

Rulemaking 101

What is it, and why does it take so long?

Washington State Department of HEALTH

WASHINGTON STATE BOARD OF HEALTH

WSPHA/WSEHA Conference
October 15, 2026

Rulemaking Can Feel Complicated

Have you ever wondered....



Why does it take **so long** to create or change a rule?

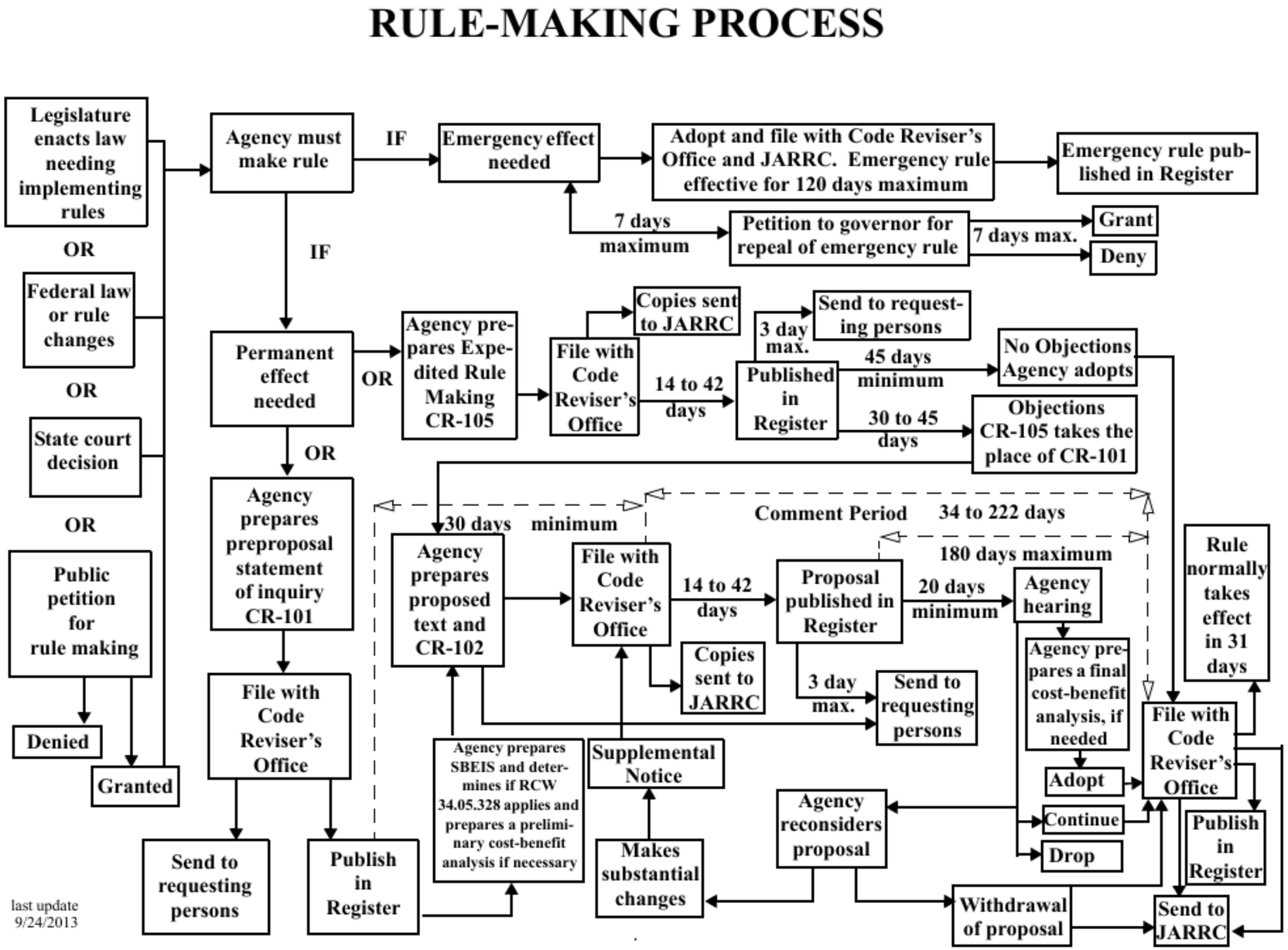


Who **decides?**



Who gets a **say,** and how can that be **me?**

It's Easy!



https://leg.wa.gov/media/zjhnv0dc/flow-chart-for-rulemaking.pdf

Takeaways

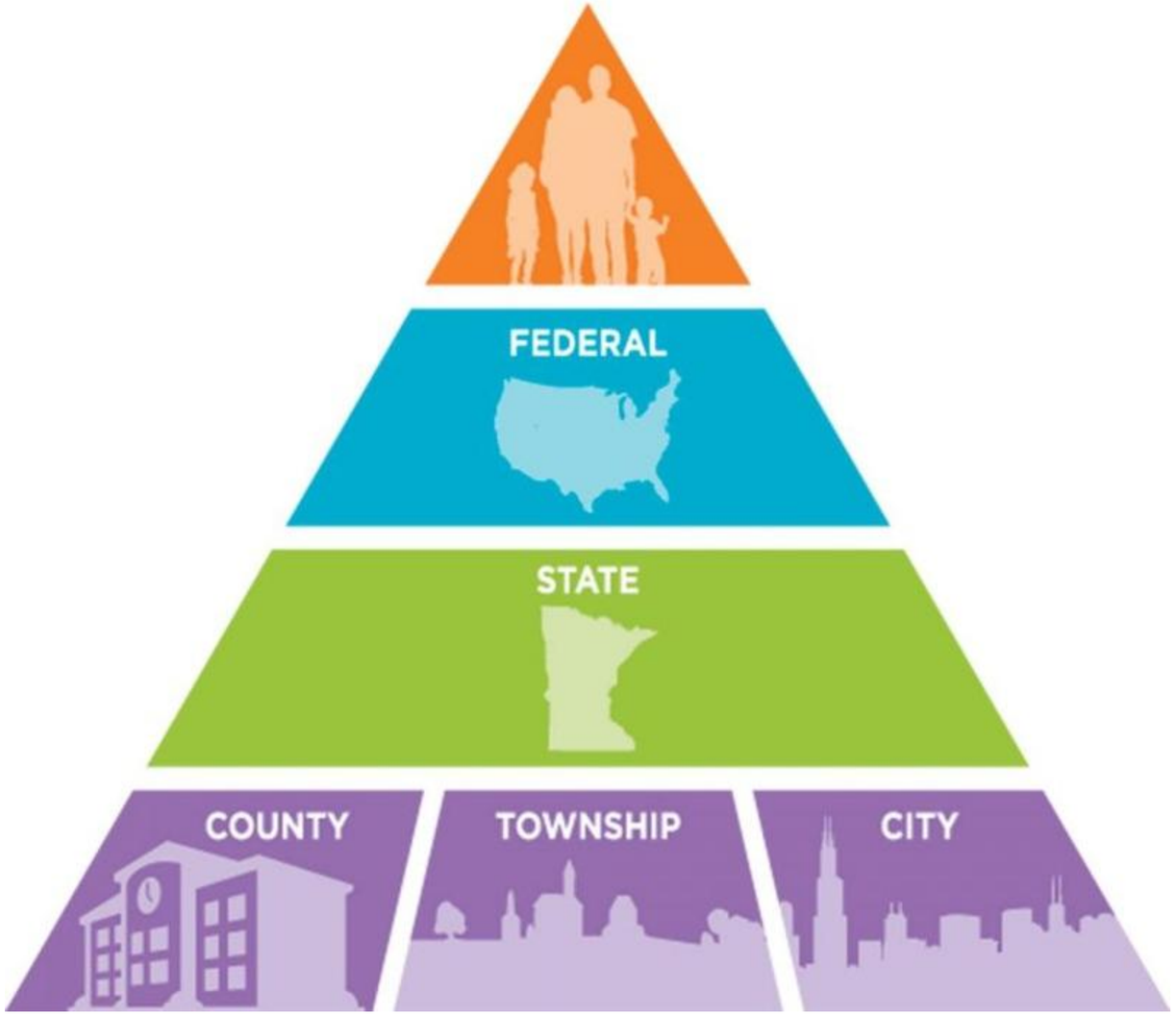
- Clarify how rulemaking works – attendees will leave with a clear, step-by-step understanding of the rulemaking process.

- Confidence navigating roles and authority – attendees will learn the distinct and collaborative roles of the Department of Health and State Board of Health, helping them to better navigate who does what in developing environmental health rules.

- Practical ways to engage and influence outcomes – attendees will learn about participating in rulemaking, engaging with interested parties, and how this shapes rule development.



From Federal to Local



A Rule Turns Law and Policy Into Specific Requirements People Can Follow

Implement

Put laws into practice

Establish

Set standards and requirements

Protect

Promote and protect public health

Not All Rulemaking is the Same



Standard

- Significant, Procedural, Interpretive, Fee setting
- CR-101, 102, 103 forms
- Analyses depend on scope



Abbreviated

- Exception, Expedited, Emergency
- Not required to file CR-101 or conduct analyses
- Limited or no public participation in emergency rulemaking

Rulemaking Has Rules, Too



Administrative Procedures Act
Chapter 34.05 RCW

Applies to all rulemaking

Prescribes the requirements and steps in rulemaking



Regulatory Fairness Act
Chapter 19.85 RCW

Applies to rules that impose compliance costs on small businesses (less than 50 employees)

If disproportionate impact, must mitigate however is legal and feasible



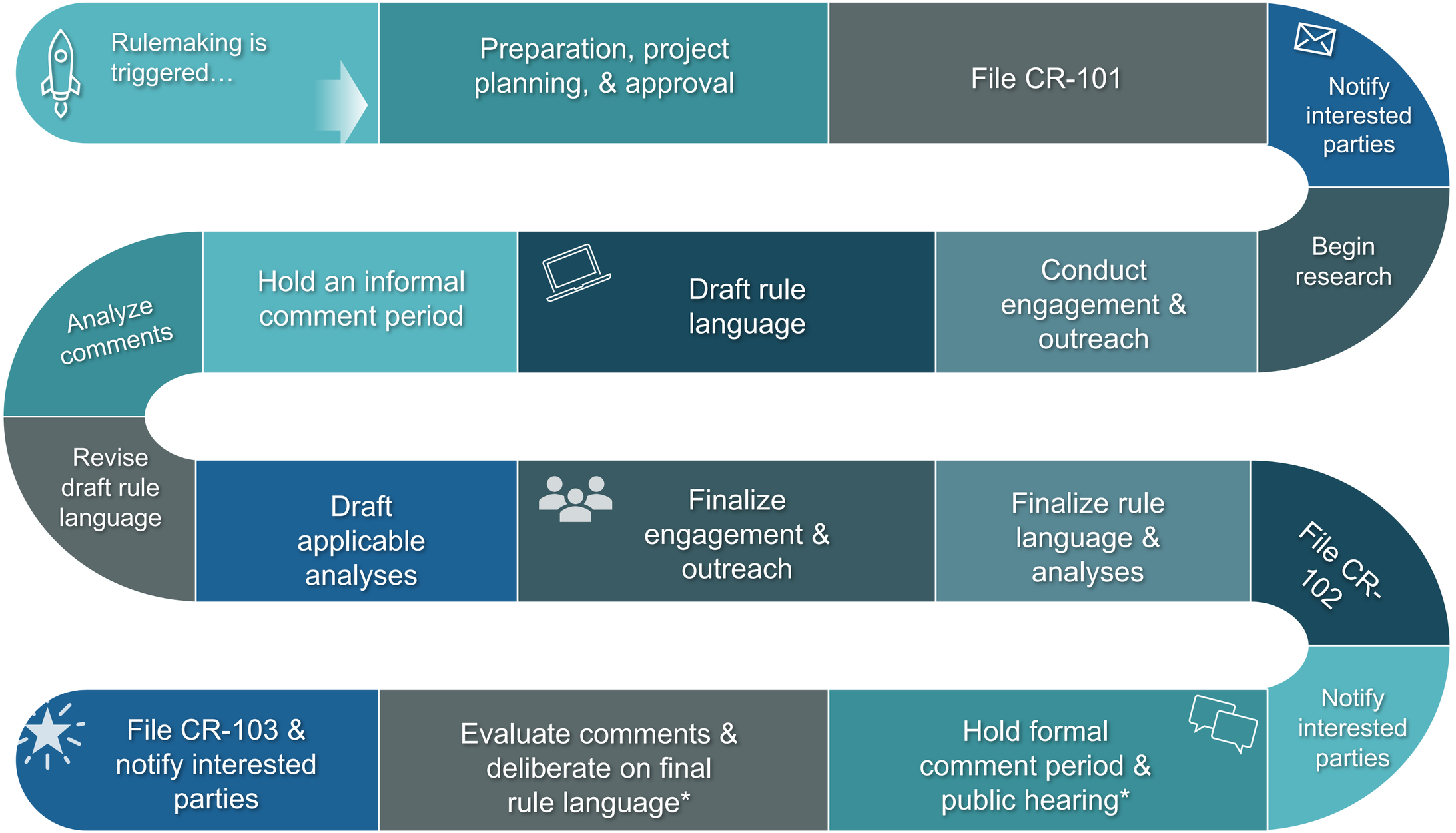
HEAL Act

Chapter 70A.02 RCW

Applies to significant rulemaking

Requires environmental justice assessments

Community and tribal engagement to develop the draft rule language



Tribal consultation may occur at any stage if requested

About the Two Agencies

State Board of Health

- Independent Agency
- Independent Authority
- 10-person Board appointed by the Governor
- Sets public health policy
- Not an enforcement agency

Department of Health

- Executive Agency
- Independent Authority
- Sets public health policy
- Implements and enforces many Board rules, plus its own

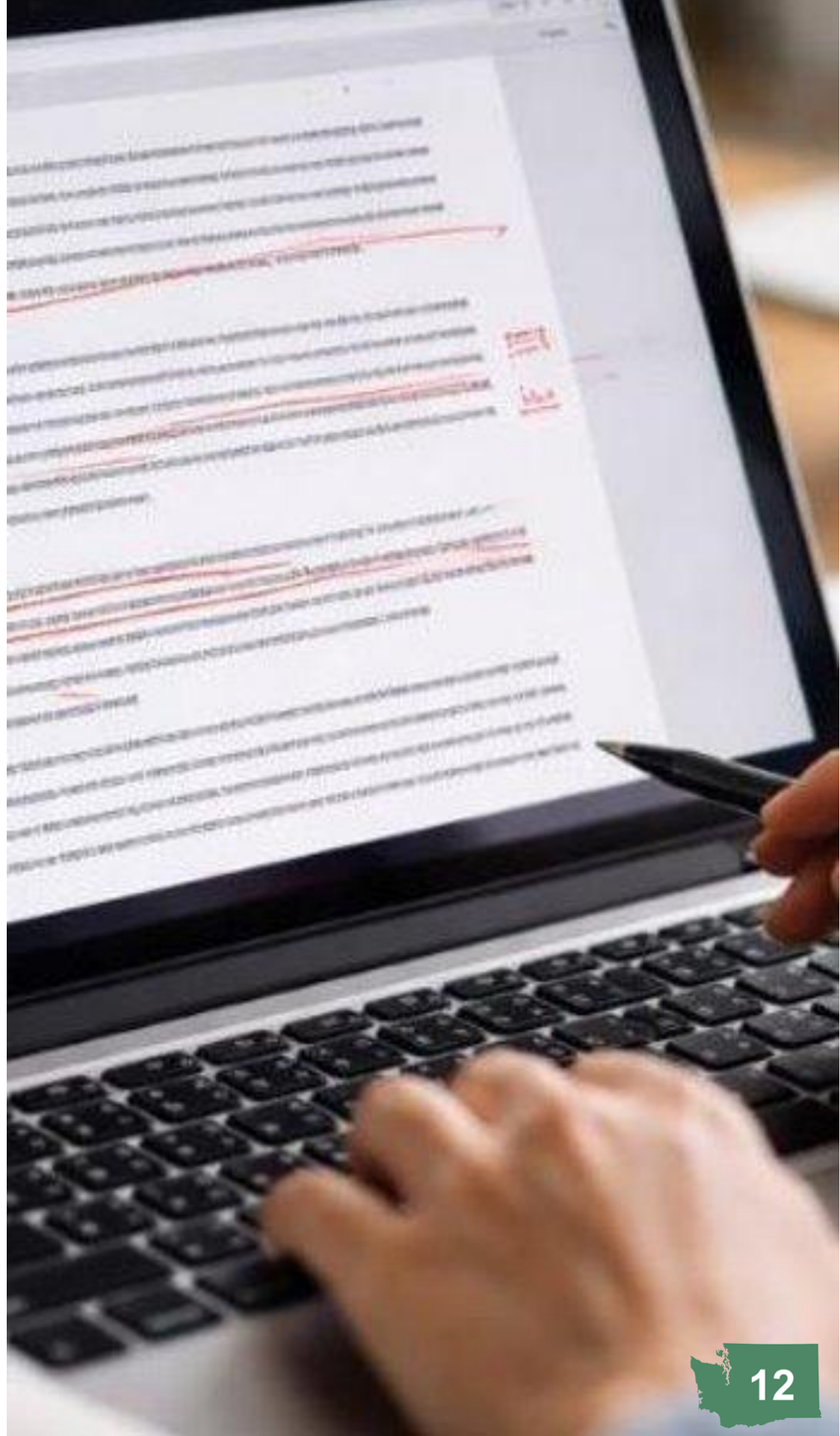
…and each has its own role in rulemaking.

Two Public Health Agencies Can Have Different Roles in the Same Rulemaking

	State Board of Health	Department of Health
Deciding to act	Decides whether to open rulemaking	Researches the issue and brings options
Drafting	Gives policy direction, Board staff coordinate with Department staff	Staff draft the rule language
Public input	Hears comment and holds the hearing	Collaborates with Board staff to run workshops, collect and answer comments
Decision	Votes to adopt the rule	Supports the Board's process and documents implementation plan
After adoption	Not an enforcement agency	Implements and enforces the rule

From Ideas to Enforceable Language

- Office of the Code Reviser rules
- Feedback from interested parties
- Research
- Science and evidence-based
- Existing standards
- Best practices



Before a Rule is Adopted, We Must Understand its Impacts

Significant Analysis	Cost + Benefits
Small Business Economic Impact Statement	Economic impacts on small businesses
Environmental Justice Assessment	Distribution of benefits + reduce burdens
Fee Analysis	Explain the fee proposal

Now It’s Your Turn to Put Your Rule Writer Hat On

Clear and Enforceable?

Group A Drinking Water Systems, WAC 246-290-125

(3) Purveyors may elect to not submit to the department for review and approval project reports under WAC 246-290-110 and construction documents under WAC 246-290-120 for review and approval of other distribution-related projects as defined in WAC 246-290-010 providing:

(b) The purveyor submits a written request with a new water system plan or an amendment to a water system plan, and updates the request with each water system plan update. The written request should specifically identify the types of projects or facilities for which the submittal exception procedure is requested;



Clear or Confusing?

Sanitation of Public Buildings, WAC 246-203-160

(1) Definition. A public building shall be construed to mean any theater, show-house, public hall, public meeting place, public transportation terminal, or any other public building not covered by specific regulations: Provided, That a public building shall not be construed to include any store, market, supermarket, or other commercial establishment open to the general public for commercial purposes which does not cater to an audience.



Current or Outdated?

Sanitation of public buildings, WAC 246-203-160

(4) Toilet facilities. Every public building shall be provided with adequate sanitary toilet facilities for each of the sexes; and such facilities shall be convenient and accessible. Every public building which must provide adequate sanitary toilet facilities shall provide at least one free sanitary toilet facility for each of the sexes. Where toilet facilities are voluntarily provided by any store, market, supermarket, or other commercial establishment for use by customers of such establishment or the general public, there shall be at least one free sanitary toilet facility provided for each of the sexes. It shall be the duty of the owner, manager, or other responsible person in charge to see that the toilet system is properly installed and maintained in a usable and sanitary condition at all times.



New Rules, New Questions?

Commercial Shellfish, WAC 246-282-012

(3) An applicant for a shellfish operation license shall:

(a) Submit to the department a complete application on a form provided by the department and a written plan of operations that completely describes the shellfish operation;

(b) Pass a preoperational inspection demonstrating compliance with chapter 69.30 RCW, this chapter, and the NSSP Model Ordinance; and

(c) Pay the applicable fee required by WAC 246-282-990.



What Would You Do With This Comment?

Read each comment, then pick A, B, C, or D.

1

"The 180 days needs to be changed to 120 days."

2

"The Model Ordinance only requires 120 days. Why is the Department proposing 180 days?"

3

"WAC 246-230-010(17) screening: clarify the difference between a screening and a scan."

4

"This needs clarification, in some instances many of these are unrealistic."

5

"This proposal is a significant burdensome and unnecessary expensive change for us all. It really needs some real consideration. We really do not want to take it to litigation."

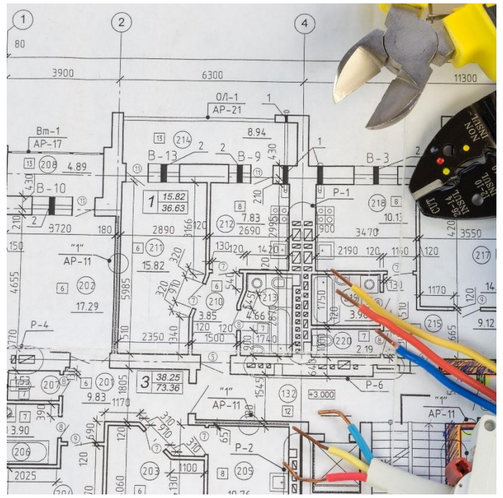
WHAT WOULD YOU DO?

- A Accept it
- B Reject it
- C Ask why
- D Research it

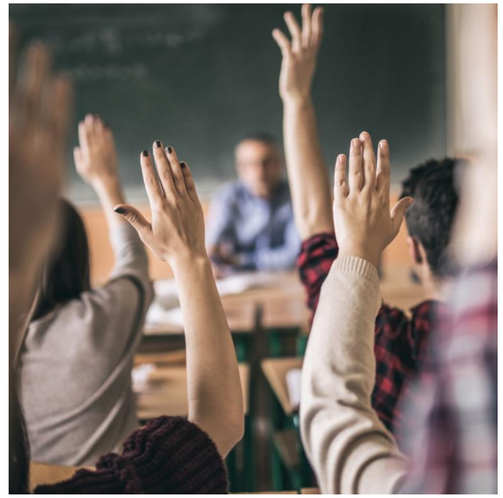
When Rulemaking Gets Complicated



Security
Screening
Systems



Onsite
Sewage
System
Setbacks



School
Environmental
Health &
Safety Rules

Bringing It All Together

Rulemaking at a Glance

CR-101



We’re considering rules, time to get involved!

CR-102



Here’s what we’re proposing. Tell us what you think.

CR-103



We’ve considered the feedback and adopted the rule.

The Process has a Purpose

Rules turn public health science into protections everyone can count on.

Protect health

Clear, science-based standards keep people safe where they live, learn, and gather.

Apply fairly

The same expectations apply statewide, so protection doesn’t depend on where you live.

Include the public

Anyone can weigh in, so rules reflect the people and communities they affect.

You Don’t Have To Be A Rule Expert To Participate

1. Join an interested parties list
2. Attend a workshop
3. Submit comments
4. Ask questions

The earlier you engage, the more opportunities there are to inform the process and rule!

Questions?

Let’s Stay Connected



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Resources

- DOH Rulemaking: https://doh.wa.gov/about-us/rulemakinghttps://doh.wa.gov/about-us/rulemaking
- SBOH Rulemaking: https://sboh.wa.gov/rulemaking/agency-rules-and-activity
- EPH Rulemaking: https://doh.wa.gov/about-us/executive-offices/prevention-safety-and-health/environmental-public-health/rulemaking/eph-active-rulemaking
- Code Reviser Office: https://leg.wa.gov/about-the-legislature/legislative-agencies/cro/
- Title 246 WAC: https://app.leg.wa.gov/wac/default.aspx?cite=246
- APA: https://app.leg.wa.gov/RCW/default.aspx?cite=34.05&full=true
- RFA: https://app.leg.wa.gov/RCW/default.aspx?cite=19.85&full=true
- HEAL Act: https://app.leg.wa.gov/RCW/default.aspx?cite=19.85&full=true

THANK YOU

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