PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Office of the Secretary of State

☒ **Preproposal Statement of Inquiry was filed as WSR** 09-20-042 **; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____**; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR** _____
☐ **Continuance of WSR** _____

Title of rule and other identifying information: (Describe Subject)
Limited Partnership Filings – Centralized System

Hearing location(s):
Division of Corporations and Charities
801 Capitol Way S
Olympia, WA 98504

Date: January 27, 2010 Time: 2:00 pm

Submit written comments to:
Name: Pamela Floyd
Address: PO Box 40234
Olympia, WA 98504-0234

e-mail pam.floyd@sos.wa.gov
fax (360)586-4989 by (date) December 7, 2009

Assistance for persons with disabilities: Contact
Sharon Baker by December 7, 2009
TTY (800) 422-8683 or ( ) _____

Date of intended adoption: January 28, 2010
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
These rules will set fees, outline procedures, and set forth guidelines for implementation of the uniform limited partnership act of 2009, RCW 25.10, including establishing a new entity, the limited liability limited partnership.

Reasons supporting proposal: These rules implement the processes in RCW 25.10.

Statutory authority for adoption: RCW 25.10.171, 25.10.916, 43.07.120

Statute being implemented: RCW 25.10

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

DATE
December 15, 2009

NAME (type or print)
Steve Excell

SIGNATURE

TITLE
Assistant Secretary of State

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 15, 2009
TIME: 8:45 AM

WSR 10-01-076

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Office of the Secretary of State

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Pamela Floyd	801 Capitol Way S, Olympia, WA 98501	(360) 725-0310
Implementation....	Pamela Floyd	801 Capitol Way S, Olympia, WA 98501	(360) 725-0310
Enforcement.....	Kyle Crews, Office of the Attorney General	1125 Washington St SE, Olympia, WA 98504-40100	(360) 664-2510

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No. Explain why no statement was prepared.
No additional costs are imposed on businesses

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No: Please explain: These rules are adopting by reference without material change, Washington state statutes and are not required to do a cost-benefit analysis per RCW 34.05.328 (5)(iii)

AMENDATORY SECTION (Amending Order 87-04, filed 8/6/87)

WAC 434-55-010 Purpose and authority. These regulations are adopted pursuant to ((~~RCW 25.10.600 - 25.10.610 and chapter 55, Laws of 1987~~)) chapter 188, Laws of 2009, to implement a centralized system for limited partnership filings at the office of the secretary of state.

AMENDATORY SECTION (Amending WSR 94-19-003, filed 9/8/94, effective 10/9/94)

WAC 434-55-016 Office hours. (1) Normal business hours of the corporations division are 8:00 a.m. to 5:00 p.m., Monday through Friday except holidays. ((~~Over-the-counter service is available to provide same day service for individuals requests brought in before 4:30 p.m. and telephone service is available from 8:00 a.m. to 5:00 p.m.~~))

(2) Documents, including substitute service-of-process on the secretary of state, delivered after ((~~normal working hours~~)) 5:00 p.m. will be deemed to be received on the next working day. The secretary assumes no responsibility for any form of delivery other than that received personally by an employee of the office of the secretary of state.

(3) Certain expedited ((~~or~~)) and over-the-counter services are subject to the special service fees established ((~~elsewhere~~)) in ((~~these regulations~~)) WAC 434-112-080 through 434-112-090.

AMENDATORY SECTION (Amending WSR 94-19-003, filed 9/8/94, effective 10/9/94)

WAC 434-55-040 ((~~Original signature required.~~)) Document filing standards. ((~~(1) At any time that the statute requires a limited partnership document filing with the secretary of state to be in duplicate form, the secretary of state will accept the following:~~

~~(a) Two original copies, each with original signatures; or~~

~~(b) One original with original signatures and a true and correct photocopy thereof.~~

~~In the case of duplicate originals submitted with only one~~

~~original and one copy thereof, the secretary of state will retain as its official file copy the certificate or document with original signatures and will return to the limited partnership for its records the document version bearing copied signatures. If the entity provides only the original copy, the division may charge a photocopy fee to make an exact copy.~~

~~(2)~~)) All documents presented to the secretary of state for filing under the Limited Partnership Act shall be of no larger size than standard legal paper (8-1/2 x 14). The materials shall be submitted in form and quality which is suitable for future microfilming or digital reproduction ((~~by a similar photographic process~~)). The secretary of state will not accept documents for filing which are ((~~not typed, or with~~)) illegible ((~~text~~)).

AMENDATORY SECTION (Amending Order 82-7, filed 10/6/82)

WAC 434-55-050 Statement of name reservation ((~~or registration~~)). A name for a limited partnership may be reserved by filing an application ((~~therefor~~)) and paying the applicable fee per WAC 434-112-085. The applicant may use the secretary of state's regular form for reservation of name, or may submit a written request. A written request must identify the name ((~~desired, the fact that it is requested for a limited partnership, the entity for which the name is~~)) to be reserved((~~,~~)) and which of the following subsections apply:

(1) A person intending to organize a limited partnership under this chapter and to adopt the name;

(2) A limited partnership or a foreign limited partnership authorized to transact business in this state intending to adopt the name;

(3) A foreign limited partnership intending to obtain a certificate of authority to transact business in this state and adopt the name;

(4) A person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this state and adopt the name;

(5) A foreign limited partnership formed under the name; or

(6) A foreign limited partnership formed under a name that does not comply with RCW 25.10.061 (2) or (3), but the name reserved under RCW 25.10.071 (1)(f) may differ from the foreign limited partnership's name only to the extent necessary to comply with RCW 25.10.061 (2) and (3). The request must also include the name of the agent making the request and ((~~his/its~~)) street and mailing address, and must be signed by the agent, partner or other authorized representative of the limited partnership.

In view of the increasing competition for business names, persons making name reservation requests are advised to submit ((~~up to~~)) three prioritized names per request. The secretary of state

will review the names requested in order of priority indicated and will reserve the available name of highest priority. If no name reservation can be accepted, the reservation fee is returned to the requestor.

NEW SECTION

WAC 434-55-052 Transfer of name reservation. A person who has reserved a name may transfer that name by filing with the applicable fee from WAC 434-112-085 a notice of transfer that includes the reserved name to be transferred, and the name and street and mailing address of the person transferring the reserved name as well as the person to which reservation is to be transferred. It must also include which of the following subsections apply:

(1) A person intending to organize a limited partnership under this chapter and to adopt the name;

(2) A limited partnership or a foreign limited partnership authorized to transact business in this state intending to adopt the name;

(3) A foreign limited partnership intending to obtain a certificate of authority to transact business in this state and adopt the name;

(4) A person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this state and adopt the name;

(5) A foreign limited partnership formed under the name; or

(6) A foreign limited partnership formed under a name that does not comply with RCW 25.10.061 (2) or (3), but the name reserved under RCW 25.10.071 (1)(f) may differ from the foreign limited partnership's name only to the extent necessary to comply with RCW 25.10.061 (2) and (3).

NEW SECTION

WAC 434-55-056 Filing a certificate of limited partnership--Designation as a limited liability limited partnership. In order for a limited partnership to form, a certificate of limited partnership must be delivered to the secretary of state for filing that includes:

(1) Name of limited partnership that complies with section 108, chapter 188, Laws of 2009.

(2) Street and mailing address of initial designated office in Washington.

(3) Name and street and mailing address of the initial agent for service of process.

(4) Name and street and mailing address of each general partner of the limited partnership.

(5) A statement whether it is a limited liability limited partnership.

(6) Additional information is required by Article 11, chapter 188, Laws of 2009.

NEW SECTION

WAC 434-55-057 Electronic filing. See WAC 434-112-065 through 434-112-075.

NEW SECTION

WAC 434-55-058 Filing an annual report. As of January 1, 2010, all limited partnerships registered in the secretary of state's office are required to file an annual report with the appropriate fee, each year, in the month they formed. The annual report will include:

(1) Name of domestic or foreign limited partnership;

(2) Street and mailing address of designated office;

(3) Name and street and mailing address of its agent;

(4) In the case of a domestic limited partnership, the street and mailing address of its principal office;

(5) In the case of a foreign limited partnership, the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under chapter 188, Laws of 2009; and

(6) If a filed annual report contains an address of a designated office or the name or address of an agent that differs from the information shown in the records of the secretary immediately before the filing, the differing information in the annual report is considered a statement of change.

NEW SECTION

WAC 434-55-059 Filing a statement of change. A limited partnership or foreign limited partnership may change its registered office or registered agent by delivering to the secretary of state for filing, with the appropriate fee per WAC 434-112-085, a statement of change that includes:

(1) Name of the limited partnership or foreign limited partnership;

(2) The street and mailing address of its current designated office;

(3) If the current designated office is to be changed, the street and mailing address of the new designated office;

(4) The name and street and mailing address of its current agent for service of process; and

(5) If the current agent for service of process or an address of the agent is to be changed, the new information.

AMENDATORY SECTION (Amending WSR 99-12-008, filed 5/20/99, effective 6/20/99)

WAC 434-55-060 Document filing fees--Limited partnerships. ((~~The following fees are due and must be submitted concurrently with the limited partnership documents presented to the secretary of state for filing under the Washington Uniform Limited Partnership Act:~~

~~(1) Filing of a certificate of limited partnership for a domestic limited partnership: One hundred seventy-five dollars.~~

~~(2) Filing an application for registration of a foreign limited partnership: One hundred seventy-five dollars.~~

~~(3) Dissolution or cancellation by judicial degree: No charge.~~

~~(4) Filing of a certificate of cancellation for a domestic or foreign limited partnership: No charge.~~

~~(5) Filing of a certificate of amendment for a domestic or foreign limited partnership: Twenty-five dollars.~~

~~(6) Filing a certificate of restatement: Thirty dollars.~~

~~(7) Filing an application to reserve or transfer a limited partnership name: Ten dollars.~~

~~(8) Application for reinstatement: One hundred dollars plus all delinquent fees and a twenty-five percent penalty computed on total amount.~~

~~(9) Articles of merger: Twenty dollars for each listed company.~~

~~(10) Agent's consent to act as agent or agent's resignation if appointed without consent: No charge.~~

~~(11) Filing any other statement or report required by the Limited Partnership Act: Ten dollars.~~

~~(12) For certified copies of any document the fee is five dollars plus a photocopy fee of twenty cents for each additional page.~~

~~(13) For certificates of existence the fee is ten dollars per certificate.~~

~~(14) For photocopies fees are as follows:~~

~~(a) Certificate of limited partnership, five dollars;~~

~~(b) Any single document, other than a certificate of limited partnership, one dollar plus twenty cents for each additional page;~~

~~(c) Surcharge for files exceeding one hundred pages of copy, thirteen dollars for each fifty page increment (number of pages determined by weight of copies).~~

~~(15) Service of process on the office of the secretary of state as agent of a limited partnership: Fifty dollars.~~)) See WAC 434-112-085 and 434-112-090.

AMENDATORY SECTION (Amending WSR 99-12-008, filed 5/20/99, effective 6/20/99)

WAC 434-55-065 In-person or expedited ((~~counter~~)) service--Special fees. ((~~(1) The corporations division counter is open to in-person requests from 8:00 a.m. to 4:00 p.m. each business day. Staff provides expedited, same-day processing of corporate documents or requests received prior to 3:30 p.m. on that day. These services are available for the following transactions:~~

~~(a) Charter document review and filing;~~

~~(b) Name reservation review and filing;~~

~~(c) Document certification;~~

~~(d) Document copying and status certificates;~~

~~(e) Status change filings;~~

~~(f) Service of process;~~

~~(g) International student exchange agency registration.~~

~~(2) The fee for same-day service is ten dollars for single or multiple transactions within each new or existing limited partnership file or each new or existing limited liability partnership file. In addition, a regulatory fee for each transaction may apply.~~

~~(3) There is no expedited fee for the following transactions:~~

~~(a) Reinstatements;~~

~~(b) In-person inspection or review of limited partnership files or other public documents located in the corporations division office;~~

~~(c) Documents left at the counter for processing with mail-in documents received the same day; or~~

~~(d) A search for nonactive limited partnership files less than twenty years old.~~

~~(4)(a) If staff cannot complete the expedited service request before the end of the same day, the transaction will be completed~~

~~first on the following business day.~~

~~(b) Emergency services needed outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus regulatory or statutory fees due for the form of the filing. When the division receives an emergency request, staff notifies the customer of the service fee and any other reasonable conditions set by the director. The customer must agree to pay the fees before emergency services are provided.~~

~~(5) Over-the-counter service hours may be shortened under extraordinary circumstances. Separate service requests by one person may be limited to those relating to three corporations per day. Documents submitted by courier services or document-handling companies may receive twenty-four-hour service. A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.~~

~~Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.~~)) See WAC 434-112-080 and 434-112-090.

AMENDATORY SECTION (Amending WSR 94-19-003, filed 9/8/94, effective 10/9/94)

WAC 434-55-066 Miscellaneous charges--Special service fees. ((~~Dishonored checks. If a person, corporation or other submitting entity has attempted to pay any fee due to the secretary of state by means of a check, and the check is dishonored by the financial institution when presented, the secretary of state will impose a twenty-five dollar penalty, payable to the secretary of state.~~

~~In the event a valid replacement check and dishonor charge is not received in the office of the secretary of state within the time prescribed by its accounting division, the transaction covered by the dishonored check will be cancelled and all other late filing fees and penalties will be instituted.~~)) See WAC 434-112-085 and 434-112-090.

AMENDATORY SECTION (Amending WSR 94-19-003, filed 9/8/94, effective 10/9/94)

WAC 434-55-080 Registered office address--Requirements. The name and street address of a registered office is required. A post office box address may be used in ((~~conjunction with~~)) addition to a registered geographic office address ((~~when:~~

~~(1) The United States Postal Service cannot or will not~~

~~deliver to the street address; and~~

~~(2) The post office box address is in the same Washington city or town as the registered office address; and~~

~~(3) The agent notifies the office of the secretary of state and the corporation of any changes in either the street address or the post office box address~~)).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-55-015	Official address and telephone number.
WAC 434-55-070	Telephone services.