

WSR 21-22-095

PROPOSED RULES

COUNTY ROAD

ADMINISTRATION BOARD

[Filed November 2, 2021, 11:07 a.m.]

Original Notice.

Proposal is exempt under chapter 36.78 RCW.

Title of Rule and Other Identifying Information: Creating chapter 136-600 WAC, Equipment rental and revolving (ER&R) fund.

Hearing Location(s): On January 27, 2022, at 2:00 p.m., at 2404 Chandler Court S.W., Olympia, WA 98504.

Date of Intended Adoption: January 27, 2022.

Submit Written Comments to: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, email drew.woods@crab.wa.gov, by January 27, 2022.

Assistance for Persons with Disabilities: Contact Drew Woods, phone 360-753-5989, TTY 800-883-6384, email drew.woods@crab.wa.gov, by January 27, 2022.

Reasons Supporting Proposal: Clarify duties, responsibilities, and submittal requirements and due date regarding the administration of ER&R.

Statutory Authority for Adoption: Chapters 36.78 and 36.33A RCW.

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: County road administration board, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Derek Pohle, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989; Enforcement: Drew Woods, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504, 360-753-5989.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

Is exempt under chapter 36.78 RCW.

November 1, 2021
Jane Wall
Executive Director

OTS-3107.2

Chapter 136-600 WAC
EQUIPMENT RENTAL AND REVOLVING FUND

NEW SECTION

WAC 136-600-010 Purpose and authority. The laws of the state of Washington make detailed provision in chapter 36.33A RCW for the use of an equipment rental and revolving fund for all county road equipment, materials, and supplies. Chapter 36.33A RCW also specifies that the county road administration board has the ability to directly inquire into the process of setting rental rates while performing its statutory oversight responsibility.

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NEW SECTION

WAC 136-600-020 Definitions. For this chapter, the following definitions shall apply:

(1) Board - County road administration board as defined in chapter 36.78 RCW.

(2) County vehicle ferry - A ferry boat owned by the county for the purpose of carrying vehicles but may also carry walk-on passengers.

(3) CRAB - County road administration board.

(4) Equity - The amount of money that would be returned to a department should they withdraw from the county's ER&R fund.

(5) ER&R - Equipment rental and revolving fund as specified in chapter 36.33A RCW.

(6) MVFT - Motor vehicle fuel tax as defined in chapter 46.68 RCW.

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NEW SECTION

WAC 136-600-030 Applicability. This chapter is only applicable to that equipment, materials, and supplies within ER&R that are associated with the county road department. Any other county department participating in a county's ER&R program is excluded from the requirements of this chapter.

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NEW SECTION

WAC 136-600-040 Protection of county road funds within ER&R fund. Only county road departments are required by chapter 36.33A RCW to utilize an ER&R fund. However, a county's legislative authority may choose to allow or require other county departments and offices to participate in the ER&R program. If noncounty road entities participate in the ER&R program, the county must have a system in place to ensure the following:

(1) Identify the equity each department and office has within the ER&R fund balance and ensure one fund does not benefit at the expense of another;

(2) Distribute the direct and indirect cost of maintaining and operating facilities specific for ER&R equipment equitably among the participants;

(3) Distribute the direct and indirect cost of maintaining and operating facilities specific for ER&R material and supplies equitably among the participants;

(4) Distribute the direct and indirect cost of administering the ER&R program equitably among the participants.

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NEW SECTION

WAC 136-600-050 Equipment rental rates. Rental rates of equipment shall be reviewed annually by the county's legislative authority. Rental rates must include, but are not limited to, the following:

(1) Estimated service life in years and service life remaining;

(2) Replacement cost;

(3) Salvage value;

(4) Estimated operating and maintenance cost;

(5) Direct and indirect cost of maintaining and operating facilities specific for ER&R equipment;

(6) ER&R program administration.

ER&R rates for equipment shall be determined by the county engineer or other appointee of the county legislative body. However, if the rates are set by an appointee other than the county engineer, the county engineer shall review the proposed rates and certify to the legislative body that the proposed rates are an appropriate use of county road funds as required by RCW 36.80.030 prior to adoption of the proposed rates by the legislative authority.

The resolution by the legislative authority adopting the rental rates must include reference to the fact that the rental rates for county road equipment have been reviewed by the county engineer and certified as an appropriate use of county road funds as required by RCW 36.80.030.

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NEW SECTION

WAC 136-600-060 Materials and supplies rates. Rates for the sale of any material or supplies which have been administered, purchased, maintained, or manufactured with ER&R funds for the use of the county road department must include, but are not limited to, the following:

(1) Cost of purchasing, storing, and distributing the material or supplies;

(2) Direct and indirect cost of maintaining and operating facilities specific for ER&R material and supplies;

(3) ER&R program administration.

ER&R rates for material and supplies shall be determined by the county engineer or other appointee of the county legislative body. However, if the rates are set by an appointee other than the county engineer, the county engineer shall review the proposed rates and certify to the legislative body that the proposed rates are an appropriate use of county road funds as required by RCW 36.80.030.

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NEW SECTION

WAC 136-600-070 Submittals. Each county engineer shall submit the following documents to CRAB no later than April 1st of each year:

- (1) Adopted county road rental rates as of January 1st of that year;
- (2) The resolution of the legislative authority adopting said rates;
- (3) ER&R management policy.

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NEW SECTION

WAC 136-600-080 Support by road fund—County vehicle ferry.

Counties may elect to include vehicle ferry operations as part of their county road system. The operation of a county vehicle ferry is a component of the MVFT distribution calculation to the counties. Because a vehicle ferry operated by a county is considered a part of the county road system, Article 2 section 40 of the Washington state Constitution authorizes the use of county road funds for the operation of ferries which are a part of any county road system.

Should a county elect to use county road funds for the operation of a county vehicle ferry, the ferry boat(s) shall be considered county road equipment and subject to all requirements of chapter 36.33A RCW and this chapter.

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