



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: County Road Administration Board

- Permanent Rule
 Emergency Rule

(1) Date of adoption: ~~10-9-91~~ 8-2-91 *RD*

(2) Purpose: Adopts emergency rules for the implementation of Chapter 310, Laws of 1991, Section 1(4) regarding the county ferry capital improvement program.

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

- Repealed: n/a
Amended: n/a
Suspended: n/a

(4) Authority for adoption:

Statute: Chapter 310, Laws of 1991, Section 1(4)
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to 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:

Program requires adoption of rules to allow participants to apply for funding prior to submittal of supplemental CRAB budget.

(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) 9/30/91

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 30 1991

TIME: 2:00 *AM*
WSR 91-18-045

NAME (TYPE OR PRINT)

Vern E. Wagar

SIGNATURE

Vern E. Wagar

Executive Director

DATE

8/30/91

Chapter 136-400 WAC

ADMINISTRATION OF THE COUNTY FERRY CAPITAL IMPROVEMENT PROGRAM

NEW SECTION

WAC 136-400-010 PURPOSE. Section 1(4), chapter 310, Laws of 1991 (the act), provides that the county road administration board (CRABoard) may evaluate requests for ferry capital improvement funds by Pierce, Skagit, Wahkiakum, and Whatcom counties, and, if approved by the board, submit said requests to the legislature for funding. This chapter describes the manner in which the CRABoard will implement the provisions of the act.

NEW SECTION

WAC 136-400-020 ELIGIBILITY. Counties eligible to apply for ferry capital improvement funds are Pierce, Skagit, Wahkiakum, and Whatcom.

NEW SECTION

WAC 136-400-030 DEFINITION OF FERRY CAPITAL IMPROVEMENT PROJECTS. Ferry capital improvement projects shall include the following:

- (1) Purchase of new vessels;
- (2) Major vessel refurbishment (e.g., engines, structural steel, controls) that substantially extends the life of the vessel;
- (3) Facility refurbishment/replacement (e.g., complete replacement, major rebuilding or redecking of a dock) that substantially extends the life of the facility;
- (4) Installation of items that substantially improve ferry facilities or operations;
- (5) Construction of infrastructure that provides new or additional access or increases the capacity of terminal facilities; and/or
- (6) Emergency repairs to correct damage to vessels or facilities caused by accidents or natural phenomena.

NEW SECTION

WAC 136-400-040 SIX-YEAR AND FOURTEEN-YEAR PLAN SUBMITTAL. Each county's six-year programs and fourteen-year long range ferry capital improvement plans shall be prepared and adopted in accordance with RCW 36.81.121 and 36.54.015, respectively, and one copy shall be forwarded to the CRAB office no later than December 31st of each year. The county's six-year program and fourteen-year ferry capital improvement plan submitted in each odd-numbered year shall include all projects for which the county may request ferry capital improvement funds during the biennium beginning on July 1st of that year. Project cost estimates shall be considered preliminary until a project application is submitted.

NEW SECTION

WAC 136-400-050 PROJECT APPLICATION. Each application by a county for ferry capital improvement funds shall be made no later than January 1st of even-numbered years for the biennium beginning on July 1st of the next odd-numbered year. The information submitted to the CRABoard shall include the application form and sufficient engineering drawings to accurately describe the project.

Project applications shall be submitted on application forms supplied by the CRABoard and shall include the following information:

- (1) Project description and scope;
- (2) Engineering analysis and cost estimate;
- (3) Evidence of application for outside funding through the public works trust fund or any other available revenue source;
- (4) Plan for utilization of outside funding that has been, will be, or may be awarded; and
- (5) Comprehensive project amortization and cash flow schedules.

NEW SECTION

WAC 136-400-060 TECHNICAL REVIEW COMMITTEE. A technical review committee shall be created to review project applications for ferry capital improvement funds composed of the following members or their designees: Executive director of the CRABoard, assistant secretary WSDOT local programs, a WSDOT marine division engineer, and public works department representatives from each of the four participating counties. The county representatives shall serve as ex officio, non-voting members of the technical review committee. The technical review committee shall recommend approval of projects that have been submitted in a timely manner and that:

- (1) Meet the applicable statutes and the standards of this chapter; and
- (2) Adhere to commonly held engineering practices and cost effectiveness.

The technical review committee shall recommend an appropriate local match on a project-by-project basis based upon the availability of local matching funds. Written reports on each project recommended for approval shall be submitted to the board no later than thirty days prior to its regularly scheduled spring meeting. Technical review committee meetings shall be convened on an "as needed" basis by the executive director of the CRABoard, who shall serve as chairperson.

NEW SECTION

WAC 136-400-070 CRABOARD ACTION. The CRABoard shall review project applications, along with the recommendations of the technical review committee, at its regular spring meeting in even-numbered years. At that time it shall approve those projects which it finds:

- (1) Meet the applicable statutes and the standards of this chapter; and
- (2) Adhere to commonly held engineering practices and cost effectiveness, specifying the amount of approved funding which it recommends for such projects.

The board shall determine a local matching percentage on a case-by-case basis, considering the availability of local matching funds and the recommendation of the technical review committee. Emergent projects may be considered by the CRABoard at any time upon recommendation by the executive director. The board shall require evidence

that each applicant has first sought funding through the public works trust fund, and other available revenue sources.

NEW SECTION

WAC 136-400-080 FUNDING BY THE LEGISLATURE. County ferry capital improvement project requests approved by the CRABoard shall be submitted to the legislature for funding out of amounts available under RCW 46.68.100(3) as part of the CRABoard's biennial or supplemental budget request.

The CRABoard shall, within ten days of the signing of the transportation budget, notify each county having an approved project of such approval and of the amount of ferry capital improvement funding allocated to each approved project. The CRABoard shall offer such county a contract for each approved project setting forth the terms and conditions under which funds will be provided.

NEW SECTION

WAC 136-400-090 LIMITATION ON USE OF FERRY CAPITAL IMPROVEMENT FUNDS. Ferry capital improvement funds may be used for project design, construction, and right-of-way costs incurred after legislative approval. Emergency project costs may be eligible for retroactive payment upon approval by the CRABoard.

NEW SECTION

WAC 136-400-100 TERMS OF CRAB/COUNTY CONTRACT. The CRAB/county contract shall include, but not be limited to, the following provisions:

(1) Such contract shall be valid and binding (and the county shall be entitled to receive ferry capital improvement funds) only if such contract is signed and returned to the CRABoard within forty-five days of its mailing by the CRABoard.

(2) The project will be constructed in accordance with (a) the information furnished to the CRABoard, and (b) the plans and specifications prepared under the supervision of the county engineer.

(3) The county will notify the CRABoard when a contract has been awarded and when construction has started, and when the project has been completed.

(4) The CRABoard will reimburse counties on the basis of monthly progress vouchers received and approved on individual projects, subject to the availability of ferry capital improvement funds appropriated by the legislature.

(5) The county will reimburse the CRABoard in the event that a project post audit reveals improper expenditure of ferry capital improvement funds. Said funds will be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

NEW SECTION

WAC 136-400-110 VOUCHER APPROVAL AND PAYMENT. The CRABoard shall prepare and distribute to all counties with approved ferry capital improvement projects, voucher forms for use in requesting progress and final payments for each approved ferry capital improvement project.

The county constructing each ferry capital improvement project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each project for payment of the approved and funded share of the project cost.

The CRABoard shall approve such vouchers for payment to the county submitting the voucher. Upon approval of each ferry capital improvement voucher by the CRABoard it shall be transmitted to the department of transportation for payment to the county submitting the voucher. Ferry capital improvement fund warrants shall be transmitted directly to each county submitting a voucher. In the event that project funds remain unspent after the final project payment has been made, the unspent balance will be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

NEW SECTION

WAC 136-400-120 AUDIT REQUIREMENTS. Audits of county ferry capital improvement projects may be conducted by the state auditor's office and will normally be conducted in conjunction with the county audits required by RCW 43.09.260 and 36.80.080. Special audits of specific ferry capital improvement projects not required by these statutes may be accomplished at the request, and at the expense, of the CRABoard.

An audit of any county ferry capital improvement project shall include, but not be limited to, a review of the county's compliance with: The provisions of the act; and these rules. The audit shall also include a review of the financial accounting and reporting of those funds associated with and received for the ferry capital improvement project.

In the event that an exception is noted in the audit report the CRABoard shall evaluate the noted discrepancy. Discrepancies may be cause for the CRABoard to order the payback of improperly expended ferry capital improvement funds as provided in the CRAB/county contract (WAC 136-400-110). Any such funds returned by a county to the CRABoard shall be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

NEW SECTION

WAC 136-400-130 DELEGATION OF AUTHORITY. In order to ensure effective and timely administration of the county ferry capital improvement program, the CRABoard or its executive director may delegate, in writing, its authority under this chapter.