



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: COUNTY ROAD ADMINISTRATION BOARD

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: JANUARY 16, 2003

(2) Purpose: Revisions to WAC 136-50, Eligibility for Rural Arterial Trust Account has been revised to include compliance with revised statutes regarding removal of barriers to fish passage.

(3) Citation of existing rules affected by this order:

- Repealed: 136-150-024
- Amended: 136-150-023, 030, 040, 050, 060
- Suspended:

(4) Statutory authority for adoption: 36.79

Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 02-23-007 on November 7, 2003 (date).
Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
- No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) _____*

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

CODE REVISER USE ONLY

Name (Type or Print)

JAY P. WEBER

Signature

EXECUTIVE DIRECTOR

Date
FEBRUARY 3, 2003

FILED
STATE OF WASHINGTON

FEB 7 2003

1049

03 05 010

TIME _____ AM/PM

WSR _____

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 01-17-104, filed 8/21/01, effective 9/21/01)

WAC 136-150-023 ((Identifying eligible counties.))

Ascertaining the expenditures for fish passage barrier removal.

((Counties eligible to receive RATA funds shall be:

(1) Those in which there has been no diversion of the county road levy;

(2) Those in which the actual expenditures for traffic law enforcement have been equal to or greater than either the amount of diverted road levy budgeted for traffic law enforcement or the amount of road funds transferred to current expense to fund traffic law enforcement;

(3) Those in which road funds have been transferred to other funds and have been used for legitimate road purposes;

(4) Those with a population of less than eight thousand; and

(5) Those expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050.))

In those counties in which road funds have been used for removal of barriers to fish passage and accompanying streambed and stream bank repair as specified in RCW 36.82.070, the county engineer shall submit a certification showing that activities related to the removal of barriers to fish passage performed beyond the county right of way did not exceed twenty-five percent of the total costs for activities related to fish barrier removal on any one project, and that the total annual cost of activities related to the removal of barriers to fish passage performed beyond the county rights of way did not exceed one-half of one percent of the county's annual road construction budget. Such certification shall be submitted to the county road administration board no later than March 15 of each year.

AMENDATORY SECTION (Amending WSR 01-17-104, filed 8/21/01, effective 9/21/01)

WAC 136-150-030 ((Certification required.)) Identifying eligible counties.

((The contract between the county road administration board and a county relative to a RAP project shall contain a certification, signed by the county executive or chair of the board of county commissioners, as appropriate, that the county is in compliance with the provisions of this chapter.)) All counties with a population of less than eight thousand shall be eligible to receive RATA funds. Counties with a population greater

than eight thousand shall be eligible to receive RATA funds only if, during the immediately preceding calendar year:

(1) The actual expenditures for traffic law enforcement have been equal to or greater than either the amount of the diverted road levy budgeted for traffic law enforcement or the amount of road funds transferred to current expense to fund traffic law enforcement;

(2) The amount of county road funds used beyond the county right of way for activities clearly associated with removal of fish passage barriers that are the responsibility of the county did not exceed twenty-five percent of the total cost of activities related to fish barrier removal on any one project and the total cost of activities related to fish barrier removal beyond the county right of way did not exceed one-half of one percent of the county's total annual road construction budget;

(3) All road funds that have been transferred to other funds have been used for legitimate road purposes;

(4) Revenues collected for road purposes have been expended on other governmental services only after authorization from the voters of that county under RCW 84.55.050; and

(5) County road levy funds have been expended in accordance with chapter 36.82 RCW.

AMENDATORY SECTION (Amending WSR 01-17-104, filed 8/21/01, effective 9/21/01)

WAC 136-150-040 ((Post audit penalty.)) **Constraint of contract execution.** ((Every RAP project shall be subject to final examination and audit by the state auditor. In the event such an examination reveals an improper certification on the part of a county relative to compliance with provisions of this chapter, the matter shall be placed on the agenda of the next meeting of the county road administration board and may be cause for the board to withdraw or deny the certificate of good practice of that county. The board may also require that all or part of the RATA funds received by the county be returned to the county road administration board.)) The county road administration board shall not execute a contract with any county for any RAP project unless the appropriate certifications have been submitted and unless the county has been identified as being eligible to receive RATA funds.

NEW SECTION

WAC 136-150-050 Certification required. The contract between the county road administration board and a county relative to a RAP project shall contain a certification signed by the county executive or chair of the board of county commissioners, as appropriate, that the county is in compliance with the provisions of this chapter.

NEW SECTION

WAC 136-150-060 Post audit penalty. Every RAP project shall be subject to final examination and audit by the state auditor. In the event such an examination reveals an improper certification on the part of a county relative to compliance with provisions of this chapter, the matter shall be placed on the agenda of the next meeting of the county road administration board and may be cause for the board to withdraw or deny the certificate of good practice of that county. The board may also require that all or part of the RATA funds received by the county be returned to the county road administration board.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 136-150-024

Constraint of contract execution.