



F OFFICE OF
INANCIAL **M**ANAGEMENT

CHAPTER 246, LAWS OF 2015 ESSB 5084 RULE-MAKING PROCESS

July 2015

Prepared by OFM Forecasting and Research Division

Topics

- › Overview of the WA rule-making process
- › ESSB 5084 rules
- › Three-phase rule-making for ESSB 5084
- › Next Steps

What is a rule?

- › A rule (or regulation) is a written policy or procedure adopted by an agency
- › Rules implement, interpret, apply or enforce a state or federal law or court decision.
- › State law provides for citizen participation before a rule is approved.
- › Washington Administrative Code (WAC) contains the rules to administer state laws (Revised Code of Washington (RCW)).

Three types of rules

Standard rule is adopted using the process in the Washington Administrative Procedure Act (APA). ESSB 5084 rules are standard rules.

Emergency rule is used when a rule is needed before the standard rule-making process can be completed. No public notice or hearing.

Expedited rule is used in specific, limited circumstances. Public notice but no hearing. Any objection results in agency switching from expedited to standard rule process to adopt rule.

Standard rule-making process

Three stages to the standard rule-making process:

1. Pre-notice Inquiry
(CR 101)
2. Notice of Proposed rule-making
(CR 102) and Hearing
3. Adoption and rule-making Order
(CR 103)

Pre-notice Inquiry (CR 101)

- › Begins the rule-making process
- › Provides information and solicits comments
- › Other notification and solicitation methods:
Web posting, sending notices, meeting with interested parties
- › Must be published 30 days prior to filing notice of proposed rule-making

Notice of Proposed Rule-making (CR 102) and Hearing

- › Must be filed with full text of proposed rules
- › Hearing must be not less than 20 days from publication date of Washington State Register
- › Comments provided at hearing or in writing or both

After comment period closes

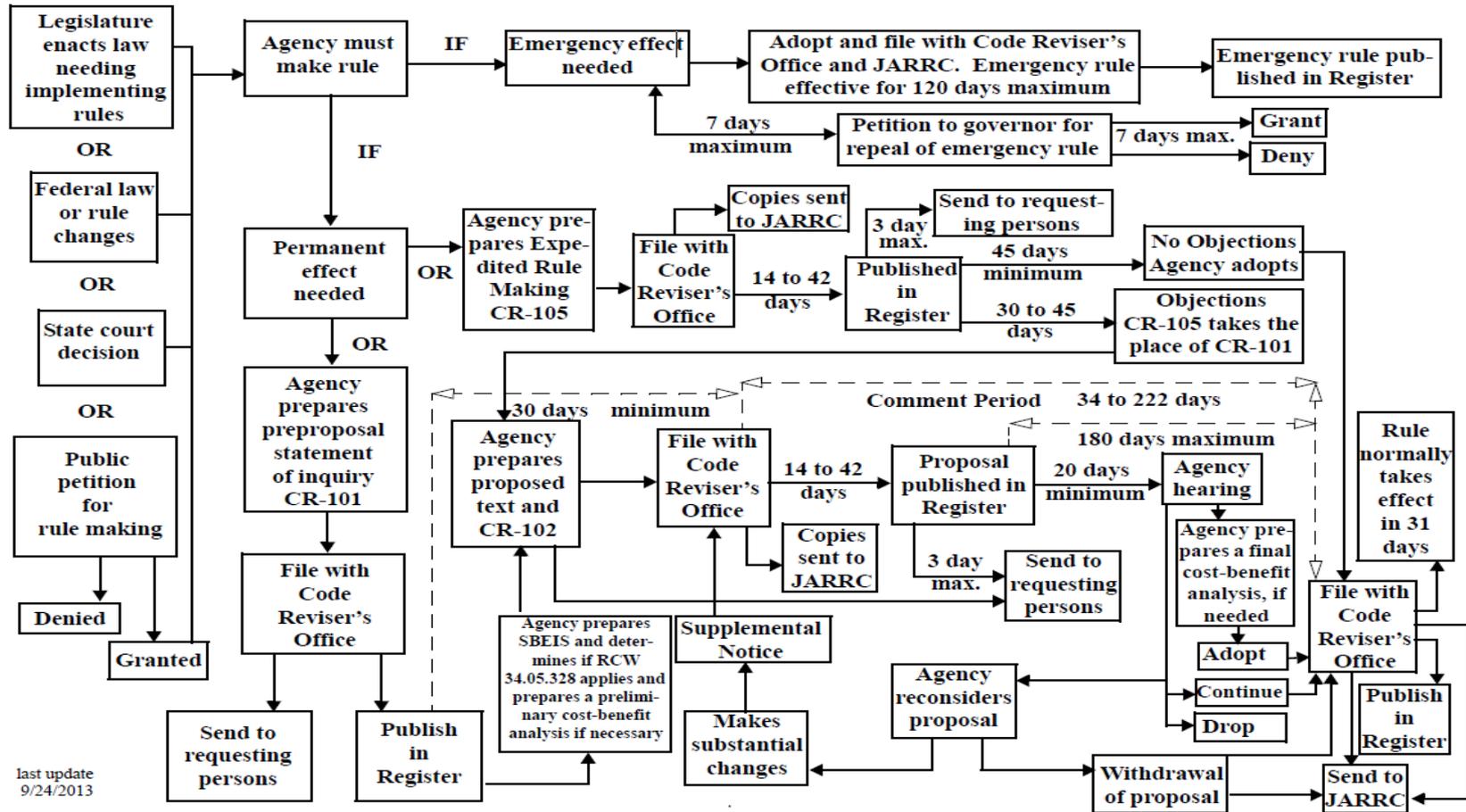
- › Review all comments
- › Make changes or explain why
- › If substantive change, must schedule a new hearing and comment period
- › If no substantive changes, agency may adopt final rules

Adoption and rule-making Order (CR 103)

- › CR 103 must be filed with full text of final rules
- › Effective date: no sooner than 30 days after filing
- › Rules may not be effective prior to 30 days after hearing

Adopting standard, expedited, or emergency WA rules

RULE-MAKING PROCESS



ESSB 5084

- › Enacted in 2015 regular session and effective July 24, 2015
- › Amends chapter 43.371 RCW and changes WA-APCD provisions related to:
 - » definitions regarding data
 - » submission of claims data to the database
 - » parameters for release of information
 - » reporting and pricing of products
 - » responsibilities of the Office of Financial Management and the lead organization

ESSB 5084 Rules

- › Eleven (11) required rules found in Sections 1, 5, and 7.
- › An option to adopt one rule regarding expanded data submission. See Section 3 (1).
- › Section 7(2) places limitation on rules.
 - » The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter.
- › OFM will adopt rules in three phases.

Phase 1 Rules to implement ACPD

Definitions and data submission deadlines

- » Definition of “claims data” including billed, allowed and paid amounts – Section 1(3)
- » Definition of “claim files” and “data files” – Section 7(1)(a)
- » Deadlines for submission of claim files Section 7(1) b

Phase 1 rules to implement WA-APCD

Security and privacy

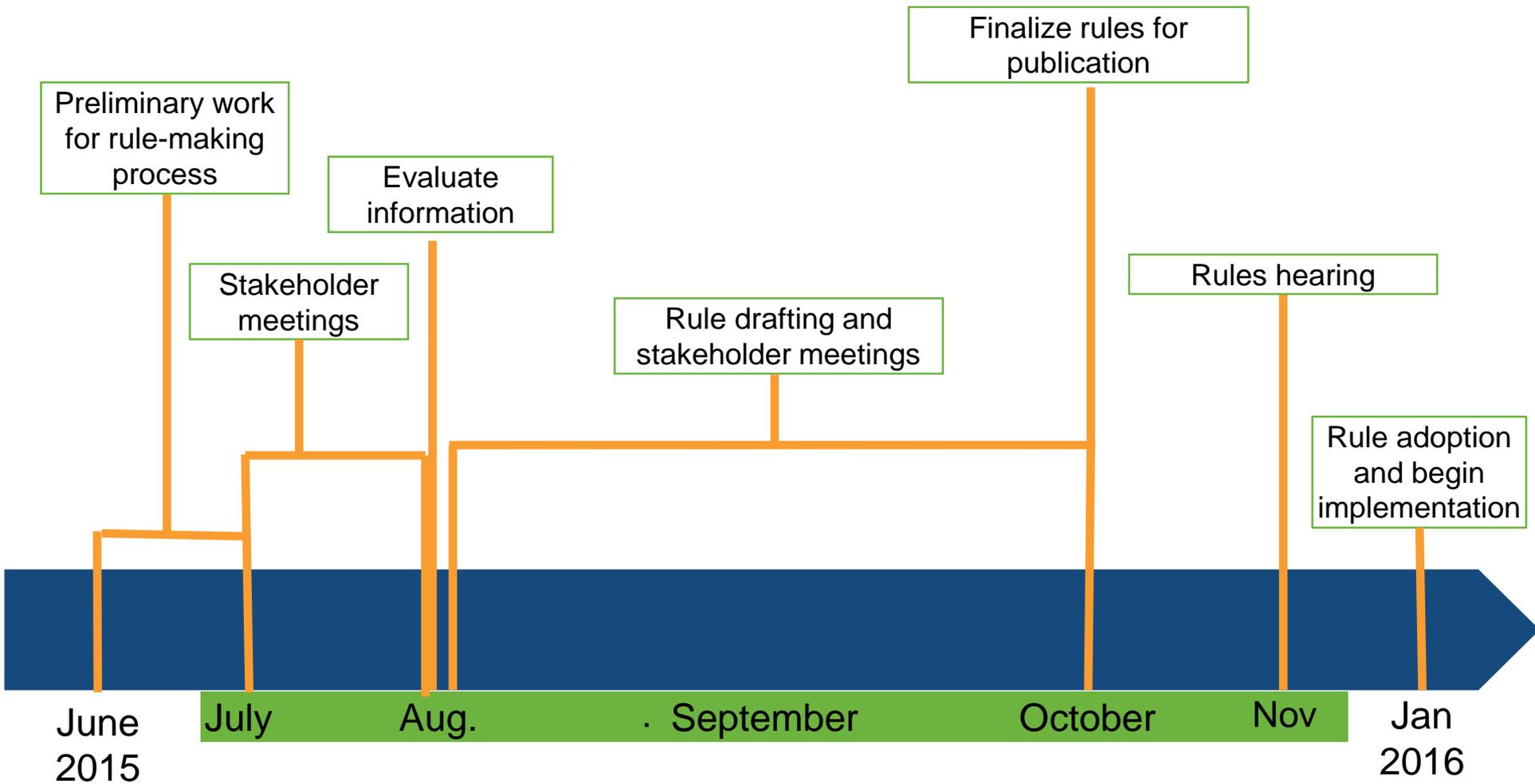
- › Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law – Section 7(1)(d)
- › Procedures for ensuring compliance with state and federal privacy laws – Section 7(1)(e)

Phase 1 rules to implement WA-APCD

Penalties

- › Penalties for failure to submit claim files as required – Section 7(1)(c)

Phase I Timeline: June–January 2016



Phase II rules for data release and fees

Proprietary financial information

Format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. Section 5(6).

Phase II Rules for data release and fees

Data release

- › Procedures for data release Section 7(1)(g)
- › Reasons to decline a request for data Section 5(2)

Fees

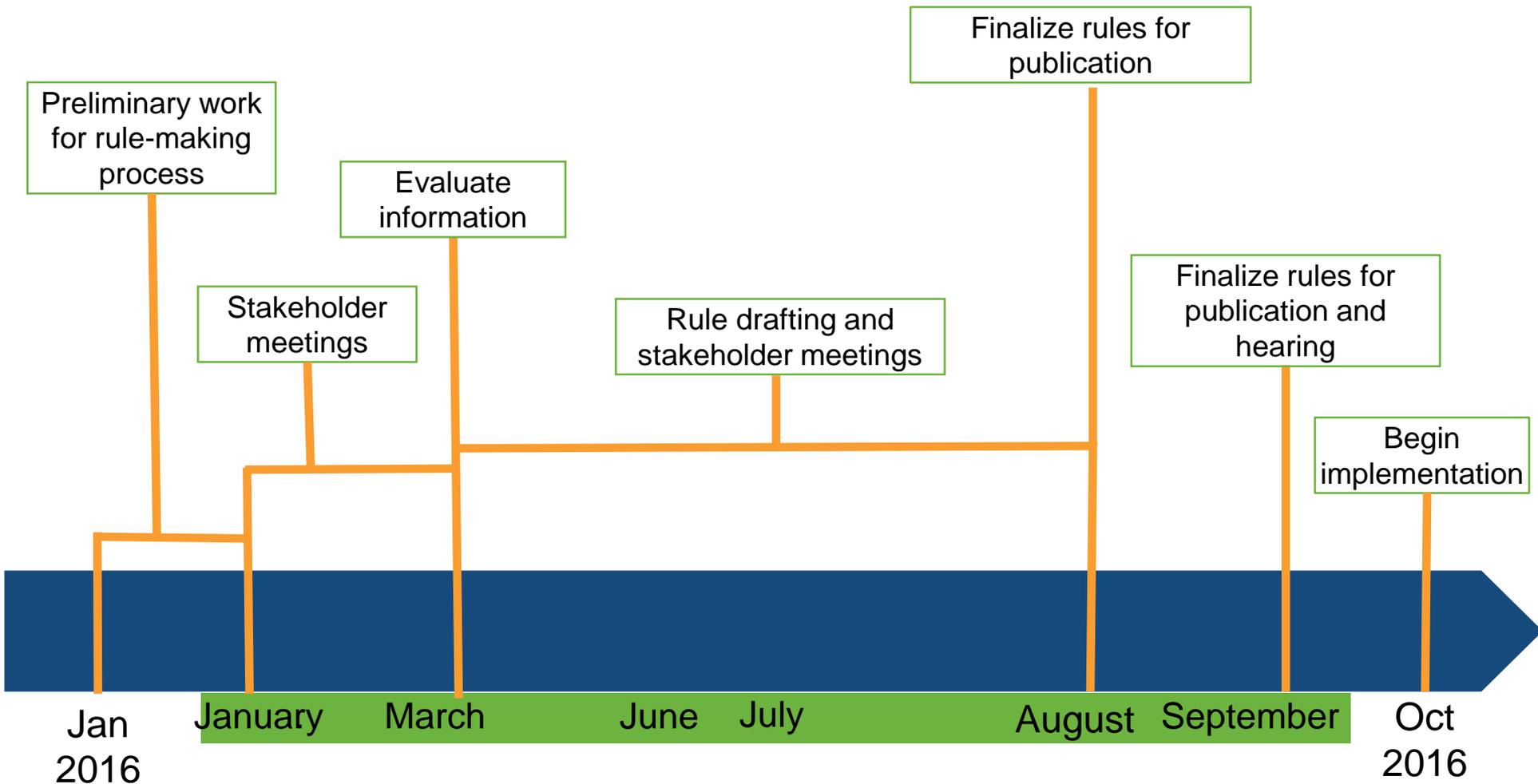
- › Procedures for establishing appropriate fees Section 7(1)(f)

Phase II rules to implement WA-APCD

Penalties

- › Penalties associated with inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information Section 7(1)(h)

Phase II Timeline: Jan – Sept 2016



Phase III for amendments & other rules

- › Any amendments from Phase I and II rules
- › Other rules as may be identified during the rules development process and through stakeholder input

Phase III optional rule

OFM director may adopt a rule to expand claims data submission:

- » long term care insurance
- » Medicare supplemental
- » coverage supplemental to the coverage provided under 55, Title 10 USC
- » limited health care services offered by limited health care service contractors
RCW 48.44.035
- » disability income
- » coverage incidental to a property/casualty liability insurance policy such as
automobile personal injury protection coverage
- » homeowner guest medical
- » accident only coverage,
- » specified disease or illness-triggered payment insurance
- » hospital confinement fixed payment insurance offered as an independent, non-
coordinated benefit.– Section 3(1)

Next Steps

- › Read background papers for each rule on HCPT website

<http://www.ofm.wa.gov/healthcare/pricetransparency>

- › To receive rule information sign up for Listserv APCD@Listserv.wa.gov

- › If you plan to submit comments during the rule-making process , send an email to apcd@ofm.wa.gov

- › Attend public meetings and complete surveys



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For more information, please visit
ofm.wa.gov/healthcare/pricetransparency

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