RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: County Road Administration Board

Permanent Rule Only

Effective date of rule:
Permanent Rules
X 31 days after filing.
☐ Other (specify) _____ **(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)**

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes X No If Yes, explain:

Purpose:
Review the Rural Arterial Program in light of legislative budget discussions pertaining to desired improvements to the RAP funding program. The proposed changes improve the effectiveness of the RAP funding program by promoting the expansion of project types and providing clearer guidance for project development and completion.

Citation of existing rules affected by this order:
Repealed:
Amended: WAC's 136-100; 136-130; 136-161; 136-165; 136-167; 136-170
Suspended:

Statutory authority for adoption: 36.78

Other authority :

PERMANENT RULE (Including Expedited Rule Making)
Adopted under notice filed as WSR 10-24-112 on December 1, 2010 (date).
Describe any changes other than editing from proposed to adopted version:
WAC 136-163 – proposed changes were not adopted.
WAC 136-167 – one sentence removed at the end of first paragraph – "This provision will only apply to those projects for which RATA funds have been allocated after July 1, 1995."
WAC 136-170-030 – two sentences added in section (3) immediately before (a) – "Review the Rural Arterial Program in light of legislative budget discussions pertaining to desired improvements to the RAP funding program. The proposed changes improve the effectiveness of the RAP funding program by promoting the expansion of project types and providing clearer guidance for project development and completion."

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: phone ( ) _____
Address: fax ( ) _____
e-mail _____

Date adopted: January 27, 2011

NAME (TYPE OR PRINT)
Jay P. Weber

SIGNATURE

TITLE
Executive Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 03, 2011
TIME: 9:40 AM

WSR 11-05-005

(COMPLETE REVERSE SIDE)

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	_____

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

New _____ Amended _____ Repealed _____

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

New _____ Amended 6 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	_____

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-100-050 Apportionment of RATA funds to regions. RCW 36.79.040 sets forth the apportionment formula to be used in distributing RATA funds to the five regions. Following are the computations used in the apportionment formula:

(1) Computation of land area ratio. The ratio that the total county rural land area of each region bears to the total rural land area of all counties of the state shall be computed from information provided by the office of financial management as of July 1, 1993, and each two years thereafter.

(2) Computation of road ((~~milage~~)) mileage ratio. The ratio that the mileage of county arterials and collectors in rural areas of each region bears to the total mileage of county arterials and collectors in all rural areas of the state shall be computed from information shown in the county road log maintained by the county road administration board as of July 1st of each odd-numbered year.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-130-010 Purpose and authority. RCW 36.79.080 sets forth the criteria that will be used in determining the priority of specific improvement projects. This chapter describes how each RAP ((~~region~~)) project type will rate and ((~~prioritize proposed projects~~)) be prioritized within RAP regions.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-130-020 Priorities by ((~~region~~)) project type. There shall be five project types eligible for RATA funding, with each having separate rating systems for project ranking and selection. The five project types include:

(1) Reconstruction - emphasis on alignment and grade changes on fifty percent or more of the project length, and may include additional travel lanes and right of way costs.

(2) 3R - resurfacing, restoration, and rehabilitation - primary focus on extending the service life of existing facility involving less than fifty percent vertical or horizontal changes, and on safety improvements. Right of way costs are eligible for RATA reimbursement as a part of this project type.

(3) 2R - resurfacing and restoration - primary focus on restoration of the pavement structure on the existing vertical and horizontal alignment and spot safety improvements. Minor widening costs are allowed as a part of this project type. Right of way costs are not eligible for RATA reimbursement in this project type.

(4) Intersection - 3R or reconstruction work limited to the vicinity of an existing intersection, and may include additional travel lanes and right of way costs.

(5) Bridge and drainage structures - replacement or major rehabilitation of an existing bridge or other drainage structure, and may include additional travel lanes and right of way costs.

The county road administration board has determined that the interests of the counties in the several regions will be best served by encouraging development of a distinct project priority rating systems for each region. ((~~These rating systems, described in WAC 136-130-030, 136-130-040, 136-130-050, 136-130-060, and 136-130-070, shall be used in the prioritization of proposed projects requesting RATA funds submitted by counties in the respective regions.~~))

In consultation with the individual regions, the executive director shall approve the various forms and procedures necessary to allocate available RATA funding, consistent with RCW 36.79.080.

AMENDATORY SECTION (Amending WSR 06-11-067, filed 5/12/06, effective 6/12/06)

WAC 136-130-030 ((~~Project prioritization~~)) Supplemental rules in Puget Sound region (PSR). Each county in the PSR may submit projects requesting RATA funds not to exceed ((~~80%~~)) eighty percent of the forecasted regional apportionment. ((~~Each project shall be rated in accordance with the PSR RAP rating procedures. The PSR funding period shall allot a minimum of 25% of the forecasted regional apportionment to projects on roads classified as major collectors (07) or minor collectors (08).~~

~~PSR RAP maximum rating points for the four project types shall be assigned based on the following:~~

	~~Project Type:~~			
~~Rating Criteria:~~	~~Road~~	~~3R Safety~~	~~Intersection~~	~~Bridge~~
~~Traffic Volume~~	~~20~~	~~15~~	~~20~~	~~20~~
~~Accident History~~	~~25~~	~~15~~	~~25~~	~~25~~
~~Structure~~	~~15~~	~~10~~	~~5~~	~~25~~
~~Geometry~~	~~30~~	~~20~~	~~40~~	~~20~~
~~Special Road Usage~~	~~10~~	~~10~~	~~10~~	~~10~~
~~3R Safety~~		~~30~~		
~~TOTAL POINTS~~	~~100~~	~~100~~	~~100~~	~~100~~

~~Bridge category projects that will not replace the structure must have federal funds committed to them prior to submittal for RATA funding.~~

~~Prioritization of PSR projects shall be on the basis of total PSR RAP rating points shown on the project worksheet and the prospectus form of the project application.~~))

AMENDATORY SECTION (Amending WSR 08-16-043, filed 7/29/08, effective 8/29/08)

WAC 136-130-040 ((~~Project prioritization~~)) Supplemental rules in northwest region (NWR). Each county in the NWR may submit projects requesting RATA funds not to exceed forty percent of the forecasted regional apportionment. ((~~No bridge replacement projects will be funded. Each project shall be rated in accordance~~

~~with the NWR RAP reconstruction or 3R rating procedures. NWR RAP reconstruction rating points shall be assigned on the basis of forty points for structural condition, forty points for geometrics, ten points for traffic volume, ten points for traffic accidents, five points for any project on a major collector (07), and ten points for any project on a rural principal arterial (02) or a rural minor arterial (06). Prioritization of NWR projects shall be on the basis of total NWR RAP rating points shown on the project worksheet and the prospectus form of the project application.~~

~~NWR RAP 3R rating points shall be assigned on the basis of thirty points for structural condition, twenty points for geometrics, ten points for traffic volume, ten points for traffic accidents, ten points for any project on a minor collector (08), and thirty points for 3R safety. Prioritization of NWR 3R projects shall be on the basis of total NWR 3R RAP rating points shown on the project worksheet and the prospectus form of the project application.~~

~~A total of twenty points representing local significance may be added to one project in each county's biennial submittal.~~))

AMENDATORY SECTION (Amending WSR 10-05-019, filed 2/4/10, effective 3/7/10)

WAC 136-130-050 ((~~Project prioritization~~)) Supplemental rules in northeast region (NER). Each county in the NER may submit projects requesting RATA funds not to exceed twenty-five percent of the forecasted NER biennial apportionment. ((~~Each project shall be rated in accordance with the NER RAP rating procedures. The NER biennial apportionment shall be divided into the following categories at the percentages shown, provided sufficient projects are submitted for prioritization in each category:~~

~~Category 1 = Ten percent for bridge projects where RATA funds are used as a match for federal bridge funds;~~

~~Category 2 = Thirty percent for reconstruction of rural collectors and arterials;~~

~~Category 3 = Thirty percent for resurfacing, restoration, rehabilitation (3R) type projects on rural collectors and arterials; and~~

~~Category 4 = Thirty percent for resurfacing and restoration (2R) type projects on rural collectors and arterials.~~

~~In the event that no projects or an insufficient number of projects are submitted in any of the above categories to utilize the RATA funds set aside for the category, all remaining funds in that category or categories shall be divided among the remaining categories as the county road administration board deems~~

~~appropriate. The intent is to divide all available funds into categories having a sufficient number of submitted projects to fully utilize the funds available at each allocation during the biennium.~~))

Bridge projects may be submitted requesting RATA funds under one of the following conditions:

(1) Bridges must be approved for federal bridge funding and RATA funds shall be used only as a match for such federal funding. Bridges will be ranked for RATA funding using the WSDOT priority list and may be added to the NER Category 1 priority array at any time during the biennium upon approval of the bridge for federal bridge funding.

(2) A stand-alone bridge project may be submitted as an ordinary reconstruction or 3R RAP project provided that its priority rating has been computed by the bridge rating method in the NER RAP rating procedures. Such projects shall not be considered for funding from the bridge reserve described above.

(3) A RAP project may include a bridge when the cost of the bridge does not exceed twenty percent of the total project cost.

((~~NER RAP rating points for reconstruction projects, 3R projects or nonfederal bridge projects shall be assigned on the basis of one hundred points for a condition rating and fifty points for a service rating. The priority rating equals the sum of two and one half times the product of the service rating to the 1.25 power and the common logarithm of the number obtained by dividing one hundred by the condition rating. A total of ten points representing local significance may be added to one project included in each county's biennial combined bridge, 3R and reconstruction submittal. A total of up to ten points representing missing links definition may also be added to one project included in each county's biennial combined bridge, 3R and reconstruction submittal.~~

~~NER RAP rating points for 2R projects shall be assigned on the basis of five points for traffic volume, five points for traffic accidents, fifty points for structure, ten points for geometry, and fifteen points for roadside safety. A total of fifteen points representing local significance may be added to one 2R project included in each county's biennial submittal.~~

~~Prioritization of NER projects shall be on the basis of total NER RAP rating points shown on the appropriate project worksheet and the prospectus form of the project application.~~))

AMENDATORY SECTION (Amending WSR 04-05-001, filed 2/4/04, effective 3/6/04)

WAC 136-130-060 ((~~Project prioritization~~)) Supplemental rules in southeast region (SER). Each county in the SER may submit projects requesting RATA funds not to exceed twice the per county

limit of the forecasted SER biennial apportionment ((~~which is listed~~)) as follows:

Asotin County	ten percent
Benton County	fourteen percent
Columbia County	eleven percent
Franklin County	thirteen percent
Garfield County	ten percent
Kittitas County	thirteen percent
Klickitat County	fourteen percent
Walla Walla County	fourteen percent
Yakima County	twenty percent

((~~Each project shall be rated in accordance with the SER RAP bridge, reconstruction or 3R rating procedures. Ten percent of the forecasted SER biennial apportionment shall be reserved for bridge projects.~~)) Federally funded bridges for which counties are seeking matching funds shall receive first consideration for ((~~these~~)) bridge funds((~~, ranked against each other according to the WSDOT priority array~~)). Bridges receiving federal funding may be added to this list at any time during the biennium. Stand-alone bridges may compete for funds in this reserve that remain after all bridges seeking match for federal funds have been funded. ((~~These bridges will be rated against each other according to their total points assigned from the RAP Rating Worksheets for the SER.~~)) Whatever part of the bridge reserve that is not allocated to bridge projects shall be available for allocation to other RAP projects.

((~~SER RAP reconstruction rating points shall be assigned on the basis of forty-five points for structural condition, thirty points for geometrics, twenty-two points for traffic volume, five points for traffic accidents.~~

~~SER RAP 3R rating points shall be assigned on the basis of twenty points for structural condition, twenty-five points for geometrics, twelve points for traffic volume, ten points for traffic accidents, twenty-five points for roadside safety, and ten points for intersection operation.~~

~~A total of twenty points representing local significance may be added to one project in each county's biennial submittal. Prioritization of SER projects shall be on the basis of total SER RAP bridge, reconstruction or 3R rating points shown on the project worksheet and the prospectus form of the project application.~~))

AMENDATORY SECTION (Amending WSR 04-05-001, filed 2/4/04, effective 3/6/04)

WAC 136-130-070 ((~~Project prioritization~~)) Supplemental rules in southwest region (SWR). Each county in the SWR may submit projects requesting RATA funds not to exceed thirty percent of the

forecasted SWR biennial apportionment. ((~~No bridge replacement projects will be funded. Each project shall be rated in accordance with the SWR RAP reconstruction or 3R rating procedures. SWR RAP reconstruction rating points shall be assigned on the basis of fifty road condition points, consisting of twenty-five points for structural condition and twenty-five points for surface condition, fifty points for geometrics, ten points for traffic volume and ten points for traffic accidents, except that portland cement concrete surfaces and asphalt surfaces with cement concrete bases shall have fifty points for road surface condition and no points for structural condition and except that gravel roads shall have fifty points maximum for surface condition, and fifteen points maximum for roadbed width in geometrics and no other geometric points. SWR RAP 3R rating points shall be assigned on the basis of thirty road condition points, consisting of fifteen points for structural condition and fifteen points for surface condition, twenty points for geometrics, ten points for traffic volume, ten points for traffic accidents and thirty points for 3R safety, except that portland cement concrete surfaces and asphalt surfaces with cement concrete bases shall have thirty points for road surface condition and no points for structural condition and except that gravel roads shall have thirty points maximum for surface condition, and fifteen points maximum for roadbed width in geometrics and no other geometric points. Prioritization of SWR projects shall be on the basis of total SWR RAP rating points shown on the project worksheets and the prospectus form of the project application.~~))

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-130-080 Limitation on rating points. In each of the project prioritization ((~~methods described in WAC 136-130-030, 136-130-040, 136-130-050, 136-130-060, and 136-130-070 rating points are assigned to a variety of structural and geometric conditions.~~)) procedures and associated approved forms, for purposes of the RAP project prospectus submitted to the county road administration board, geometric condition points shall be assigned only for those conditions which will be corrected by construction of the project.

NEW SECTION

WAC 136-130-090 Reallocation of RATA funds between project types. In the event that no projects or an insufficient number of projects are submitted in any project type to utilize the RATA

funds set aside for the project type, all remaining funds shall be divided among the remaining project types as the county road administration board deems appropriate. The intent is to divide all available funds into project types having a sufficient number of submitted projects to fully utilize the funds available during the biennium.

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-161-020 RAP program cycle--General. The RAP biennial program cycle consists of the following basic steps:

(1) The CRABoard establishes a funding period if it determines that sufficient future RATA funds are available to provide for new RAP projects. This determination takes place during the CRABoard's regularly scheduled fall meeting in odd-numbered years.

Consistent with WAC 136-130-020, should the board determine there are adequate RATA funds available to be allocated to each region and, under advisement from each region, the board's action shall include the determination of the amount to be allocated to each project type within each region. The board's RATA funding allocation may include all or any subset of the project types described under WAC 136-130-020, and this decision may be unique to each region and may vary between funding periods.

(2) Each eligible county prepares and submits a preliminary prospectus to the county road administration board;

(3) County road administration board staff conducts a field review of each preliminary prospectus and provides to each submitting county an evaluation and scoring of all priority elements which are based on a visual examination, using that region's priority rating process;

(4) Each eligible county prepares and submits a final prospectus to the county road administration board;

(5) For each final prospectus submitted, county road administration board staff computes the total priority rating score and assembles all projects into rank-ordered arrays by region; and

(6) The county road administration board reviews the rank-ordered arrays in each region and, based upon the RATA funds projected to be allocable for the next project program period (see WAC 136-161-070), selects and approves specific projects for RATA funding.

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-161-030 RAP program cycle--Preliminary prospectus. By March 1st of each even-numbered year prior to a funding period, each eligible county shall, for each project for which it seeks RATA funds estimated to be available in the next project program period, submit a preliminary prospectus to the county road

administration board. The format and content of the preliminary prospectus shall be prescribed by the county road administration board. Each preliminary prospectus shall be signed by the county engineer. The number of preliminary prospectuses submitted and the total amount of RATA funds requested by each eligible county ((~~shall~~)) should be sufficient to assure that, based upon such prospectuses, each county will be able to compete up to its county limit within its region, subject to the supplemental limitations under WAC 136-130-030 through 136-130-070.

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-161-050 RAP program cycle--Final prospectus. By September 1st of each even-numbered year prior to a funding period, each eligible county shall submit a final prospectus for each project for which it seeks RATA funds. Each final prospectus shall be submitted on forms provided by the county road administration board and shall include a vicinity map, a typical cross-section (existing and proposed), and, if a design deviation is required, an evaluation and determination by the county engineer. If a project is for the improvement of a road which continues into an adjacent county and the project terminus is within one thousand feet of the county line, the prospectus shall include a statement signed by the county engineer of the adjacent county certifying that the adjacent county will cooperate with the applicant county to the extent necessary to achieve a mutually acceptable design. All final prospectuses shall indicate that the design of the project shall begin not later than one year from the date of project approval by the county road administration board, and that construction of the project shall begin not later than six years from the date of project approval by the county road administration board. All final prospectuses shall come from the pool of preliminary prospectuses submitted and field reviewed as specified in WAC 136-161-030 and 136-161-040.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-161-060 RAP program cycle--Total project rating and priority array. County road administration board staff will review all final prospectuses and ensure that:

(1) All necessary information is included;

(2) The project is from the pool of preliminary prospectuses;

(3) The project is eligible for RATA funding;

(4) The project is on the current, adopted six-year transportation program;

(5) The project schedule indicates that preliminary engineering will begin not later than one year from the date of project approval by the county road administration board, and that the construction of the project will begin not later than six years from the date of project approval by the county road administration board; and

(6) The total project priority rating is mathematically correct and the visual rating scores determined during the field review are included.

(7) Existing and proposed roadway cross sections, project narrative, and preconstruction photos are attached.

After county road administration board staff review, all accepted final prospectuses within each region will be placed in a declining total project rating array ((~~in accordance with procedures specified in chapter 136-130 WAC~~)). After review by the county road administration board at its next regular meeting, the priority array for each region will be provided to each county in the region. These arrays will be preliminary only and will be provided to the counties to assist them in their internal budgeting and programming. No notations as to whether a particular project will or will not be funded will be included.

AMENDATORY SECTION (Amending WSR 01-05-009, filed 2/8/01, effective 3/11/01)

WAC 136-161-070 RAP program cycle--Selection and approval of projects for RATA funding. (1) At its last regular meeting before the beginning of each biennium, the county road administration board will select projects and allocate anticipated RATA funds to projects in each region. The preliminary priority arrays as developed in WAC 136-161-060 will be updated to exclude any county which is ineligible under chapter 136-150 WAC, and projects will be selected from these arrays. Selections will be made in each region in declining priority rank order, provided that:

(a) No county shall be allocated RATA funds in excess of its regional county limit as specified in WAC 136-161-080; and

(b) Any projects which were partially funded in the prior biennium shall, unless otherwise requested by the county, be fully funded before new projects are selected. Ties in total rating points will be broken by the county road administration board in favor of the county having the lesser total amount of previously allocated RATA funds.

(2) The statewide net amount of RATA funds available for allocation to projects in the funding period will be based on the most recent state fuel tax revenue forecast prepared quarterly by

the department of transportation, less estimated administrative costs, and less any amounts set aside for emergent projects as described in WAC 136-163-020. The total amount of RATA funds available for allocation to projects in a region (i.e., "forecasted regional apportionment amount") will be based on the regional apportionment percentages of the statewide net amount as determined in chapter 136-100 WAC.

(3) ((~~For the funding period beginning July 1, 1995, the project program period will be the next four state fiscal years (1996, 1997, 1998 and 1999, beginning July 1, 1995, and ending June 30, 1999). For the funding period beginning July 1, 1997, the project program period will begin July 1, 1999 and end June 30, 2001.~~)) Project program periods and the corresponding funding periods shall both begin on July 1st of odd numbered years and end on June 30th of odd numbered years, unless modified by resolution of the board.

(4) The RATA amounts allocated to projects in the first year of the biennium are limited to no more than ninety percent of the net amount estimated to be allocable to each region for the project program period, with the remaining percentage allocated at such time as deemed appropriate by the county road administration board.

(5) Acceptance of the RATA allocation for a project by the full execution of a CRAB/county contract as described in chapter 136-170 WAC constitutes agreement to complete the project in compliance with the scope, design and project limits in the final prospectus. All material changes to the scope, design or project limits must be approved by the county road administration board prior to commencement of construction.

AMENDATORY SECTION (Amending WSR 10-05-018, filed 2/4/10, effective 3/7/10)

WAC 136-161-080 Limitations on allocations of RATA funds to counties. For any project program period, no county shall receive a RATA fund allocation greater than the following maximum project RATA contribution, or percentage of the forecasted regional apportionment amount:

(1) PSR: No maximum project RATA contribution; 40% limit on percentage of the forecasted regional apportionment amount;

(2) NWR: No maximum project RATA contribution; twenty percent limit on percentage of the forecasted regional apportionment amount;

(3) NER: No maximum project RATA contribution; maximum RATA contribution to each county for 2R projects is seven hundred fifty thousand dollars; twelve and one-half percent limit on percentage of the forecasted regional apportionment amount;

(4) SWR: No maximum project RATA contribution; fifteen percent limit on percentage of the forecasted regional

apportionment amount;

(5) SER: No maximum project RATA contribution; percentage varies by county as follows:

(a) Asotin County	ten percent
(b) Benton County	fourteen percent
(c) Columbia County	eleven percent
(d) Franklin County	thirteen percent
(e) Garfield County	ten percent
(f) Kittitas County	thirteen percent
(g) Klickitat County	fourteen percent
(h) Walla Walla County	fourteen percent
(i) Yakima County	twenty percent

(6) The county limits for all eligible and applying counties in each region will be adjusted to include by equal share the funding limit of any ineligible or nonapplying county.

AMENDATORY SECTION (Amending WSR 09-23-044, filed 11/9/09, effective 12/10/09)

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, the county road administration board 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) All cost increases during the course of construction shall be the responsibility of the county. 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~~)) once during the course of a project's development((~~: At the~~)), and such request may occur only after completion of preliminary engineering, ((~~and~~)) but prior to commencing construction. A project shall be considered to have commenced construction if:

(a) The construction contract for the work has been awarded; ((~~and~~)) or

(b) If done by county forces, the work has commenced, except for ((~~labor~~)) construction engineering.

((~~All cost increases during the course of construction shall be the responsibility of the county.~~)) Requests for increases in excess of ((~~fifty~~)) twenty-five percent 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. If current funding sources are not sufficient to cover the costs beyond a twenty-five percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the new project by the county road administration board, the previous contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

(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) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(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;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(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 judgment 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 preproject 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 county road administration board 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.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-165-030 County road administration board 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 county road administration board 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 twenty-five percent of the original RATA allocation, and one hundred thousand dollars, the request may be acted upon by the executive director; all approvals or denials will be appropriately documented and described to the county road administration board at its next quarterly meeting. Where the requested increase is more than twenty-five percent of the original RATA allocation, or one hundred thousand dollars, the request will be acted upon by the county road administration board.~~

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

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

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~~)) limit of RATA funds

((~~for which it is eligible to compete~~)) that may be allocated to the county in the next project program period; provided that the county road administration board 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.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-165-050 Amendment of CRAB/county contract. All changes in approved RATA allocations and other county road administration board actions taken under the provisions of this chapter shall be reflected by amending the CRAB/county contract. Failure of a county to ((~~execute~~)) sign and return an amended CRAB/county contract within forty-five calendar days of ((~~receipt~~)) its mailing by the county road administration board shall nullify all allocation increases and other county road administration board actions.

AMENDATORY SECTION (Amending WSR 00-05-043, filed 2/11/00, effective 3/13/00)

WAC 136-167-030 Termination of approved project after RATA reimbursement. (1) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made, for other than an unanticipated scope change, and is prepared to repay the RATA for all RATA funds received, the county shall, by means of a letter signed by the chair of the board of county commissioners or the county executive as appropriate, inform the county road administration board of its termination of the project. The letter shall state the reasons for termination and commit to repaying all RATA funds received for the project. Upon ((~~acknowledgement~~)) acknowledgment of such termination by the county road administration board, the county shall repay the county road administration board for all RATA funds paid to the county on that project within sixty days of such ((~~acknowledgement~~)) acknowledgment. After receipt of the RATA repayment, the county road administration board will void the CRAB/county contract and allocate the RATA funds to other projects within the region.

(2) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made, for other than an unanticipated scope change, and does not want to be required to repay the county road administration board for all RATA funds received, a letter of request signed by the chair of the board of county commissioners or the county executive as appropriate must be sent to the county road administration board. The request must include:

(a) An explanation of the reasons that the project will not proceed to completion;

(b) A statement of the amount of RATA funds which the county does not want to repay; and

(c) An explanation of why the county believes full repayment should not be made.

If the county road administration board grants the request, the county shall repay all RATA funds not exempted from repayment, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. If the county road administration board denies the request, full repayment shall be made as provided in subsection (1) of this section.

(3) If after an engineering design study for the RATA funded project has been completed, and as a result of that study it is found that the project scope submitted the final project prospectus must be significantly altered due to factors not anticipated at the time of final prospectus submittal, a county may voluntarily withdraw the project and resubmit a revised project during a later

RAP cycle.

A county wishing to voluntarily withdraw a project for an unanticipated scope change shall submit a request signed by the chair of the board of county commissioners or the county executive as appropriate, to the county road administration board notifying the board of the county's intention to withdraw the project and the nature of the unanticipated project scope change. The county may retain up to five percent of the RATA request amount, not to exceed seventy-five thousand dollars for the RATA share of the cost to perform the engineering design study. In order to be eligible to retain the RATA share of the cost to perform the engineering design study, the project must have begun the engineering design within one year of project approval by the county road administration board and it must be documented in the request that the changed conditions could not have been reasonably anticipated at the time of final prospectus submittal. The director shall make the determination of eligibility for the following conditions:

(a) Unanticipated subsurface conditions identified in a geotechnical report resulting from subsurface explorations (i.e., drilling) that would not normally be completed prior to the final prospectus;

(b) Unanticipated environmental and/or cultural resource issues identified in an environmental or cultural resource discipline report that would not normally be completed prior to the final prospectus submittal;

(c) Changes in project eligibility resulting from annexation or functional classification changes not anticipated prior to final prospectus submittal;

(d) Inability to obtain necessary rights of way from agencies/entities that are not subject to eminent domain (i.e., federal or tribal agencies); or

(e) Major geometric changes required to mitigate impacts identified by the public and/or adjacent property owners as the result of a formal environmental determination, formal public involvement process, or unanticipated costs for utility relocations that were not reasonably anticipated prior to final prospectus submittal.

Upon a determination of eligibility by the director, the county shall repay the county road administration board for all costs in excess of the eligible amount within sixty days of such acknowledgment, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. Any determination made by the director under this subsection may be appealed to the full board for a final determination of eligibility. Nothing in this subsection is intended to limit or restrict a county from making a request to the county road administration board as allowed under subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 09-23-044, filed 11/9/09, effective 12/10/09)

WAC 136-167-040 Lapsing of RATA allocation for approved projects. To encourage timely development and construction of approved projects, all projects for which RATA funds have been allocated must meet certain project development milestones. Failure to meet the milestones will result in action by the county road administration board to withdraw RATA funds from the project. ((~~This provision will only apply to those projects for which RATA funds have been allocated after July 1, 1995.~~))

(1) For the purposes of this section, a project will be subject to lapsing and withdrawal of its RATA allocation if:

(a) The project has not begun the preliminary engineering ((~~phase~~)) within ((~~four~~)) one year((~~s~~)) of project approval by the county road administration board; or

(b) The project has not begun construction within six years of the date of project approval by the county road administration board.

(2) A project shall be considered in preliminary engineering if ((~~authorization to expend funds~~)) RATA funds have been expended or evidence that non-RATA funds have been expended for preliminary engineering ((~~has been granted by the county legislative authority~~)) as provided for in RCW 36.75.050. A project shall be considered in construction if:

(a) The construction contract for the work has been advertised for bids as provided for in RCW 36.77.020;

(b) A contract has been awarded under the provisions of the small works roster contract award process; or

(c) If done by county forces, the work has commenced.

(3) If an approved project does not meet a required project development milestone, the county road administration board will, at its next regular meeting, withdraw RATA funds from the project.

(4) At any time up to ten days before such meeting, the county may, in writing, request an extension of the lapse date. The county road administration board ((~~executive director~~)) may grant such an extension if ((~~the director~~)) it finds that the delay in project development was for reasons that were both unanticipated and beyond the control of the county, and subject to the following:

(a) A project extension will be granted one time only and will be no more than two years in length; and

(b) The county can demonstrate that the project was actively pursued for completion within the original CRAB/county contract terms and can be completed within a two year extension; and

(c) The request for an extension is based on unforeseeable circumstances that the county could not have anticipated at the time the project was submitted for RATA funding; and

((~~(c)~~)) (d) An approved time extension will not be grounds for the county to request an increase in the RATA funding of the project; and

((~~(d)~~)) (e) The executive director will determine a new lapse date, and all of the requirements listed above under subsections

(1) and (2) of this section will apply except that further extensions will not be granted.

(5) The CRABoard may at any time place a moratorium on lapsing of projects that are delayed due to CRAB initiated rescheduling and establish a new lapsing date to fit the CRABoard's programming needs. For those projects given a lapsing moratorium, section four shall be held in abeyance until the new lapsing date.

AMENDATORY SECTION (Amending WSR 01-05-008, filed 2/8/01, effective 3/11/01)

WAC 136-170-030 Terms of CRAB/county contract. (1) For projects for which RATA funds are allocated before July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding (and the county shall be entitled to receive RATA funds) only if such contract is signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer.

(d) The county will notify the county road administration board when a construction contract has been awarded and/or when construction has commenced, and when the project has been completed.

(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.

(f) The county will reimburse the RATA in the event a project postaudit reveals ineligible expenditure of RATA funds.

(2) For projects for which RATA funds are allocated on or after July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding, and the county shall be entitled to receive RATA funding in accordance with the vouchering/payment process as described in chapter 136-180 WAC, only if the contract is properly signed and returned to the county road administration board within forty-five calendar days of its mailing by the county road administration board.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications

approved by the county engineer, and, if applicable, the phased construction plan submitted by the county engineer to the county road administration board.

(d) The county will notify the county road administration board ((~~when a~~)):

(i) If a single construction contract is intended to fully complete the project, at the time of project advertisement, construction contract ((~~has been awarded and/or when construction has commenced~~)), and when the project has been completed. Should the small works roster process be utilized, then the initial notice must occur prior to initiating the contractor selection process.

(ii) If county forces are utilized to fully complete the project, at the time of project notice, as required in RCW 36.77.070, commencement of construction activities, and when the project has been completed.

(iii) If the project applies a phased construction methodology, at those times described in a phased construction plan, consistent with subsection (3) of this section.

(e) The county road administration board will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the county road administration board office, subject to the availability of RATA funds apportioned to the region; or subject to a minimum regional balance determined by the CRABoard for the purposes of cash flow; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied. Counties are ineligible to receive RATA funded construction cost reimbursements prior to satisfaction of the initial project notice requirement described in subsection (2)(d) of this section.

(f) The county will reimburse the RATA in the event a project postaudit reveals ineligible expenditures of RATA funds.

(g) The county may be required to reimburse the RATA in the event of early termination in accordance with the provisions of chapter 136-167 WAC.

(h) The county agrees to amend the contract in cases where:

(i) Additional RATA funds have been requested and approved under chapter 136-165 WAC;

(ii) Other relief from the original scope, design or project limits has been approved by the county road administration board under chapter 136-165 WAC; or

(iii) A project has been terminated without full RATA reimbursement under WAC 136-167-030(2).

(i) The county agrees to provide periodic project development progress reports as requested by the county road administration board.

(3) Counties may implement a phased construction methodology in the completion of RATA funded projects. A phased construction methodology is described as the process to implement multiple construction contracts through competitive bid and award, contracts awarded through exercise of the small works roster process, or construction by county forces, or a combination of two or more of

these three methods, in order to complete a single RATA funded project. If a county elects to use phased construction methodology, construction of at least one of the project phases must commence by the lapsing date and all remaining phases must commence within two years of commencement of the first phase. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all phases of the project will be required unless waived by the county road administration board in keeping with the provisions of this section.

(a) In order to be considered phased construction, each phase must:

(i) Be distinct, independent, and nonoverlapping construction activities as to location and type of work;

(ii) Result in separate function and utility;

(iii) Be part of related and sequential construction activities that lead to overall project completion;

(iv) Separately and collectively comply with state laws as to procurement of contract work and use of county forces; and

(v) Not be implemented in a way that would otherwise be considered a split project, as described in WAC 136-170-060, without first obtaining approval as a split project.

(b) In order to satisfy notification requirement of subsection (2)(d) of this section, a phased construction plan must be developed and submitted to the county road administration board at least fifteen calendar days prior to contract bid advertisement, beginning the selection process for a contractor through a small works roster process, or commencement of construction by county forces, whichever occurs first. The phased construction plan must:

(i) Include a description of each construction phase, the contracting method to be employed or that county forces will be used;

(ii) Include an estimated cost and begin and end dates for each construction phase; and

(iii) Describe the relationship between construction phases and ultimate completion of the overall project.

AMENDATORY SECTION (Amending WSR 09-23-044, filed 11/9/09, effective 12/10/09)

WAC 136-170-060 Splitting ((~~or phasing~~)) of CRAB/county contracts. (1) A county may split a single rural arterial trust account funded project into multiple adjacent ((~~phased construction~~)) project((~~s~~)) segments only upon written request and approval by the director of the county road administration board.

(2) The county must submit the request prior to advertising for ((~~the~~)) any construction contract, or prior to commencing any construction ((~~should any of the projects be scheduled for completion by day labor~~)) by county forces. The request shall

contain detailed information prepared by the county engineer demonstrating fulfillment of the original CRAB/county contract selected through the region's project array, including:

(a) The relationship between the original and segmented project termini;

(b) Each segment's distinct and separate utility; and

(c) The planned timing and funding for each segment.

(3) Upon receipt of the county's written request to split a RAP project, the CRAB director will consider and may approve the split.

(4) Upon such approval, a revised CRAB/county contract will be prepared, and sent to the county for its execution and returned in the same manner as for the original contract. The final contract must be fully executed prior to advertisement for contract construction, or if done by county forces, prior to commencing construction.

(5) ((~~Funding for split projects will be assigned based upon the breakdown of costs specified in the county's request letter.~~

~~(6)~~)) Failure of a county to ((~~execute~~)) sign and return an amended CRAB/county contract within forty-five calendar days of receipt shall nullify any split requests and any other county road administration board actions associated with the split request.

((~~(7)~~)) (6) Construction on at least one of the split project((~~s~~)) segments must commence by the lapsing date of the original project and all remaining portions must proceed to construction within two years of commencement of the first project. In the event the county fails to meet either of these timelines, repayment of expended RATA funds for all portions ((~~or phases~~)) of the projects will be required unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.

((~~(8) Split projects will be considered ineligible for any increases in RATA funding or revisions in scope.~~))