



# Rules Process Overview

State Board of Health

# What is a rule?

- A rule is an order or directive that agencies use to implement laws, establish policy and set standards.
- Rules may also:
  - Subject a person to a penalty or sanction if violated
  - Set qualifications for conveying privileges to people or entities
  - Set procedures or practices for agency hearings
  - Establish standards for licenses or permits, or revoking licenses or permits
  - Create product or material standards for goods before they can be sold or distributed in Washington

*RCW 34.05.010*

# Who has the authority to adopt rules?

- The Legislature grants agencies the authority to adopt rules in state law
- [RCW 43.20.050](#) – Primary Statute Outlining the Board’s Powers and Duties, others include:
  - RCW 28A.210.080, 28A.210.100 & 28A.210.140 – Immunizations
  - RCW 69.30.030 – Sanitary Control of Shellfish
  - RCW 70.90.120 – Water Recreation Facilities
- Agencies must follow:
  - Administrative Procedures Act ([Chapter 34.05 RCW](#))
  - Regulatory Fairness Act ([Chapter 19.85 RCW](#))
  - HEAL Act ([Chapter 70A.02 RCW](#))
  - Code Reviser Rules ([Chapter 1-21 WAC](#))

# What causes the Board to initiate rulemaking?

- Changes in state law
- Court order
- Petition
- Changes in federal rules or law
- Changes in the environment or technology
- Rules review
- Partner request
- Technical Advisory Committee recommendations

# What does rulemaking entail? – Rulemaking Phases



## Inquiry (CR-101 Phase)

Review Authorities

Determine Scope

Dear Tribal Leader/  
Urban Indian Program  
Leader Letter

Identify Interested  
Parties

Announce Rulemaking  
Washington State Board of Health

## Proposal and Analysis (CR-102 Phase)

Tribal Consultation

Engage Interested  
Parties

Identify Options

Draft Text

Conduct Analysis

Seek Feedback

## Hearing and Adoption (CR-103 Phase)

Brief the Board

Public Hearing

Board Deliberation

Adoption

Tribal Consultation

Notify Interested Parties

Implementation

# At each phase



Code Reviser forms (CR 101, 102, 103 and 105) and other supporting materials

Review and approval (Board sponsors and staff, Assistant Attorney General, DOH leadership, Executive Director)

Filing and publication (Washington State Register)

Notification of interested parties

# Phase 1 - Inquiry

Problem identification – staff check authority, determine scope, identify interested parties and potential controversies

Draft CR-101 (Pre-Proposal Statement of Inquiry) – complete materials and submit for review and approval

CR-101 is filed and published with the State Code Reviser

Staff alert interested parties.



# Phase 2 – Proposal and Analysis

Interested party engagement

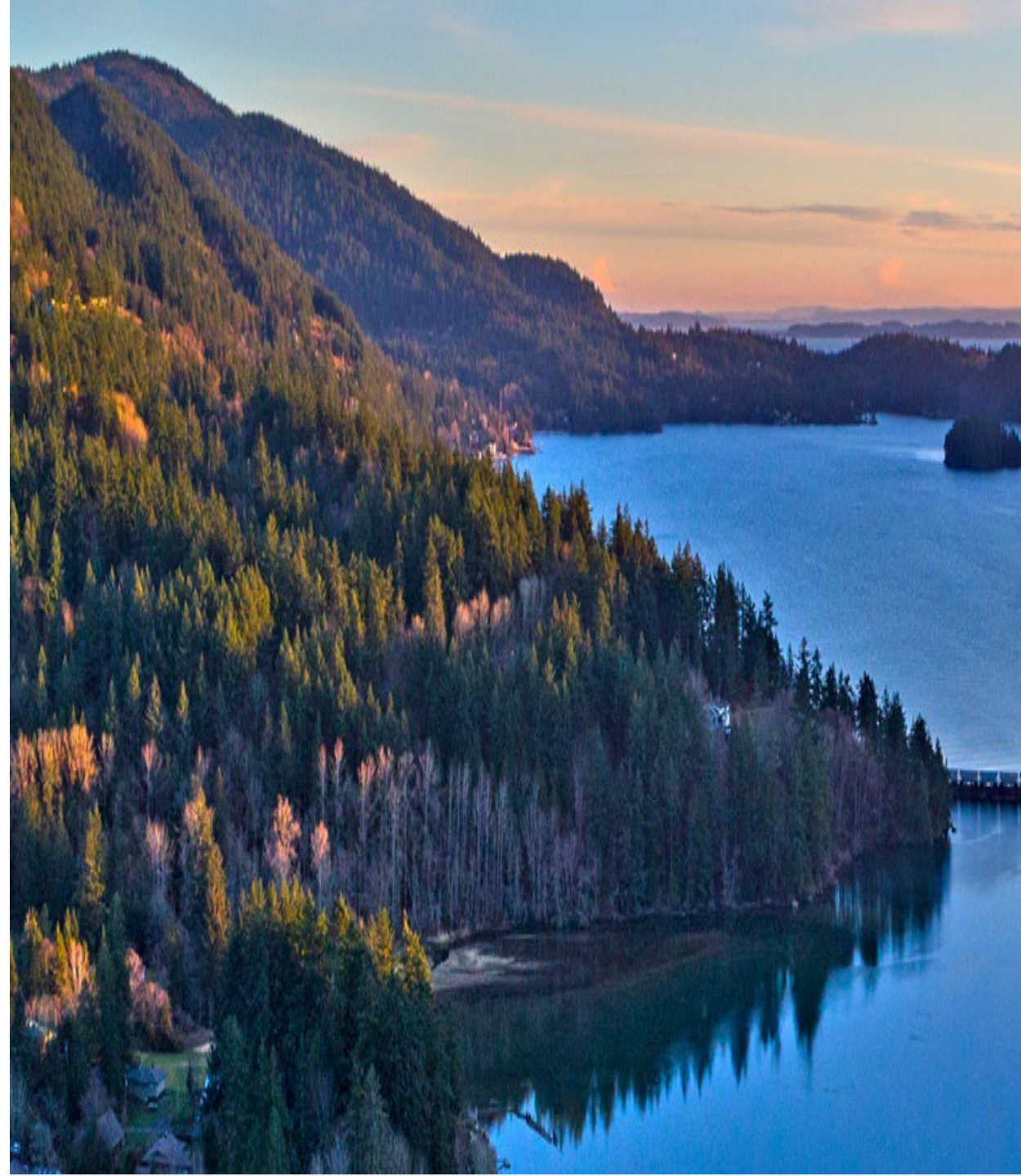
CR-102 (Notice of Proposed Rulemaking)  
Drafting

- Rule text
- Analyses (if required)

Review and Approval

CR-102 Filing and publication with State  
Code Reviser

Notifying interested parties and inviting  
comment





# Phase 3 – Hearing and Adoption

Board briefing

Public hearing

Board discussion

- Reasons and merits of the change
- Any additional changes needed?
- Outstanding concerns and how they might be addressed.

Board action:

- Move to adopt the rule
- Continue rule hearing or decision
- Make changes to the proposed rule or re-propose
- Withdraw the rule



# Phase 3 –Adoption and Implementation

## Adoption

Summarize and respond to public comments

Finalize order of adoption (CR-103)

Review and approval

File and publish with Code Reviser

Notify interested parties

Rules become effective 31 days after the CR-103 is filed, unless a different date is set

## Implementation

Implementation plan (Filed with CR-103)

- Technical assistance
- Development of guidance
- Rule reviews



# Rules Analyses

## Significant Legislative Analysis

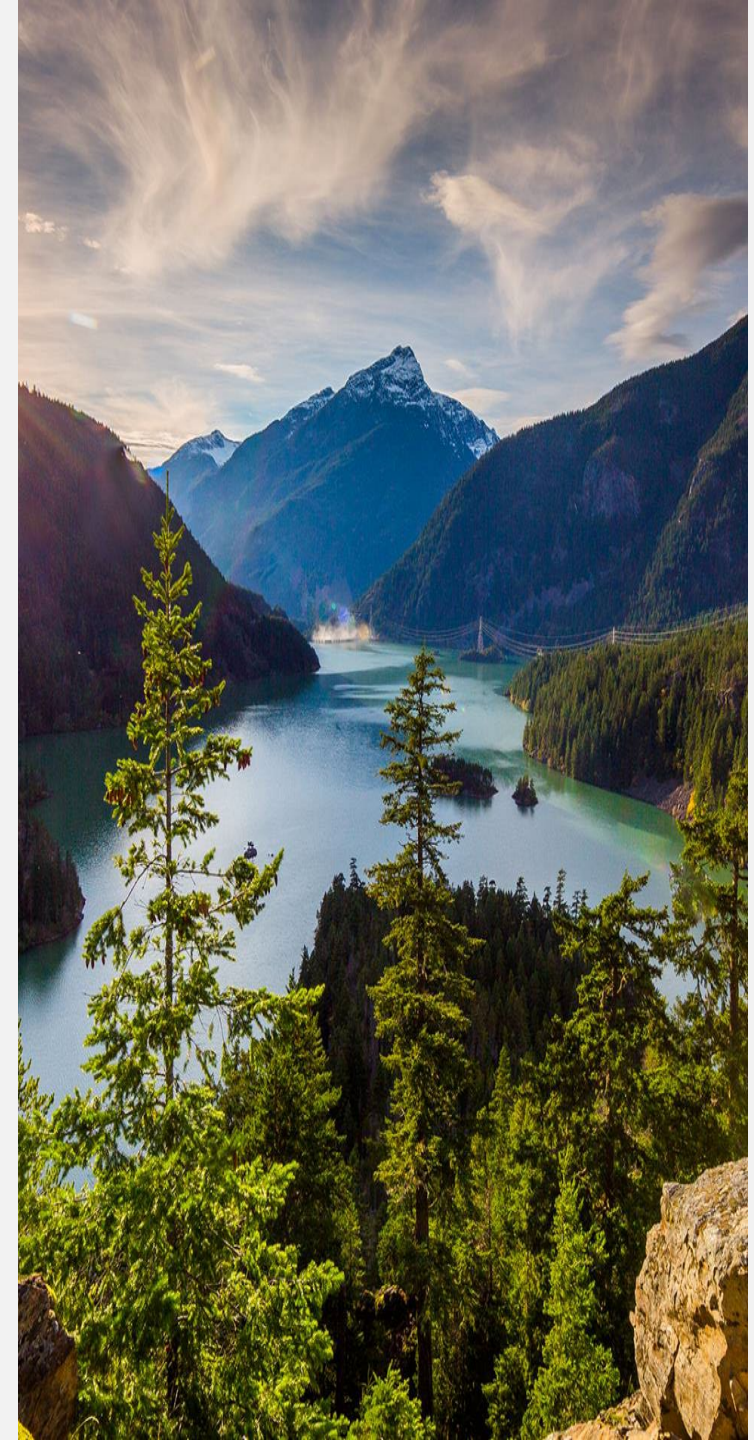
- Criteria for determining significant rules in Administrative Procedures Act (RCW 34.05)
- Requires summary of rulemaking and analysis of significant rule revisions
- Includes cost/benefit analysis

## Small Business Economic Impact Statement

- Requirements in Regulatory Fairness Act (RCW 19.85)
- Applies to significant rules
- Identify and reduce financial impacts on small businesses

## Environmental Justice Assessment

- Requirements in Environmental Justice law (“HEAL Act”) (RCW 70A.02)
- Applies to significant agency actions, including significant rules
- Inform equitable distribution of environmental benefits and reduce environmental and health inequities



# Abbreviated Rulemaking Process

## Emergency

Rules are exempt from CR-101, 102, and analytical requirements. Rule package starts with CR-103E and memo. Effective for only 120 days.

## Exception

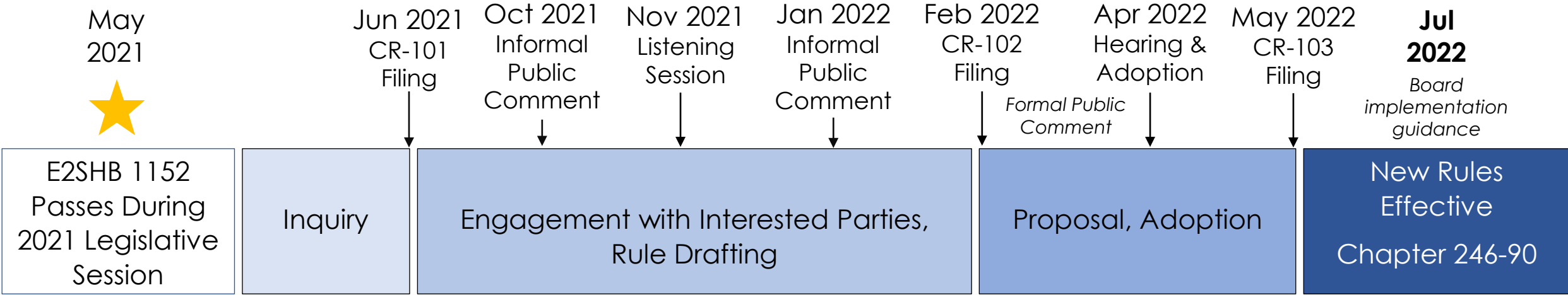
Rules are exempt from the CR-101 and analysis requirements. Rule starts at the CR-102 stage.

## Expedited

Rules are exempt from the CR-101, analysis and hearing requirements. Rule package starts with CR-105 form and memo.



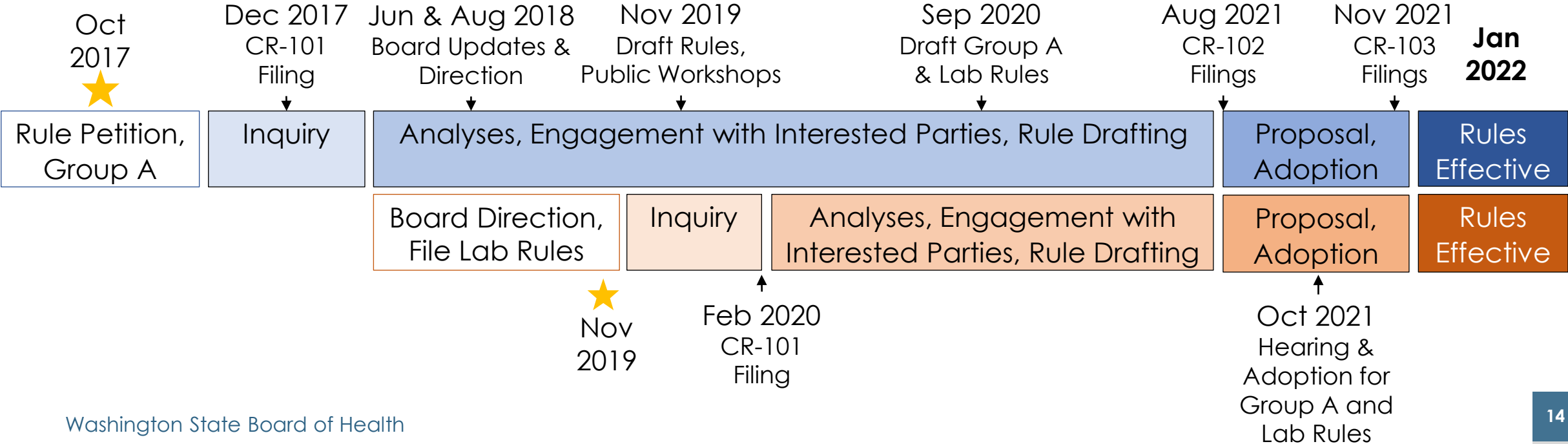
# Rulemaking Examples – Local Board of Health Composition



# Rulemaking Examples – Per and Polyfluoroalkyl Substances (PFAS) Drinking Water Rules



- Group A Drinking Water Supplies, Chapter 246-290 WAC
- Drinking Water Laboratory Certification and Data Reporting, Chapter 246-390 WAC



# | THANK YOU