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SECTION 1600.00 - AGRICULTURAL AND FARMLAND

SECTION 1610.00 - INTRODUCTION

The loss of productive farmland to highways, urban sprawl, and other types of development is cause for concern. Highways may increase the pressure for conversion of land from farming to other uses. By making inaccessible areas more accessible, highways increase potential for development. In turn, development increases land values and property taxes, tending to make farming economically unfeasible. Adjacent development is seen as incompatible with farming, and farming activities may be considered a “nuisance” by newcomers. Additional traffic moving at high speeds creates a safety hazard for slow-moving farm machinery. Farmlands may be converted as a result of locating a new road in a farming area, rebuilding and/or enlarging an existing road, or adding an interchange from an interstate highway in a rural area. Conversion may indirectly result when land remaining in a tract partially taken for right of way can no longer be farmed because the project would restrict access, or is converted because of accessibility to a new highway.

1610.01 Summary of Requirements. Farmlands defined as “prime,” “unique,” or of state or local significance are protected by federal and state legislation. Early consultation with the Natural Resources Conservation Service (NRCS), and state and local agencies is recommended. During project development, a farmland conversion impact rating process is used, in coordination with these agencies, to determine the degree of impact and whether alternatives or mitigation will be necessary. Environmental documents are prepared based on the results of this rating.

1610.02 Abbreviations and Acronyms.

Abbreviations and acronyms used in this chapter are listed below.

DOA	U.S. Department of Agriculture
FPPA	Farmland Protection Policy Act
NRCS	Natural Resource Conservation Service

1610.03 Glossary.

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

Indirect Conversion— Acres remaining in a tract that is partially taken for right of way which (a) Could no longer be farmed because the project would restrict access, or (b) would likely be converted because of accessibility to a new highway.

Prime Farmland— Land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without

intolerable soil erosion. Prime farmland includes land that possesses the above characteristics and may include land currently used as cropland, pastureland, rangeland, or forestland. It does not include land already in or committed to urban development or water storage.

Site— Any alternative alignment on a highway project, including areas converted directly (within the right of way) or indirectly by a proposed action (see “Indirect Conversion”). Also the area of disturbance for any project or action.

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

SECTION 1620.00 - APPLICABLE STATUTES AND REGULATIONS

1620.01 National Environmental Policy Act. The National Environmental Policy Act (NEPA), 42 USC Section 4231, requires that all actions sponsored, funded, permitted, or approved by federal agencies undergo planning to ensure that environmental considerations such as impacts to farmland are given due weight in project decision-making. Federal implementing regulations are at 23 CFR 771 (FHWA) and 40 CFR 1500-1508 (CEQ). For details see [Section 200.00](#) or go to <http://www.epa.gov/>. Click Laws & Regulations, then Code of Federal Regulations, then search for 7CFR658.

1620.02 Farmlands Protection Policy Act. The purpose of the Farmlands Protection Policy Act (FPPA) of 1981 (7 USC 4201-4209) is to minimize impacts on farmlands and maximize compatibility with state and local farmland programs. Farmlands are classified as prime, unique, or of statewide or local importance. The following types of land are exempt under the FPPA:

- Soil types not suitable for crops (such as rocky terrain and sand dunes).
- Urban sites where the right of way required for a highway project is wholly within a delineated urban area and the project requires no property from prime or unique farmlands or farmlands of statewide or local importance.
 - Farmland that has already been converted to industrial, commercial, residential, or recreational activity. The complete FPPA is online at FHWA’s web site at <http://www.fhwa.dot.gov/>. Click FHWA Programs, then Environment, then Environmental Guidebook, then Farmland.

Implementing regulations in 7 CFR 658 include a scoring system for determining a project’s potential impacts (7 CFR 658(4)) that could hasten the conversion of farmland.

1620.03 Local Right-to-Farm Ordinances. Some counties and cities have right-to-farm ordinances that are designed to provide some protection to farmers from nuisance complaints by urban dwellers in a farming community.

SECTION 1630.00 - TECHNICAL GUIDANCE

1630.01 ITD Report. NEPA implementing regulations require evaluation of potential project impacts on farmlands classified as prime, unique, or of statewide or local significance. ITD and FHWA guidance for preparing the rating and environmental documents is given below. Note that since farmland often contains regulated wetlands, the potential for wetland impacts should also be considered; see Section 1100.

1630.02 Other ITD Guidance.

1630.02.01 Overview.

Following is a summary of the steps required in considering potential impacts on farmland.

- During the development of the Environmental Review Summary, the district office reviews the impact of the project on preservation of farmland.
- Identify all new projects requiring new right of way that contain farmlands or that may cause indirect conversion of farmlands.
- Contact local governments to identify any farmlands of local importance and any farmland protection programs.
- Determine if the project is federally exempt.
- If the project is not exempt, complete Form AD-1006 (see below) and consider alternatives that could lessen the adverse effects on farmlands.
- Document the determination process.
- Determine if an EIS is required.
- Complete the environmental document.

1630.02.02 Exempt Projects.

The following projects are generally exempt from federal farmland regulation:

- Construction within existing rights of way purchased before August 6, 1984.
- All resurfacing and normal road repairs.
- Rights of way taken from existing residents and/or businesses.
- Borrow areas and disposal sites not arranged for under the direction of ITD.
- Land committed to water storage.

1630.02.03 Farmland Conversion Rating (Form AD 1006).

[Code of Federal Regulations] [Title 7, Volume 6, Parts 400 to 699]

TITLE 7--AGRICULTURE

CHAPTER VI--NATURAL RESOURCES CONSERVATION SERVICE,
DEPARTMENT OF AGRICULTURE

Sec. 658.4 Guidelines for use of criteria.

As stated above and as provided in the Act, each Federal agency shall use the criteria provided in Sec. 658.5 to identify and take into account the adverse effects of Federal programs on the protection of farmland. The agencies are to consider alternative actions, as appropriate, that could lessen such adverse effects, and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government and private programs and policies to protect farmland.

The following are guidelines to assist the agencies in these tasks:

- a. An agency may determine whether or not a site is farmland as defined in Sec. 658.2(a) or the agency may request that NRCS make such a determination. If an agency elects not to make its own determination, it should make a request to NRCS on Form AD-1006, the Farmland Conversion Impact Rating Form, available at NRCS offices, for determination of whether the site is farmland subject to the Act. If neither the entire site nor any part of it is subject to the Act, then the Act will not apply and NRCS will so notify the agency. If the site is determined by NRCS to be subject to the Act, then NRCS will measure the relative value of the site as farmland on a scale of 0 to 100 according to the information sources listed in Sec. 658.5(a). NRCS will respond to these requests within 10 working days of their receipt except that in cases where a site visit or land evaluation system design is needed, NRCS will respond in 30 working days. In the event that NRCS fails to complete its response within the required period, if further delay would interfere with construction activities, the agency should proceed as though the site were not farmland.
- b. The Form AD 1006, returned to the agency by NRCS will also include the following incidental information: The total amount of farmable land (the land in the unit of local government's jurisdiction that is capable of producing the commonly grown crop); the percentage of the jurisdiction that is farmland covered by the Act; the percentage of farmland in the jurisdiction that the project would convert; and the percentage of farmland in the local government's jurisdiction with the same or higher relative value than the land that the project would convert. These statistics will not be part of the criteria scoring process, but are intended simply to furnish additional background information to Federal agencies to aid them in considering the effects of their projects on farmland.
- c. After the agency receives from NRCS the score of a site's relative value as described in Sec. 658.4(a) and then applies the site assessment criteria which are set forth in Sec. 658.5 (b) and (c), the agency will assign to the site a combined score of up to 260 points, composed of up to 100 points for relative value and up to 160 points for the site assessment. With this score the agency will be able to identify the effect of its programs on farmland, and make a determination as to the suitability of the site for protection as farmland. Once this score is computed, USDA recommends:

1. Sites with the highest combined scores be regarded as most suitable for protection under these criteria and sites with the lowest scores, as least suitable.
2. Sites receiving a total score of less than 160 need not be given further consideration for protection and no additional sites need to be evaluated.
3. Sites receiving scores totaling 160 or more be given increasingly higher levels of consideration for protection.
4. When making decisions on proposed actions for sites receiving scores totaling 160 or more, agency personnel consider:
 - a. Use of land that is not farmland or use of existing structures;
 - b. Alternative sites, locations and designs that would serve the proposed purpose but convert either fewer acres of farmland or other farmland that has a lower relative value;
 - c. Special siting requirements of the proposed project and the extent to which an alternative site fails to satisfy the special siting requirements as well as the originally selected site.
 - d. Federal agencies may elect to assign the site assessment criteria relative weightings other than those shown in Sec. 658.5 (b) and (c). If an agency elects to do so, USDA recommends that the agency adopt its alternative weighting system (1) through rulemaking in consultation with USDA, and (2) as a system to be used uniformly throughout the agency. USDA recommends that the weightings stated in Sec. 658.5 (b) and (c) be used until an agency issues a final rule to change the weightings.
 - e. It is advisable that evaluations and analyses of prospective farmland conversion impacts be made early in the planning process before a site or design is selected, and that, where possible, agencies make the FPPA evaluations part of the National Environmental Policy Act (NEPA) process. Under the agency's own NEPA regulations, some categories of projects may be excluded from NEPA which may still be covered under the FPPA. Section 1540(c)(4) of the Act exempts projects that were beyond the planning stage and were in either the active design or construction state on the effective date of the Act. Section 1547(b) exempts acquisition or use of farmland for national defense purposes. There are no other exemptions of projects by category in the Act.
 - f. Numerous States and units of local government are developing and adopting Land Evaluation and Site Assessment (LESA) systems to evaluate the productivity of agricultural land and its suitability for conversion to nonagricultural use. Therefore, States and units of local government may have already performed an evaluation using criteria similar to those contained in this rule applicable to Federal agencies. USDA recommends that where sites are to be evaluated within a jurisdiction having a State or local LESA system that has been approved by the governing body of such jurisdiction and has been placed on the

NRCS State conservationist's list as one which meets the purpose of the FPPA in balance with other public policy objectives, Federal agencies use that system to make the evaluation.

- g. To meet reporting requirements of section 1546 of the Act, 7 U.S.C. 4207, and for data collection purposes, after the agency has made a final decision on a project in which one or more of the alternative sites contain farmland subject to the FPPA, the agency is requested to return a copy of the Form AD-1006, which indicates the final decision of the agency, to the NRCS field office.
- h. Once a Federal agency has performed an analysis under the FPPA for the conversion of a site, that agency's, or a second Federal agency's determination with regard to additional assistance or actions on the same site do not require additional redundant FPPA analysis.

**TITLE 7—AGRICULTURE CHAPTER VI--NATURAL RESOURCES
CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE Sec. 658.5
Criteria.**

This section states the criteria required by section 1541(a) of the Act, 7 U.S.C. 4202(a). The criteria were developed by the Secretary of Agriculture in cooperation with other Federal agencies. They are in two parts, (1) the land evaluation criterion, relative value, for which NRCS will provide the rating or score, and (2) the site assessment criteria, for which each Federal agency must develop its own ratings or scores.

The criteria are as follows:

- a. **Land Evaluation Criterion--Relative Value.** The land evaluation criterion is based on information from several sources including national cooperative soil surveys or other acceptable soil surveys, NRCS field office technical guides, soil potential ratings or soil productivity ratings, land capability classifications, and important farmland determinations. Based on this information, groups of soils within a local government's jurisdiction will be evaluated and assigned a score between 0 to 100, representing the relative value, for agricultural production, of the farmland to be converted by the project compared to other farmland in the same local government jurisdiction, This score will be the Relative Value Rating on Form AD 1006.
- b. **Site Assessment Criteria.** Federal agencies are to use the following criteria to assess the suitability of each proposed site or design alternative for protection as farmland along with the score from the land evaluation criterion described in Sec. 658.5(a). Each criterion will be given a score on a scale of 0 to the maximum points shown. Conditions suggesting top, intermediate and bottom scores are indicated for each criterion.

The agency would make scoring decisions in the context of each proposed site or alternative action by examining the site, the surrounding area, and the programs and policies of the State or local unit of government in which the site is located. Where one given location has more than one design alternative, each design should be considered as an alternative site. The site assessment criteria are:

1. How much land is in non urban use within a radius of 1.0 mile from where the project is intended?
 - More than 90 percent--15 points
 - 90 to 20 percent--14 to 1 point(s)
 - Less than 20 percent--0 points
2. How much of the perimeter of the site borders in land in non urban use?
 - More than 90 percent--10 points
 - 90 to 20 percent--9 to 1 point(s)
 - Less than 20 percent--0 points
3. How much of the site has been farmed managed for a scheduled harvest or timber activity)
 - More than 5 of the last 10 years?
 - More than 90 percent--20 points
 - 90 to 20 percent--19 to 1 points(s)
 - Less than 20 percent--0 points.
4. Is the site subject to State or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?
 - Site is protected--20 points
 - Site is not protected--0 points
5. How close is the site to an urban built-up area?
 - The site is 2 miles or more from an urban built-up area--15 points
 - The site is more than 1 mile but less than 2 miles from an urban built-up area--10 points
 - The site is less than 1 mile from, but is not adjacent to an urban built-up area--5 points
 - The site is adjacent to an urban built-up area--0 points
6. How close is the site to water lines, sewer lines and/or other local facilities and services whose capacities and design would promote nonagricultural use?
 - None of the services exist nearer than 3 miles from the site--15 points
 - Some of the services exist more than 1 but less than 3 miles from the site--10 points
 - All of the services exist within $\frac{1}{2}$ mile of the site--0 points

7. Is the farm unit(s) containing the site (before the project) as large as the average-size farming unit in the county? (Average farm sizes in each county are available from the NRCS field offices in each State. Data are from the latest available Census of Agriculture, Acreage of Farm Units in Operation with \$1,000 or more in sales.)
- As large or larger--10 points
Below average--deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average--9 to 0 points
8. If this site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?
- Acreage equal to more than 25 percent of acres directly converted by the project--10 points
- Acreage equal to between 25 and 5 percent of the acres directly converted by the project--9 to 1 point(s)
- Acreage equal to less than 5 percent of the acres directly converted by the project--0 points
9. Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?
- All required services are available--5 points
Some required services are available--4 to 1 point(s)
- No required services are available--0 points
10. Does the site have substantial and well-maintained on-farm investments such as barns, other storage buildings, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?
- High amount of on-farm investment--20 points
Moderate amount of on-farm investment--19 to 1 point(s)
- No on-farm investment--0 points
11. Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?
- Substantial reduction in demand for support services if the site is converted--10 points
- Some reduction in demand for support services if the site is converted--9 to 1 point(s)
- No significant reduction in demand for support services if the site is converted--0 points

12. Is the kind and intensity of the proposed use if the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible with existing agricultural use of surrounding farmland—10 points

Proposed project is tolerable to existing agricultural use of surrounding farmland--9 to 1 point(s)

Proposed project is fully compatible with existing agricultural use of surrounding farmland--0 points

- c. Corridor-type Site Assessment Criteria. The following criteria are to be used for projects that have a linear or corridor-type site configuration connecting two distant points, and crossing several different tracts of land.

These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor-type site or design alternative for protection as farmland along with the land evaluation information described in Sec. 658.4(a). All criteria for corridor-type sites will be scored as shown in Sec. 658.5(b) for other sites, except as noted below:

1. Criteria 5 and 6 will not be considered.
2. Criterion 8 will be scored on a scale of 0 to 25 points, and criterion 11 will be scored on a scale of 0 to 25 points.

If the local government and/or NRCS indicate that the proposed project would convert farmlands, the district completes Parts VI and VII of Form AD 1006. Guidelines and a copy of Form AD 1006 are available on the FHWA web site at <http://www.fhwa.dot.gov/>. Click FHWA Programs, then Environment, then Environmental Guidebook, then search for AD 1006. Use this link to contact the NRCS state office: <http://www.id.nrcs.usda.gov/>.

1630.02.04 NEPA Determination. Upon completion of documentation, the district makes the final evaluation for a NEPA Finding of No Significant Impact (FONSI). Using alternative comparisons and subsequent mitigation, the district office coordinates with FHWA to decide whether or not to proceed with a farmland conversion.

1630.02.05 Contents of Environmental Document. See below for specific FHWA guidance. In general, the project environmental document should discuss or include each of the following items:

- Will alternative route location or designs require losing less farmland important to agriculture?
- What are the secondary effects of the proposed action on farmlands important to agriculture?
- What benefits are foregone if farmlands important to agriculture are taken?
- A copy of completed Form AD 1006.

- A summary of the farmland protection process, including the final decision
- Any mitigation measures that will reduce farmlands impacts.

1630.03 FHWA Technical Advisory. [FHWA Technical Advisory T 6640.8A \(Exhibit 300-4\)](#) gives guidelines for preparing NEPA and Section 4(f) documents, including specifically sections on farmland impacts. See also [Section 1700.00](#) for Section 4(f) requirements. If it is determined that an EIS is necessary, the draft should summarize the results of early consultation with the NRCS and state and local agriculture agencies where any of the four specified types of farmland could be directly or indirectly impacted by any alternative under consideration.

Where farmland would be impacted, the draft EIS should contain a map showing the location of all farmlands in the project impact area, discuss the impacts of the various alternatives and identify measures to avoid or reduce the impacts. The Farmland Conversion Impact Rating (Form AD 1006, see below) should be processed, and a copy included in the draft EIS. Where the Land Evaluation and Site Assessment score (from Form AD 1006) is 160 points or greater, the draft EIS should discuss alternatives to avoid farmland impacts. If avoidance is not possible, measures to minimize or reduce the impacts should be evaluated and, where appropriate, included in the proposed action.

1630.04 FHWA Guidance on Farmland Conversion Rating (Form AD-1006).

FHWA's *Guidelines for Implementing the Final Rule of the Farmland Protection Policy Act for Highway Projects* (May 1989) gives information on applicability and exemptions, definitions of terms, coordination procedures, and documentation. The appendices contain the Farmland and Conversion Impact Rating (Form AD-1006) and guidelines for completing and processing the form.

An earlier document, *FHWA Farmland Protection Policy Act Supplemental Guidelines for Implementing the Final Rule for Highway Projects* (January 23, 1985) offers procedural guidance on the routing of information about farmlands rated under Form AD 1006. Both documents are online at <http://www.fhwa.dot.gov/>. The AD1006 can also be found at <http://www.nrcs.usda.gov/programs/fppa/AD1006.PDF>.

SECTION 1640.00 - PERMITS

No permits are usually required that specifically address impact to or conversion of agricultural land.

SECTION 1650.00 - NON-ROAD PROJECT REQUIREMENTS

Rail, airport, or non-motorized transport systems are generally subject to the same policies, procedures, and permits that apply to road projects.

SECTION 1660.00 – EXHIBITS

None