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November 6, 2025

Honorable Nick Brown
Attorney General
Office of the Attorney General
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0100

RE: Comments on Proposed Updates to the Public Records Act Model Rules (WAC 44-14)

Dear Attorney General Brown,

I am the General Manager for Alderwood Water & Wastewater District (Alderwood), which provides drinking water and sanitary sewer service to over 200,000 people in Snohomish County, including the communities of Bothell, Brier, Edmonds, Lynnwood, Mill Creek, and Mukilteo. Thank you for the opportunity to provide comments on the proposed updates to the Public Records Act (PRA) Model Rules.

Executive Summary

As a public agency, Alderwood is committed to best practices and welcomes updates to the Model Rules. We have three primary comments that should be addressed in the final, adopted rules:

1. **We ask you not to establish accelerated response times.** One of the most time-consuming aspects of responding to public records requests is redacting privileged communications with our district counsel, much of which requires outside legal review. I am sure that your own staff appreciates this burden when responsive records include privileged communications. The current statutory deadlines provide a reasonable balance between the needs of the requester and the burden to the government agency,

2. **We ask you not to presume smaller agencies can routinely respond to records faster than the current statutory deadlines.** Many public records officers wear multiple hats. They often depend on specific employees to help respond to requests for technical information. It may be impossible for smaller agencies to accelerate the statutory response deadlines, if key employees are unavailable when a request is received.

3. **We ask you to confirm that the Model Rules are a resource and advisory, not mandatory.** Alderwood strives to comply with routine requests as soon as possible. Model Rules should set forth best practice for agencies, not as a stick that litigious requesters can use against public agencies as a “new” standard in excess of what the Legislature mandated.

The remainder of this letter provides more detail and context for our three primary comments.

Several elements of the proposed rule revisions could unintentionally create significant administrative and financial burdens for our district. These added requirements could divert scarce resources away from essential utility operations and customer service functions that directly benefit ratepayers. Additionally, these costs place a disproportionate burden on low-income customers and conflict with the State's ongoing efforts to reduce affordability challenges for essential utility services.

Maintain Practicality and Proportionality

Our employees manage multiple responsibilities such as billing, budgeting, customer service, and board support. The model rules must reflect this diversity and ensure that compliance expectations remain scalable to agency capacity. Encouraging "best practices" is appropriate—but rigid expectations such as "one-day fulfillment" or "sufficient staffing" risk becoming de facto mandates that small agencies cannot meet.

Similarly, any implication that agencies should maintain centralized, enterprise-wide electronic records systems is concerning. These systems can be expensive to acquire, operate, and maintain, and many small districts lack both the staff and the technical capacity to implement such systems. A one-size-fits-all approach would place small agencies at a serious disadvantage, diverting ratepayer funds from essential infrastructure and operations.

Avoid Unrealistic or Ambiguous Timelines

We recommend replacing language implying a one-day response or "time-is-of-the-essence" standards with clear, achievable expectations consistent with RCW 42.56.520. Districts already acknowledge requests within five business days and strive for prompt fulfillment. A prescriptive timeline would reduce efficiency and increase legal exposure without measurably improving transparency. Moreover, proposed language regarding "urgent" or "time-sensitive" requests appears inconsistent with RCW 42.56.080(2), which prohibits agencies from requiring requesters to disclose the purpose of a request.

Preserve Privacy and Third-Party Notification Protections

The ability to provide notice when a disclosure may affect private or proprietary information remains a critical due-process safeguard. Under RCW 42.56.270, certain financial, commercial, and proprietary information is exempt from disclosure, as is specific employee information protected under ESHB 1533 (amending RCW 42.56.250). While we support discouraging unnecessary notices, the rule should not narrow this discretion or undermine statutory privacy protections.

Support Compliance Through Training, Not Enforcement

The updates should remain advisory, consistent with RCW 42.56.570. Rather than establishing new grounds for litigation, the Attorney General's Office can most effectively improve transparency by offering model forms, checklists, and training resources. These tools help agencies achieve uniform compliance without new unfunded mandates. We encourage collaboration with the Municipal Research and Services Center (MRSC), the State Auditor's Office, and local government associations to develop accessible guidance and implementation materials.

Recognize Fiscal and Operational Realities

Public records compliance competes with essential utility functions that protect public health, safety, and environmental quality. New administrative expectations, especially those implying additional staffing or technology investments, should include fiscal-impact analysis and realistic phase-in schedules to avoid diverting limited ratepayer funds from infrastructure needs. Agencies must also retain the flexibility to close inactive or abandoned requests after a reasonable period, such as 30 days, to manage workloads efficiently.

Clarify that the Model Rules Are Guidance, Not Mandates

Many districts already follow the 2018 Model Rules and MRSC best practices. The AGO should affirm that agencies acting in good faith continue to be protected under RCW 42.56.060, and that the revised model rules are interpretive guidance intended to promote consistent—not compulsory—practices. This clarity will prevent confusion and avoid unnecessary litigation over nonbinding guidance. As your office wrote in its CR-102: “The Model Rules are **advisory** ... **they are a resource**.” (Emphasis added.)

Conclusion

Alderwood Water & Wastewater District strongly supports the principles of open government and the responsible administration of the Public Records Act. We respectfully urge the AGO to finalize rules that are flexible, scalable, and supportive of small-agency realities—balancing transparency with operational practicality. We welcome the opportunity to collaborate with AGO staff and partner organizations to develop training and implementation materials that advance these shared goals.

Sincerely,



John McClellan
General Manager