate planned improvements for pedestrian facilities and corridors, the pedestrian and bicycle component should include a map of pedestrian facilities such as sidewalks, pedestrian connectors, and other designated facilities, especially in areas of high pedestrian use such as designated centers, major transit routes, and route plans designated by school districts under WAC 392-151-025.

(iv) The pedestrian and bicycle component should plan a network that connects residential and employment areas with community and regional destinations, schools, and public transportation services. The plan should consider route directness, network completeness, and level of traffic stress.

(v) The pedestrian and bicycle component should also ~~review existing pedestrian and bicycle collision data to~~ plan pedestrian facilities that improve pedestrian and bicycle safety following a safe systems approach and consider existing pedestrian and bicycle collision data, vehicle speeds and volumes, and level of separation of modes.

(k) Multiyear financing plan.

(i) RCW 36.70A.070 (6)(a)(iii)(B) requires that the transportation element include a multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which develop a financing plan that addresses all identified multimodal transportation facilities and services transportation facilities and strategies throughout the twenty-year planning period. The identified needs shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should reflect regional improvements identified in regional transportation plans required under chapter 47.80 RCW and be coordinated with the ten-year investment program developed by the Washington state department of transportation as required by RCW 47.05.030;

(ii) The horizon year for the multiyear plan should be the same as the time period for the travel forecast and identified needs. The financing plan should include cost estimates for new and enhanced locally owned roadway facilities including new or enhanced bicycle and pedestrian facilities to estimate the cost of future facilities and the ability of the local government to fund the improvements.

(iii) Sources of proposed funding may include:

(A) Federal or state funding.

(B) Local funding from taxes, bonds, or other sources.

(C) Developer contributions, which may include:

(I) Impact or mitigation fees assessed according to chapter 82.02 RCW, or the Local Transportation Act (chapter 39.92 RCW).

(II) Contributions or improvements required under SEPA (RCW 43.21C.060).

(III) Concurrency requirements implemented according to RCW 36.70A.070 (6)(b).

(D) Transportation benefit districts established under RCW 35.21.225 and chapter 36.73 RCW.

(iv) RCW 36.70A.070 (6)(a)(iv)(A) requires an analysis of funding capability to judge needs against probable funding resources. When considering the cost of new facilities, counties and cities should consider the full-life cycle cost of maintaining facilities in addition to the cost of their initial construction. Counties and cities should forecast projected funding capacities based on revenues that are reasonably expected to be available, under existing laws and ordinances, to carry out the plan. If the funding strategy relies on new or previously untapped sources of revenue, the financing plan should include a realistic estimate of new funding that will be supplied.

(l) Reassessment if probable funding falls short.

(i) RCW 36.70A.070 (6)(a)(iv)(C) requires reassessment if probable funding falls short of meeting identified needs. Counties and cities must discuss how additional funding will be raised or how land use assumptions will be reassessed to ensure that level of service standards will be met.

(ii) This review must take place, at a minimum, as part of the periodic review and update required in RCW 36.70A.130 (1) and (3), and as major changes are made to the transportation element.

(iii) If probable funding falls short of meeting identified needs, counties and cities have several choices. For example, they may choose to:

(A) Seek additional sources of funding for identified transportation improvements;

(B) Adjust level of service standards to reduce the number and cost of needed facilities;

(C) Revisit identified needs and use of transportation system management or transportation demand management strategies to reduce the need for new facilities; or

(D) Revise the land use element to shift future travel to areas with adequate capacity, to lower average trip length by locating destinations closer to the people who want to reach them to increase the share of people who can walk, bicycle, or take transit to those destinations, or to avoid the need for new facilities in undeveloped areas;

(E) If needed, adjustments should be made throughout the comprehensive plan to maintain consistency.

(m) Implementation measures. Counties and cities may include an implementation section that broadly defines regulatory and nonregulatory actions and programs designed to proactively implement the transportation element. Implementation measures may include:

~~(i) Public works guidelines to reflect multimodal transportation standards for pedestrians, bicycles and transit; or adoption of Washington state department of transportation standards or the National Association of City Transportation Officials American Association of State Highway and Transportation Officials standards for bicycle and pedestrian facilities;~~

(ii) Transportation concurrency ordinances affecting development review;

(iii) Parking standards, especially in urban centers, to reduce or eliminate vehicle parking minimum requirements, provide vehicle parking maximums and include bicycle parking;

(iv) Commute trip reduction ordinances and transportation demand management programs;

(v) Access management ordinances;

(vi) ~~Nonmotorized~~ Active transportation funding programs;

(vii) Maintenance procedures and pavement management systems to include bicycle, pedestrians and transit considerations;

(viii) Subdivision standards to reflect multimodal goals, including providing complete and connected networks, particularly for bicycle and pedestrian travel; and

(ix) Transit compatibility policies and rules to guide development review procedures to incorporate review of bicycle, pedestrian and transit access to sites.

(3) The transportation element may include, in addition to improvements or strategies to accommodate the impacts of development authorized under RCW 36.70A.070(6)(b), multimodal transportation improvements or strategies that are made concurrent with the development. These transportation improvements or strategies may include, but are not limited to, measures implementing or evaluating:

(a) Multiple modes of transportation with peak and nonpeak hour capacity performance standards for locally owned transportation facilities; and

(b) Modal performance standards meeting the peak and nonpeak hour capacity performance standards.

(4) Any county located to the west of the crest of the Cascade mountains that has both a population of at least four hundred thousand and a border that touches another state, and any city in such county, may include development of freight rail dependent uses on land adjacent to a short line railroad in the transportation element required by RCW 36.70A.070. Such counties and cities may also modify development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural lands.

(5) Nothing in this section or RCW 36.70A.070(6)(b) shall be construed as prohibiting a county or city planning under RCW 36.70A.040 from exercising existing authority to develop multimodal improvements or strategies to satisfy the concurrency requirements of this chapter.

(6) Nothing in this section is intended to affect or otherwise modify the authority of jurisdictions planning under RCW 36.70A.040.

WAC 365-196-475

Land use compatibility with military installations

Source of Change: Legislative Change and Agency Recommendation

The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.

Proposed Change:

Subsection (1): Commerce is elaborating on the recommendations in this section to emphasize the importance of military training, testing, and operating areas. These areas exist throughout the state and local government permitting decisions can result in operational interference.

(1) Military installations are of particular importance to the economic health of the state of Washington. It is a priority of the state to protect the land surrounding military installations from incompatible development. Military training, testing, and operating areas are also critical to the mission viability of Washington’s military installations.

Proposed Change:

Subsection (5): Commerce is including a new subsection to ensure counties are adequately addressing the notification requirements in RCW 36.01.320. The Legislature created notification requirements in 2011 with SHB 1570.

(5) Counties must provide written notification to the Department of Defense upon receipt of an application for a permit to site an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least one hundred fifteen thousand volts. Counties should consider comprehensive plan policies or development regulations to ensure compliance with the notice requirements in RCW 36.01.320.

WAC 365-196-480
Natural resource lands

Source of Change: Agency Recommendation

The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.

Proposed Change:

Subsection (2): Commerce is making changes to ensure consistency with proposed changes to Chapter 365-190 WAC. We are also adding a new subsection that encourages proactive planning for energy facilities on or adjacent to natural resource lands.

(2) Recommendations for meeting requirements.

(e) The review of existing designations should be done on ~~an area-wide~~ county-wide basis, and in most cases, be limited to the question of consistency with the comprehensive plan, rather than revisiting the entire prior designation and regulation process. However, to the extent that new

information is available or errors have been discovered, the review process should take this information into account. Review for consistency in this context should include whether the planned use of lands adjacent to agricultural, forest, or mineral resource lands will interfere with the continued use, in an accustomed manner and in accordance with the best management practices, of the designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities should defer reviews of resource lands until the next periodic review of their comprehensive plans and development regulations (See RCW 36.70A.130).

(h) When siting energy facilities on or adjacent to natural resource lands, counties and cities must ensure that development does not result in conversion to a use that removes the land from resource production, or interferes with the usual and accustomed operations of the natural resource lands. Counties and cities are encouraged to adopt policies and regulations regarding the appropriate location for siting energy facilities on or adjacent to natural resource lands.

WAC 365-196-485
 Critical areas

Source of Change: Agency Recommendation

Proposed Change: Commerce is clarifying the core substantive requirements for protecting critical areas. We are also adding recommendations for developing a monitoring and adaptive management program to ensure critical areas regulations are achieving desired goals.

WAC 365-196-485 Critical areas.

(3) Recommendations for meeting requirements:

(c) Critical areas ~~should~~must be designated and protected wherever the applicable environmental conditions exist, whether within or outside of urban growth areas. Critical areas may overlap each other, and requirements to protect critical areas apply in addition to the requirements of the underlying zoning.

(d) The review of existing designations during the comprehensive plan adoption process should, in most cases, be limited to the question of consistency with the comprehensive plan, rather than a revisiting of the entire prior designation and regulation process. However, counties and cities must address the requirements to include the best available science in reviewing designations and developing policies and development regulations to protect the functions and values of critical areas, and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. To the extent that new information is available or errors have been discovered, the review process ~~should~~must take this information into account unless the jurisdiction provides a reasoned, science-based justification for departure.

(e) The department recommends counties and cities review plan, regulation and permit implementation monitoring results and, where applicable, incorporate adaptive management measures to ensure regulations are efficient and effective at protecting critical area functions and values.

WAC 365-196-510

Interjurisdictional consistency.

Source of Change: Agency Recommendation

The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.

Proposed Change:

Subsection (3): Commerce is adding language to clarify that cities and counties should use consistent population projections and planning horizons. During the previous round of periodic updates, we observed some cities and counties using inconsistent figures and assumptions.

(3) To better ensure consistency of comprehensive plans, counties and cities should consider using similar policies and assumptions that apply to common areas or issues.

(4) Counties and cities should use consistent population projections and planning horizons when completing the periodic review and evaluation of comprehensive plans and development regulations. The planning horizon should start on the relevant deadline specified in RCW 36.70A.130(5) and encompass a minimum of twenty-years.

WAC 365-196-600

Public participation

Source of Change: Agency Recommendation

The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.

Proposed Change :

Subsection (3)(a)(vi): Commerce is encouraging cities and counties to collaborate with state agencies and Tribal governments early in the periodic review process. Engaging early allows state agencies and Tribes to share important information that can shape local policies and regulations.

(vi) The public participation program should include outreach and early coordination with state and tribal agencies with subject matter expertise. Coordination with state agencies and tribes is recommended as draft policies and regulations are being developed.

<p>Proposed Change Subsection (4): Commerce is adding new recommendations to consider equity when developing public participation plans and updating the comprehensive plan and development regulations.</p>
<p>***</p> <p>(4) Each county or city should try to involve a broad cross-section of the community, so groups not previously involved in planning become involved. <u>Counties and cities should implement innovative techniques that support meaningful and inclusive engagement for people of color and low-income people. Counties and cities should consider potential barriers to participation that may arise due to race, color, ethnicity, religion, income, or education level.</u></p> <p>***</p>

<p>WAC 365-196-610 Periodic review and update of comprehensive plans and development regulations</p>	<p>Source of Change: Legislation and Agency Recommendation</p>								
<p>Proposed Change: Subsection (1)(b)(i): Commerce is updating the periodic review schedule for consistency with RCW 36.70A.130. The Legislature amended the schedule in 2020 with ESHB 2342.</p>									
<p>WAC 365-196-610 Periodic review and update of comprehensive plans and development regulations.</p> <p>***</p> <p style="text-align: center;">Table WAC 365-196-610.1 Deadlines for Completion of Periodic Review 2015—2018 <u>2024-2027</u></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Update must be complete by June 30 of:</th> <th style="text-align: center;">Affected counties and the cities within:</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">2015/2023 <u>2024</u></td> <td>King, Kitsap, Pierce, Snohomish</td> </tr> <tr> <td style="text-align: center;">2016/2024 <u>2025</u></td> <td>Clallam, Clark, Island, Jefferson, Kitsap <u>Lewis</u>, Mason, San Juan, Skagit, Thurston, Whatcom</td> </tr> <tr> <td style="text-align: center;">2017/2025 <u>2026</u></td> <td>Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Lewis, Skamania, Spokane, <u>Walla Walla</u>, Yakima</td> </tr> </tbody> </table>		Update must be complete by June 30 of:	Affected counties and the cities within:	2015/2023 <u>2024</u>	King, Kitsap , Pierce, Snohomish	2016/2024 <u>2025</u>	Clallam, Clark, Island, Jefferson, Kitsap <u>Lewis</u> , Mason, San Juan, Skagit, Thurston, Whatcom	2017/2025 <u>2026</u>	Benton, Chelan, Cowlitz, Douglas, Franklin , Kittitas, Lewis , Skamania, Spokane, <u>Walla Walla</u> , Yakima
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<p>***</p>			
<p>Proposed Change Subsections (1)(e)(i) and (2)(b)(ii)(B): Commerce is clarifying that that a review of Best Available Science is required during the periodic update.</p> <p>We are also encouraging local governments to monitor and evaluate critical areas programs and make changes as necessary to ensure critical areas are being protected. This is consistent with proposed updates in WAC 365-190 and WAC 365-195, as well as interagency guidance on critical areas.</p>			
<p>***</p>			
<p>This review must include at least the following:</p> <p>(1)(e)(i) Consideration of the critical areas ordinance, <u>including a best available science review (see WAC 365-195)</u>;</p> <p>***</p> <p>(2)(b)(ii)(B) Consideration of critical areas and resource lands ordinances. <u>The department recommends evaluating the results of plan, regulation and permit monitoring to determine if changes are needed to ensure efficient and effective implementation of critical areas ordinances (See WAC 365-195-920)</u>;</p> <p>***</p>			

<p>WAC 365-196-630 Submitting notice of intent to adopt to the state.</p>	<p>Source of Change: Agency Recommendation</p>
<p><i>The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.</i></p>	
<p>Proposed Change: Subsection (1): Commerce is proposing minor changes with new citations to the statute for clarity.</p>	
<p>(1) State notification and comment. (a) The act requires each county or city proposing adoption of an original comprehensive plan or development regulation, or amendment, under the act, must to notify the department of its intent at least sixty days prior to final adoption <u>pursuant to RCW 36.70A.106</u>. Counties and cities may</p>	

request expedited review for ~~changes~~ amendments to the development regulations pursuant to RCW 36.70A.106 (3)(b).

(b) State agencies, including the department, may provide comments on comprehensive plans, development regulations, and related amendments during the public review process.

Proposed Change:

Subsection (2): Commerce is revising the notice recommendations to reflect the new, PlanView online web portal for submittal of electronic documents. We are proposing additional edits to clarify the format that should accompany the notice submitted.

(2) Notice to the department ~~must include~~ may be in digital format through PlanView, a web-based portal, provided by the department. A complete submittal shall include the following:

(a) A cover letter or cover page that includes an explanation of the proposed amendment, notification that the submittal is intended to begin the sixty-day review process, the planned date of adoption, and the sender's contact information; and

(b) A copy of the proposed amendment ~~language~~ text. The drafted amendment text should be in a complete form, and it should clearly identify how the existing language will be modified. ~~An example of acceptable form includes struck through and underlined text that indicates proposed deleted text and new text, respectively~~ Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the proposed amendment are clearly identifiable.

(c) If the proposed amendment changes during the legislative process following submittal, ~~counties and cities~~ then a county or city may submit supplemental materials to the department without initiating a new sixty-day notice period. Counties and cities must identify any materials submitted to the department if they are supplemental to an earlier proposed amendment under a sixty-day review.

Proposed Change:

Subsection (3): Commerce is revising the notice recommendations to reflect the new, PlanView online web portal for submittal of electronic documents

(3) (a) The department prefers that notices of proposed amendments under RCW 36.70A.106 be submitted electronically through PlanView, a web-based portal. The department will provide access and instructions to a county or city for submitting notices through this process. Expedited review requests should be submitted by email as outlined in subsection (6) of this section. Counties and cities ~~A county or city~~ may contact the department ~~by telephone at 360-725-3000 or~~ by email at reviewteam@commerce.wa.gov to obtain electronic contact information and procedures for electronic submittals.

(b) Copies submitted by U.S. mail should be sent to:

Department of Commerce,
Growth Management Services
Attn: Review Team
P.O. Box 42525
Olympia, WA 98504-2525

Proposed Change:

Subsection (4): Commerce is proposing minor changes with new citations to the statute for clarity.

(4) Submitting adopted amendments.

(a) Each county or city planning under the act must transmit to the department, within ten days after adoption, one complete and accurate copy of its adopted comprehensive plan or development regulation, or adopted amendment to a comprehensive plan or development regulation pursuant to RCW 36.70A.106. ~~Additional copies should be sent to those state agencies that provided comment on the proposed amendment.~~

(b) The submittal of an adopted amendment must include a copy of the final signed and dated ordinance or resolution identifying the legislative action.

(c) Submittal of an adopted amendments should follow the method outlined for submission of the sixty-day notice for review in subsection (3) of this section.

Proposed Change:

Subsection (5): Commerce is including additional references to the PlanView online web portal, with minor edits for clarity.

(5) The sixty-day period for determining when an amendment to a comprehensive plan, ~~or~~ development regulation, ~~or amendment can~~ may be adopted begins as follows:

(a) When the notice is automatically date-stamped by the department in the PlanView system, or upon receipt ~~by email attachment~~ if the submittal is transmitted electronically; or

(b) When the material is stamped upon the date of receipt at the department's planning unit reception desk during regular business hours if the submittal is transmitted by U.S. mail.

Proposed Change:

Subsection (6): Commerce is including additional references to the PlanView online web portal, with minor edits for clarity.

(6) Expedited review.

(a) Counties and cities may request expedited review when ~~they are providing to the department notice of submitting notice to the department of~~ intent to adopt an amendments to development regulations under RCW 36.70A.106 (3)(b).

(b) Expedited review is intended for amendments to development regulations for which, without expedited review, the sixty-day state agency review process would needlessly delay the jurisdictions adoption schedule.

(c) Counties and cities may not request expedited review ~~of for~~ comprehensive plan amendments.

(d) Certain types of development regulations are very likely to require review by state agencies, and are therefore generally not appropriate for expedited review. Proposed changes to critical areas ordinances or regulations, concurrency ordinances, or ordinances regulating essential public facilities are examples of development regulation amendments that should not be submitted for expedited review.

(e) Department responsibilities:

(i) Requests submitted for expedited review should be ~~forwarded to other state agencies identified by the department through the PlanView system~~ within two working days of receipt of request for expedited review.

- (ii) State agencies have ten working days to determine if the proposal is of interest and requires more time for review.
- (iii) If the department is notified by any state agency within ten working days that it has an interest in more time for review, the department will not grant expedited review until all agencies have had an opportunity to comment.
- (iv) If, after ten working days, a state agency does not respond to the department, then the department may grant the request for expedited review.
- (v) The department may determine that it has an interest in a proposal that requires more time for review, and it may deny a request for expedited review on that basis.
- (vi) The estimated time frame for processing an expedited review request is fourteen days, to coincide with the State Environmental Policy Act comment period.
- (vii) The expedited review request must include the information required to determine if an item is of state interest, similar to the methods outlined for submission of amendments for sixty-day review.
- (f) State agency responsibilities:
 - (i) If a state agency intends to comment, the agency must respond to requests for expedited review within ten working days.
 - (ii) State agencies should determine how to coordinate an agency response internally to maintain proper notification and information management between its headquarters office and regional offices. The department will work with state agencies if it can be of assistance in this process.
 - (iii) If a state agency has an interest in a proposed amendment for expedited review, and it has requested the department not grant expedited review, then the state agency requesting denial of the expedited review should contact and provide comment directly to the requesting jurisdiction county or city within the sixty-day period specified in RCW 36.70A.106. The state agency should notify the department when it has completed review and provided comments.
- (g) County and city responsibilities:
 - (i) Requests for expedited review should be the exception and not the rule. Expedited review is designed for use with development regulations amendments that are unlikely to require state agency review or comment.
 - (ii) Expedited review should not be used as a substitute for timely notification. Counties and cities should plan for the full sixty-day review period when practicable.
 - (iii) Counties and cities must request expedited review on a case-by-case basis.
 - (iv) Requests-A request for expedited review should be in the form of an electronic submittal in the PlanView system, following the department's submittal requirements ~~for email submittal~~ for sixty-day review in subsection (3) of this section.
 - (v) The request must be accompanied with enough information, as defined by the department, in consultation with other state agencies and counties and cities, to determine whether it is of state interest.
 - (vi) Expedited review should not be requested if the normal sixty-day period will not delay adoption.

<p>WAC 365-196-660 Supplementing, amending, and monitoring</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Multiple agencies encouraged Commerce to update the guidance on monitoring and adaptive management. The approach to monitoring and adaptive management in this chapter is obsolete. New recommendations will reflect Commerce’s 2018 guidance and provide a rationale for establishing and maintaining feedback loop systems. Monitoring and adaptive management will help ensure ongoing implementation is fair, transparent, efficient and effective.</p>	
<p>WAC 365-196-660 Supplementing, amending, and monitoring.</p> <p>(1) New development regulations may be adopted as the need for supplementing the initial implementation strategy becomes apparent.</p> <p>(2) Counties and cities should institute an annual review of growth management implementation on a systematic basis. To aid in this process, counties and cities planning under the act should consider establishing a growth management monitoring program designed to measure and evaluate the progress being made toward accomplishing the act's goals and the provisions of the comprehensive plan.</p> <p>(a) This process should also include a review of comprehensive plan or regulatory deficiencies encountered during project review.</p> <p><u>(b) The department recommends critical areas regulations be reviewed to ensure they are achieving no net loss of ecosystem functions and values. This review should include an analysis of monitoring plans, regulations and permits to ensure they are efficient and effective at achieving protection goals and implementation benchmarks.</u></p> <p>(b) This process should be integrated with provisions for continuous public involvement. See WAC 365-196-600.</p>	

<p>WAC 365-196-730 Federal authorities</p>	<p>Source of Change: Agency Recommendation</p>
<p>Proposed Change: Commerce is updating the list of federal authorities based on recommendations from other agencies.</p>	
<p>WAC 365-196-730 Federal Authorities</p> <p>(1) Counties and cities drafting or amending comprehensive plans and development regulations under the act should consider the effects of federal authority over land or resource use within the planning area, including:</p> <p>(a) Treaties with Native Americans;</p> <p>(b) Jurisdiction on land owned or held in trust by the federal government;</p> <p>(c) Federal statutes or regulations imposing national standards;</p> <p>(d) Federal permit programs and plans;</p> <p>(e) Metropolitan planning organizations, which are also designated as regional transportation planning organizations established in chapter 47.80 RCW; and</p>	

(f) The Central Puget Sound economic development district.

(2) Examples of such federal standards, permit programs and plans are:

- (a) National ambient air quality standards, adopted under the Federal Clean Air Act;
- (b) Drinking water standards, adopted under the Federal Safe Drinking Water Act;
- (c) Effluent limitations, adopted under the Federal Clean Water Act;
- (d) Dredge and fill permits issued by the Army Corps of Engineers under the Federal Clean Water Act;
- (e) Licenses for hydroelectric projects issued by the Federal Energy Regulatory Commission;
- (f) Plans created under the Pacific Northwest Electric Power Planning and Conservation Act;
- (g) Recovery plans and the prohibition on taking listed species under the Endangered Species Act;
- (h) State and local consolidated plans required by the Department of Housing and Urban Development under the Code of Federal Regulations (24 C.F.R. 91 and 24 C.F.R. 570);
- (i) Historic preservation requirements and standards of the National Historic Preservation Act;
- (j) Regulatory requirements of section 4(f) of the Department of Transportation Act; and
- (k) Plans adopted by metropolitan planning organizations to meet federal transportation planning responsibilities established by the U.S. Federal Highway Administration (FHWA) and the U.S. Federal Transit Administration (FTA).

(l) Habitat alteration restrictions arising from the Bald and Golden Eagle Protection Act administered by the U.S. Fish and Wildlife Service;

(m) Habitat alteration restrictions arising from the Migratory Bird Treaty Act administered by the U.S. Fish and Wildlife Service.

plans are not allowed to fall out of compliance with the act over time through inaction. This review must include at least the following:

- (i) Consideration of the critical areas ordinance, including a best available science review (see WAC 365-195).

<p>WAC 365-196-735 State and regional authorities</p>	<p>Source of Change: Legislative Change</p>
<p><i>The proposed changes are summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.</i></p>	
<p>Proposed Change: Subsection (1): Commerce is amending this section to reflect new legislative requirements, passed in 2015, associated with SB 5994. These changes are based on requirements in RCW 36.70A.460(2) and RCW 77.55.181.</p>	
<p>(1) When developing and amending comprehensive plans and development regulations under the act, counties and cities should consider existing state and regional regulatory and planning provisions affecting land use, resource management, environmental protection, utilities, or public facilities including:</p> <ul style="list-style-type: none"> (a) State statutes and regulations imposing statewide standards; 	

(b) Programs involving state-issued permits or certifications;

(i) Sponsored Fish Habitat Enhancement Projects under RCW 77.55.181 shall be exempt from critical areas regulatory review or approval by state or local governments except for floodplain development permits if applicable under the national flood insurance program (NFIP), in accordance with RCW 36.70A.460(2).

(c) State statutes and regulations regarding rates, services, facilities and practices of utilities, and tariffs of utilities in effect pursuant to such statutes and regulations;

(d) State and regional plans;

(e) Regulations and permits issued by regional entities;

(f) Locally developed plans subject to review or approval by state or regional entities.

Proposed Change:

Subsection (2): Commerce is amending this section to reflect new legislative requirements, passed in 2015, associated with SB 5994.

(2) Examples of statutes and regulations imposing statewide standards are:

(a) Water quality standards and sediment standards, adopted by the department of ecology under the state Water Pollution Control Act;

(b) Drinking water standards adopted by the department of health pursuant to the Federal Safe Drinking Water Act;

(c) Minimum functional standards for solid waste handling, adopted by the department of ecology under the state Solid Waste Management Act;

(d) Minimum cleanup standards under the Model Toxics Control Act adopted by the department of ecology;

(e) Statutory requirements under the Shoreline Management Act and implementing guidelines and regulations adopted by the department of ecology;

(f) Standards for forest practices, adopted by the forest practices board under the state Forest Practices Act;

(g) Minimum requirements for flood plain management, adopted by the department of ecology under the Flood Plain Management Act;

(h) Minimum performance standards for construction pursuant to the state or International Building Code;

(i) Safety codes, such as the electrical construction code, adopted by the department of labor and industries;

(j) Archaeological investigation and reporting standards adopted by the department of archaeology and historic preservation under the Archaeological Sites and Resources Act and the Indian Graves and Records Act;

(k) Statutory requirements and procedures under the Planning Enabling Act.

(l) Statutory requirements and rules associated with statewide transportation, including duties and exemptions associated with operating and maintaining state highways and state transportation facilities and services:

(i) RCW 47.01.260 Authority of department of transportation and RCW 47.04.280 Transportation system policy goals;

(ii) RCW 47.01.485 Final determination by local governments on department of transportation permit application for state highway projects less than five hundred million dollars within 90 days, when due – Annual report;

(iii) Definitions of “highway” under RCW 47.04.010, and “state highway” under RCW 46.04.560 and RCW 47.04.010;

(iv) All department of transportation activities listed as categorically exempt in WAC 468-12-800 or WAC 197-11-800, or that meet the criteria described in RCW 90.58.355 or RCW 90.58.356, shall also be exempt from critical areas regulatory review or approval by state or local governments.

(v) All department of transportation activities designated as fish habitat enhancement projects in RCW 77.55.181 shall be exempt from critical areas regulatory review or approval by local governments, except for floodplain development permits if applicable under the national flood insurance program (NFIP), in accordance with RCW 36.70A.460(2).;

NEW SECTION WAC 365-196-XXX
Extension of public facilities and utilities to serve school sited in a rural area authorized

Source of Change: Legislative Change

The proposed new section is summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.

Proposed Addition: The Legislature passed two bills during the 2017 legislative session. These bills affect how certain new schools may be sited outside urban growth areas and how public facilities and utilities may serve those schools. ESHB 1017 and HB 2243 were codified as RCW 36.70A.211 and .212, specifically for Pierce County, and RCW 36.70A.213 applies to all counties planning under the GMA. Commerce is proposing a new section to provide guidance on RCW 36.70A.213

WAC 365-196-XXX Extension of public facilities and utilities to serve school sited in a rural area authorized—

(1) Requirements: The Growth Management Act does not prohibit a county planning under RCW36.70A.040 from authorizing the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area so long as the following requirements are met:

- (a) The applicable school district board of directors has adopted a policy addressing school service area and facility needs and educational program requirements;
- (b) The applicable school district has made a finding, with the concurrence of the county legislative authority and the legislative authorities of any affected cities, that the district's proposed site is suitable to site the school and any associated recreational facilities that the district has determined cannot reasonably be collocated on an existing school site, taking into consideration the policy adopted in (a) of this subsection and the extent to which vacant or developable land within the growth area meets those requirements;
- (c) The county and any affected cities agree to the extension of public facilities and utilities to serve the school sited in a rural area that serves urban and rural students at the time of concurrence in (b) of this subsection;
- (d) If the public facility or utility is extended beyond the urban growth area to serve a school, the public facility or utility must serve only the school and the costs of such extension must be borne by the applicable school district based on a reasonable nexus to the impacts of the school, except as provided in subsection (3) of this section; and
- (e) Any impacts associated with the siting of the school are mitigated as required by the state environmental policy act, chapter 43.21C RCW.

(2) The act does not prohibit either the expansion or modernization of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area.

(3) Where a public facility or utility has been extended beyond the urban growth area to serve a school, the public facility or utility may, where consistent with RCW 36.70A.110(4), serve a property or properties in addition to the school if the property owner so requests, provided that the county and any affected cities agree with the request and provided that the property is located no further from the public facility or utility than the distance that, if the property were within the urban growth area, the property would be required to connect to the public facility or utility. In such an instance, the school district may, for a period not to exceed twenty years, require reimbursement from a requesting property owner for a proportional share of the construction costs incurred by the school district for the extension of the public facility or utility.

(4) Counties and cities must identify lands useful for public purposes, such as schools in their comprehensive plan (See RCW 36.70A.150). As part of subdivision approval, permitting jurisdictions must ensure appropriate provisions are made for schools and school grounds (See, RCW 58.17.110).

(5) Recommendations for meeting requirements.

(a) School sites should be considered as communities are being planned, and specifically considered when permitting large developments. (See RCW 36.70A.110(2), and RCW 36.70A.150)

- (i) Cities, counties, and school districts should first work together to identify potential school sites within urban growth areas. To facilitate the siting of schools within urban areas, cities and counties should work with school districts to assess zoning, height limits, and other factors that may affect the ability of a school to site within an urban growth area, including joint-use facilities. County policies may address schools in the rural area, and set out locational, buffering or screening policies to protect rural character. As schools are considered in the rural area, the long-term plan for the area should be considered, but new school development should not be used to intentionally drive urban development in a rural area.
- (b) Cities, Counties and school districts should:
- (i) Coordinate enrollment forecasts and projections with the city and county’s adopted population projections.
 - (ii) Identify school siting criteria with the county, cities and regional transportation planning organizations. Such criteria may be included in countywide planning policies.
 - (iii) Identify suitable school sites with the county and cities, with priority to siting schools in existing cities and towns in locations where students can safely walk and bicycle to the school from their homes and that can effectively be served by transit.
 - (iv) Consider playgrounds and fields associated with activities during the normal school day (e.g., recess and physical education) for new, expanded or modernized school sites. Districts may consider joint use of recreational facilities as part of the proposal.
- (c) If school impact fees are collected, a jurisdiction’s capital facilities element must address school facility needs related to growth (See, RCW 82.02.050 and RCW 82.02.090(7)). Cities and counties should work with school districts to review the relationship of school district enrollment projections with local population growth projections.
- (d) A school district policy adopted pursuant to RCW 36.70A.213 may include criteria for siting schools, school grade configuration, educational programming, recreational facility co-location, feeder schools, transportation routes, or other relevant factors that may affect school siting decisions.
- (e) If a county or affected city concurs with the school district’s finding, the county and any affected cities should also at that time agree to the extension of public facilities and utilities to serve the school. If a county or affected city finds that it cannot concur with the school district’s findings regarding the proposed school, the county or city should document the reasons in their decision.

<p><u>NEW SECTION WAC 365-196-XXX</u> <u>Tracking eligibility for state grants and loans</u></p>	<p>Source of Change: Agency Recommendation</p>
<p><i>The proposed new section is summarized below, followed by an excerpt of the corresponding WAC text, showing the proposed draft amendment(s) for that section or subsection in underline/strikethrough format.</i></p>	
<p>Proposed Addition: Commerce outlines its role for tracking and reporting progress with GMA compliance for other state agencies inquiring about eligibility for certain state grant and loan applications, based on those</p>	

agency's internal process. This new section outlines and clarifies the role of Commerce to track progress, based on (1) information provided from counties and cities that provide notice to Commerce of completion of the periodic update schedule (RCW 36.70A.130), and (2) final decisions from the Growth Management Hearings Board.

(1) This section defines the procedures used by the department to track and report the status of a county or city with completion of the review and revision requirement under RCW 36.70A.130, and to track any compliance orders issued by the growth management hearings board, or board, as defined under WAC 242-03-030 and established under RCW 37.70A.260.

(2) These procedures assure that the department provides timely and accurate reporting to state agencies regarding a county or city's eligibility for state grants or loans, and it assures that a county or city applicant, and the state agency reviewing grant or loan eligibility, understand the role of the department in this process for determining eligibility for state grants or loans, where applicable.

(3) These procedures are also designed to encourage and enable timely redress of overdue periodic updates or noncompliance issues. To accomplish this, a county or city must be aware of its current status so it may take necessary legislative action to achieve compliance with deadlines or board orders.

(4) Under RCW 36.70A.130(7), the act directs state agencies to consider compliance in the award of state financial assistance from a number of state grant and loan programs as follows:

(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

- (i) Complying with the deadlines in this section; or
- (ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(c) Counties and cities must notify the department in writing that the jurisdiction considers the periodic update complete.

(i) This notice may be through notice of adoption under 36.70A.106 or in the form of a letter from the mayor, county executive or chair of the board of county commissioners.

(ii) Written notice to the department does not constitute legislative action required under RCW 36.70A.130. Legislative action must be in the form of an ordinance or resolution, following a public hearing, clearly stating that the periodic update required in RCW 36.70A.130 is complete.

(5) The following state grant and loan programs use GMA compliance in the course of awarding state funds under the following programs under RCW 36.70A.130(7):

- (a) Public Works Trust Fund (Public Works Board) under [RCW 43.155.070](#) and [WAC 399-20-032](#);

- (b) Centennial Clean Water Fund (Department of Ecology) under [WAC 173-95A-610](#);
- (c) Drinking Water State Revolving Fund (Department of Health) under [RCW 70A.125.070](#) and [WAC 246-296-130](#);
- (d) Recreation and Conservation Office;
- (e) Transportation Improvement Board Funding under [RCW 47.26.086](#) and [WAC 479-14-121](#);
- (f) Pre-Disaster Mitigation Grants (Emergency Management Division, Washington Military Department); and
- (g) Water Pollution Control Facilities Grants under [RCW 70A.155.070](#)

(h) The department does not determine eligibility for any particular grant or loan program administered by another state agency or board. Eligibility, including the effect of the compliance status of a city or county may have on eligibility, is determined by the state agency authorized to administer a grant or loan program.

(5) As the designated coordinator for state government regarding implementation of Chapter 36.70A. RCW, the department tracks local government implementation with the act. A state agency may consult with the department in the course of administering its grant and loan program, regarding the status of a county or city progress implementing the act.

(6) The department does not determine compliance by county or city with the provisions of Chapter 36.70A RCW.

(a) For completion of the periodic update under RCW 36.70A.130, compliance with the requirement is determined by the county or city. This determination must be in the form of written notice of completion provided by the county or city to the department.

(b) For all other matters, compliance is determined by the board.

(7) For compliance matters related to a board final decision and order, a county or city may avoid being determined ineligible or otherwise penalized in the award of grants or loans during a period of remand by taking action to delay the effective date of a challenged ordinance or resolution as follows.

(a) A county or city may delay the effective date of the action subject to the petition before the board until after the board issues a final determination; or

(b) Within thirty days of receiving notice of a petition for review by the board, a county or city may delay the effective date of the action subject to the petition before the board until after the board issues a final determination.

(c) To avoid a penalty, a county or city must notify the department in writing that it has delayed the effective date of the challenged ordinance. Notice must be accompanied by the board order and a copy of the ordinance or resolution showed the delay to the effective date.

(d) A delay in the effective date will not prevent a determination of ineligibility or other penalty if the board makes a determination of invalidity.