



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: July 29, 1994

(2) Purpose: Provides guidance and procedures for increasing RATA funding to projects approved after July 1, 1995.

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

- Repealed:
Amended:
Suspended:

(4) Authority for adoption:
Statute: RCW 36.79.060
Other Authority:

(5 1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 94-13-184 on June 21, 1994 (date)
Describe any changes other than editing from proposed to adopted version:

None

(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:

(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

Emergency Rules

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

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

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 02 1994

TIME: 9:44
WSR 94-16-109

NAME (TYPE OR PRINT)

VERN E. WAGAR

SIGNATURE

Vern E. Wagar for VEW

TITLE

EXECUTIVE DIRECTOR

DATE

7/29/94

INCREASED ALLOCATIONS OF RATA FUNDS TO PROJECTS

NEW SECTION

WAC 136-165-010 Purpose and Effective Date.

RCW 36.79.150 provides for increasing the amount of RATA funds allocated to a project. This chapter describes the manner in which counties may request an increase in the amount of RATA funds allocated to a project and the manner in which the CRABoard will respond to such requests. This chapter will apply only to projects for which RATA funds have been allocated after July 1, 1995.

NEW SECTION

WAC 136-165-020 Requirements for Consideration of RATA Fund Increases.

(1) When a county submits its final prospectus as described in WAC 136-161-050, CRAB presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation only twice in the course of a project's development: At the completion of preliminary engineering, and prior to commencing construction. All cost increases during the course of construction shall be the responsibility of the county. Requests for increases in excess of 50% of the original RATA

allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits.

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

- (a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) below;
- (b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) below;
- (c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation; and
- (d) The request is not to pay for an expansion of the originally approved project.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgement and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which a county is expected to consider includes, but is not limited to, the following:

- (a) The availability at the needed time of matching funds and other supplementary funds;
- (b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;
- (c) Required permits, including pre-project scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;
- (d) Required right of way or other easements, and the time and cost of acquisition;

- (e) Availability of qualified contractors to perform the work;
- (f) Ownership, type, amount, and time requirements of any required utility relocation;
- (g) Historical and projected labor, equipment and material costs; and
- (h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The CRABoard will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

- (a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;
- (b) Project permit requirements were substantially changed, or new permits were required;
- (c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;
- (d) Design or other standards applicable to the project were changed; and/or
- (e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds.

NEW SECTION

WAC 136-165-030 CRABoard Evaluation, Consideration and Action.

(1) In deciding whether to grant a request for a RATA allocation increase submitted under the provisions of WAC 136-165-020, the CRABoard will consider the following factors:

- (a) Whether the county, at the time of preparing its final project prospectus, considered the factors listed in WAC 136-165-020(4);
- (b) Whether the county's request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in WAC 136-165-020(5);
- (c) Whether it is feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;
- (d) Whether the request is to pay for an expansion of the project; and
- (e) Whether the increased allocation will have an adverse effect on other approved or requested RATA funded projects.

(2) Where the requested increase is less than or equal to 25% of the original RATA allocation, and \$100,000, the request may be acted upon by the Executive Director; all approvals or denials will be appropriately documented and described to the CRABoard at its next quarterly meeting. Where the requested increase is more than 25% of the original RATA allocation, or \$100,000, the request will be acted upon by the CRABoard.

(3) If the CRABoard finds that an increase in RATA funds for a previously approved project is justified, some or all of the requested increase may be allocated.

NEW SECTION

WAC 136-165-040 Effect of Receiving RATA Increase.

A county's increased RATA funds for a project program period shall correspondingly reduce the amount of any RATA funds for which it is eligible to compete in the next project program period; provided that the CRABoard may grant a county's request to decrease such a reduction by the total

amount of increased but unexpended RATA funds.

All reductions and reduction adjustments as described shall be effective in the project program period following the period in which the increase in the RATA funds is approved.

NEW SECTION

WAC 136-165-050 Amendment of CRAB/County Contract.

All changes in approved RATA allocations and other CRABoard actions taken under the provisions of this chapter shall be reflected by amending the CRAB/County contract. Failure of a county to execute an amended CRAB/County contract within 45 days of receipt shall nullify all allocation increases and other CRABoard actions.