



RULE-MAKING ORDER

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

Agency: Department of Revenue

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: See attachment

Citation of existing rules affected by this order:

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 82.32.300 and 82.01.060 (2)

Other authority :

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: **An emergency adoption of these rules is necessary because permanent rules cannot be adopted at this time.**

Date adopted: June 2, 2010

NAME (TYPE OR PRINT)

Alan R. Lynn

SIGNATURE

TITLE

Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 02, 2010

TIME: 9:43 AM

WSR 10-12-115

**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| Federal statute: | New | _____ | Amended | _____ | Repealed | _____ |
| Federal rules or standards: | New | _____ | Amended | _____ | Repealed | _____ |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 | <u>4</u> | Repealed | _____ |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 | <u>4</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 | _____ |



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

**Attachment for CR103E filing for
WAC 458-20-19401/19402/19403/19404**

Purpose:

Part I of Chapter 23, 2010 Laws 1st Special Session (2ESSB 6143) changed the apportionment and nexus requirements for apportionable activities, effective June 1, 2010. The Department has adopted the following emergency rules to explain how these requirements apply.

WAC 458-20-19401 *Minimum nexus thresholds for apportionable activities* – Washington’s business and occupation (B&O) taxes may be imposed only if a business has substantial nexus with this state. This rule explains the minimum nexus thresholds for the B&O taxation of businesses engaged in apportionable activities.

WAC 458-20-19402 *Single factor receipts apportionment – Generally* – This rule explains how gross income earned by businesses engaged in apportionable activities is apportioned. This rule does not apply to the apportionment of income of financial institutions taxable under RCW 82.04.290, which is addressed in WAC 458-20-19404, nor that of royalty income earned from granting the right to use intangible property, which is addressed in WAC 458-20-19403.

WAC 458-20-19403 *Single factor receipts apportionment – Royalties* – This rule addresses how gross income from royalties is apportioned when the business receives royalty payments from both within and outside the state.

WAC 458-20-19404 *Financial institutions – Income apportionment* – This rule addresses how gross income from engaging in business as a financial institution is apportioned when the financial institution engages in business both within and outside the state.