



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/23/95)

Agency: County Road Administration Board

- Permanent Rule**
 Emergency Rule
 Expedited Repeal

(1) Date of adoption: July 12, 1996

(2) Purpose: Defines and codifies procedures under which the County Road Administration Board will evaluate and act on emergent and emergency requests.

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

Repealed: WAC B6-161-100 *(RP)*

Amended:

Suspended:

(4) Statutory authority for adoption:

Other authority: 36.79.060

PERMANENT RULE ONLY

Adopted under notice filed as WSR 96-11-051 on May 09, 1996 (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:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date).

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

- Yes No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

31 days after filing

Other (specify) _____ *

Emergency Rules

Immediately

Later (specify) _____

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

NAME (TYPE OR PRINT)

Eric A. Berger

SIGNATURE

TITLE

Executive Director

DATE

8-6-96

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 12 1996

TIME

11:57

MSR

96-17-014

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Federal statute:	New _____	Amended _____	Repealed _____
Federal rules or standards:	New _____	Amended _____	Repealed _____
Recently enacted* state statutes:	New _____	Amended _____	Repealed _____

*(current calendar year)

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

New _____ Amended _____ Repealed _____

The number of sections adopted on the agency's own initiative:

New 1 Amended _____ Repealed _____

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

New _____ Amended _____ Repealed _____

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 _____

Chapter 136-163 WAC

ALLOCATION OF RATA FUNDS TO EMERGENT AND EMERGENCY PROJECTS

NEW SECTION

WAC 136-163-010 Purpose. RCW 36.79.140 provides for the authorization of RATA funds for projects of an emergent nature. This chapter describes the manner in which counties may request RATA funds for such projects and the manner in which the CRABoard will respond to such requests.

NEW SECTION

WAC 136-163-020 Definitions. For the purposes of this chapter, the term "emergent nature" as used in RCW 36.79.140 shall mean both "emergent" and "emergency" projects as follows:

(1) **Emergency project:** Work of both a temporary and permanent nature which restores roads and bridges to the predisaster condition and may include reconstruction to current design standards. This work is the result of a sudden natural or man-made event which results in the destruction or severe damage to RATA-eligible roadway sections or structures such that, in the consideration of public safety and use, the roadway sections or structures must be immediately closed or substantially restricted to normal traffic. Work of an emergency nature is also beyond the scope of work done by a county in repairing damages normally or reasonably expected from seasonal or other natural conditions, and is beyond what would be considered maintenance, regardless of how extensive the maintenance may be.

(2) **Emergent project:** RATA-eligible work necessitated by sudden and unanticipated development, growth, access needs, or legal decisions. This work is not the result of an emergency situation as previously defined. This work, in consideration of good transportation capital facilities management, will also require a county to commit resources beyond its current six-year transportation program and prior to the next six-year transportation program annual update as provided for in RCW 36.81.121.

NEW SECTION

WAC 136-163-030 Limitations and conditions--Emergency projects. To be eligible for emergency project approval, the county must declare an emergency as provided for in RCW 36.04.180. If there is not yet a state declaration of emergency, the county must also, in consultation with the state military department, emergency management division and the WSDOT, evaluate the probability of receiving a state declaration of emergency. A state declaration of emergency is required as a condition of receiving federal funding for road-related damages via the Emergency Relief Program or FEMA. If such federal funding has been approved or is likely to be approved, the CRABoard may provide up to 100% of a county's required matching funds for such federal funding but only after the approval of the federal funds.

Should such federal funding not be forthcoming, or if the emergency is of such a scope and size that federal funding is clearly improbable, the CRABoard may provide up to 80% or 90% of the estimated eligible damages depending upon the regional limitations as provided for in WAC 136-161-090, with the total project cost limited to the actual expenditures by the county.

NEW SECTION

WAC 136-163-040 Limitations and conditions--Emergent projects. To be eligible for emergent project approval, the project shall be evaluated by the CRAB grant programs engineer, with the participation of the county road engineer, on the same point system as all other projects within the region. The proposed emergent project must rank at or above the regional funding cut off line on the current regional array based upon 100% of the current estimated regional allocation as determined by CRAB.

NEW SECTION

WAC 136-163-050 Limitations and conditions--Emergency and emergent projects. All projects for which RATA funding is being requested under this chapter are subject to the following:

(1) The requesting county has the sole burden of making a clear and conclusive showing that the project is either emergent or emergency as described in WAC 136-163-020 through 136-163-040; and

(2) The requesting county shall clearly demonstrate that the need for the project was unable to be anticipated at the time the current six-year transportation program was developed; and

(3) The requesting county agrees to a reduction in the next biennium's maximum RATA eligibility to the county equal to the RATA that may be provided; however, should that region not have a maximum RATA eligibility for each county, the requesting county agrees to withdraw, amend or delay an existing approved project or

portion thereof in an amount equal to the amount that may be provided for the project.

NEW SECTION

WAC 136-163-060 Action by the CRABoard. Counties may request consideration and action by the CRABoard at any time, however, the CRABoard will address all such requests at its next regular quarterly meeting. A county may request, and the CRABoard chairperson convene, a special meeting to consider such a request as provided for in WAC 136-01-030.