



# RULE-MAKING ORDER

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

**Agency:** Department of Revenue

**Permanent Rule Only**

**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:**

This rule currently provides incorrect citations to WAC 458-12-080 and 458-12-080(2). The department is proposing to correct these citations to WAC 458-12-060 and 458-12-060(4), respectively.

**Citation of existing rules affected by this order:**

- Repealed:
- Amended:
- Suspended:

**Statutory authority for adoption:** RCW 84.08.010 and 84.08.070.

**Other authority:** RCW 84.04.090.

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 14-14-127 on July 2, 2014.  
Describe any changes other than editing from proposed to adopted version:

None.

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:**

October 7, 2014

**NAME**

Dylan Waits

**SIGNATURE**

**TITLE**

Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 07, 2014**  
**TIME: 1:14 PM**

**WSR 14-21-044**

**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:**

<b>Federal statute:</b>	New	Amended	Repealed
<b>Federal rules or standards:</b>	New	Amended	Repealed
<b>Recently enacted state statutes:</b>	New	Amended	Repealed

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

New	Amended	Repealed
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**The number of sections adopted in the agency's own initiative:**

New	Amended	1	Repealed
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	Amended	Repealed
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	Amended	Repealed
<b>Pilot rule making:</b>	New	Amended	Repealed
<b>Other alternative rule making:</b>	New	Amended	Repealed

AMENDATORY SECTION (Amending WSR 93-08-049, filed 4/2/93, effective 5/3/93)

**WAC 458-12-010 Definition--Property--Real.** The term "real property" is defined in RCW 84.04.090; this definition should be consulted as a matter of course in all cases where the meaning of "real property" is in doubt. As there defined, "real property" includes but is not limited to the following:

(1) All land, whether platted or unplatted.

(2) All buildings, structures or permanent improvements built upon or attached to privately owned land.

(3) Any fixture permanently affixed to and intended to be annexed to land or permanently affixed to and intended to be a component of a building, structure, or improvement on land, including machinery and equipment which become fixtures. Intent is to be gathered from all the surrounding circumstances at the time of annexation or installation of the item, including consideration of the nature of the item affixed, the manner of annexation and the purpose for which the annexation is made and is not to be gathered exclusively from the statements of the annex or, installer, or owner as to his or her actual state of mind.

(a) Such items shall be considered as permanently affixed when they are owned by the owner of the real property and:

(i) They are securely attached to the real property; or

(ii) Although not so attached, the item appears to be permanently situated in one location on real property and is adapted to use in the place it is located. For example a heavy piece of machinery or equipment set upon a foundation without being bolted thereto could be considered as affixed.

(b) Such items shall not be considered as affixed when they are owned separately from the real property unless an agreement specifically provides that such items are to be considered as part of the real property and are to be left with the real property when the occupant vacates the premises.

(c) Whenever the property taxable status of engines, machinery, equipment or fixtures is questioned by the assessor, the taxpayer may be required to list such items in the manner provided by chapter 84.40 RCW and WAC (~~(458-12-080)~~) 458-12-060. The assessor shall make the determination of whether such property is real, and shall amend the taxpayer's statement as provided by WAC (~~(458-12-080(2))~~) 458-12-060(4).

(d) The explanations relating to fixtures under subsection (3) of this section are for purposes of clarification and may not answer the question as to whether an item is a fixture in all cases. In the event these explanations do not clearly indicate whether the item is a fixture, the numerous decisions of the Washington appellate courts regarding fixtures should be consulted.

(4) Privately owned easements and easement-like privileges,

irrespective of whether the servient estate is public or privately owned land. However, easements of public service corporations other than railroads are personal property by reason of RCW 84.20.010.

(5) Leases of real property and leasehold interests therein having a term coextensive with the life of the tenant.

(6) Title to minerals in place which belongs to someone other than the surface owner. Such a title to minerals in place is a "mineral right" but must be distinguished from mineral leases and permits, which do not give title to minerals in place and which are intangible *personal* property. Mineral rights, as defined herein, are realty regardless of whether they were created by grant or reservation.

(7) Standing timber growing on land which belongs to the same person as the timber.

(8) Water rights, whether riparian, appropriative, or in the nature of an easement.

(9) Buildings and similar permanent improvements erected or made by a tenant on land which he does not own, and title to which is not reserved in the tenant by the lease or some other landlord-tenant agreement. Such buildings and improvements become the landlord's real property.

(10) All life estates in real property, whether created by grant or a reservation. A person has such a life estate when he has a right to the possession, occupation and use of a piece of realty, and to the crops, rents and profits produced by it, during his or her natural life.

(11) All possessory rights in realty which are coextensive with the natural life of their holder. Such possessory rights are analogous to leases, and since leases for life are realty, possessory rights for life are also realty.