

# Open Space Taxation Rules Under Review

## Frequently Asked Questions

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Over the past several months, the Department of Revenue (Department) became aware of a need to reexamine the “farm and agricultural land” definitions found in WAC 458-30-200. After meeting with and considering comments received from stakeholders, the Department determined that the rule should be amended.

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**Q. Why is the Department of Revenue issuing an emergency rule?**

A. Issuing the rule on an emergency basis provides immediate guidance to property owners and county officials. The emergency rule provides clarification as to the definition of farm and agricultural land.

**Q. What changes are included in the emergency rule?**

- A. The emergency rule expands the definition of farm and agricultural land in two ways:
1. It removes the requirement to breed livestock to qualify for the farm and agricultural land classification; and
  2. The sale of forage through grazing of livestock is the sale of an agricultural product and, therefore, land used for this purpose meets the definition of farm and agricultural land.

**Q. Does land used for horse boarding qualify for farm and agricultural land classification under the provisions of the emergency rule?**

A. Yes, to the extent the land is used to pasture equines on a commercial basis and all other requirements (such as income requirements for properties that are less than 20 acres) are met, the land will qualify as farm and agricultural land.

**Q. How will the assessor determine if a property owner receives sufficient income from commercial pasturing to qualify for the farm and agricultural land classification?**

A. For properties that are at least 20 acres, there is no specific income requirement. However, the owner must show that the land is continuously used for commercial agricultural purposes and the owner must intend to make a profit from the use of the land. Owners of properties smaller than 20 acres must be able to demonstrate specific levels of income have been met in three out of the last five years. Those owners must report the income received from pasturing others' livestock to the county assessor. The Department will also work with county assessors to develop reporting requirements to simplify administration for both property owners and assessors.

**Q. What if the land is used for stabling, training, riding lessons, or other activities involving horses?**

A. These activities alone do not qualify the land for inclusion in the Current Use Program. If all other current use requirements are met so that land is classified as farm and agricultural land, these activities would not disqualify the land from the Current Use Program.

**Q. How long will the emergency rule be in effect?**

A. The emergency rule is effective for 120 days, but can be renewed until a permanent rule is adopted.

**Q. When will the permanent rule be adopted?**

A. The Department intends to begin rulemaking as soon as possible in January 2009.

**Q. What should property owners do if they believe the assessor incorrectly removes property from the current use program?**

A. Property owners may appeal the assessor's action removing property from the Current Use Program. Petitions must be filed with the county board of equalization. The deadline for filing petitions varies from 30 to 60 days from the date of the removal depending on the county in which the appeal is filed. Once the petition is filed, the assessor can take no further action pending the outcome of the appeal.

**Q. Are there other issues that the Department of Revenue did not address through the emergency rule?**

A. Yes. Several issues are beyond the Department's authority and would require legislative changes. These issues include:

1. Exempting the additional tax when properties that were originally approved are removed from the Current Use Program even though the use has not changed;
2. Preventing the imposition of penalties and interest when property is removed from the Current Use Program; and
3. Relaxing common ownership requirements for contiguous properties.

**Q. Who should I contact if I have comments on the rule?**

A. For further information, contact:

Leslie Mullin  
Current Use Specialist  
Department of Revenue  
Property Tax Division  
Phone: (360) 570-5865  
E-mail: [LeslieMu@dor.wa.gov](mailto:LeslieMu@dor.wa.gov).