

# Chapter 434-662 WAC

## PRESERVATION OF ELECTRONIC PUBLIC RECORDS

### WAC

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**WAC 434-662-010 Purpose.** Pursuant to the provisions of chapters 40.14 and 42.56 RCW, and RCW 43.105.250, the rules contained in this chapter are intended to ensure that electronic public records are securely preserved for their minimum retention period for present and future access and/or are transferred to the Washington state digital archives for retention so that valuable legal and historical records of the state may be centralized, made more widely available, and permanently preserved.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-010, filed 10/13/08, effective 1/1/09.]

**WAC 434-662-020 Definitions applicable to all sections of this chapter.** Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

"Agency" means any department, office, commission, board, or division of state government; and any county, city, district, or other political subdivision or municipal corporation or any department, office, commission, court, or board or any other state or local government unit, however designated.

"Archival value" means those public records, as determined by state archivist's appraisal, that are worthy of long-term or permanent preservation by the archives due to their historical, legal, fiscal, evidential, or informational value, or are designated such by statute.

"Authentic" means that a public record is accepted by the state archives as genuine, trustworthy, or original.

"Authentication" means the process of verifying that a public record is acceptable as genuine, trustworthy, original, or authentic.

"Chain of custody" means the documentation of the succession of offices or persons who held public records, in a manner that could meet the evidentiary standards of a court of law until their proper disposition according to an approved records retention schedule.

"Confidential record" means any public record series, file, record or data base field with restrictions on public

access as mandated by federal, state or local laws, or court order.

"Data base management system" means a set of software programs that controls the organization, storage and retrieval of data in a data base, as well as the security and integrity of the data base.

"Digital archives" means the mass storage facility for electronic records located in Cheney, Washington and operated by the Washington state archives. The digital archives is designed to permanently preserve electronic state and local government records with archival value in an environment designed for long-term storage and retrieval.

"Disposition" means the action taken with a record once its required retention period has expired. Disposition actions include but are not limited to transfer to the archives or destruction.

"Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

"Electronic record" includes those public records which are stored on machine readable file format.

"Encryption" means the process of rendering plain text unintelligible by converting it to ciphertext so it can be securely transmitted and can only be read by those authorized to decode the plain text from the ciphertext.

"File format" means the type of data file stored on machine readable materials such as hard disks, floppy disks, CD-ROMs, DVDs, flash media cards, USB storage devices, magnetic tape, and any other media designed to store information electronically, as well as the application program necessary to view it.

"Metadata" means data used to describe other data. Metadata describes how, when, and by whom particular content was collected, how the content is formatted, and what the content is. Metadata is designed to provide a high level of categorization to aid in the storage, indexing, and retrieving of electronic records for public use.

"Public record" has the same meaning as in chapters 40.14 and 42.56 RCW.

"Records committees" means the local records committee created in RCW 40.14.070 and the state records committee created in RCW 40.14.050.

"Retention period" means the required minimum amount of time a records series must be retained to meet legal, fiscal, administrative or historical value as listed on an approved records retention schedule or general records retention schedule.

"Records retention schedule" means a legal document approved by the state or local records committee that specifies minimum retention periods for a records series and gives agencies ongoing disposition authority for the records series after the records' approved retention period has been satisfied.

"Spider" means a software program that automatically collects and retrieves online web content and all documents linked to such content. Examples include, but are not limited to: Web spiders, web crawlers, robots, and bots.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-020, filed 10/13/08, effective 1/1/09]

**WAC 434-662-030 Retention scheduling and disposition of electronic public records.** Electronic records are bound by the same provisions as paper documents as set forth in chapter 40.14 RCW. Electronic records must be retained pursuant to the retention schedules adopted by the records committees. Destruction of, or changes to the retention period of, any public record, regardless of format, requires legal approval from the state or local records committee pursuant to chapters 40.14 RCW, 434-635 WAC and other applicable state laws. Public records that are designated "archival" by the state archivist must be maintained pursuant to the provisions of this chapter until such time as they are transferred to the state archives.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-030, filed 10/13/08, effective 1/1/09]

**WAC 434-662-040 Agency duties and responsibilities.** Electronic records must be retained in electronic format and remain usable, searchable, retrievable and authentic for the length of the designated retention period. Printing and retaining a hard copy is not a substitute for the electronic version unless approved by the applicable records committee.

An agency is responsible for a security backup of active records. A security backup must be compatible with the current system configuration in use by the agency.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-040, filed 10/13/08, effective 1/1/09]

**WAC 434-662-050 Disposition of electronic public records identified by records committees as archival.** Electronic records designated as "archival" must be retained in their original format along with the hardware and software required to read the data in that format unless the converted records have been sampled for completeness and accuracy of the migration to a new system and/or file format. Original data, hardware, and software must be maintained until successful migration to a new system has been verified. Agencies have a duty to work with the state archivist to centralize, preserve, and/or transfer archival records to the digital archives. All records transferred to the digital archives will be administered and managed in accordance with all public access and disclosure laws and requirements.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-050, filed 10/13/08, effective 1/1/09]

**WAC 434-662-055 Disposition of electronic public records identified by records committees as nonarchival.** Electronic records rendered obsolete through the verified accurate migration to a more current media file format for readability and not designated as "archival" may be considered a secondary copy and disposed of as directed by chapter 40.14 RCW.

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[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-055, filed 10/13/08, effective 1/1/09]

**WAC 434-662-060 Authentication and chain of custody of electronic records.** The agency must maintain chain of custody of the record, including employing sufficient security procedures to prevent additions, modifications, or deletion of a record by unauthorized parties. If there is a break in chain of custody, it must be noted in the transmittal to the archives.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-060, filed 10/13/08, effective 1/1/09]

**WAC 434-662-070 Use of encryption on electronic records.** If encryption is employed on public records, the agency must maintain the means to decrypt the record for the life of the record as designated by the approved required minimum retention period for that record.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-070, filed 10/13/08, effective 1/1/09]

**WAC 434-662-090 Transmittal agreement for transfer of electronic records.** The digital archives must develop a transmittal agreement for the transfer of electronic records from state and local government agencies to the digital archives. At a minimum, a transmittal agreement between the digital archives and a state or local government agency must contain:

- (1) Identification of the record series;
- (2) Disposition authority;
- (3) Number of records to be transferred;
- (4) Method, schedule, and frequency of record transmittal;
- (5) Relevant metadata/indexing fields;
- (6) The decryption means for any record transmitted in an encrypted format;
- (7) Media file format;
- (8) Identification of any access restriction and the statutory authority for such restriction;
- (9) Other technical information, such as backend data base management systems, necessary for ingestion of electronic data into the digital archives repository; and
- (10) Procedures for collecting any fees for public copies as provided by statute or ordinance.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-090, filed 10/13/08, effective 1/1/09]

**WAC 434-662-100 Media format and protocol for transfer.** Electronic records will be directly transferred to the digital archives via web services, secure File Transfer Protocol, T-1 line or other direct transmission as outlined in the transmittal agreement. When direct transmission is not practicable, records must be transmitted via portable media formats including, but not limited to tape, compact disc, digital versatile disc, flash media cards, universal serial bus storage devices, external hard drive, or diskette.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-100, filed 10/13/08, effective 1/1/09]

**WAC 434-662-110 Metadata requirements.** Electronic records transferred to the digital archives must contain

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sufficient metadata to categorize, search and retrieve the records. All transfers of electronic records to the digital archives must identify the name of the originating agency, the date of transfer, the records series, and other appropriate metadata as specified in the transmittal agreement. The digital archives will not accept electronic records that do not contain appropriate metadata as specified in the transmittal agreement.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-110, filed 10/13/08, effective 1/1/09]

**WAC 434-662-140 Web site management.** All state and local government agencies must retain all web content in accordance with the approved retention schedules. Pursuant to a transmittal agreement, the digital archives will use a software program commonly known as a spider to copy state and local government web sites that are determined to have archival value either annually or more frequently. All state and local government agencies shall use the following best management practices in the maintenance of their web sites:

(1) Each page shall contain identifying information as outlined in the transmittal agreement;

(2) If an agency web site is determined to have archival value and cannot be copied using a spider software program, the agency must copy and preserve all code for the web site.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-140, filed 10/13/08, effective 1/1/10.]

**WAC 434-662-150 E-mail management.** E-mails created and received by any agency of the state of Washington in the transaction of public business are public records for the purposes of chapter 40.14 RCW and are subject to all of the laws and regulations governing the retention, disclosure, destruction and archiving of public records. The e-mails of all elected government officials and public employees are subject to the records retention periods and disposition promulgated by the records committees, and any and all e-mails with archival value must be retained. Agencies may be relieved of the obligation to permanently retain archival e-mail by transmitting e-mail and all associated metadata to the digital archives pursuant to a transmittal agreement as provided for in WAC 434-662-090. This section does not apply to state legislators or members of the state judiciary.

[Statutory Authority: RCW 40.14.020(6), chapters 40.14, 42.56, and 43.105 RCW. WSR 08-21-073, § 434-662-150, filed 10/13/08, effective 1/1/10.]