

Chapter 136-400 WAC
ADMINISTRATION OF THE COUNTY FERRY CAPITAL IMPROVEMENT PROGRAM

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WAC 136-400-010 Purpose and authority. RCW 47.56.725(4) provides that the county road administration board may evaluate requests for county 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 county road administration board will implement the provisions of the act.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-010, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-010, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-400-010, filed 8/12/96, effective 9/12/96. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-010, filed 10/23/91, effective 11/23/91.]

WAC 136-400-020 County and project eligibility. (1) Counties eligible to apply for county ferry capital improvement funds are Pierce, Skagit, Wahkiakum, and Whatcom.

(2) For the project to be eligible it must be included in both the county's six-year transportation program and its ferry system 14-year long range capital improvement plan as described in WAC 136-400-040.

(3) Any county holding an approved and executed county ferry capital improvement program contract is ineligible to submit a project funding application for additional ferry capital improvement funds until the existing contract is fully performed or has been mutually terminated.

(4) Once a county has received funding for vessel replacement under this program, the county is no longer eligible for future replacement of that vessel as referenced in WAC 136-400-030(1). A county will remain eligible for project types referenced in WAC 136-400-030 (2), (3), (4) and (5).

[Statutory Authority: RCW 36.78.07[0] and 47.56.725(4). WSR 22-22-074, § 136-400-020, filed 10/31/22, effective 12/1/22. Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-020, filed 4/28/08, effective 5/29/08. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-020, filed 10/23/91, effective 11/23/91.]

WAC 136-400-030 Definition of ferry capital improvement projects. County ferry capital improvement projects shall include the following:

- (1) Purchase of a new vessel which replaces an existing vessel;
- (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; and/or
- (5) Construction of infrastructure that provides new or additional access or increases the capacity of terminal facilities.

[Statutory Authority: RCW 36.78.07[0] and 47.56.725(4). WSR 22-22-074, § 136-400-030, filed 10/31/22, effective 12/1/22. Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-030, filed 4/28/08, effective 5/29/08. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-030, filed 10/23/91, effective 11/23/91.]

WAC 136-400-040 Six-year transportation program and ferry system fourteen-year plan submittal. (1) Each county's six-year transportation program and ferry system fourteen-year long range capital improvement plan 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 county road administration board no later than December 31 of each year.

(2) Any proposed county ferry capital improvement project must be included in both the county's six-year transportation program and ferry system fourteen-year capital improvement plan and must remain on both during all of the phases of the project including:

(a) At the time a county requests a call for projects;

(b) At the time the county submits a project funding application; and

(c) Until the project is completed or the project is otherwise terminated.

(3) The county ferry capital improvement project cost estimates that are included in the county's six-year transportation programs and ferry system fourteen-year plans shall be considered preliminary and are not binding on actual county ferry capital improvement project applications.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-040, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-040, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-040, filed 10/23/91, effective 11/23/91.]

WAC 136-400-045 Call for projects. Beginning at the 2009 regular spring county road administration board meeting, and continuing once every four years thereafter, one or more of the WAC 136-400-010 named counties are invited to attend said meeting and request the county road administration board issue a call for projects. Based on the information provided by the counties and no later than the regular summer meeting the same year, the county road administration board,

and at their sole discretion, may issue a call for projects and may include in the call additional or clarifying terms consistent with all other rules governing the county ferry capital improvement program.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-045, filed 4/28/08, effective 5/29/08.]

WAC 136-400-050 Project application. Upon a call for projects by the county road administration board, each application by a county for county ferry capital improvement funds shall be made no later than December 31 of the same year.

Project applications shall be submitted on application forms supplied by the county road administration board and shall include the following information:

- (1) Project description and scope;
- (2) Engineering drawings accurately describing the complete project;
- (3) Engineering analysis and cost estimate;
- (4) Evidence the applicant first sought funding through the public works trust fund or any other available revenue source; and
- (5) Comprehensive project financial plan including match funding amounts and sources as required by WAC 136-400-065 and amortization and cash flow schedules.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-050, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-050, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-050, filed 10/23/91, effective 11/23/91.]

WAC 136-400-060 Technical review committee. (1) A technical review committee shall be created to review project applications for county ferry capital improvement funds and present recommendations to the county road administration board for approval, denial or further action on the applications.

(2) The committee shall be composed of the following members or their designees:

- (a) Executive director of the county road administration board;
- (b) Washington state department of transportation highways and local programs director;
- (c) A Washington state department of transportation marine engineer;
- (d) One public works department representative from each of the WAC 136-400-010 named counties, each of whom shall serve as an ex officio, nonvoting member of the technical review committee.

(3) The technical review committee shall ensure that the project applications:

- (a) Meet the applicable statutes and the standards of this chapter;
- (b) Adhere to commonly held engineering practices and cost effectiveness; and
- (c) Are complete and meet the project application requirements listed in WAC 136-400-050, including evidence the applicant first sought funding through the public works trust fund, or other available revenue source.

(4) The technical review committee shall also develop a written report on each project application. The written report will include the following elements:

- (a) A project summary;
- (b) A committee evaluation; and

(c) A committee recommendation based upon WAC 136-400-065 guidance and including any additional or clarifying terms established by the county road administration board's call for projects.

(5) The technical review committee's written report on each project application shall be submitted to the county road administration board no later than thirty days prior to the next regularly scheduled spring meeting after the project application deadline.

(6) Technical review committee meetings shall be convened on an "as needed" basis by the executive director of the county road administration board, who shall serve as chairperson.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-060, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-060, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-400-060, filed 8/12/96, effective 9/12/96. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-060, filed 10/23/91, effective 11/23/91.]

WAC 136-400-065 Project financing. (1) The maximum contribution by the county ferry capital improvement program is ten million dollars for any one project and five hundred thousand dollars total annual reimbursement to one county.

(2) Depending on whether a county applicant has formed a ferry district pursuant to RCW 36.54.110 and generated revenue to finance the project, project cost sharing for each applicant shall be as follows:

(a) If ferry district revenues finance greater than thirty percent of the proposed project costs, the ferry capital improvement program may contribute up to the remaining project cost, subject to the maximum described in subsection (1) of this section;

(b) If ferry district revenues finance greater than five percent but less than or equal to thirty percent of the proposed project costs, the ferry capital improvement program may contribute up to fifty percent of the project cost, subject to the maximum described in subsection (1) of this section;

(c) If ferry district revenues finance less than or equal to five percent of the project costs, or the county has not formed a ferry district, the ferry capital improvement program may contribute up to thirty percent of the project cost, subject to the maximum described in subsection (1) of this section.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-065, filed 4/28/08, effective 5/29/08.]

WAC 136-400-070 County road administration board action. (1) The county road administration board shall review project applications, along with the reports of the technical review committee, at its next regular spring meeting following the project application deadline.

(2) At that time, the county road administration board may approve, deny or return the application to the technical review committee for further review.

(3) If the county road administration board returns the application to the technical review committee, the board may develop supplemental questions and criteria for the technical review committee to address.

(4) Final action by the county road administration board on project applications must occur no later than at the next regularly scheduled summer meeting following project application deadline.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-070, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-070, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-070, filed 10/23/91, effective 11/23/91.]

WAC 136-400-080 Funding by the legislature. County ferry capital improvement project requests approved by the county road administration board shall be submitted to the legislature for funding out of amounts available under RCW 46.68.090 (2)(h) as part of the biennial or supplemental budget request of the county road administration board.

The county road administration board shall, within 10 days of the signing of the transportation budget, notify each county having an approved project of such approval and of the amount of county ferry capital improvement funding appropriated to each approved project. The county road administration board shall offer each county a contract for each approved project setting forth the terms and conditions under which funds will be provided.

[Statutory Authority: RCW 36.78.07[0] and 47.56.725(4). WSR 22-22-074, § 136-400-080, filed 10/31/22, effective 12/1/22. Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-080, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-080, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-080, filed 10/23/91, effective 11/23/91.]

WAC 136-400-090 Limitation on use of county ferry capital improvement funds. County ferry capital improvement funds may be used for project design, construction, and right of way costs incurred after legislative approval.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-090, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-090, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-090, filed 10/23/91, effective 11/23/91.]

WAC 136-400-100 Terms of county road administration board/county contract. The county road administration board/county contract shall include, but not be limited to, the following provisions:

(1) Such contract must be signed and returned to the county road administration board within forty-five days of its mailing by the county road administration board.

(2) The project will be constructed in accordance with:

(a) The information furnished to the county road administration board; and

(b) The plans and specifications prepared under the supervision of the county engineer.

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

(4) The county road administration board will reimburse counties based on progress vouchers received and approved on individual projects, subject to the availability of county ferry capital improvement funds appropriated by the legislature.

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

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-100, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-100, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-400-100, filed 8/12/96, effective 9/12/96. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-100, filed 10/23/91, effective 11/23/91.]

WAC 136-400-110 Voucher approval and payment. The county road administration board shall prepare and distribute to all counties with approved county ferry capital improvement projects, voucher forms for use in requesting annual payments for each approved county ferry capital improvement project.

The county road administration board shall approve such vouchers for payment to the county submitting the voucher. County 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.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-110, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-110, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-400-110, filed 8/12/96, effective 9/12/96. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-110, filed 10/23/91, effective 11/23/91.]

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 county ferry capital improvement projects not required by these statutes may be accomplished at the request, and at the expense, of the county road administration board.

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 statute 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 county ferry capital improvement project.

In the event that an exception is noted in the audit report, the county road administration board shall evaluate the noted discrepancy. Discrepancies may be cause for the county road administration board to order the payback of improperly expended county ferry capital improvement funds as provided in the county road administration board/county contract. Any such funds returned by a county to the county road administration board shall be returned to the county fuel tax account for distribution in accordance with RCW 46.68.120.

[Statutory Authority: Chapter 36.79 RCW. WSR 08-10-026, § 136-400-120, filed 4/28/08, effective 5/29/08; WSR 99-01-021, § 136-400-120, filed 12/7/98, effective 1/7/99. Statutory Authority: RCW 36.78.070 and 36.79.060. WSR 96-17-013, § 136-400-120, filed 8/12/96, effective 9/12/96. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-120, filed 10/23/91, effective 11/23/91.]

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

[Statutory Authority: Chapter 36.79 RCW. WSR 99-01-021, § 136-400-130, filed 12/7/98, effective 1/7/99. Statutory Authority: 1991 c 310 § 1(4). WSR 91-21-138 (Order 85), § 136-400-130, filed 10/23/91, effective 11/23/91.]