RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Office of the Secretary of State

Permanent Rule Only

Effective date of rule: 8/4/2012

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)**

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose:

To streamline registration requirements, clarify language, and update requirement changes due to legislation in 2011.

Citation of existing rules affected by this order:

Repealed: 434-120-017, 030, 170, 180, 220

Amended: 434-120-025, 040, 045, 046, 050, 100, 103, 105, 107, 110, 135, 140, 145, 160, 175, 185, 200, 210, 215, 225, 240, 250, 260, 307, 310, 330,

Suspended:

Statutory authority for adoption: RCW 19.09.075, 079, 097, 520

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 12-11-081 on May 17, 2012 (date).

Describe any changes other than editing from proposed to adopted version:

***Remove section 434-120-105 (2) (h) (vi) and renumber the following sections accordingly, because the amount of total expenditures used for administrative and fund-raising costs, are not required to be reported in statute.**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: phone ( ) _____

Address: fax ( ) _____

e-mail _____

Date adopted:

7/1/2012

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: July 05, 2012
TIME: 11:04 AM

WSR 12-14-114

(COMPLETE REVERSE SIDE)

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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	2	Amended	26	Repealed	5

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____

The number of sections adopted in the agency's own initiative:

New	2	Amended	26	Repealed	5

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	2	Amended	26	Repealed	5

The number of sections adopted using:

Negotiated rule making:	New	2	Amended	26	Repealed	5
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 09-22-056, filed 10/30/09, effective 11/30/09)

WAC 434-120-025 Definitions. (1) ((~~A "bona fide officer or employee" of a charitable organization is one:~~

~~(a) Whose conduct is subject to direct control by such organization;~~

~~(b) Who does not act in the manner of an independent contractor in his or her relation with the organization; and~~

~~(c) Whose compensation is not computed on funds raised or to be raised.~~

~~(2) "Annual gross revenue" means, for any accounting period, the total gross amounts, including cash or noncash contributions received by or on behalf of a charitable organization from all sources, without subtracting any costs or expenses.~~

~~(3) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable purpose, but does not include any commercial fund-raiser, commercial fund-raising entity, commercial coventurer, or any fund-raising counsel, as defined in this section. Churches and their integrated auxiliaries are not charitable organizations, but are subject to RCW 19.09.100 (12), (15), and (18).~~

~~(4)~~)) "Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including but not limited to recreational, environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, firefighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

((~~(5)~~)) (2) "Charitable trust" means any real or personal property right held by an entity or person that is intended to be used for a charitable purpose(s). The trust may be created by will, deed, articles of incorporation, or other governing instrument. It may be express or constructive.

((~~(6) "Commercial coventurer" means a corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, individual, or~~

~~other entity that:~~

~~(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public; and~~

~~(b) Is not otherwise regularly or primarily engaged in making charitable solicitations in this state or otherwise raising funds in this state for one or more charitable organizations; and~~

~~(c) Represents to prospective purchasers that if they purchase a good or service from the commercial coventurer, a specified portion of the sales price or a certain sum of money or some other specified thing of value will be donated to a named charitable organization; and~~

~~(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.~~

~~(7) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits or receives contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, a commercial coventurer, fund-raising counsel, or consultant, as defined by this section, is not a commercial fund-raiser or commercial fund-raising entity.~~

~~(8)~~)) (3) "Compensation," means salaries, wages, fees, commissions, or any other remuneration or valuable consideration. Compensation shall not include reimbursement for expenses incurred and documented or noncash awards or prizes, valued at one hundred dollars or less, given annually to each volunteer.

((~~(9) "Contribution" means the payment, donation, promise, or grant, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights.~~

~~(10) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation.~~

~~(11)~~)) (4) "Entity" means an organization, individual or institution with its own existence for legal and/or federal tax purposes. It has the capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions. Entity may include, but is not limited to, an individual, organization, corporation, association, limited liability company, trust, group, partnership, proprietorship, company, estate, agency or unit of state government, person as defined in RCW 1.16.080, or any combination thereof.

For purposes of complying with registration requirements under

Washington's Charitable Solicitations Act, "entity" does not include a branch, chapter, unit, affiliate or similar subordinate of another entity if said subordinate:

(a) Is under the direct supervision and control of the related entity;

(b) Does not have its own separate existence from the related entity for legal and/or federal tax purposes; and

(c) The related entity maintains registration under chapter 19.09 RCW.

Regardless of whether or not a subordinate is required to register under the act, it shall comply with the conditions set forth under RCW 19.09.100.

((~~Interpretive note: Notwithstanding other facts that may be indicative of a separate existence for legal and federal tax purposes, a branch, chapter, unit, affiliate or similar subordinate; (i) has its own existence for legal purposes if said subordinate has an organizational structure separate from a related entity; and (ii) has its own existence for federal tax purposes if it has been issued a federal employer identification number separate from a related entity, falls under a central organization's IRS group exemption, has obtained its own federal tax exempt status separate from a related entity, is required to file a separate federal informational return, or is included in a central organization's group return.~~

~~(12) "Fund-raising counsel" or "consultant" means any entity or individual who is retained by a charitable organization for a fixed fee or rate, that is not computed on a percentage of funds raised, or to be raised, under a written agreement only to plan, advise, consult, or prepare materials for a solicitation of contributions in this state, but who does not manage, conduct, or carry on a fund-raising campaign and who does not solicit contributions or employ, procure, or engage in any compensated person to solicit contributions, and who does not at any time, have custody or control of contributions. A volunteer, employee, or salaried officer of a charitable organization maintaining a permanent establishment or office in this state is not a fund-raising counsel. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a fund-raising counsel as a result of the advice.~~

~~(13) "General public" or "public" means any individual located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.~~

~~(14)~~)) (5) "Income-producing assets" means assets that are purchased with the prospect that the assets will generate income or appreciate in the future. In finance, an investment is a monetary asset purchased with the idea that the asset will provide income in the future or appreciate and be sold at a higher price; these investments would include, but are not limited to stocks, bonds or real property.

((~~(15) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a~~

~~bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.~~

~~(16) "Other employee" of a charitable organization means any person:~~

~~(a) Whose conduct is subject to direct control by such organization;~~

~~(b) Who does not act in the manner of an independent contractor in his or her relation with the organization; and~~

~~(c) Who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable purposes or religious activities.~~

~~(17) "Political organization" means those organizations whose activities are subject to chapter 42.17 RCW or the Federal Election Campaign Act of 1971, as amended.~~

~~(18) "Religious organizations" means those entities that are not churches or integrated auxiliaries as defined and includes nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, speakers' organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.~~

~~(19)~~)) (6) "Renewal date" means:

(a) For charitable organizations, the ((~~fifteenth~~)) last day of the ((~~fifth~~)) eleventh month after the close of the organization's ((~~fiscal or~~)) accounting year; and

(b) For commercial fund-raisers, the fifteenth day of the fifth month following the close of the organization's accounting year.

((~~(20) The "review" as used in WAC 434-120-107(2), means a review of a tax reporting form, including financial presentations included in the tax return, for state reporting purposes in accordance with chapter 19.09 RCW. "Review" does not mean a "review engagement" as defined by the American Institute of Certified Public Accountants (AICPA) Statements of Standards for Accounting and Review Services (SSARS).~~

~~(21)~~)) (7) "Secretary" means the secretary of state or the secretary's designee, or authorized representative.

((~~(22) "Signed" means hand-written, or, if the secretary adopts rules facilitating electronic filing that pertain to this chapter, in the manner prescribed by those rules.~~

~~(23)(a) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:~~

~~(i) Any appeal is made for any charitable purpose; or~~

~~(ii) The name of any charitable organization is used as an inducement for consummating the sale; or~~

~~(iii) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.~~

~~(b) The solicitation shall be deemed complete when made, whether or not the person making it receives any contribution or makes any sale.~~

~~(c)~~)) (8) "Solicitation" is defined in RCW 19.09.020(19) and includes:

(a) A commercial fund-raiser ((~~is considered to solicit~~)) soliciting or ((~~receive~~)) receiving contributions from the public directly if contributions are solicited or received by the fund-raiser or by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members.

((~~(d)~~)) (b) Contributions are considered to be solicited or received indirectly if they are solicited or received by:

(i) Any organization owned or controlled by the commercial fund-raiser or owned or controlled by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members; or

(ii) Any person or organization, other than the charitable organization for which funds are solicited, with which the commercial fund-raiser as a contractual relationship governing the solicitation or receipt of contributions.

((~~(e)~~)) (c) "Solicitation" as defined in RCW 19.09.020((~~(18)~~)) (19), ((~~for the purposes of these regulations,~~)) does not include any of the following:

(i) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an established application and review procedure for reviewing such requests;

(ii) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a theatrical or other performance presented by a charitable organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities((~~; or~~

~~(iii) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission~~)).

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-040 Public information derived from registration. (1) Registration forms, and attachments, filed by charitable organizations and commercial fund-raisers pursuant to WAC 434-120-105 and 434-120-215, are available for public inspection or copying. However, Social Security numbers and financial account numbers are not public information. For purposes of public reports

derived from that registration information, the secretary shall calculate, and make available to the public, the following information:

(2) For charitable organizations, the percentage of total expenditures in a reporting year allocated to charitable program services. This shall be calculated by dividing the amount reported as expended for charitable purposes by the amount reported as total expenses, and multiplying by 100.

(3) For commercial fund-raisers the percentage of the proceeds of charitable solicitations which are paid to or retained by charitable organizations. This shall be calculated by dividing the amount reported ((~~pursuant to WAC 434-120-215 (2)(l)(iii)(B) by the amount reported pursuant to WAC 434-120-215 (2)(l)(iii)(A),~~)) as received or retained by the charitable organization(s) after all fund-raising expenses have been deducted, by the amount reported as raised, regardless of who has possession of funds and multiplying by 100.

(4) Registrations of charitable trusts with several or mixed purposes shall not be made public under RCW 11.110.040 and 11.110.075.

AMENDATORY SECTION (Amending WSR 09-22-056, filed 10/30/09, effective 11/30/09)

WAC 434-120-045 Change in status, notification. An entity required to register under chapter 19.09 RCW shall notify the charities program in writing, within thirty days of any changes to its registration ((~~pursuant to WAC 434-120-105 and 434-120-215, or any other changes within thirty days after the change~~)).

The organization ((~~shall~~)) may submit the changes using the form that is available from the charities program and ((~~the appropriate fee per WAC 434-120-145~~)) request it by phone, e-mail, or access it on-line. There is no filing fee to submit changes of information.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-046 Record retention. (1) Charitable organizations and commercial fund-raisers shall keep, for a three-year period, the annual solicitation reports and the supporting documents including books, ledgers, prepared statements, compilations, reviews, or audit reports, or any other records on which they were based.

(2) Charitable trusts shall keep, for a three-year period, their annual financial information, and the supporting documents including books, ledgers, prepared statements, compilations, reviews, or audit reports, or any other records on which they were based.

(3) Solicitation reports, financial statements, and any other records, shall be available to the secretary of state, attorney general or county prosecutor on request.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-050 Signatures for on-line filings. When submitting an on-line filing, the person completing the filing shall sign the application by((~~: Typing their full name in the space provided on the web form; stating their capacity with the entity addressed in the filing; and~~)) following the directions for signing the web form.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-100 Who shall register--Exemptions. (1) Any entity that ((~~will~~)) conducts ((~~a~~)) charitable solicitations or will solicit ((~~funds~~)) or collect contributions from the general public for charitable purposes shall register with the charities program under the Charitable Solicitations Act.

(2) Entities exempt from registration ((~~are~~)) include the following:

(a) ((~~Fund-raising counsel as defined in WAC 434-120-025(11);~~

~~(b)~~)) Any political organization as defined in ((~~WAC 434-120-025(16)~~)) RCW 19.09.020(15);

((~~(c)~~)) (b) Any entity which raises less than ((~~twenty-five~~)) fifty thousand dollars in revenue in any accounting year, if all ((~~of whose~~)) its activities including fund-raising, are conducted by volunteers, and ((~~whose~~)) no officers or members ((~~do not~~)) receive assets ((~~of~~)), or ((~~benefits~~)) compensation from the organization;

((~~(d)~~)) (c) A bona fide officer or other employee of the charitable organization for which the funds are solicited; and

((~~(e)~~)) (d) Any ((~~appeal for funds~~)) request for a contribution on behalf of a specific individual named in the solicitation, but only if all of the proceeds ((~~of the solicitation~~)) are given to or expended for the direct benefit of

that individual. This does not include organizations that conduct solicitations for one or more individuals on a repeated or ongoing basis.

(3) Any entity that is exempt from registration by these regulations ((~~soliciting or conducting a solicitation~~)) shall comply with the conditions for solicitations as described in RCW 19.09.100.

(4) Interpretive note: The secretary of state does not interpret RCW 19.09.065 as requiring a registration by an employee of an educational institution who, as part of his or her employment with the institution, solicits contributions on behalf of a nonprofit charitable foundation affiliated with that institution, if the foundation is registered and the educational institution is either:

(a) A public school, college, or university operated by the state of Washington, one of its school districts, or a comparable public institution of another state or nation; or

(b) A private entity that is nonprofit and charitable, having a program of primary, secondary, or collegiate instruction comparable in scope to that of any public school or college operated by the state of Washington or any of its school districts.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-103 Required forms and filings. (1) A charitable organization complies with the ((~~filing and~~)) registration requirements of this chapter by filing ((~~the following documents~~)) with the secretary of state at the times, and in the manner, prescribed by these rules either the:

(a) State registration form described in ((~~WAC 434-120-105~~)) RCW 19.09.075(1). ((~~This~~)) The state registration form is available through the charities program; or

(b) Unified Registration Statement developed by the National Association of State Charity Officials (NASCO), if accompanied by the components identified for filing in Washington in the unified registration statement addendum. The unified registration statement and the addendum are available for download from the charities program web site.

(2) ((~~These~~)) The unified registration forms ((~~are~~)) may be used for an original registration ((~~form~~)), as well as ((~~for~~)) an annual renewal. The purpose of this ((~~report~~)) registration or renewal is to provide the public with basic information about the organization, as described in RCW 19.09.075 or WAC 434-120-105.

(3) Whether the state registration form or the unified registration statement ((~~must be~~)) and addendum are filed ((~~together~~)), each must be filed along with:

((~~(a)~~)) A solicitation report. ((~~This financial~~)) The solicitation report is filed by all charitable organizations,

except those exempted by ((~~these rules~~)) law. The purpose of this report is to provide financial information ((~~regarding solicitations conducted during~~)) covering the reporting period. Solicitation reports are also filed as part of an annual renewal((~~, and~~

~~(b) All contracts between the commercial fund-raiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240~~)).

(4) ((~~The unified registration statement and the addendum are available for download at: http://www.multistatefiling.org.~~

~~(5) The financial statement required by WAC 434-120-130 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.~~

~~(6)~~)) A separate contract registration form accompanied by a copy of the contract between a commercial fund-raiser and any charitable organization must be filed with the secretary, before the commencement of any campaign as provided by RCW 19.09.097.

(5) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-105 Charitable organization registration--Form and requirements. (1) Charitable organizations registering under this act shall submit the registration form described in WAC 434-120-103. The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 19.09 RCW shall not excuse the failure to comply.

(2) In addition to the requirements under RCW 19.09.075, a registration is not complete, and will not be accepted for filing, unless it includes:

(a) ((~~The name of the organization, and every address (including~~)) Both ((~~physical~~)) the mailing address and any ((~~mailing~~)) physical address if different((~~), telephone number(s), fax number(s), and~~)), federal taxpayer identification number, ((~~including~~)) and any electronic mail or internet addresses used by the organization. Private mail boxes must be identified through use of the designation "PMB" followed by the box number;

(b) All of the names under which the organization will solicit contributions, including, but not limited to, acronyms, abbreviations, DBAs and program names used in charitable solicitations reflected in the registration;

(c) If the ((~~type of~~)) organization ((~~and taxpayer~~

~~identification number~~)) is registered in Washington, the unified business identifier, and if the organization is ((~~registered in~~)) incorporated outside the state of Washington ((~~and date established, and if the organization is incorporated~~)), the state ((~~and date~~)) of incorporation;

(d) The beginning and ending dates of its ((~~current fiscal or~~)) most recently completed accounting year;

(e) ((~~The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or action is currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;~~

~~(f) A list of all states where the organization is registered for charitable solicitations;~~

~~(g) The name, address, and telephone number of the officers or of persons accepting responsibility for the organization, including the:~~

~~(i) Members of the board of directors or any committee or group serving the function of a board of directors, regardless of the name of the committee or group; and~~

~~(ii) Officers of the charitable organization, or the persons serving the function of officers, regardless of the title of the position;~~

~~(h) The names of the three officers or employees receiving the greatest amount of compensation from the organization;~~

~~(i) The purpose of the charitable organization, including, if applicable, the names and addresses of any specific beneficiaries which the charitable organization supports and to whom assets would be distributed to in the event of dissolution. When filing a renewal or an updated registration, the organization is not required to submit a list of beneficiaries if there have been no changes to that list;~~

~~(j) A statement indicating whether the organization is exempt from federal income tax, and copy of the letter by which the Internal Revenue Service granted the organization tax exempt status if the Internal Revenue Service has granted the organization such status. The organization shall indicate the section of the Internal Revenue Code under which they are exempt from the federal income tax;~~

~~(k) The name and address of the person or entity with authority for the preparation of financial statements or the maintenance of financial information on behalf of the organization;~~

~~(l) The name, address, and telephone number of an individual with expenditure authority who can respond to questions regarding expenditures of funds, and the names and addresses of any commercial fund-raiser who has the authority to expend funds or incur obligations on behalf of the organization;~~

~~(m) An irrevocable appointment of the secretary to receive~~

~~service of process in noncriminal proceedings as provided in RCW 19.09.305;~~

~~(n)~~)) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or for action currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;

(f) A list of all states where the organization is registered for charitable solicitations;

(g) The officers or persons required under RCW 19.09.075 (1)(c) may include:

(i) Members of the board of directors or any committee or group serving the function of a board of directors, regardless of the name of the committee or group; and

(ii) Officers of the charitable organization, or the persons serving the function of officers, regardless of the title of the position.

(h) In addition to the financial information in RCW 19.09.075 (1)(h), a solicitation report of the charitable organization for the preceding ((~~fiscal or~~)) accounting year ((~~including~~)) includes, but is not limited to:

(i) ((~~The types of solicitations conducted;~~

~~(ii) The name, physical address, and telephone number of any commercial fund-raiser conducting solicitations on behalf of the organization in Washington during the period covered by this report; and~~

~~(iii)~~)) All addresses, physical or mailing, used to solicit or collect contributions;

(ii) The total dollar value of contributions received from solicitations, ((~~which includes but is not limited to,~~)) special events, sale of inventory, and amounts collected on behalf of the charitable organization by a commercial fund-raiser;

((~~(iv)~~)) (iii) The total dollar value of revenue from all other sources;

((~~(v)~~)) (iv) Gross receipts, including amounts collected on behalf of the charitable organization by a commercial fund-raiser or commercial coventurer regardless of custody of funds. "Gross receipts" include, but are not limited to, contributions, gross revenue from special events, sales of inventory, goods or services (including tickets to events), and all other revenue from solicitations;

((~~(vi)~~)) (v) The amount of total expenditures used directly for charitable program services, including payments to affiliates if costs involved are not connected with the administrative or fund-raising functions of the reporting organization;

((~~(vii) The amount of total expenditures used for administrative and fund-raising costs, including amounts paid to or retained by a commercial fund-raiser or fund-raising counsel.~~

~~"Administrative and fund-raising costs" include, but are not limited to, the following expenses if not directly related to program services; salaries, wages, compensation, legal, accounting, occupancy, equipment costs, printing and publications, telephone, postage, supplies, travel, meetings, fees for services (including fund-raising consultation), and cost of goods or inventory sold that are not directly related to program services.~~

~~(viii)~~)) (vi) Total expenditures, including, but not limited to, amounts paid to or retained by a commercial fund-raiser, or fund-raising counsel, amounts expended for charitable program services, administrative expenses, fees for services, and fund-raising costs incurred by the charitable organization.

((~~(ix)~~)) (vii) Beginning assets; and

((~~(x)~~)) (viii) Ending assets.

((~~(o) A copy of the charitable organization's federal informational return (Form 990, 990PF, 990EZ, or 990T) reflecting the fiscal or accounting year covered by this report; if the federal informational return does not contain the total amount of money applied to charitable purposes, fund-raising costs and other expenses as required pursuant to RCW 19.09.075 (7)(c), a supplemental report may be required by the secretary. The supplemental report shall be in the form prescribed by the secretary.~~

~~(p)~~)) (ix) The charitable organization may provide additional information which the organization believes would be of assistance in understanding other reported information, or to provide context for reported information.

(3) The organization shall report actual figures, and shall not use estimates, when completing a solicitation report ((~~or a supplemental solicitation report~~)).

(4) All charitable organization registrations shall be signed and dated by the president, treasurer, or comparable officer of the organization or, in the absence of officers, person responsible for the organization.

AMENDATORY SECTION (Amending WSR 10-22-048, filed 10/28/10, effective 11/28/10)

WAC 434-120-107 Audited financial report--Tiered reporting requirements ((~~(effective January 1, 2010)~~)). (1) ((~~Tier one: Charitable organizations with one million dollars or less in annual gross revenue averaged over the last three accounting years must meet the financial reporting requirements specified in RCW 19.09.075 and WAC 434-120-105.~~

~~(2) Tier two: Charitable organizations with more than one million dollars and up to three million dollars in annual gross revenue averaged over the last three accounting years, must provide one of the following:~~

~~(a) A photocopy of the federal tax reporting form (990, 990EZ, 990 PF) that has been prepared by a certified public accountant or other professional, who normally prepares or reviews federal returns in the ordinary course of their business; or~~

~~(b) A photocopy of an audited financial statement prepared by an independent certified public accountant for the preceding accounting year; or~~

~~(c) For governmental entities, a photocopy of the most recent audited financial statement prepared by the applicable government auditing agency or other independent certified public accountant.~~

~~(3) Tier three: Charitable organizations with more than three million dollars in annual gross revenue averaged over the last three accounting years, must submit one of the following:~~

~~(a) A photocopy of an audited financial statement prepared by an independent certified public accountant for the preceding accounting year; or~~

~~(b) For governmental entities, a photocopy of the most recent audited financial statement prepared by the applicable government auditing agency or other independent certified public accountant.~~

~~(4)~~)) If an organization has been in existence for less than three years, the organization must calculate its average gross revenue based on the number of years the organization has been in existence to determine which tier, per RCW 19.09.541, is applicable.

((~~(5) Waiver of audit requirement:~~)) (2) For purposes of these regulations, the secretary may waive the requirement to ((~~file~~)) obtain an audited financial statement((~~s~~)) prepared by an independent certified public accountant for organizations with more than three million dollars in gross revenue averaged over the last three accounting years ((~~and~~)) that meet one of the following:

(a) Directly or indirectly receives five hundred thousand dollars or less in cash averaged over the last three accounting years. Organizations with five hundred thousand dollars or less in cash averaged over the last three accounting years must meet tier two reporting requirements in RCW 19.09.541(2). For purposes of meeting the financial requirements in this section, "cash" includes currency, checks, credit card payments, donor advised funds, and electronic fund transfers received from all sources including, but not limited to, solicitations, investment income and tuition. "Cash" does not include gifts of tangible, real, or personal property or in-kind services; or

(b) Organizations who can demonstrate that they have reached a three-year average of more than three million dollars in gross revenue through unusual or nonrecurring revenue received in a single year without which they would not have met the three-year annual gross average threshold.

AMENDATORY SECTION (Amending WSR 10-22-048, filed 10/28/10, effective 11/28/10)

WAC 434-120-110 Organizations exempt from filing requirements--Optional ((~~filing~~)) registration. (1) Charitable organizations exempt from the filing requirements of this chapter under RCW ((~~19.09.076(1)~~)) 19.09.081 and WAC 434-120-100(2)((~~(b), (c), or (e)~~)) may ((~~register~~)) file an optional registration with the charities program.

(2) Charitable organizations choosing to ((~~register~~)) file an optional registration under this section may register by completing the registration form specified by the secretary.

(3) Charitable organizations registered under this section may change or update their registration by filing the updated information with the charities program.

(4) Expedited processing under WAC 434-112-080 is available for registrations and updates under this section.

((~~(5) The secretary offers this optional registration because some grant making entities and programs require registration with the charities program.~~))

AMENDATORY SECTION (Amending WSR 10-22-048, filed 10/28/10, effective 11/28/10)

WAC 434-120-135 Contributor lists. All charitable organizations registered under this act must keep records of all contributors to the organization for three years. If a commercial fund raiser manages a campaign for a charitable organization, either the commercial fund raiser or the charitable organization must be the entity responsible for maintaining the contributor records for that campaign. These records must include the names of the following contributors:

(1) Each contributing entity that collects individual donations from an employee or member group or a business, turning them over to the charitable organization as a single sum, such as the United Way;

(2) Each corporation that contributed; and

(3) Each individual who contributed more than twenty-five dollars.

The records must be compiled and retrievable ((~~and compilable~~)) for a period of three years and must be turned over within ten working days upon written request of the attorney general or the county prosecutor, although the organization is not required to keep the names in a standard list format at all times.

AMENDATORY SECTION (Amending WSR 10-22-048, filed 10/28/10, effective 11/28/10)

WAC 434-120-140 How and when to register. (1) Initial registration: An entity required to register as a charitable organization must complete the form described in RCW 19.09.075 and WAC ((~~434-120-105~~)) 434-120-103 and submit it with the fee in ((~~WAC 434-120-145~~)) RCW 19.09.162(1) prior to conducting any solicitation.

(2) Annual renewal:

(a) An entity must renew its charitable registration by ((~~no later than~~)) submitting a renewal form and the fee in RCW 19.09.062(2) so they are received by the ((~~fifteenth~~)) last day of the ((~~fifth~~)) eleventh month after the end of its accounting year.

(b) The renewal must include the same information required for registration as described in RCW 19.09.075 and WAC 434-120-105 ((~~and RCW 19.09.075,~~)) except that a determination letter from the Internal Revenue Service need not be attached if it was previously filed. The solicitation report will be based on the most recent filing with the Internal Revenue Service or if the organization does not file with the Internal Revenue Service, the solicitation report will be based on the most recently completed accounting year. No organization may submit the same financial information for two consecutive years.

(c) ((~~No~~)) A change in an entity's accounting year ((~~may~~)) will not cause the due date of a renewal to be more than one year after the previous registration or renewal. ((~~For purposes of renewals that include financial information for a partial year, due to a change of accounting year, threshold levels for registration and financial statement requirements must be determined on a prorated basis.~~

~~(3) An organization must notify the charities program of a change in organization name, mailing address, organization structure, principal officer, Washington representative, tax status, accounting year, or any other information filed under RCW 19.09.075 or WAC 434-120-105.~~

~~(4) The organization must submit changes using the form available from the charities program within thirty days after the change.~~))

AMENDATORY SECTION (Amending WSR 10-22-048, filed 10/28/10, effective 11/28/10)

WAC 434-120-145 Fees. (1) ((~~Original~~)) Initial registration: Entities registering as charitable organizations must pay a fee of sixty dollars for the first year of registration; charitable organizations registering ((~~as exempt~~)) an optional registration per RCW ((~~19.09.076(1)~~)) 19.09.081, may do so at no ((~~fee~~)) charge.

(2) Annual renewal: Charitable organizations must pay ((~~a~~)) an annual renewal fee of forty dollars; organizations choosing to register ((~~as exempt~~)) an optional registration per ((~~WAC 434-120-110,~~)) RCW 19.09.081 are not required to ((~~renew~~)) file annual renewals.

(3) Information changes: Organizations filing changes of information described in ((~~WAC 434-120-105 will file~~)) RCW 19.09.085(3) may do so at no charge.

(4) Photocopy fees: For copy of a charitable organization registration form or letter, including the ((~~finance and~~)) solicitation report((~~s~~)), the fee is five dollars per entity.

(5) The fee for expedited service is twenty dollars for single on-line transactions within each new or existing charity's program file. The fee for expedited service of paper documents (in-person((~~,~~)) or mail ((~~or fax~~))) is fifty dollars for single or multiple transactions within each new or existing charity's program file. In addition, the filing fee for each transaction will apply.

(6) For service of process on a registered charity, commercial fund-raiser, or charitable trust, the fee is fifty dollars per address.

(7) Charitable organizations must pay a sixty dollar filing fee to reactivate their registration following closure per RCW 19.09.062 and pay applicable late fee per RCW 19.09.271.

(8) Charitable organizations must pay the twenty dollar filing fee to register a contract with a commercial fund-raiser as required in RCW 19.09.097 and WAC 434-120-240.

AMENDATORY SECTION (Amending WSR 10-15-036, filed 7/13/10, effective 8/13/10)

WAC 434-120-160 Fees for late registration. (1) A charitable organization that fails to renew its registration by its renewal date must pay a late fee of fifty dollars. ((~~The charitable organization must pay an additional fifty dollar late fee for each year, including the current year, that it was not registered under this act, but was required to do so. If the registration has lapsed for a period of more than two years, the entity must provide solicitation information for the previous two years, and must reregister as a new charitable organization.~~))

(2) The fees for late registration are in addition to the filing fees under WAC 434-120-145, and any other remedies that may be imposed by law, including penalties for soliciting without being registered.

(3) The charitable organization may ask the secretary to waive fees for late registration. The request must include a description of the circumstances that justify a waiver of the late fees. Under special circumstances the secretary may waive fees for late registration that are imposed by these regulations.

NEW SECTION

WAC 434-120-165 Failure to renew, registration closure and reactivating registration--Charitable organizations. (1) A charitable organization who fails to renew its registration by the renewal date is considered to have a delinquent registration status and is subject to a late fee per WAC 434-120-160.

(a) The secretary will send by regular or electronic mail a delinquency notice within sixty days of the organization's delinquent status. The notice will include a request that the organization provide the items within thirty days to renew its registration. The organization's failure to receive the notice will not alter its delinquent status or relieve it of the requirement to renew.

(b) A charitable organization who fails to submit the required items within thirty days of notice will be deemed unregistered and its registration will be closed. Registration closure may also occur if the secretary's notice is not deliverable at the organization's mailing address of record.

(2) If a registration or renewal is incomplete, the secretary will contact the charitable organization by regular or electronic mail and request the missing items within thirty days. If the requested items are not received within thirty days, the registration or renewal will not be filed and the organization must resubmit the required form, filing fee and applicable late fee to register or renew. The organization may retain the original registration number assigned by the secretary. If the organization's renewal date has passed, its registration will be closed. Registration closure will also occur if the secretary's notice is not deliverable at the organization's mailing address of record. Filing fees are nonrefundable.

(3) A charitable organization whose registration has been closed must reactivate its registration by submitting an initial registration form including a solicitation report for the preceding completed accounting year and an initial sixty dollar filing fee. Late fees apply per WAC 434-120-160. The organization may retain the original registration number assigned by the secretary.

(4) A charitable organization that closes its registration voluntarily because it is no longer required to register may reactivate its registration by submitting an initial registration form including a solicitation report for the preceding completed accounting year and an initial sixty dollar filing fee. The organization may retain the original registration number assigned by the secretary.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-175 Voluntary verification information. Each organization registering ((~~under the act~~)) with the secretary may submit additional information, not required by law, ((~~for its file~~)) if the information is intended to inform the public about its programs and activities and to verify its existence. ((~~The charities program may place such information in the organization's file for a specified period of time. Persons coming into the office may read such information; however, no voluntary verification information shall be mailed out.~~))

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-185 Charitable advisory council. The purpose of the charitable advisory council is to advise the secretary in the following areas:

(1) Training and education needs of charitable organizations within the state;

(2) Model policies related to governance and administration of charitable organizations in accordance with fiduciary principles;

(3) Emerging issues and trends affecting charitable organizations; and

(4) Other related issues at the request of the secretary.

The council will consist of thirteen members chosen by the secretary to represent a broad range of charities by size, purpose, geographic regions of the state, and general expertise in management and leadership of charitable organizations. An ex officio member will be appointed by the attorney general ((~~per RCW 19.09.510~~)).

Members serve at the pleasure of the secretary. Terms are staggered, with the original board drawing lots for two-and three-year terms. All following terms are three years but all terms expire no later than when the appointing secretary leaves office. Vacancies may be filled by the secretary upon notice of a vacancy from the member.

The council will elect a chairperson from its members annually. The frequency of meetings will be at least twice a year, but additional meetings may be called by the secretary or the council. Council members are not compensated for their service, but may be reimbursed for expenses incurred in the conduct of their official duties. Reimbursement is at current state rates for travel and all reimbursement requests must be received within thirty days of incurring the expense.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-200 Required filings. (1) A commercial fund-raiser complies with the ((~~filing and~~)) registration requirements of this chapter by filing the following documents with the secretary of state at the times, and in the manner, prescribed by these rules:

(a) Commercial fund-raiser registration form. This form is used as an ((~~original~~)) initial registration form, as well as an annual renewal form. The purpose of this report is to provide basic information about the organization, as described in RCW 19.09.079;

(b) Solicitation report. These reports are filed annually by all commercial fund-raisers, except those exempted by these rules. The purpose of ((~~these~~)) this report((~~s~~)) is to provide financial information ((~~regarding solicitations conducted~~)) during the reporting period, of an informational nature to the public((~~. These reports must be filed in the time and manner specified in WAC 434-120-215~~)); and

(c) All surety bonds required by WAC 434-120-260((~~; and~~

~~(d) All contracts between the commercial fund-raiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240~~)).

(2) The financial statement required by WAC 434-120-255 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.

(3) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-210 Who shall register. (1) Every commercial fund-raiser, as described in RCW 19.09.020(5), shall register each year, pursuant to WAC ((~~434-120-215~~)) 434-120-200 by completing the form described in RCW 19.09.079 and WAC 434-120-215 and submitting it with the fee in RCW 19.09.062(3) prior to conducting any solicitation.

(2) Entities exempt from registration include the following:

(a) Fund-raising counsel as defined in RCW 19.09.020(10);

(b) Commercial coventurers as defined in 19.09.020(4); and

(c) Suppliers of goods and services to charitable organizations for fund-raising purposes are exempt from registration, if they are not otherwise engaged in the business of

charitable fund-raising.

(3) If a commercial fund-raiser does business under more than one name, each name used by that entity must be registered and bonded separately.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-215 Commercial fund-raiser registration--Form and requirements. (1) Commercial fund-raisers registering under this act shall use the commercial fund-raiser registration form ((~~available in the office of the charities program~~)) described in WAC 434-120-200. The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 19.09 RCW, shall not excuse the failure to comply. The secretary's acceptance of a registration or other filing which violates these rules or chapter 19.09 RCW shall not excuse the violation.

(2) In addition to the requirements under RCW 19.09.079, a registration is not complete, and will not be accepted for filing, unless it includes:

(a) Both the ((~~name of the organization, and every address (including both physical~~)) mailing address and ((~~any mailing~~)) physical address (if different), ((~~telephone number(s), fax number(s), of the commercial fund-raising entity under which contributions are being solicited or received, including~~)) and any electronic mail or internet addresses, as well as any physical or mailing addresses, used by the ((~~organization~~)) commercial fund-raiser to solicit or receive contributions. Private mail boxes must be identified through use of the designation "PMB" followed by the box number;

(b) ((~~The name(s); address(es); and telephone number(s) of the individual(s) responsible for fund-raising activities of the entity in Washington state;~~

~~(c)~~)) The type of organization, federal taxpayer identification number, the unified business identifier if the organization is registered in Washington ((~~and date established,~~)) and if the organization is incorporated, the state ((~~and date~~)) of incorporation;

((~~(d)~~)) (c) The ((~~end date~~)) beginning and ending dates of its ((~~current fiscal or~~)) preceding completed accounting year;

((~~(e) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or action is currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation,~~

~~revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;~~

~~(f) A list of all states where the organization is registered for fund-raising, including any other names under which the organization is currently registered or has been registered in the past three years;~~

~~(g) The name, address, and telephone number of the officers or of persons accepting responsibility for the organization;~~

~~(h) The names of the three officers or employees receiving the greatest amount of compensation from the organization;~~

~~(i) The name and address of the person or entity with authority for the preparation of financial statements or the maintenance of financial information on behalf of the organization;~~

~~(j) The name, address, and telephone number of an individual with expenditure authority who can respond to questions regarding expenditures of funds, and the names and addresses of any charitable organizations who have given the commercial fund-raiser authority to expend funds or incur obligations on behalf of the organization;~~

~~(k) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305;~~

~~(l)~~)) (d) The court or other forum, case number and title of all legal actions, if any, in which a judgment or final order was entered, or for action is currently pending, against any organization or individual required to be identified in the registration. "Actions" include any administrative or judicial proceeding alleging that the entity has failed to comply with these rules, chapter 19.09 RCW, or state or federal laws pertaining to taxation, revenue, charitable solicitation, or recordkeeping, whether such action has been instituted by a public agency or a private person or entity;

(e) A list of all states where the organization is registered for charitable solicitations;

(f) In addition to the financial information in RCW 19.09.079(6), a solicitation report is required of the fund-raising activities of the entity for the preceding ((~~fiscal or~~)) accounting year ((~~including~~)) and includes, but is not limited to:

(i) ((~~The types of fund-raising services conducted;~~

~~(ii) The name of each charitable organization to whom this entity has provided fund-raising services;~~

~~(iii) The total dollar value of the following:~~

~~(A)~~)) Contributions received, either by the commercial fund-raiser or the charities with which the commercial fund-raiser contracts, as a result of services provided by the commercial fund-raiser during the year shown above. (This is the total amount of money raised, regardless of who has possession of funds.)

((~~(B)~~)) (ii) Funds either retained by, or paid to, the charities with whom the commercial fund-raiser contracts, after fees and any expenses have been subtracted. (This is the portion of money raised that the charities receive or keep after all fund-raising expenses have been deducted.)

((~~(iv) The name, address, and telephone number of any other commercial fund-raiser retained in the conduct of providing fund-raising services;~~))

(3) The commercial fund-raiser may provide additional information which the commercial fund-raiser believes would be of assistance in understanding other reported information, or to provide context for reported information.

(4) The commercial fund-raiser ((~~shall~~)) must report actual figures and shall not use estimates when completing a solicitation report ((~~or a supplemental solicitation report~~)).

(5) All commercial fund-raiser registrations shall be signed by an officer or owner of the commercial fund-raiser.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-225 Annual renewal. (1) Each commercial fund-raiser shall renew annually by submitting a renewal form and the filing fee in RCW 19.09.062 so they are received by no later than the fifteenth day of the fifth month after the end of its ((~~fiscal~~)) accounting year.

The renewal must include the same information required for registration as described in RCW 19.09.079 and WAC 434-120-215. The solicitation report will be based on the most recently completed accounting year. No organization may submit the same financial information for two consecutive years.

(2) No change in a fund-raiser's ((~~fiscal~~)) accounting year ((~~shall~~)) will cause the due date of a renewal to be more than one year after the previous registration or renewal. ((~~For purposes of renewals that include financial information for a partial year, due to a change of fiscal year, threshold levels for financial statement requirements shall be determined on a prorated basis.~~))

AMENDATORY SECTION (Amending WSR 09-22-056, filed 10/30/09, effective 11/30/09)

WAC 434-120-240 Contract between a commercial fund-raiser and a charitable organization. (1) A commercial fund-raiser and charitable organization entering into a contract shall register the contract by completing the contract registration form, attaching a signed copy of the written contract, and filing the form and contract with the secretary. The contract shall be registered before the commencement of the campaign.

(2) The charitable organization is responsible for registering

the contract, contract registration form and paying the appropriate fee per ((~~WAC 434-120-250~~)) RCW 19.09.062(5).

(3) ((~~Both the contract and registration form shall be signed by the commercial fund-raiser owner or principal and the charitable organization president, treasurer, or comparable officer.~~

~~(4)~~)) In addition to the statutory requirements of RCW 19.09.097, the terms of the contract shall specify who will maintain the donor list.

NEW SECTION

WAC 434-120-245 Failure to renew, registration closure and reactivating registration--Commercial fund-raisers. (1) A commercial fund-raiser who fails to renew its registration by the renewal date is considered to have a delinquent registration status and is subject to a late fee per WAC 434-120-250.

(a) The secretary will send by regular or electronic mail a delinquency notice within sixty days of the organization's delinquent status. The notice will include a request that the organization provide the items within thirty days to renew its registration. The organization's failure to receive the notice will not alter its delinquent status or relieve it of the requirement to renew.

(b) A commercial fund-raiser who fails to submit the required items within thirty days of notice will be deemed unregistered and its registration will be closed. Registration closure may also occur if the secretary's notice is not deliverable at the organization's mailing address of record.

(2) If a registration or renewal is incomplete, the secretary will contact the commercial fund-raiser by regular or electronic mail and request the missing items within thirty days. If the requested items are not received within thirty days, the registration or renewal will not be filed and the organization must resubmit the required form, filing fee and applicable late fee to register or renew and it may retain the original registration number assigned by the secretary. If the organization's renewal date has passed, its registration will be closed. Registration closure will also occur if the secretary's notice is not deliverable at the organization's mailing address of record. Filing fees are nonrefundable.

(3) A commercial fund-raiser whose registration has been closed for failure to register or renew must reactivate its registration by submitting an initial registration form including a solicitation report for the preceding completed accounting year and an initial three hundred dollar filing fee. Late fees apply per WAC 434-120-250. The organization may retain the original registration number assigned by the secretary.

(4) A commercial fund-raiser that closes its registration

voluntarily because it is no longer required to register may reactivate its registration by submitting an initial registration form including a solicitation report for the preceding completed accounting year and an initial three hundred dollar filing fee. The organization may retain the original registration number assigned by the secretary.

AMENDATORY SECTION (Amending WSR 10-15-036, filed 7/13/10, effective 8/13/10)

WAC 434-120-250 Fees. All commercial fund-raisers must pay an ((~~original~~)) initial registration fee at the time of filing and an annual renewal fee.

(1) The fee for ((~~original~~)) initial registration in this state is three hundred dollars.

(2) The annual renewal fee is two hundred twenty-five dollars.

(3) There is no fee for filing changes in any information previously filed under RCW 19.09.079, and WAC 434-120-215.

(4) The fee for filing a contract with a charitable organization under RCW 19.09.097 and WAC 434-120-240 is twenty dollars.

(5) The late fee is fifty dollars for failing to renew registration as a commercial fund-raiser by the due date.

((~~The commercial fund-raiser must pay an additional late fee of one hundred dollars for each year that it was required to register under this act and failed to do so, including the current year.~~

~~If~~)) (a) The fees for late registration ((~~has lapsed for more than two years, the entity must provide solicitation information for the previous two years and must register as a new commercial fund-raiser under RCW 19.09.079,~~)) are in addition to ((~~paying any late fees due under this section.~~

~~Any commercial fund-raiser failing to renew registration and conducting business may be subject to other penalties and remedies that may be imposed by law, including penalties for soliciting without being registered. These penalties are cumulative~~)) the filing fees and any other remedies that may be imposed by law, including penalties for soliciting without being registered. These penalties are cumulative.

(b) The commercial fund-raiser may ask the secretary to waive fees for late registration. The request must include a description of the circumstances that justify a waiver of the late fees. Under special circumstances the secretary may waive fees for late registration that are imposed by these regulations.

(6) The fee for expedited service is twenty dollars for a single on-line transaction within one commercial fund-raiser ((~~file~~)) registration. The fee for expedited service of paper documents (in-person((~~,~~)) or mail((~~, or fax~~))) is fifty dollars for single or multiple transactions within one commercial fund-raiser

((~~file~~)) registration. In addition, the filing fee for each transaction will apply.

(7) The photocopy fee is ten dollars for copies of the annual registration form or letter.

(8) Commercial fund-raisers must pay a three hundred dollar filing fee to reactivate their registration following registration closure per WAC 434-120-245 and pay applicable late fees.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-260 Surety bonds. ((~~In compliance with RCW 19.09.190 a registering commercial fund-raiser, as principal, shall submit proof of execution of a surety bond with one or more sureties whose liability in the aggregate will equal at least fifteen thousand dollars.~~)) Commercial fund-raisers must provide proof of bonding if the commercial fund-raiser engages, or plans to engage, in one or more of the ((~~following~~)) practices((~~:~~

~~(1) The fund-raiser directly or indirectly receives contributions from the public on behalf of any charitable organization; or~~

~~(2) The fund-raiser is compensated based upon funds raised or to be raised, number of solicitations made or to be made, or any similar method, even if the fund-raiser does not directly or indirectly receive the contributions; or~~

~~(3) The fund-raiser incurs or is authorized to incur expenses on behalf of the charitable organization; or~~

~~(4) Has not been registered with the secretary as a commercial fund-raiser for the preceding fiscal or accounting year shall execute a surety bond as principal with one or more sureties whose liability in the aggregate as such sureties will equal at least fifteen thousand dollars~~)) identified in RCW 19.09.191 (1)(a) through (d). The registering commercial fund-raiser shall submit proof of execution of a surety bond with one or more sureties whose liability in the aggregate will equal at least twenty-five thousand dollars.

AMENDATORY SECTION (Amending WSR 04-04-018, filed 1/23/04, effective 2/23/04)

WAC 434-120-307 Required filings. (1) Initial registration: Every trustee required to register by RCW 11.110.051 shall do so, in the time and in the manner described by RCW 11.110.060. Trustees shall use the registration form described by WAC 434-120-

310, and file all other documents required by RCW 11.110.060. ((~~Trustees required to register shall also file with the secretary any later amendments to the trust instrument within four months of making the amendment.~~))

(2) Periodic reporting: Every trustee required to register by RCW 11.110.051 shall report annually as required by RCW 11.110.070. The annual reporting requirement is satisfied by filing the renewal form described by WAC 434-120-310(3) and filing a copy of the trust's federal informational tax return, with the secretary of state no later than the fifteenth day of the fifth month after the end of its fiscal or accounting year.

AMENDATORY SECTION (Amending WSR 09-01-106, filed 12/17/08, effective 1/17/09)

WAC 434-120-310 Charitable trust registration--Form and requirements. (1) Trustees registering under chapter 11.110 RCW shall use the registration form available in the office of the secretary of state. The secretary's failure to affirmatively reject or return an incomplete registration or other filing that does not fully comply with these rules or chapter 11.110 RCW shall not excuse the failure to comply.

(2) An initial registration form is not complete, and will not be accepted for filing, unless it includes:

(a) The trustee's name;

(b) The trustee's mailing address, and physical address if different;

(c) The name of the trust, its Federal Employer Identification Number, if any, or other identifying information sufficient to distinguish the trust from other registered trusts;

(d) A brief description of the charitable purposes of the trust, which may, at the trustee's option, include the names and addresses of any charitable organizations benefited by the trust;

(e) The market value of all trust assets invested for incoming-producing purposes as of the date on which the trustee received possession or control of the trust corpus;

(f) A copy of the governing instrument creating the trust;

(g) A statement indicating whether the trust is exempt from federal income tax, and, if exempt, the section of the Internal Revenue Code under which the trust is exempt from federal income tax;

(h) A copy of the letter by which the Internal Revenue Service granted the trust tax exempt status if the Internal Revenue Service has granted the trust such status;

(i) The end date of its current fiscal or accounting year;

(j) A financial report of the trust for the preceding fiscal or accounting year, including, but not limited to:

(i) Beginning assets;

(ii) Total revenue;

(iii) Grants, contributions, and the amount of expenditures used directly for program services;

(iv) Compensation of officers, directors, trustees, etc.;

(v) Total expenses; and

(vi) Ending assets.

(k) A copy of the trust's federal informational tax return (Form 990, 990PF, 990T, or 990EZ) reflecting the fiscal or accounting year contained in this report;

(l) The name and telephone number of the preparer of the trust registration, if different from trustee.

(3) The renewal registration form required by this rule shall be the same as the form described in WAC 434-120-310 except that the information required by WAC 434-120-310 (2)(d), (e), (f), (g) and (h) is not required.

(4) The trust shall report actual figures, and shall not use estimates, when completing a financial report.

(5) All charitable trust registrations shall be signed by ((~~the trustee, or, if the trustee is a corporation, of the corporate officer or employee responsible for the trust~~)):

(a) The trustee, person or entity legally responsible for the trust; or

(b) If the trustee is a corporation, the corporate officer or employee responsible for the trustee.

(6) A copy of the governing instrument creating the trust shall not be deemed sufficient to meet the requirements of this section.

AMENDATORY SECTION (Amending WSR 10-15-036, filed 7/13/10, effective 8/13/10)

WAC 434-120-330 Annual fees. (1) Charitable trusts filing initial or renewal registrations must pay a fee of twenty-five dollars.

(2) The fee for expedited service is twenty dollars for a single on-line transaction within one charitable trust ((~~file~~)) registration. The fee for expedited service of paper documents (in-person((~~,~~)) or mail((~~, or fax~~))) is fifty dollars for single or multiple transactions within one charitable trust ((~~file~~)) registration. In addition, the filing fee for each transaction will apply.

(3) For a photocopy of an Internal Revenue Service Form 990EZ the fee is five dollars and for a copy of Form 990 or 990-PF the fee is ten dollars with a surcharge for forms exceeding 100 pages of copy, which is thirteen dollars for each fifty page increment.

(4) For a photocopy of a charitable trust registration form, the fee is five dollars.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-120-017	Office hours and location for charities program services.
WAC 434-120-030	Public records.
WAC 434-120-170	Use of particular names in solicitations.
WAC 434-120-180	Education program.
WAC 434-120-220	Change in status, notification.