



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 04, 2020

TIME: 9:45 AM

WSR 20-04-077

Agency: County Road Administration Board

Effective date of rule:

Permanent Rules

- 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 No If Yes, explain:

Purpose: Amendments to WAC 136.163 Allocation of RTAT funds to Projects.

Citation of rules affected by this order:

New:
Repealed:
Amended: 136.163
Suspended:

Statutory authority for adoption: RCW 36.78

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-22-066 on November 5, 2019 (date).
Describe any changes other than editing from proposed to adopted version:

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

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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 on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___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New	___	Amended	___	Repealed	___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Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: January 30, 2020	Signature: 
Name: John Koster	
Title: Executive Director	

Chapter 136-163 WAC
ALLOCATION OF RATA FUNDS TO EMERGENT ((AND EMERGENCY)) PROJECTS

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

WAC 136-163-010 Purpose and authority. RCW 36.79.140 provides for the authorization of ((RATA)) rural arterial trust account funds for projects of an emergent nature. This chapter describes the manner in which counties may request ((RATA funds)) funding for such emergent projects and the manner in which the county road administration board will respond to such requests.

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

WAC 136-163-020 ((Definitions.)) Project eligibility. ((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 either a temporary or 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.)) Projects of an emergent nature may be funded through the rural arterial program as authorized by chapter 36.79 RCW. An emergent project is defined as a project whose need the county was unable to anticipate at the time the six-year program of the county was developed. Emergency work to temporarily restore a county road for the short-term use of the traveling public is not eligible for funding as an emergent project; however, a project to permanently repair a county road after an emergency may be considered for funding if the proposed project meets all other requirements of the rural arterial program.

To be eligible for emergent project approval, the project shall be evaluated by the county road administration board grant programs engineer, with the participation of the county 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 cutoff line on the current array based upon one hundred percent of the current estimated regional allocation as determined by the county road administration board.

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

WAC 136-163-050 Limitations and conditions (~~(Emergency and emergent projects)~~). All projects for which ((RATA)) rural arterial program 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)) this chapter; 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 funding period'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 RATA that may be provided for the project.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|--|
| WAC 136-163-030 | Limitations and conditions—Emergency projects. |
| WAC 136-163-040 | Limitations and conditions—Emergent projects. |