November 15, 2025

Attorney General Nicholas Brown
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Re: Public Comment on News Media Petition to Amend the Model Public Records Act Rules

Attorney General Brown:

Thank you for the opportunity to comment on the proposed amendments to the Model Rules for Implementing the Public Records Act (PRA).

The Washington Public Ports Association (WPPA) represents our state's seventy-five public port districts, independently elected local governments who drive economic development in communities around our state. Our members operate international cargo terminals and small community marinas. They operate airports and manage industrial parks in communities of all sizes and demographics, but they are united by their creative approach to supporting regional economic development.

Our members are fully committed to transparency and to meeting their obligations under the PRA (RCW 42.56). After careful review of the proposed model rule revisions, we have several significant concerns about potential operational, statutory, and equity impacts on public agencies.

1. Clarifying "Prompt" Standards and Avoiding Conflicts with Statute

The addition of "promptly" or "prompt" throughout the proposed model rules, without further definition, introduces ambiguity and creates the potential for confusion and inconsistent application. RCW 42.56.080(2) already requires that agencies make records "promptly available." Duplicating or expanding upon this term through rulemaking—without legislative action—could be construed as creating new compliance standards not supported by statute.

2. Impractical Processing Timelines

The proposed amendment to WAC 44-14-040(1), suggesting that single-record requests be fulfilled and completed within five business days, is unrealistic for most public agencies. Port districts, particularly smaller ones, often have limited staff resources and must rely on subject-matter experts and custodians to locate responsive records. While agencies strive to provide timely responses, a rigid five-day completion mandate would be unfair and unworkable given variable workloads, staff availability, and record complexity.

3. Equity and Prioritization Concerns

Proposed changes to WAC 44-14-040(3) allowing agencies to prioritize "time-sensitive" requests raise significant equity and administrative concerns. Nearly all requesters view their requests as urgent, and subjective determinations by staff would create inconsistency, potential bias, and confusion. The PRA is rooted in equal treatment of all requestors; prioritization based on perceived urgency or requester type would contradict that foundational principle.

4. Third-Party Notification Standards

Amendments to WAC 44-14-040(6) would require agencies to make speculative judgments about whether a record's disclosure would cause "substantial and irreparable damage" before providing third-party notice. This standard goes beyond RCW 42.56.540, which allows—but does not require—agencies to provide notice to affected parties prior to release. The proposal risks undermining statutory protections and creating exposure for agencies acting in good faith. We also oppose language mandating notice to requestors to revise their requests; while agencies often do this as a courtesy, it should not be required by rule.

5. Reopened Requests and Installment Requirements

Proposed revisions to WAC 44-14-040(8)(b) and (10) appear to introduce new obligations for prioritizing reopened requests and to impose a "diligence" standard on installment production. These changes are unnecessary and may unintentionally limit agency discretion in managing large or complex requests. Installments are already a lawful and effective tool for providing timely access to large volumes of records, and any new "diligence" requirement risks creating confusion or potential liability.

6. Avoiding Unfunded Mandates

Several proposed requirements—such as new standards for data transfers from private to agency systems (WAC 44-14-030(3)) or accelerated delivery methods—would impose significant operational and financial burdens on agencies without additional resources. Many of Washington's ports are small districts with limited staff and funding. New mandates, particularly those requiring technological upgrades or process changes, could reduce compliance capacity rather than improve responsiveness.

Recommendations

WPPA respectfully recommends that:

- Substantive changes to public records processes be considered through legislative action, not administrative rulemaking.

- Model rule language remain consistent with RCW 42.56 and avoid introducing new compliance thresholds or definitions.
- The rules maintain equitable treatment among requestors and protect existing privacy and third-party rights.
- Agencies retain flexibility in managing workloads and timelines consistent with the intent of the PRA.

Conclusion

Washington's public ports take their transparency obligations seriously and appreciate the Attorney General's continued engagement in improving PRA implementation. As currently written, the proposed model rule changes risk creating confusion, inequity, and unfunded administrative burdens that could hinder—not enhance—public access.

We appreciate your consideration of these comments and look forward to continued collaboration on this important rulemaking effort.

Sincerely,

Eric ffitch
Executive Director
Washington Public Ports Association