

FROM: ATTORNEY GENERAL  
(Name of Agency)

TO: CODE REVISER  
LEGISLATIVE BLDG (Southwest Corner, Ground Floor)  
Olympia 98501

The enclosed Permanent rules  , being order No. 103  
Emergency rules

relating to (Name of rules or description of subject matter)

Amending WAC 44-01-020, 44-01-040, 44-01-050, 44-01-060,  
44-01-070, 44-01-080, 44-01-100, 44-01-110 and 44-01-170,  
to conform to chapter 226, Laws of 1971.

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 3277 <sup>①</sup> filed with the code reviser  
on 12-2-71 <sup>②</sup> were regularly adopted as permanent rules of this  
(date)  
agency at Olympia, Washington on 12-6-71 and are herewith  
(place) (date)  
filed in the office of the code reviser pursuant to chapter 34.04  
RCW. The effective date of such rules shall be 1-6-72 <sup>③</sup>

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding that the immediate adoption of  
these rules is necessary for the preservation of the public  
health, safety, or general welfare and that observance of the  
requirements of notice and opportunity to present views on  
the proposed action would be contrary to the public interest,  
were regularly adopted as emergency rules of this agency at  
\_\_\_\_\_ on \_\_\_\_\_ and are herewith filed in  
(place) (date)  
the office of the code reviser pursuant to chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter  
34.04 RCW and of the Open Public Meetings Act of 1971, chapter  
42.30 RCW (1971 ex.s. c 250) have been fulfilled.

Dated this 7th day of December 1971.

STATE OF WASHINGTON  
**FILED**  
DEC 8 1971  
CODE REVISER'S OFFICE  
D KET.# 3818 FILE# 1

ATTORNEY GENERAL  
(AGENCY)  
*Robert F. Hauth*  
By ROBERT F. HAUTH  
Assistant Attorney General  
Registrar of Charitable Trusts  
Title

① NOTICE NUMBER AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY RE-  
VISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE NO. OF LAST NOTICE)  
② STAMPED DATE AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVIS-  
ER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE DATE OF LAST NOTICE)  
③ UNLESS A LATER DATE IS SPECIFIED IN THIS ORDER OR IS PRESCRIBED  
IN ANOTHER STATUTE, RULES ARE EFFECTIVE 30 DAYS AFTER FILING:  
RCW 34.04.040. LEAVE THIS SPACE BLANK EXCEPT IN SUCH SPECIAL CASES.


STATE OF WASHINGTON  
OFFICE OF ATTORNEY GENERAL


ADMINISTRATIVE ORDER NO. 103

(1) I, SLADE GORTON, Attorney General of the State of Washington, by virtue of the authority vested in me under chapters 34.04 RCW and 19.10 RCW, after due notice and meeting open to the public, held at Olympia, Washington, on December 6, 1971, as required by chapter 34.04 RCW, do promulgate and adopt the annexed rules and regulations, to-wit: Amending WAC 44-01-020, -040, -050, -060, -070, -080, -100, -110, and -170, as permanent rules of this agency.

(2) This order after being first recorded in the order register of this agency, shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

ADOPTED AND APPROVED December 7, 1971.

  
SLADE GORTON  
Attorney General

  
Attest: ROBERT F. HAUTH  
Assistant Attorney General  
Registrar of Charitable Trusts

AMD

WAC 44-01-020 GENERAL DUTIES OF THE ATTORNEY GENERAL AND OF CHARITABLE TRUSTEES. It is the duty of the attorney general to enforce the provisions of all charitable trusts in this state and to enforce the proper application of funds held in trust in this state for public, charitable purposes. Except as otherwise provided, the trustees of all charitable trusts and similar relationships, as defined in chapter 19.10 RCW and these regulations, are required to report the existence of their trust or other relationship and to report its administration on an annual or other basis thereafter, at the time and in the manner prescribed by said act and by these regulations.

AMD

WAC 44-01-040 TO WHOM RULES APPLY. Any trustee, as defined in RCW 19.10.020 and by these regulations, not otherwise expressly exempted in chapter 19.10 RCW, holding money or property of any kind whatsoever, is subject to and must comply with the charitable trust act and with these regulations.

AMD

WAC 44-01-050 DEFINITIONS. The term "charitable trust" in the charitable trust act and in these regulations unless otherwise limited is deemed to mean any relationship whereby real or personal property is held for a charitable purpose or purposes: PROVIDED, Such term shall not include any such relationship which is established for the purpose of making distributions only to individuals or organizations who are expressly named in the governing instrument and for no other charitable purposes. It includes but is not limited to express trusts created by will or by deed, or the trust relationship which may be created by the articles of incorporation or other governing instrument of a charitable corporation, association or foundation. The term "trustee," unless otherwise limited, includes any legal entity, irrespective of its character, which holds a vested legal title to, and control over, real or personal property for any charitable purpose under the terms or provisions of a charitable trust. The term "trustee" excludes any persons or legal entities who are mere titleholders or custodians or depositaries of property which is held for charitable purposes, and who have no powers or duties relative to the administration of such property, except as otherwise provided in these regulations. The term "charitable trust act" means the Washington charitable trust act, chapter 53, Laws of 1967, Ex. Sess. and amendments thereto.

AMD

WAC 44-01-060 EXEMPTIONS AND EXCLUSIONS. The charitable trust act does not apply to the following entities, each of which is exempt from the act:

(1) Governmental bodies. The United States, any state, territory or possession of the United States, the District of Columbia, Puerto Rico, or any of their agencies or governmental subdivisions;

(2) Religious bodies:

(a) Incorporated, bona fide tax-exempt religious organizations;

(b) Charitable agencies and organizations affiliated with and forming an integral part of said religious body, or operated, supervised or controlled directly by such religious body;

(c) Any officer of any such religious body holding property for religious purposes.

If such organization is not at the time it receives property declared to be tax-exempt, it is exempt from the charitable trust

act for two years or until it receives from the federal government a declaration of its tax-exempt status, whichever occurs first.

(3) Schools. Educational institutions, of a nonprofit and charitable nature, having a course of studies equivalent to that of a public school or college operated by the state of Washington or a school district of the state of Washington.

AMD

WAC 44-01-070 TRUSTEES EXEMPT FROM RCW 19.10.070 - REPORTS REQUIRED. The following trustees shall be exempt from the reporting requirements of RCW 19.10.070 and are required to comply with the reporting requirements contained in this section.

(1) A bank or trust company subject to examination by either the supervisor of banking of the state of Washington, the comptroller of the currency of the United States or the board of governors of the federal reserve system, which bank or trust company is acting as trustee, executor or court-appointed fiduciary: PROVIDED, That a bank or trust company which is a co-fiduciary of a trust shall be deemed to be the sole fiduciary of such trust under this section, if the bank or trust company is custodian of the books and records of the trust and has the responsibility for preparing the reports and returns which are filed with the internal revenue service;

(2) The governing body of a nonprofit community foundation or other nonprofit foundation incorporated for charitable purposes, contributions to which are currently allowed as charitable deductions under the United States income tax laws;

(3) The governing body of a hospital which is nonprofit and charitable, other than a hospital initially formed as a trustee pursuant to or in connection with the terms of a charitable trust.

The trustees described in this section shall file with the attorney general a copy of the declaration of tax exempt status if such is required to be obtained under United States tax laws, or other basis of the claim for exemption from RCW 19.10.070; a copy of the instrument establishing the trustee's title, powers or duties; an inventory of the assets of such trust; and, annually a copy of its Internal Revenue Service Form 990 or 1041-A together with IRS Form 990-AR when required.

AMD

WAC 44-01-080 REGISTRATION - TIME FOR REGISTRATION. Except as provided by WAC 44-01-170, every trustee subject to the charitable trust act shall register with the attorney general within two months after receiving property for charitable purposes. Registration shall consist of the filing of a registration statement, to which shall be attached a copy of the trust instrument, and containing the following information:

(1) Name and address of the charitable trust, foundation, or corporation or trustee subject to the act;

(2) Type of instrument creating or governing the organization, corporation, or trustee, date of instrument, and the location where it is filed;

(3) Names and addresses of trustees, or corporate officers and directors;

(4) Titles of instruments attached to the registration report;

(5) Description and value of charitable corporation or trust assets, including a statement of the current market value of such assets, and statement of liabilities of the corporation or trust;

(6) Purpose of the charitable corporation or trust;

(7) Names and addresses of beneficiaries or class or classes of beneficiaries designated by the instrument governing the

charitable corporation or trust;

(8) A copy of the declaration of tax exempt status if such is obtained under the United States tax laws; and

(9) Designation of the fiscal year of the trust or corporation, if reports are to be filed on other than a calendar year basis.

Trustees of charitable trusts, as defined in the charitable trust act and these regulations, holding or being in control of property for charitable purposes July 30, 1967, shall file the required registration statement on or before January 31, 1968. Trustees not required to report previously must file the required registration statement on or before February 9, 1972.

AMD

WAC 44-01-100 ANNUAL REPORTS - SUBSTANCE - FORM. The annual reports shall contain the information required by the United States Internal Revenue Service in its form 990 or form 1041-A if no form 990 is filed; and such further information as may be required by these regulations as amended from time to time. The report shall specifically contain a statement of the current market value of assets of the charitable corporation or trust. Such report insofar as it contains the required information, may be submitted in the form of either:

(1) The form 990, RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX, filed with the United States Internal Revenue Service and form 990-AR when required; or form 1041-A or other tax return required to be filed under United States tax law and by these regulations; or

(2) A copy of the annual account filed by the trustee in any court having jurisdiction of the trust; or

(3) A copy of an audit certified as being true and correct and in accordance with generally accepted accounting principles by any certified public accountant and containing substantially the information required as an annual report by the attorney general; or

(4) A tax exempt organization required to file annual reports under chapter 19.10 RCW and not required to file federal tax returns because their gross receipts are not normally more than \$5,000 and which organizations are not annually audited by a certified public accountant shall submit under oath a statement showing that information required by IRS form 990.

If any such alternative form is utilized and does not contain substantially all the information required by these rules, the form shall have attached to it one or more supplementary sheets providing such information.

AMD

WAC 44-01-110 ANNUAL OR PERIODIC REPORTS - TIME FOR FILING. The first annual report shall cover the first calendar or other fiscal year (as determined for federal tax reporting purposes) of the trust ending after the trust becomes subject to the act, whether or not such report covers a full twelve-month period. The report shall be filed on or before the fifteenth day of the sixth month after the close of said first calendar or other fiscal year.

Every trustee of a charitable trust subject to the reporting provisions of the charitable trust act shall, subsequent to the filing of the first annual report, file an annual report for each subsequent year during the existence of the trust except as herein provided. All such subsequent annual reports shall cover the twelve-month period ending with the calendar or other fiscal year of the trust, and they shall be due on or before the fifteenth day of the sixth month after the close of such calendar or other fiscal year. A trust or other organization which commences reporting on either a calendar or fiscal year basis shall continue

such method of reporting unless the attorney general permits a different method of reporting as provided in these regulations.

If any part of the income or principal of the charitable trust or corporation previously established was authorized or required to be applied to a charitable purpose on or before July 30, 1967, the first annual report shall be filed on or before January 31, 1968, unless filing of such report is suspended for any reason under the provisions of section 7, chapter 53, Laws of 1967, Ex. Sess.

If any part of the income or principal of a charitable trust or corporation previously exempted was authorized or required to be applied to a charitable purpose on or before August 9, 1971, the first annual report shall be filed on or before the fifteenth day of the sixth month after the close of the trust or corporation's first calendar or fiscal year ending after August 9, 1971.

The attorney general may suspend the filing of reports as to a particular trust for a reasonable, specifically designated time upon written application of the trustee filed with the attorney general, and after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and periodic reports are not required for proper supervision by his office.

AMD

WAC 44-01-170 WHEN TRUST BECOMES SUBJECT TO ACT - VESTED REMAINDERS. A trust is not exclusively for charitable purposes, within the meaning of RCW 19.10.040, when the instrument creating it contains a trust for several or mixed purposes, and any one or more of such purposes is not charitable within the meaning of RCW 19.10.020, as enacted or hereafter amended. Such instrument shall be withheld from public inspection by the attorney general and no information as to such noncharitable purposes shall be made public.

Annual reporting of such trusts to the attorney general, as now required by RCW 19.10.060 or 19.10.070, or as hereafter amended, and by these regulations shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose.

When a trust consists of a vested charitable remainder preceded by a term or life estate, a copy of the instrument only shall be filed by the trustee or by the term or life tenant, within two months after commencement of the term or life estate. Registration and annual reporting as required by RCW 19.10.060 or 19.10.070 (as the same may be hereafter amended) and by these regulations shall be required only upon the termination of such term or life estate or when trust income or principal is authorized or required to be used for a charitable purpose, whichever occurs first.

If the trust instrument contains only contingent gifts or remainders to charitable purposes, no charitable trust shall be deemed created until a charitable gift or remainder is legally vested. The first registration or report of such trust shall be filed within two months after trust income or principal is authorized or required to be used for a charitable purpose.