

**Comments on CR-102 – WSR 17-17-157
(Proposed Rulemaking - 2017)
– Chapter 44-14 WAC
Model Rules**

**Received
August 24, 2017 –
August 31, 2017**

Krier, Nancy (ATG)

From: Laurel.Holliday@gmail.com
Sent: Thursday, August 24, 2017 10:43 AM
To: Krier, Nancy (ATG)
Subject: Model Rules Comment Form

The following message has been submitted.

Information Submitted:

Section 1: Comment

Last Name: Holliday

First Name: Laurel

Middle Name: G.

Email Address: Laurel.Holliday@gmail.com

Comment: I frequently request public records while doing research for my reporting/writing. I would like to ask that the following be considered while updating the Public Records Act: 1) All electronic records systems used to fulfill requests should identify the Public Records Officer assigned to the request and give contact information for that person. 2) All charges for providing records should be based on the *actual cost* of providing the records, not a standard amount for a given number of megabytes or pages. 3) Estimates of time required for fulfilling the request should be accurate and based on something besides a department policy that each incoming request should take six weeks or eight weeks or whatever. In other words, the time estimates should be based on factual evidence, not a standardized department boiler plate reply to a request. 4) Digital technology used to receive and fulfill each request should be much easier to use than the one I typically have to navigate in Seattle when requesting records from Seattle Police and other Seattle departments. The Seattle system has the look, feel, and ease of use of something designed in the 1980s. Plus the one size fits all standard Seattle department reply discourages requester interaction directly with the department by not showing "the face" of the individual department and providing the name and maybe even the image of the Public Records Officer for that department. 5) Requester payment information such as credit card information should only have to be entered once by each requester. Payment information should be stored by the records system rather than the requester having to enter all this information for each request. At least in Seattle, the whole payment process is unnecessarily time consuming for the requester as we have to jump through several hoops and wait up to two business days for electronic responses in order to electronically pay for records.

Section 2: Privacy Notice, Disclaimer and signature

Signed name: Laurel Holliday

Date: August 24, 2017

Submitted 8/24/2017
on:

Krier, Nancy (ATG)

From: Doug Mitchell <doug.mitchell@co.kittitas.wa.us>
Sent: Friday, August 25, 2017 12:17 PM
To: Krier, Nancy (ATG)
Subject: Model rule feedback

Nancy, I'll do these as I get to them, so there is a possibility that I may make a comment that turns out be superfluous.

I do like the changes to 44-14-01001; this is consistent with what I have believed.

44-14-01002: I never did wholeheartedly concur with the position that we could not require the use of a form. That said, we had adopted such as a regulation, but that's been legislatively ended. Is this a good place, or as good as any other, to reflect that change?

* _ _ *

Doug Mitchell
doug.mitchell@co.kittitas.wa.us

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Krier, Nancy (ATG)

From: along@kentwa.gov
Sent: Monday, August 28, 2017 4:28 PM
To: Krier, Nancy (ATG)
Subject: Model Rules Comment Form

The following message has been submitted.

Information Submitted:

Section 1: Comment

Last Name: Long

First Name: Adam

Middle Name:

Email Address: along@kentwa.gov

Comment: In recently amended RCW 42.56.120(2)(b)(3), agencies may charge five cents per four electronic files. Agencies need guidance on what constitutes a "file." For example, oftentimes requests include a significant number of emails and perhaps thousands of emails are delivered in one .pst file. The .pst file must be opened where you can then view individual email files. If an agency produces four .pst files with thousands of individual files inside each, does it charge five cents for the four "files," or does it charge significantly more for each set of four emails within the .pst file? Or, another example, if numerous individual files are combined into one .pdf and emailed to the requestor, how would the charging work in that scenario? What is the definition of "electronic file?"

Section 2: Privacy Notice, Disclaimer and signature

Signed name: Adam Long

Date: 8/28/17

Submitted on: 8/28/2017

Krier, Nancy (ATG)

From: joseph.molenda@lni.wa.gov
Sent: Tuesday, August 29, 2017 12:44 PM
To: Krier, Nancy (ATG)
Subject: Model Rules Comment Form

The following message has been submitted.

Information Submitted:

Section 1: Comment

Last Name: Molenda

First Name: Joseph

Middle Name:

Email Address: joseph.molenda@lni.wa.gov

Comment:

Re WAC 44-14-00006: Why is it that proper nouns of government like "Attorney General" and "Municipal Research and Services Center" aren't capitalized? This practice may be customary in Washington State, but it allows public institution names to get lost in the rule text. Yet in this same rule, private organization names like Washington Coalition for Open Government and Washington State Bar Association ARE capitalized. Consider having rules of WAC writing for public institution names conform to those of common English grammar. Re WAC 44-14-07001(3): "If using the statutory flat fee, the agency can charge the flat fee only for the first installment for records produced in multiple installments, and no fees can be assessed for subsequent installments." WHY? Doesn't this restriction defeat the purpose of the statute providing for agency recovery of copying costs? It appears to be a blatant attempt to force ALL agencies, no matter what size or budget, to come up with an actual cost schedule of copying charges. In so doing, it makes the choice of using the statutory flat fee ridiculous for agencies processing large multi-installment requests. I don't see any statutory or case law basis for restricting the use of statutory flat fees to a first installment only. So why even have a flat fee in the statute? I don't think the legislature intended to restrict the flat fee use so severely, or they would have left it out completely. It's surprising the AGO would propose such an exaggerated interpretation of law. Re AGO Privacy Notice: The statutory citations are out-of-date. Please have someone update these and the text.

Section 2: Privacy Notice, Disclaimer and signature

Signed name: Joseph Molenda

Date: 08/29/2017

Submitted on: 8/29/2017

Krier, Nancy (ATG)

From: jaho461@ecy.wa.gov
Sent: Wednesday, August 30, 2017 3:40 PM
To: Krier, Nancy (ATG)
Subject: Model Rules Comment Form

The following message has been submitted.

Information Submitted:

Section 1: Comment

Last Name: Howell

First Name: Jason

Middle Name:

Email Address: jaho461@ecy.wa.gov

Comment: WAC 44-14-08004(7) is devoid of reference to the per page penalty scenario presented in Wade's Eastside Gunshop v. L&I and suggests that the maximum possible penalty award for a PRA violation is \$100/day. It may be worthwhile to include reference to the immense discretion of the superior court to award penalties for groups or pages of records so as not to create unrealistic assumptions in those readers that lack legal sophistication.

Section 2: Privacy Notice, Disclaimer and signature

Signed name: Jason Howell

Date: 8/30/2017

Submitted on: 8/30/2017

Krier, Nancy (ATG)

From: Tim Clemans <timacbackup@gmail.com>
Sent: Wednesday, August 30, 2017 8:24 PM
To: Krier, Nancy (ATG)
Subject: Comment about customized access

I recently got a fee estimate for 40 hours of SQL programming at \$60/hour for a grand total of \$2,400. I would like to see a suggestion at an agency explain exactly what they are going to program because in this case I wrote the query for them in 10 minutes. There was absolutely no transparency about the work they were estimating a fee for.

Also want constitutes use? If I request a week's worth of data that the software an agency uses is that data used by the agency?

Is a simple SQL query that just exports existing data considered custom access?

Krier, Nancy (ATG)

From: hissrattlesnap@yahoo.com
Sent: Thursday, August 31, 2017 9:17 AM
To: Krier, Nancy (ATG)
Subject: Model Rules Comment Form

The following message has been submitted.

Information Submitted:

Section 1: Comment

Last Name: Atwood

First
Name: April

Middle
Name:

Email
Address: hissrattlesnap@yahoo.com

Comment: This proposal is good, but needs a few additions: 1. Oversight is needed to ensure accountability, otherwise we won't know if the system is working properly. 2. Guidelines are needed for public agencies to help them keep their documents organized and to prevent their destruction. 3. Agencies need more guidance to stop officials from using personal phones and other electronic devices to do government business.

Section 2: Privacy Notice, Disclaimer and signature

Signed
name: April Atwood

Date: 8/31/2017

Submitted
on: 8/31/2017

Krier, Nancy (ATG)

From: johncruce@hotmail.com
Sent: Thursday, August 31, 2017 10:24 PM
To: Krier, Nancy (ATG)
Subject: Model Rules Comment Form

The following message has been submitted.

Information Submitted:

Section 1: Comment

Last Name: Cruce

First Name: John

Middle Name: A.

Email Address: johncruce@hotmail.com

Comment: I served in the U.S. State Department in Washington, D.C. in the records management area for 30 years. I once told the National Archives that when people visit they have but a few hours and they know nothing about what the Archives has. I said they needed people there to quickly guide visitors to some useful records. They started to do so. Your web site is heavy on the legal side and light on the "What do you have side?":eg.: census, city directories, telephone directories, land grants & deeds, courts records, school records, Indian tribe census & treaties, maps, photographs, books, etc. Have a telephone contact number so people can speak to Records Officers to guide them in quickly locating the records the people really want. I have researched my family history to 1623 in Scituate, Massachusetts. Locating records over 400 years in the U.S. is a real challenge - "public records", church records, foreign owned U.S. property records, city & state records, personal records, etc. People need a lot of help up front!

Section 2: Privacy Notice, Disclaimer and signature

Signed name: John Cruce

Date: 8/31/2017

Submitted on: 8/31/2017