



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**  
(Implements RCW 34.05.310)  
Do NOT use for expedited rule making

**Agency:** Department of Revenue

**Subject of possible rule making:** This new rule will provide brief adjudicative proceedings to those impacted by agency actions of the Department of Revenue in the administration of RCW chapter 59.30. These brief adjudicative proceedings are authorized by RCW 34.05.482 through 34.05.494.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 84.33.096, 82.32.300, and 82.01.060(2).

**Reasons why rules on this subject may be needed and what they might accomplish:** This will allow an appeal through brief adjudicative proceedings to those impacted by agency actions of the Department of Revenue in the administration of RCW chapter 59.30 regarding the assessment of the one-time business license fee; assessment of the annual renewal application fee; assessment of the annual registration assessment fee; and assessment of the delinquency fee for manufactured and mobile home communities.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** None.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

A preliminary draft of possible rule changes is available via the Department's online [Rules Agenda](#).

Written comments may be submitted by mail and should be directed to Mark E. Bohe at either of the following addresses: email: [markbohe@dor.wa.gov](mailto:markbohe@dor.wa.gov), or mailing address: Mark Bohe, ITA Division, PO Box 47453, Olympia, WA 98504-7453.

Written and oral comments will be accepted at the public meeting.

**Public meeting location:**

Capitol Plaza Building  
Fourth Floor Executive Conference Room  
1025 Union Avenue SE  
Olympia, Washington

**Assistance for persons with disabilities:**

Contact Mary Carol LaPalm (360) 725-7499 or Renee Cosare (360) 725-7514 no later than 10 days before the meeting date. For Hearing Impaired please contact us via the Washington Relay Operator at (800) 833-6384.

*Call in option can be provided upon request.*

**Date: February 5, 2014 Time: 10:00 AM.**

**Date** December 31, 2013

**Name**

Alan R. Lynn

**Signature**

**Title**

Assistant Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 31, 2013**  
**TIME: 3:13 PM**

**WSR 14-02-107**

NEW SECTION

**WAC 458-20-10004 Brief adjudicative proceedings for matters related to assessments and warrants for unpaid fees issued under chapter 59.30 RCW for manufactured and mobile home communities.** (1) Introduction. The department of revenue (department) conducts adjudicative proceedings pursuant to chapter 34.05 RCW, the Administrative Procedure Act (APA). The department adopts in this section, the procedures as provided in RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings to review the department's actions described in subsection (2) of this section.

This section explains the procedure pertaining to the adopted brief adjudicative proceedings.

(2) Department's action. The following actions taken by the department are subject to the brief adjudicative proceeding process described in this section:

(a) Assessment of the one-time business license application fee or annual renewal application fee in RCW 59.30.050 (3)(a);

(b) Assessment of the annual registration assessment fee in RCW 59.30.050 (3)(b); and

(c) Assessment of the delinquency fee in RCW 59.30.050(4).

The assessment of more than one type of fee against a manufactured/mobile home community owner or landlord in RCW 59.30.050 does not result in the creation of more than one adjudicative proceeding if those fees are issued in the same document, on the same date.

As explained in RCW 59.30.020(4), the terms "landlord" and "community owner" both refer to the owner of the mobile home park or manufactured home community or their agents. For purposes of this rule, the department refers to such persons as "community owners."

(3) Conduct of brief adjudicative proceedings. To initiate an appeal of the department's action, the community owner has twenty-one calendar days from the date on the department's action to request a review of that action. The community owner must file a written notice of appeal explaining why the community owner disagrees with the action.

A form notice of appeal is available at <http://dor.wa.gov> or by calling 1-800-647-7706. The completed form should be mailed or faxed to the department at:

Department of Revenue

Special Programs

Review of Annual Registration for Manufactured/Mobile Home Communities

P.O. Box 47472

Olympia, WA 98504-7472

Fax: 360-534-1320

(a) A presiding officer, who will be a person designated by the director of the department (director) or the assistant director of special programs division, will conduct brief adjudicative proceedings. The presiding officer for brief adjudicative proceedings will have agency expertise in the subject matter but will not otherwise have participated in the specific matter. The presiding officer's review is limited to the written record.

(b) As part of the notice of appeal, the community owner or the community owner's representative may include written documentation explaining the community owner's view of the matter. The presiding officer may also request additional documentation from the community owner or the department and will designate the date by which the documents must be submitted.

(c) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(d) Within twenty-one calendar days of receipt of the community owner's notice of appeal, the presiding officer will enter an initial order including a brief explanation of the decision under RCW 34.05.485. All orders in these brief adjudicative proceedings will be in writing. The initial order will become the department's final order unless a petition for review is made to the department's appeals division under subsection (4) of this section. If the presiding officer's order invalidates the department action, the department may in its discretion initiate another action that corrects the defects in the prior action.

(4) Review of initial order from brief adjudicative proceeding. A community owner that has received an initial order upholding a department action under subsection (3) of this section may request a review by the department by filing a written petition for review or by making an oral request for review with the department's appeals division within twenty-one calendar days after the service of the initial order on the community owner as described in subsection (8) of this section.

A form petition of review is available at <http://dor.wa.gov>. A request for review should state the reasons for the review.

The address, telephone number, and fax number of the appeals division are:

Appeals Division  
Manufactured/Mobile Home Community Appeals  
Department of Revenue  
P.O. Box 47460  
Olympia, WA 98504-7460  
Telephone Number: 360-534-1335  
Fax: 360-534-1340

(a) A reviewing officer, who will be either the assistant director of the appeals division or such other person as designated by the director, will conduct a brief adjudicative proceeding and determine whether the initial order was correctly decided. The reviewing officer's review is limited to the written record.

(b) The agency record need not constitute the exclusive basis for the reviewing officer's decision. The reviewing officer will have the authority of a presiding officer.

(c) The order of the reviewing officer will be in writing and include a brief statement of the reasons for the decision, and it must be entered within thirty calendar days of the petition for review. The order will include a notice that judicial review may be available. The order of the reviewing officer represents a final order of the department. If a final order invalidates the department's action, the department may in its discretion initiate another action that corrects the defects in the prior action.

(d) A request for review is deemed denied if the department does not issue an order on review within thirty calendar days after the petition for review is filed.

(5) Record in brief adjudicative proceedings. The record with respect to the brief adjudicative proceedings under RCW 34.05.482 through 34.05.494 will consist of:

(a) The record before the presiding officer: The record before the presiding officer consists of the notice of the department action; the community owner's appeal of the department action; all records relied upon by the department or submitted by the community owner related to the department's action; and all correspondence between the community owner and the department regarding the department's action.

(b) The record before the reviewing officer: The record before the reviewing officer consists of all documents included in the record before the presiding officer; the community owner's petition for review; and all correspondence between the community owner and the department regarding the community owner's petition for review.

(6) Court appeal. Court appeal from the final order of the department is available pursuant to Part V, chapter 34.05 RCW. However, court appeal may be available only if a review of the initial decision has been requested under subsection (4) of this section and all other administrative remedies have been exhausted. See RCW 34.05.534.

(7) Computation of time. In computing any period of time prescribed by this section or by the presiding officer or reviewing officer, the day of the act or event after which the designated period is to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or legal holiday.

(8) Service. All notices and other pleadings or papers filed with the presiding or reviewing officer must be served on the community owner, their representatives/agents of record, and the department.

(a) Service is made by one of the following methods:

(i) In person;

(ii) By first-class, registered or certified mail;

(iii) By fax and same-day mailing of copies;

(iv) By commercial parcel delivery company; or

(v) By electronic delivery pursuant to RCW 82.32.135.

(b) Service by mail is regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service by electronic fax is regarded as completed upon the production by the fax machine of confirmation of transmission.

(d) Service by commercial parcel delivery is regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(e) Service by electronic delivery is regarded as completed on the date that the department electronically sends the information to the parties or electronically notifies the parties that the information is available to be accessed by them.

(f) Service to a community owner, their representative/agent of record, the department, and presiding officer must be to the address shown on the form notice of appeal described in subsection (3) of this section.

(g) Service to the reviewing officer must be to the appeals division at the address shown in subsection (4) of this section.

(h) Where proof of service is required, the proofs of service must include:

(i) An acknowledgment of service;

(ii) A certificate, signed by the person who served the document(s), stating the date of service; that the person did serve the document(s) upon all or one or more of the parties of record in the proceeding by delivering a copy in person to (names); and that the service was accomplished by a method of service as provided in this subsection.

(9) Continuance. The presiding officer or reviewing officer may grant, in their sole discretion, a request for a continuance by motion of the community owner, the department, or on its own motion.

(10) Conversion of a brief adjudicative proceeding to a formal proceeding. The presiding officer or reviewing officer, in their sole discretion, may convert a brief adjudicative proceeding to a formal proceeding at any time on motion of the community owner, the department, or the presiding/reviewing officer's own motion.

(a) The presiding/reviewing officer will convert the proceeding when it is found that the use of the brief adjudicative proceeding violates any provision of law, when the protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the parties, and when the issues and

interests involved warrant the use of the procedures of RCW 34.05.413 through 34.05.479.

(b) When a proceeding is converted from a brief adjudication to a formal proceeding, the director may become the presiding officer or may designate a replacement presiding officer to conduct the formal proceedings upon notice to the community owner and the department.

(c) In the conduct of the formal proceedings, WAC 458-20-10002 will apply to the proceedings.

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