



Washington State Board of Health

Rules Process Overview

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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

Identify Interested
Parties

Announce Rulemaking

Proposal and Analysis (CR-102 Phase)

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

Notify Interested Parties

Implementation

At each stage



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

Stage 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.



Stage 2 – Proposal and Analysis

Interested party engagement

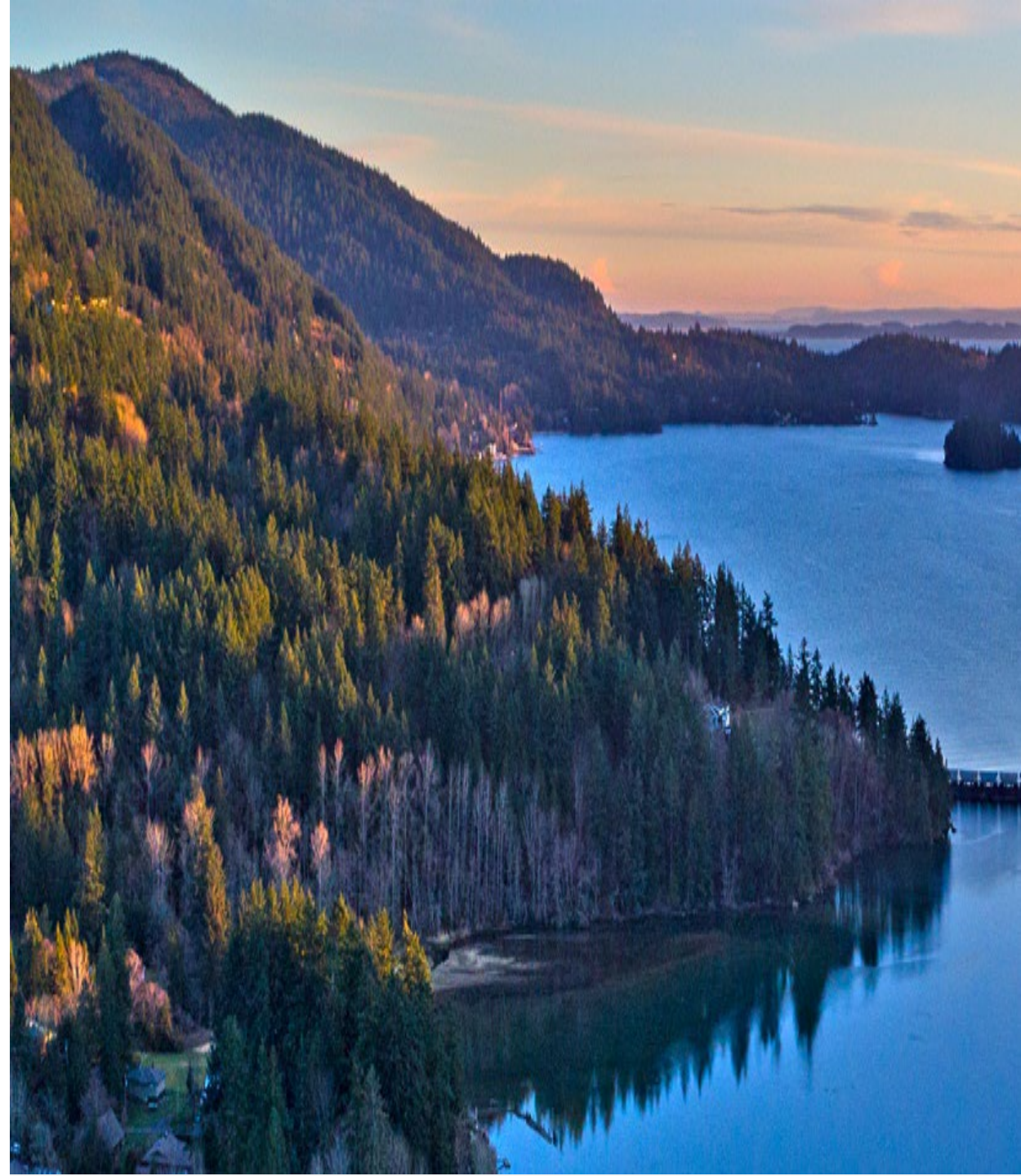
CR-102 (Notice of Proposed Rulemaking) Drafting

- Rule text
- Analyses (if required)

Review and Approval

CR-102 Filing and publication with State Code Reviser

Notifying interested parties and inviting comment



Stage 3 – Hearing and Adoption

Board briefing

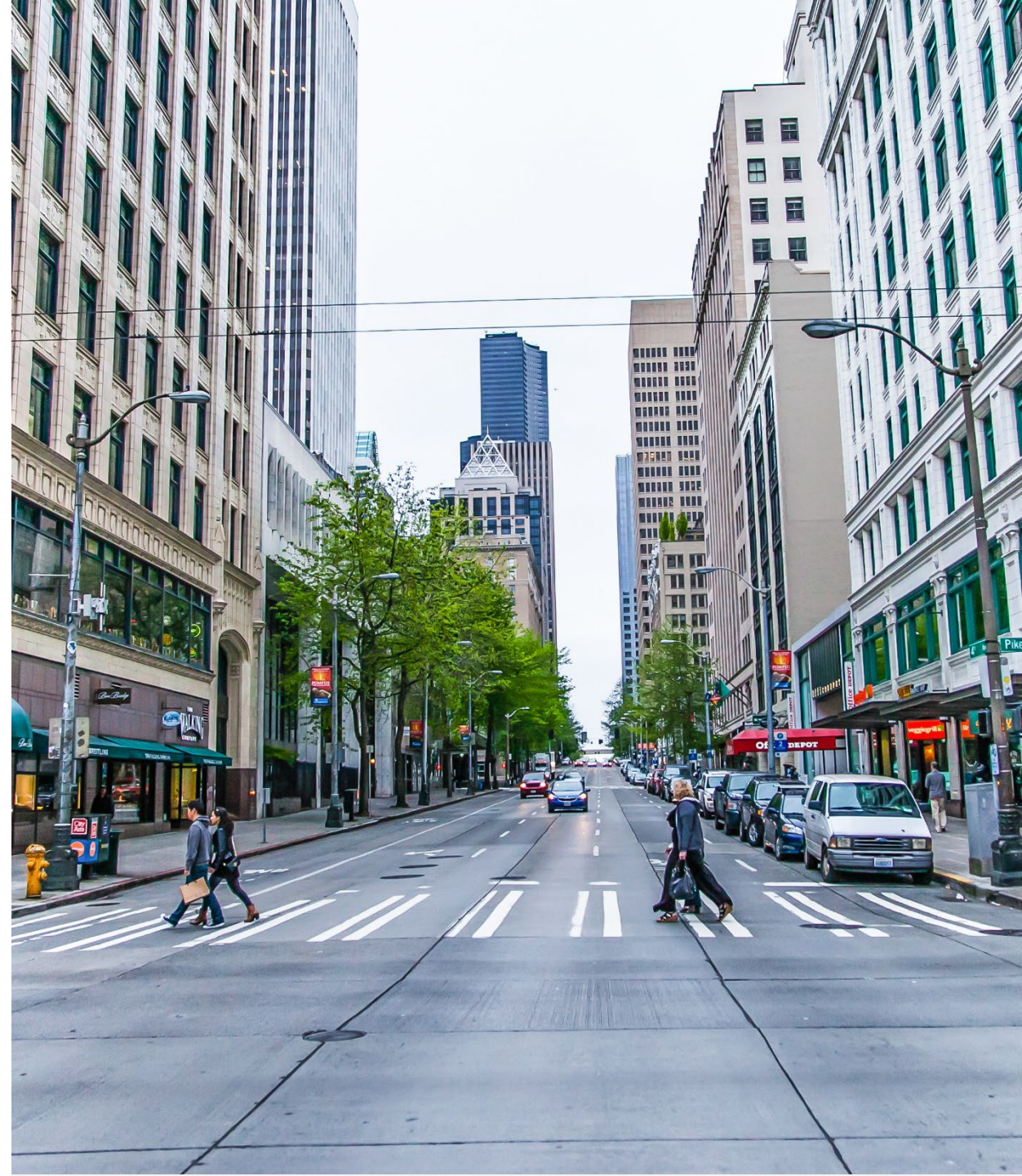
Public hearing

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



Stage 3 – Adoption and After Action

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



Rules Analyses

Significant Legislative Analysis

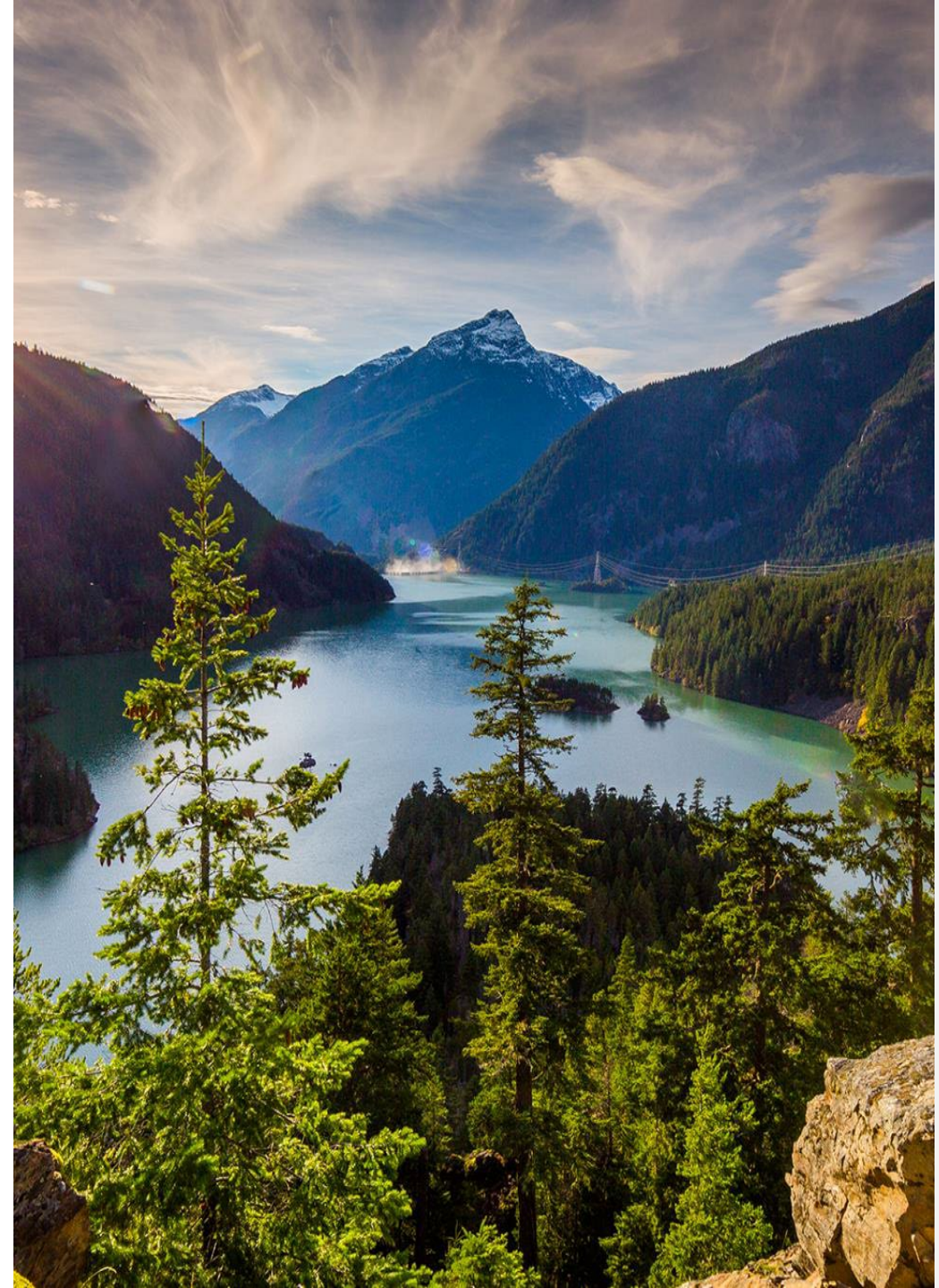
- Criteria for determining significant rules in Administrative Procedures Act (RCW 34.05)
- Requires summary of rulemaking and analysis of significant rule revisions
- Includes cost/benefit analysis

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

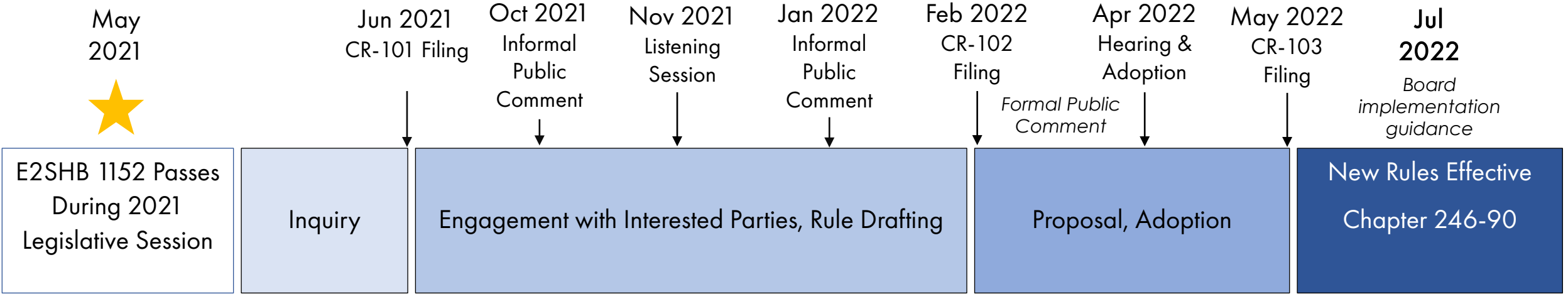
Rules are exempt from the CR-101 and analysis requirements. Rule starts at the CR-102 stage.

Expedited

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



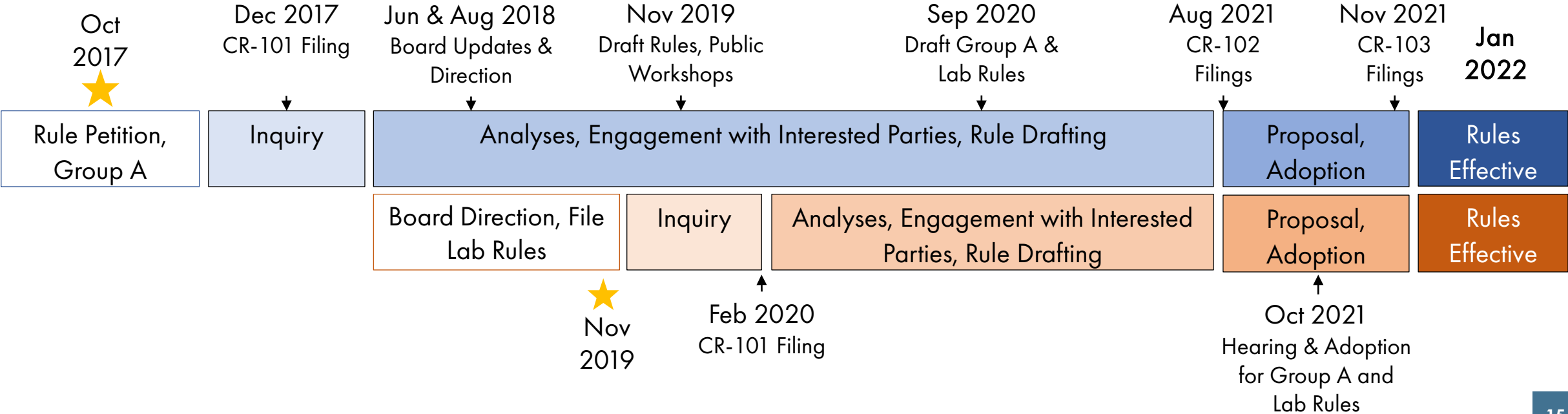
Rulemaking Examples – Local Board of Health Composition



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