

White Paper on Evaluation of State-Level Transportation Plans

Appendix January 2011

The Legislature has directed the Joint Transportation Committee (JTC) to “evaluate the preparation of state-level transportation plans. The evaluation must include a review of federal planning requirements, the Washington transportation plan and statewide modal plan requirements, and transportation plan requirements for regional and local entities. The evaluation must make recommendations concerning the appropriate responsibilities for preparation of plans, methods to develop plans more efficiently, and the utility of statewide planning documents.”

ESSB 6381, §204(7) [2010].

Evaluation of State-Level Planning White Paper Appendix

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APPENDIX A.

JTC Cross Referencing of Federal and State Planning Requirements

Cross-Referencing Federal & State Planning Requirements

A. Plan Contents

<p>Federal Requirement</p>	<p>State’s Long-range Statewide Transportation Plan: Provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States. <i>23 USC 135(a)(2) – NOTE: This plan is for surface transportation only.</i></p> <p>Statewide Transportation Improvement Program (STIP): States develop a list of all transportation projects that require federal approval or are seeking federal funding. This list is for all transportation providers – not just WSDOT projects.</p> <p>Strategic Highway Safety Plan: State Departments of Transportation develop this plan that analyzes and makes effective use of State, regional, or local crash data; considers safety needs; describes projects or strategies, etc. – <i>23 USC 148 (a) (6)</i></p> <p>49 USC 303 and RCW 47.76.220 require Departments of Transportation to develop a State Rail Plan that identifies, evaluates, and encourages essential rail services. <i>WSDOT combines these plans with the Freight Rail Plan in RCW 47.06.080</i></p>
<p>Commission</p>	<p><i>RCW 47.01.071(4)</i> (Commission powers & duties)</p>
<p>WSDOT</p>	<p><i>RCW 47.01.011</i> (Legislative declaration) <i>47.06.010, .020, .040</i> (multimodal plan) – <i>note: statute requires WSDOT to assist Commission with the state transportation policy plan (47.06.020(5)) & develop multimodal plan (.020(2))</i></p> <p>Required multimodal plan contents:</p> <ul style="list-style-type: none"> • State-owned facilities component – <i>RCW 47.06.050</i>

	<ul style="list-style-type: none"> ○ Highway system plan – <i>RCW 47.06.050(1)</i> ○ Ferry plan – <i>RCW 47.06.050(2)</i> ● State interest component <ul style="list-style-type: none"> ○ Technical Workers – <i>RCW 47.06.043</i> ○ Freight Mobility – <i>47.06.045</i> ○ Aviation Plan – <i>RCW 47.06.060</i>; ○ Marine Ports & navigation plan – <i>RCW 47.06.070</i>; ○ Freight Rail Plan – <i>RCW 47.06.080</i> ○ Intercity Passenger rail plan – <i>RCW 47.06.090</i> ○ Bicycle transportation & pedestrian walkways plan – <i>RCW 47.06.100</i> ○ Public Transportation plan – <i>RCW 47.06.110</i> <p>RCW 47.76.220 and 49 USC 303 require WSDOT to develop a State Rail Plan that identifies, evaluates, and encourages essential rail services. <i>WSDOT combines these plans with the Freight Rail Plan in RCW 47.06.080</i></p> <p>RCW 47.60.005 says the ferry system Capital Plan is the same as the “state ferry system plan” in RCW 47.06.050(2). However, RCW 47.60.375 requires WSDOT to develop a Capital Plan for the ferry system that includes more than the plan in RCW 47.06.050(2).</p> <p>RCW 47.60.377 requires WSDOT to develop a vessel rebuild and replacement plan</p>
<p>MPO</p>	<p>Metropolitan Transportation Plan is a multimodal plan for each metropolitan planning area. Requirements are similar for the Long-range Statewide Transportation Plan (<i>CFR 450.322</i>)</p> <p>Transportation Improvement Program (TIP) is a list of projects requiring federal approval or seeking federal funding for the area inside the MPO. Requirements are similar to the STIP (<i>CFR 450.324</i>)</p> <p><i>23 USC 134(c)(2)</i></p>

RTPO	<p>Each regional transportation planning organization shall develop a regional transportation plan (<i>RCW 47.80.030 (1)</i>)</p> <p>Use least cost planning methodology that identifies the most cost-effective facilities, services, and programs ... Identify existing or planned transportation facilities, services, and programs ... that should function as an integrated regional transportation system ...<i>RCW 47.80.030(1)</i></p>
Transit	<p>Beginning in federal fiscal year 2006, projects funded through three Federal Transit Administration programs, including Job Access Reverse Commute (§5316), New Freedom (§5317), and the capital program for Elderly Individuals and Individuals with Disabilities (§5310), are required to be derived from a locally developed, coordinated transit-human services transportation plan. 49 U.S.C. Sections 5302, 5303, 5310, 5311, 5314, 5316, and 5317</p> <p>Regional transit authorities shall submit a maintenance and preservation plan to WSDOT, if they wish to receive state funding - <i>RCW 81.112.086</i></p>

B. Process

Federal Requirement	<p>States and MPOs [P]rovide for consideration of all modes of transportation, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed. - <i>23 USC 135(a)(3) and 23 USC 134 (c)(3)</i></p>
Commission	<p>RCW 47.01.071(4) (Commission powers & duties);</p> <p>RCW 47.80.070 (3) Consistency with regional transportation planning process</p>
WSDOT	<p><i>RCW 47.01.011 (Legislative declaration) 47.06.010, .020, .040 (multimodal plan) – note: statute requires WSDOT to assist Commission with their policy plan (.020(5)) & develop multimodal plan (.020(2))</i></p>

MPO	<i>23 USC 134(c)(3)</i>
RTPO	<p>Adopt and periodically update a regional transportation plan that identifies existing and planned transportation facilities, services, and programs that are inside the RTPO boundaries – <i>RCW 47.80.303 (1)</i></p> <p>Work with cities, counties, transit agencies, the department of transportation, and others to develop level of service standards or alternative transportation performance measures – <i>RCW 47.80.023(9)</i>; Establish transportation guidelines and principles with cooperation from component cities, towns and counties – <i>RCW 47.80.026</i></p>

C. Coordination

Federal Requirement	<p>“Coordination means the cooperative development of plans, programs, and schedules among agencies and entities with legal standing and adjustment of such plans, programs, and schedules to achieve general consistency, as appropriate.” <i>23 CFR 450.104</i>. States required to Coordinate w/MPOs – STIP must include MPO TIPs w/o change - <i>23 USC 135(b)</i>, <i>23 CFR 450.208</i>; MPOs required to consult w/other planners in jurisdiction <i>23 USC 134(g)</i></p>
Commission	<p>Effectively coordinate with national transportation planning, state and local land use policies, and local and regional transportation plans & programs; <i>RCW 47.01.071(2)</i></p>
WSDOT	<p>During development of the long-range transportation plan: Coordinate with Metropolitan planning activities; statewide trade and economic development planning; public transportation operation; and state air quality agency – <i>23 CFR 450.208</i></p> <p>Plans must be consistent with state transportation policy plan, regional transportation planning, high capacity planning, and local comprehensive plans – <i>RCW 47.06.040 (2)</i></p>
MPO	<p>Consult w/other planners in jurisdiction <i>23 USC 134(g)</i></p>
RTPO	<p>Establish transportation guidelines and principles with cooperation from component cities, towns and counties – <i>RCW 47.80.026</i></p>

D. Cooperation

Federal Requirement	This applies to States and MPOs. CFR 450.104 defines cooperation “means that the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective”.
Commission	No requirement in state law to develop the policy plan in cooperation with another
WSDOT	<p>Cooperate with MPOs in development of the long-range transportation plan – <i>23 CFR 450.214</i></p> <p>Cooperate with environmental regulatory authorities to identify and document environmental resources in the development of the statewide multimodal transportation plan under RCW 47.06.040 – <i>RCW 47.01.300</i></p> <p>Statewide multimodal transportation plan is developed in cooperation with RTPOs, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers – <i>RCW 47.06.140 (1)</i></p> <p>Cooperate with federal authorities in the development of a national system of civil aviation and for the coordination of the aeronautical activities of those authorities and the authorities of this state – <i>RCW 47.68.110</i></p>
MPO	Similar to state – see 23 CFR 450.300-338
RTPO	Regional transportation plans are developed in cooperation with WSDOT, providers of public transportation and high capacity transportation, ports, and local governments – <i>RCW 47.80.030(1)</i>

E. Scope – Required Factors

Planning Factors/Goals			
Category	Feds to States - 23 USC §135 (d)(1) ¹	State to WTC & WSDOT Authorizing statute is RCW 47.04.280 ² except where otherwise noted	State to RTPO ³ - Authorizing statute is RCW 47.80.030 except where otherwise noted
Economic vitality	support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency	To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy	Concentration of economic activity, residential density, development corridors and urban design that, where appropriate, supports high capacity transit, freight transportation and port access
Safety	increase the safety of the transportation system for motorized and nonmotorized users;	To provide for and improve the safety and security of transportation customers and the transportation system; "Improvement of traveler safety" – RCW 47.06.040(2).	
Security	increase the security of the transportation system for motorized and nonmotorized users		
Accessibility & mobility	increase the accessibility and mobility of people and freight	To improve the predictable movement of goods and people throughout Washington state;	Address development patterns that promote pedestrian and nonmotorized transportation,

¹ Failure to consider factors is not reviewable by a Court – 23 USC 135(d)(2)

² Statute does not create a private right of action – RCW 47.04.280(5)

³ Federal requirements for MPOs are identical to factors for States – 23 USC 134(h)

Planning Factors/Goals			
		<p>“efficient movement of freight and goods” – <i>RCW 47.06.040(2)</i></p>	<p>circulation systems</p>
<p>Environ-mental protection</p>	<p>protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns</p>	<p>To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment</p> <p>“Consider engineers and architects to design environmentally sustainable, context-sensitive transportation systems.” <i>RCW 47.01.078 (7).</i></p> <p>“identify and document potential affected environmental resources.” – <i>RCW 47.06.040</i></p> <p>“identify and document environmental resources – <i>RCW 47.01.300</i></p>	
<p>Intermodal integration & connectivity</p>	<p>enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and</p>	<p>Promote integrated multimodal planning – <i>RCW 47.01.078</i></p> <p>Improvement and integration of all transportation modes to create a seamless</p>	<p>Address intermodal connections</p> <p>“facilities ...should function as an</p>

Planning Factors/Goals			
	freight	intermodal transportation system – <i>RCW 47.06.040(2)</i>	integrated regional transportation system” <i>RCW 47.80.030(1)(b)</i> “Sets forth a proposed regional transportation approach ...to guide the development of the integrated, multimodal regional transportation system” <i>RCW 47.80.030(1)(f)</i>
Efficiency	promote efficient system management and operation	To continuously improve the quality, effectiveness, and efficiency of the transportation system. Reduce VMT – use Demand management tools – WSTC goals – <i>RCW 47.01.078</i>	Address efficient and effective highway systems. “Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods” <i>RCW 47.80.030(1)(e)(ii)</i>
Preservation	emphasize the preservation of the existing transportation system	To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services; see also <i>RCW 47.06.040(2)</i>	“Ensure the preservation of the existing regional transportation system” <i>RCW 47.80.030(1)(e)(i)</i>
Congestion Relief		Multimodal plan <i>RCW 47.06.040(2)</i>	“Make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods” <i>RCW</i>

Planning Factors/Goals			
			47.80.030(1)(e)(ii)
Preserve Downtowns		Multimodal plan <i>RCW 47.06.040(2)</i>	
Attract or accommodate population		Multimodal plan <i>RCW 47.06.040(2)</i>	accommodate growth in demand... joint and mixed use developments
Attract Employment Growth		Multimodal plan <i>RCW 47.06.040(2)</i>	Address the ability of transportation facilities and programs to retain existing and attract new jobs and private investment

F. Plan Horizon

Federal Requirement	20 years for statewide long-range plan - <i>23 USC 135(f)(1)</i> ; 4 years for STIP - <i>23 USC 135(g)(1)</i>
Commission	Update statewide policy plan every 4 years – <i>RCW 47.01.071</i>
WSDOT	No separate time requirements for multimodal plan
MPO	20 years for Metropolitan Long Range Transportation plan - <i>23 CFR 450.322(a)</i> ; 4 or 5 years for TIP - <i>23 CFR 450.324</i>
RTPO	6 years – <i>RCW 47.80.023(5)</i> ; biennial updates – <i>RCW 47.80.030(2)</i>

G. Consultation

<p>Federal Requirement</p>	<p>“Consultation means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken. This definition does not apply to the ‘consultation’ performed by the States and the MPOs in comparing the long-range statewide transportation plan and the metropolitan transportation plan, respectively, to State and Tribal conservation plans or maps or inventories of natural or historic resources. “ State must Consult with MPOs; local transportation officials; tribal governments and Secretary of Interior, Long-range Transportation Plan and STIP 23 USC 135(f), (g)</p>
<p>Commission</p>	<p>Effectively coordinate with national transportation planning, state and local land use policies, and local and regional transportation plans & programs; <i>RCW 47.01.071(2)</i></p> <p>Consult with the chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing on the implications and impacts on the transportation related functions and duties of their respective agencies of any proposed comprehensive transportation plan, program, or policy. <i>RCW 47.01.250</i></p>
<p>WSDOT</p>	<p>During development of the long-range transportation plan: Consult with non-metropolitan local officials; Indian Tribal governments and the Secretary of Interior; State, Tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation – <i>23 CFR 450.214</i></p> <p>State Departments of Transportation must develop the State Strategic Highway Safety Plan in consultation with:</p> <ul style="list-style-type: none"> (i) a highway safety representative of the Governor of the State; (ii) regional transportation planning organizations and metropolitan planning organizations, if any; (iii) representatives of major modes of transportation; (iv) State and local traffic enforcement officials; (v) persons responsible for administering section 130 at the State level;

	<p>(vi) representatives conducting Operation Lifesaver;</p> <p>(vii) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;</p> <p>(viii) motor vehicle administration agencies; and</p> <p>(ix) other major State and local safety stakeholders;</p> <p>23 USC 148 (6)</p> <p>WSDOT must consult with the chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing on the implications and impacts on the transportation related functions and duties of their respective agencies of any proposed comprehensive transportation plan, program, or policy. <i>RCW 47.01.250</i></p>
MPO	<p>During development of the metropolitan transportation plan: Consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation – <i>23 CFR 450.322 (g)</i></p> <p>Consult with relevant state & local agencies w/in the jurisdiction on required plans - <i>23 USC 134(i), (j)</i></p>
RTPO	<p>Establish transportation guidelines and principles with cooperation from component cities towns and counties. <i>RCW 47.80.026</i>; Cooperate with DOT in developing 6 – year plan – <i>RCW 47.80.023(5)</i></p>

H. Public Outreach

Federal Requirement	<p>State Departments of Transportation develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points – <i>23 CFR 450.210 (a)</i></p>
Commission	<p>The transportation commission shall provide a public forum for the development of transportation policy in Washington state to include coordination with regional transportation planning organizations, transportation stakeholders, counties,</p>

	cities, and citizens. At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues. The commission shall consider the input gathered at the forums as it establishes the statewide transportation plan under RCW 47.01.071(4). <i>RCW 47.01.075</i>
WSDOT	During development of the long-range statewide plan and the STIP follow the process detailed in 23 CFR 450.210 Provide for public involvement in the transportation planning and development process – <i>(RCW 47.01.011) NOTE: There is no definition in state law of “public involvement”</i> Plans must reflect public involvement – <i>RCW 47.06.040(2)</i>
MPO	During development of the metropolitan transportation plan and the TIP follow the requirements in 23 CFR 450.316

I. Identification of Environmental Issues

Federal Requirement	A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan-
Commission	<i>None</i>
WSDOT	The long-range statewide transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan. – 23 CFR 450.214(j)
MPO	Similar requirements for metropolitan transportation plan as for long-range statewide transportation plan 23 CFR 450.322(7)

J. Financial Plan

Federal Requirement	“Financial plan means documentation required to be included with a metropolitan transportation plan and TIP (and optional for the long-range statewide transportation plan and STIP) that demonstrates the consistency between reasonably available and projected sources of Federal, State, local, and private revenues and the costs of implementing proposed transportation system improvements.” <i>23 CFR 450.104.</i>
Commission	“ <i>Not required</i> ”
WSDOT	Optional for long-range statewide transportation plan and STIP as per 23 CFR 450.214(l) Not required for Strategic Highway Safety Plan
MPO	Financial plan mandatory for MTP & TIP - <i>23 USC 134(i), (j)</i>
RTPO	Regional transportation plan must include a financial plan – <i>RCW 47.80.030(1)(d)</i>

K. Project List

Federal Requirement	May be included in long-range statewide transportation plan; must be included in STIP - <i>23 USC 135(f), (g)</i>
Commission	Not required
WSDOT	Optional for long-range transportation plan, but if included must follow 23 CFR 450.214(l) Required for STIP - <i>23 CFR 450.216</i>

	Optional for Strategic Highway Safety Plan under certain conditions – <i>23 USC 148(6)</i>
MPO	Must be included in metropolitan transportation plans and TIP – <i>23 CFR 450.322 and 23 CFR 450.324</i>
RTPO	Program shall include a priority list of projects and program – <i>RCW 47.80.023(5)</i> .

L. Preserve Existing System (*included in required factors, see above*)

Federal Requirement	<i>23 CFR 450.206</i>
Commission	<i>RCW 47.04.280</i>
WSDOT	Long-range statewide transportation plan and STIP must address preservation of the existing transportation system – <i>23 CFR 450.206 (a)(8)</i> <i>RCW 47.04.280, Preservation element in highway system plan – RCW 47.06.050; Required 10 year preservation & investment plan - RCW 47.05.030</i>
MPO	Metropolitan transportation plan and STIP must address preservation of the existing transportation system - <i>23 CFR 450.306 (8)</i>
RTPO	“Ensure the preservation of the existing regional transportation system” <i>RCW 47.80.030(1)(e)(i)</i>

M. Publication

Federal Requirement	State must publish or otherwise make available long-range statewide transportation plan and STIP - <i>23 USC 135(f)(8) and 23 USC 135(g)(4)(B)</i>
Commission	Plan must be submitted to the governor and house of representatives and senate standing committees on transportation
WSDOT	State must publish or otherwise make available long-range statewide transportation plan and STIP - <i>23 USC 135(f)(8) and 23 USC 135(g)(4)(B)</i>
MPO	Publication required for MTP & TIP – <i>23 USC 134 (i), (j)</i> .
RTPO	No specific requirement

N. Work Program Documentation

Federal Requirement	Statewide and Metropolitan transportation planning activities ...shall be documented in a work program (or simplified statement of work in accordance with the provisions of this section and 23 CFR part 420.
Commission	Not required for Transportation Commission policy plan
WSDOT	Statewide transportation planning activities performed with funds provided under title 23 U>S>C and title 49 U.S.C. Chapter 53 shall be documented in a statewide planning work program in accordance with the provisions of 23 CFR part 420.
MPO	<i>Unified Planning Work Program required under 23 CFR 450.308</i>
RTPO	Not required for RTPO

NOTES:

Washington's laws require WSDOT to produce one statewide plan and nine separate modal plans. The definitions, scope and process for these plans is different from the federal long-range plan. This makes it difficult to gather all the appropriate information needed for a federally compliant plan during the development of the state-compliant plans.

Scope

RCW 46.04.040 – The statewide multimodal transportation plan primary emphasis includes improvement and integration of **all transportation** modes. Plans must include highways, non-motorized highway use, ferries, aviation, marine ports and navigation, freight rail, passenger rail, and public transportation.

23 CFR 450.200 – One purpose of the long-range transportation plan and STIP is “to facilitate the safe and efficient management, operation, and development of **surface transportation** systems.”

NOTE: Aviation and water are not surface transportation and are not included in the federal long-range transportation plan. However, the federal definition of public transportation includes ferries – so ferries are the only water transportation included.

Process

Chapter 42.30 RCW – **Open Public Meetings Act**

- Pertains to all public commissions, boards, councils, committees, subcommittees, departments, divisions, office and all other public agencies of the state and its subdivisions thereof exist to aid in the conduct of the people's business. (WSDOT, Transportation Commission, RTPOs, Transit Agencies, County Governments, City Governments, etc)

RCW 47.01.250: WSDOT and Transportation Commission must consult with the following on matters of relative priorities during development of plans, programs, and budgets:

- chief of the Washington State Patrol
- the director of the Traffic Safety Commission
- the executive director of the County Road Administration Board
- and the director of Licensing

RCW 47.06.020:

- Statewide Planning process must be **consistent** with the policy goals in RCW 47.04.280

- WSDOT assists the transportation commission in their plan required in RCW 47.01.071
- WSDOT coordinates and develops statewide transportation polices that guide all Washington transportation providers

Definitions

Cooperation: Not defined in state law - Federal CFR 450.104 defines it as “means that the parties involved in carrying out the transportation planning and programming processes work together to achieve a common goal or objective.

Consultation: Not defined in state law – Federal CFR 450.104 defines it as “means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action (s), considers the views of the other parties and periodically informs them about action(s) taken. This definition does not apply to the “consultation” performed by the States and the MPOs in comparing the long-range statewide transportation plan and the metropolitan transportation plan, respectively, to the State and Tribal conservation plans or maps or inventories of natural or historic resources (see CFR 450.214(i) and CFR 450.322(g)(1) and (g)(2)).

Consideration: Not defined in state law – Federal CFR 450.104 defines it as “means that one or more parties takes into account the opinions, action, and relevant information from other parties in making a decision or determining a course of action.”

Coordination: Not defined in state law - Federal CFR 450.104 defines it as “means the cooperative development of plans, programs, and schedules among agencies and entities with legal standing and adjustment of such plans, programs, and schedules to achieve general consistency, as appropriate.”

Ferries

RCW 47.06.050 requires WSDOT to analyze the role of private ferries operating under the authority of the state’s Utility and Transportation Commission (UTC) during development of the ferry system plan - which is a component of the multimodal transportation plan. 23 USC 134 requires WSDOT to analyze ferries in the long-range statewide transportation plan.

The UTC’s definition of ferry includes excursions (such as Puget Sound dinner cruises) that are on a regular schedule – even if they depart and return to the same point without stops. It excludes barges.

It is unclear if passenger-only ferries are ferry, analyzed under RCW 47.06.050 (2) or as a form of public transportation, and analyzed under RCW 47.06.110.

- The only federal definition of ferries is in *US Code Title 46, Sec 2101 (10)(b)* - transportation between two points not more than 300 miles apart on a vessel that follows a regular schedule. This includes barges and excludes excursions that have no stops and depart and return to the same place.

Portions of State Laws Pertaining to Ferry Definitions:

- The state ferry system plan “shall assess the role of private ferries operating under the *authority of the utilities and transportation commission* and shall coordinate ferry system capital and operational plans with the private operations **RCW 47.06.050 (2)**
- (11) "Common carrier" includes all railroads, railroad companies, street railroads, street railroad companies, commercial ferries... **RCW 81.04.010**
- (12) "Vessel" includes every species of watercraft, by whatsoever power operated, for public use in the conveyance of persons or property for hire over and upon the waters within this state, excepting all towboats, tugs, scows, barges, and lighters, and excepting rowboats and sailing boats under twenty gross tons burden, open steam launches of five tons gross and under, and vessels under five tons gross propelled by gas, fluid, naphtha, or electric motors **RCW 81.04.010**
- (13) “Commercial ferry” includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers, appointed by any court whatsoever, owning, controlling, leasing, operating, or managing any vessel over and upon the waters of this state. **RCW 81.04.010**
- A commercial ferry may not operate any vessel or ferry for the public use for hire between fixed termini or over a regular route upon the waters within this state, including the rivers and lakes and Puget Sound **RCW 81.84.010**

Public Transportation:

- **RCW 47.06.110** requires WSDOT to develop a public transportation plan and 23 CFR 450.200 requires WSDOT to develop a long-range statewide transportation plan that includes all surface transportation – which includes public transportation.
- **USC 42 Sec 12181(10)** Specified public transportation The term “specified public transportation” means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis. *This includes ferries and excludes aviation.*
- **RCW 35.58.020 (13)** includes motor vehicles only. *This excludes aviation, ferries, and rail.*

- **RCW 36.57A.010 (10)** "Public transportation service" means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus, sight-seeing bus ... "Public transportation service" includes passenger-only ferry service for those public transportation benefit areas eligible to provide passenger-only ferry service under RCW [36.57A.200](#)
- **RCW 36.57.010 (3)** "Public transportation function" means the transportation of passengers and their incidental baggage by means other than by chartered bus, sightseeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems, and may include contracting for the provision of ambulance services.
- **Title 47 RCW:** Can't find a definition for public transportation or transit – however they are both used throughout.

Highway

- **RCW 47.04.010 (36)** *"State highway." Every highway as herein defined, or part thereof, which has been designated as a state highway, or branch thereof, by legislative enactment*

- **RCW 47.04.020** - Classification of highways.

All public highways in the state of Washington, or portions thereof, outside incorporated cities and towns shall be divided and classified as state highways and county roads. All state highways and branches thereof shall be established by the legislature of the state of Washington by appropriate general location and termini. Any prior distinctions between highways as primary or secondary are hereby abolished. All powers granted to, or duties imposed upon, the department with regard to either primary or secondary state highways shall be construed to relate to all state highways. Whenever these terms are used, either jointly or independently, each shall be construed to include all state highways. All public highways in the state of Washington, or portions thereof, outside incorporated cities and towns, not established as state highways, are hereby declared to be county roads.

- Federal scope is for federal aid highway system (interstates, US highways, state routes, most county roads, some city streets, certain roads on or to federal lands and Indian Reservations. See **23 USC Sec 101** for multiple definitions)

Environmental

RCW 43.21C.030 - SEPA review is required for “all branches of government of this state, including state agencies, municipal and public corporations, and counties”

WAC 468-12-704 – WSDOT activities exempted from definition of "action" The following activities are exempted from the definition of "action" because they are nonproject actions for which approval must be obtained from a federal agency prior to implementation as provided in WAC 197-11-704 (2)(b)(iii): (1) National transportation studies; (2) Federal-aid system designations; (3) National functional classification of highways and determination of needs.

WAC 468-12-800 – These WSDOT and Transportation Commission’s planning activities are categorical exemptions and not subject to SEPA review:

(3) Information collection and research, as provided by WAC 197-11-800(18), including but not limited to the development, adoption, and revision of transportation plans and six-year construction programs, and ***any other studies, plans, and programs which lead to proposals which have not yet been approved, adopted, or funded, and which do not commit the transportation department to proceed with the proposals contained therein.***

NOTE: *These categorical exemptions do not apply to RTPOs, Transit Agencies, MPOs, City Governments, or County Governments.*

RCW 47.06.040 – During development of the statewide multimodal transportation plan WSDOT shall identify and document the potential affected environmental resources, including, but not limited to, wetlands, storm water runoff, flooding, air quality, fish passage, and wildlife habitat. The department shall conduct its environmental identification and documentation in coordination with all relevant environmental regulatory authorities

RCW 47.01.300 – WSDOT shall in cooperation with environmental regulatory agencies: (1) Identify and document environmental resources in the development of the statewide multimodal plan under 47.06.040.

23 CFR 450.214 - During development of the long-range transportation plan: Consult with non-metropolitan local officials; Indian Tribal governments and the Secretary of Interior; State, Tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation

23 CFR 450.214(j) - The long-range statewide transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

NOTE: Federal requirements require identification of mitigation activities and areas of mitigation – while the state requires an identification of the resources

Tolling

The transportation commission as the tolling authority⁴ sets tolls, variable pricing⁵, and charges to use the following:

1. **Washington State Ferries** (RCW 47.60.315). Fares and pricing policies are set by the Transportation Commission
2. **All toll eligible facilities**
 - a. Generically listed as transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bi-state facilities, and interconnections between highways⁶
 - b. Specifically listed projects
 - i. SR 520 Bridge Replacement
 - ii. SR 167 HOT Lanes
3. The transportation commission also sets the charges for these situations:
 - a. Public-private Transportation Initiatives (RCW 47.46.090). The transportation commission sets the tolls, but only after a citizen advisory committee has at least 20 days to review and comment on the toll charge schedule.
 - b. Transportation benefit districts (RCW 47.56.078) The transportation commission sets the toll charges after the legislature approves tolling the facility
 - c. Regional transportation investment districts (RCW 47.56.076). The majority of the voters in the district's boundary authorize the tolling. The transportation commission set and imposes the tolls.

⁴ RCW 47.56.810(1) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. Unless otherwise delegated, the transportation commission is the tolling authority for all state highways.

⁵ Toll rates may include variable pricing (RCW 47.56.850(4))

⁶ This is a "including, but not limited to" list

Who develops transportation policies?

- RCW 47.01.071 The **transportation commission** shall have the following functions, powers, and duties:
 - (1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system
- RCW 47.01.075 The **transportation commission** shall provide a public forum for the development of transportation policy in Washington state and may offer policy guidance and make recommendations to the governor and legislature
- RCW 47.06.020 **The specific role of the department** 1) Ongoing coordination and development of statewide transportation policies that guide all Washington transportation providers

What is the plan WSDOT develops?

- RCW 47.01.011 calls it a “**statewide transportation development plan**”
- RCW 47.06.040 says the department shall “develop a **statewide multimodal transportation plan** under *RCW [47.01.071](#)(3) and in conformance with federal requirements”
- RCW 47.01.071 (4) is the requirement for the transportation commission to develop a “**comprehensive and balance statewide transportation plan.**” RCW 47.01.071 does not even mention WSDOT.
- RCW 47.06.020 says “**statewide multimodal transportation plan**”
- RCW 36.70A.070(6)(a)(iii)(F) requires that identified needs on state-owned transportation facilities in local GMA transportation elements must be consistent with the **statewide multimodal transportation plan** required under chapter 47.06 RCW.
- RCW 47.06.140 calls it the “**statewide multimodal transportation plan**”

What is the name of the plan the Transportation Commission develops?

- RCW 47.06.040 calls it the State Transportation Policy Plan “The plans developed under each component must be consistent with the **state transportation policy plan**”
- RCW 47.01.071 (4) calls it “**a comprehensive and balanced statewide transportation plan**”
- RCW 36.70A.085 (8) states “Any planned improvements identified in port elements adopted under subsections (1) and (2) of this section must be transmitted by the city to the transportation commission for consideration of inclusion in the “**statewide transportation plan**” required under RCW [47.01.071](#).”

What is the WTP?

It is not defined and only mentioned here: RCW 47.01.330 (2) (g) requires the Office of Transit Mobility to produce “recommendations for the public transportation section of the **Washington transportation plan.**”

APPENDIX B.
**JTC Staff Memo: Statutory Assignment of Transportation Planning
Responsibilities**

MEMO

To: Kathy Scanlan
Mary Fleckenstein
From: Paul Neal
Date: September 30, 2010
Re: Statutory Assignment of Transportation Planning Responsibilities

Question

Is the responsibility for developing and adopting the statewide transportation plan required by federal law, 23 U.S.C. §135, vested in the Transportation Commission (Commission) or the Department of Transportation (DOT)?

Answer

Prior to the 2005 the question was irrelevant, as statute directed both entities to work together to produce the federally required statewide transportation plan. The 2005 realignment of transportation governance made the question relevant. Current transportation planning statutes, adopted in the context of the prior governance structure, do not provide a clear answer.

Beginning in 1977, the Legislature established a symbiotic planning relationship between DOT and the Commission. The Department developed a federally compliant statewide transportation plan at the direction of the Commission. The Commission reviewed that plan, held public hearings, and ultimately adopted it. The result, the Washington Transportation Plan, was submitted to the Legislature and the Federal DOT.

In 1993 the Legislature provided more structure by requiring a multimodal plan to feed into the statewide transportation plan and a number of sub-plans that fed into the multimodal plan. The multimodal plan was created to improve the process for adopting the statewide transportation plan, not supplant it. Both the Commission and the Department recognized this by designating the Washington Transportation Plan as meeting both the Federal planning requirements and the multimodal plan requirements of chapter 47.06 RCW.

The 2005 transportation governance restructure redefined the relationship of the Department and the Commission. The Commission is now a wholly separate agency, rather than the governing board of the Department. Seen through this new lens, the planning statutes now could be read as requiring two separate plans: a statewide transportation plan under RCW 47.01.071 and a multimodal transportation plan under RCW 47.06.040. The formerly consistent Legislative direction that each plan comply with federal requirements now raised a question as to which plan is the federally compliant plan.

Since 2005 the Legislature has consistently referred to the Commission's plan developed under RCW 47.01.071 as the "statewide transportation plan." The 2007 planning and goals bill used that language in three different instances. The Legislature used that same designation again in 2009 when it: (i) enacted additional planning requirement in the growth management act, RCW 36.70A.085; and (ii) appropriated \$350,000 to the Commission to update the Washington Transportation Plan.

Arguments could be made under current statute to support both sides of the question. In reality, current statute still reflects the prior arrangement where the Commission was in charge of DOT and both entities worked together to produce one plan. Those pre-existing provisions are difficult to reconcile with the post-2005 reality. The current JTC planning study may provide an opportunity to specifically delegate responsibility for producing a federally compliant statewide transportation plan.

Discussion

All parties interested in the JTC's statewide planning study, ESSB 6381 §204(7) agree the current statutes governing transportation planning are unclear. What is clear is that 23 USC §135 requires the State to develop a "statewide transportation plan" to qualify for federal highway funding. Determining the Legislature's delegation of responsibility to produce a federally compliant statewide transportation plan requires a chronological review of the development of the state transportation planning statutes.

1) Analysis

a) 1977: Creation of WSDOT and the WSTC

Prior to 1977 several different agencies governed Washington transportation. These included the department of highways, the highway commission, the toll bridge authority, the aeronautics

commission, the canal commission, and portions of the planning and community affairs agency. The Legislature reorganized this governance structure in ch. 151, laws of 1977, ex. Sess., by creating the DOT and WSTC and transferring transportation duties to them. The two new entities were closely linked. The Commission appointed the DOT secretary who served as an ex officio member of the Commission as “chief executive officer of the commission responsible only to it, and shall be guided by the policies established by it.” §4, ch. 151, laws of 1977 ex. Sess.

The Legislature delegated shared planning responsibilities:

[The Commission shall] ...direct the secretary to prepare and submit to the commission a comprehensive and balanced state-wide transportation plan which shall be based on the transportation policy adopted by the legislature and applicable state and federal laws.

...

The plan shall take into account the federal law and regulations relating to planning, construction and operation of transportation facilities.

§7, ch. 151, laws of 1977, ex. sess., codified as RCW 47.01.071(3).

It is no accident that the Legislature used the same moniker to describe this plan as the federal statutes and rules. The “state-wide transportation plan” required by RCW 47.01.071 was the same state-wide transportation plan required by 23 USC §135 and had to be developed in compliance with federal requirements.

The identification and delegation of planning responsibilities in RCW 47.01.071 remained unchanged until 2005⁷.

b) 1993: Modal Plans Required.

The Legislature provided further structure to the planning process by adopting chapter 47.06 RCW in 1993. EHB 1007, prime sponsor Representative Ruth Fisher, was described in the bill report as “enhancing state-wide transportation planning.” The background section of the bill report stated:

The statutes of the Department of Transportation do not provide a planning process for incorporating the transportation policies identified in recent years in the State Transportation Policy Plan, the Growth Management Act, and other transportation legislation. Examples of issues not addressed in statute are the identification of and planning for transportation facilities and services of statewide significance, coordination of transportation facilities and services that cross regional

boundaries, and coordination between transportation modes to make transferring passengers or goods from one mode to another more convenient and efficient.

The new federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) identifies several elements that each state must include in its transportation planning process in order to qualify for federal transportation funding.

⁷ RCW 47.01.071 was amended in §45, ch. 87, laws of 1980 to alter the due dates for the plan. It was amended again in §1, ch. 59, laws of 1981 to authorize the Commission to propose its own operating budget. Neither amendment changed the allocation of responsibilities to develop the federally required state-wide transportation plan.

Final Bill Report, EHB 1007, (ch. 446, laws of 1993).

The enacted bill created Chapter 47.06 RCW. §4 of the bill required the Department to “develop a statewide multimodal plan under RCW 47.01.071(3) and in conformance with federal requirements...” , RCW 47.06.040. The act went on to specify the components of that plan including the specific modal plans that rolled up into it, including the newly designated highway systems plan, *see* §§5, 6,7,8, 9, 10 11.

§3 of the bill, RCW 47.06.030, directed the Commission to develop a separate “state transportation policy plan.” That statute, and presumably the requirement for a separate policy plan, was repealed in 2007.

The new planning requirements of chapter 47.06 complemented and fed into the pre-existing requirements of RCW 47.01.071. That is, the newly required multi-modal plan and the associated plans were created to provide a more defined structure to the planning process that ultimately would result in the federally compliant statewide transportation plan produced under RCW 47.01.071. The planning statutes did not require two separate federally compliant plans. Rather they provided for a structure to ensure that the all planning requirements were properly considered in development of the federally compliant statewide transportation plan. DOT’s designation of the Washington Transportation Plan as both the federally compliant plan and the state multimodal plan recognized this interrelation ship.

At this point, it would not have made sense to ask whether the Commission or the Department had the responsibility for producing the federally required plan. The statutes directed both to work cooperatively to create the plan. The Department was to prepare and submit the plan to the Commission. As part of developing that plan it followed the planning requirements of chapter 47.06 RCW. The Commission was charged with reviewing the plan, including providing opportunities for public, prior to officially adopting the plan as the federally compliant statewide transportation plan. The question became relevant in 2005.

c) 2005: Transportation Governance Reorganized.

The Legislature fundamentally changed transportation governance in ESB 5513 (ch 319, laws of 2005). The DOT secretary now was appointed by, and reported to, the Governor. The relative planning responsibilities of the Commission and the Department in RCW 47.01.071 were amended as follows:

[the commission shall] (~~direct the secretary to~~) prepare (~~and submit to the commission~~) a comprehensive and balanced statewide transportation plan

which shall be based on the transportation policy adopted by the governor and the legislature and applicable state and federal laws.

§5, ch. 319, laws of 2005. RCW 47.06.040 was not amended, that is, it still retained the requirement that the multimodal plan be developed “under 47.01.071(3)”. That requirement made less sense since the Commission was no longer empowered to direct the secretary to prepare and submit a statewide transportation plan. The Commission and the Department were in the middle of developing a new federally compliant plan, which the Commission adopted in 2006.

d) **2007: Transportation Goals and Planning Addressed.**

In 2005 the Legislature commissioned a study of Transportation goals and planning. The Legislature enacted SSB 5412 in 2007 partially in response to the findings and recommendations of that study. The bill, titled “An act relating to clarifying goals, objectives, and responsibilities of certain transportation agencies” simplified statutory transportation goals by enacting RCW 47.04.280 while amending or repealing other statutes setting transportation goals. The bill also:

- Directed the commission to produce a statewide transportation plan by December, 2010, and every 4 years thereafter. The requirements that the plan developed under RCW 47.01.071 be “consistent with...state and federal laws” and “take into account federal law and regulations relating to the planning, construction and operation of transportation facilities” were not amended;
- Repealed the statute directing the Commission to develop a separate transportation policy plan, RCW 47.06.030;
- Identified as “a specific role of the Department” in RCW 47.06.020 to “assist the transportation commission in the development of the statewide transportation plan required under RCW 47.01.071(4)”;
- Enacted cross-references describing the plan adopted under RCW 47.01.071 as the “statewide transportation plan”.
 - RCW 47.01.075, was amended to require: “The commission shall consider the input gathered at the forums as it establishes the statewide transportation plan under RCW 47.01.071(4).”
 - RCW 47.05.030 was amended to require OFM to base its 10-year transportation investment program on “the statewide transportation plan established under RCW 47.01.071(4).”

e) **Other Statutory Cross-references to Transportation Planning.**

Federal law requires Washington to develop a “statewide transportation plan”. As discussed above, parallel language is used in Title 47 RCW to identify the Commission’s planning responsibilities in RCW 47.01.071. The Legislature recently included the same cross-reference in the growth management act, RCW 36.70A.085(8).

Similarly, the 2009-11 transportation budget appropriated \$350,000 to the Transportation Commission “updating the statewide transportation plan.” §204, ESSB 5352.

2) **Conclusion**

The current transportation planning statutes are grounded in a reality that no longer exists. The Commission is not in charge of DOT and no longer has the authority to direct it to develop a plan for the Commission’s review. Interpreting the statutes to require two separate, free-standing plans, could potentially be reconciled with the statutory language, but is difficult to reconcile with the Legislature’s intent in enacting those statutes. The current JTC planning study provides an opportunity for the Legislature to consider clarifying the statewide transportation planning roles and responsibilities.