



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Revenue

- Permanent Rule
- Emergency Rule

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)

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: As required by RCW 34.05.350, the Department finds that the immediate amendment of WAC 458-30-200 is necessary for the preservation of the public health, safety, or general welfare, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Purpose: WAC 458-30-200 provides definitions for the terms used in conjunction with land classified under the Open Space Taxation Act, codified as chapter 84.34 RCW. The Department has amended WAC 458-30-200 on an emergency basis to clarify that:

- (1) It is not necessary to breed animals to qualify for the "farm and agricultural land" classification; and
- (2) The sale of forage through the grazing of livestock, including equines, constitutes the sale of an agricultural product for purposes of Chapter 84.34 RCW.

The changes reflected in this rule are the same as those in the emergency rule adopted on December 31, 2008 (WSR 09-02-042).

Citation of existing rules affected by this order:

Amended: **WAC 458-30-200 Definitions**

Statutory authority for adoption: RCW 84.08.010, 84.08.070, 84.34.141, 84.34.020, and Chapter 84.34.RCW

Other authority : RCW 34.05.350

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (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: **An analysis was not prepared.**

EMERGENCY RULE ONLY

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.

Reasons for this finding: **(See attachment)**

Date adopted:

4/29/2009

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: April 29, 2009

TIME: 1:02 PM

WSR 09-10-033

**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	<u>1</u>	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	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:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____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	Repealed	_____

Attachment for CR 103 filing: WAC 458-30-200 Definitions

Reasons for this finding (Emergency Rule):

Since November 14, 2008, at the request of the Department of Revenue, assessors and treasurers have delayed the involuntary removal of property from the “farm and agricultural land” classification to allow the Department time to amend WAC 458-30-200 to address (1) the exclusion of land used for raising calves or piglets that are purchased rather than bred onsite and (2) the inconsistent classification of horse boarding operations among counties. The Department amended WAC 458-30-200 on an emergency basis on December 31, 2008 (WSR 09-02-042) to assure that counties may timely complete their classification, assessment, collection and enforcement procedures, while assuring equal treatment for similarly situated taxpayers and the preservation of farmland intended to be preserved under Washington’s Open Space Taxation Act.

Legislation in this area was also introduced during the 2009 session. The legislature passed SHB 1733, which has been delivered to the Governor for possible signing into law. This legislation expands the statutory definition of “farming and agricultural land” to include land put to specific equestrian-related uses. The Department anticipates proceeding with rule making to amend the permanent WAC 458-30-200 consistent with SHB 1733, assuming the bill is signed into law. If the bill is not signed into law, the Department will proceed with amending the permanent rule based on current law. A second emergency rule is needed at this time to assure equal treatment for similarly situated taxpayers and the preservation of farmland intended to be preserved under Washington’s Open Space Taxation Act.