

Welcome to the webinar for Safer Products for WA Cycle 1.5 draft rule

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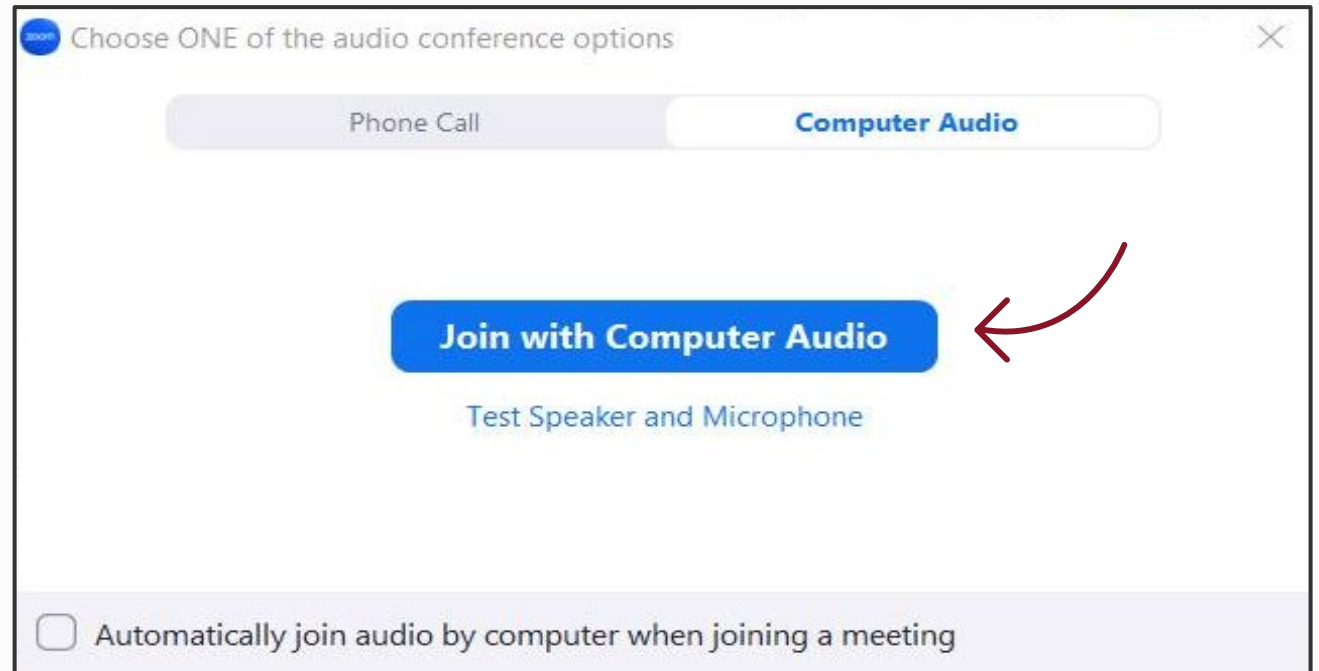
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Preliminary draft rule requirements for PFAS in products

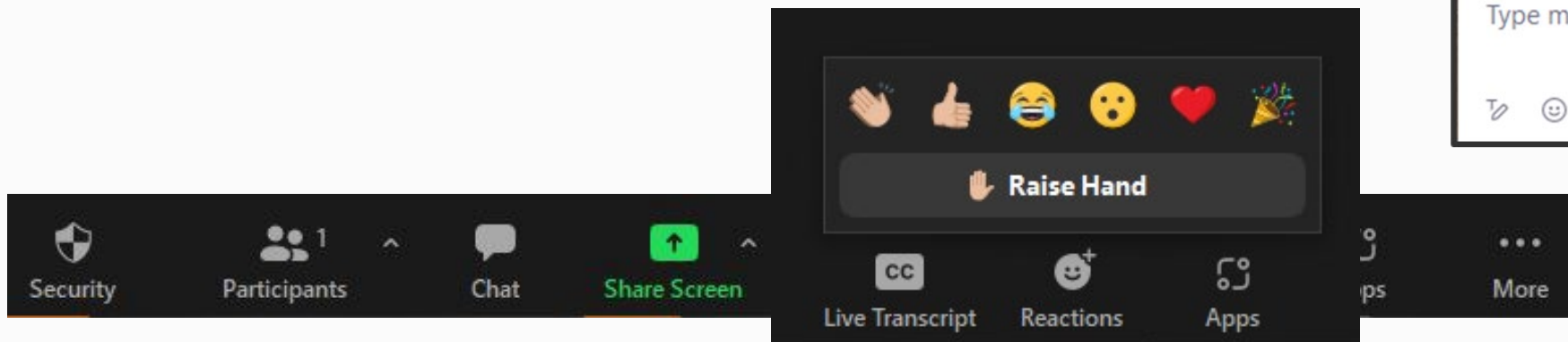
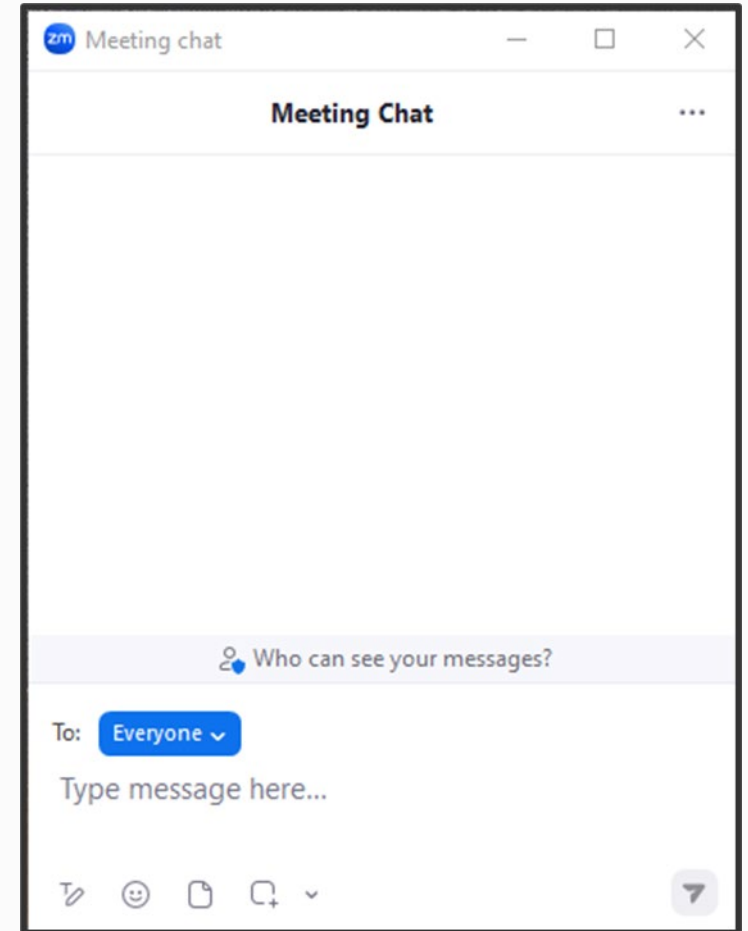
Safer Products for Washington
September 25, 2024



Zoom logistics



- To raise your hand, select the React button on the tool bar at the bottom of the screen, then click Raise Hand.
- To participate in the chat, make sure your responses are sent to Everyone.



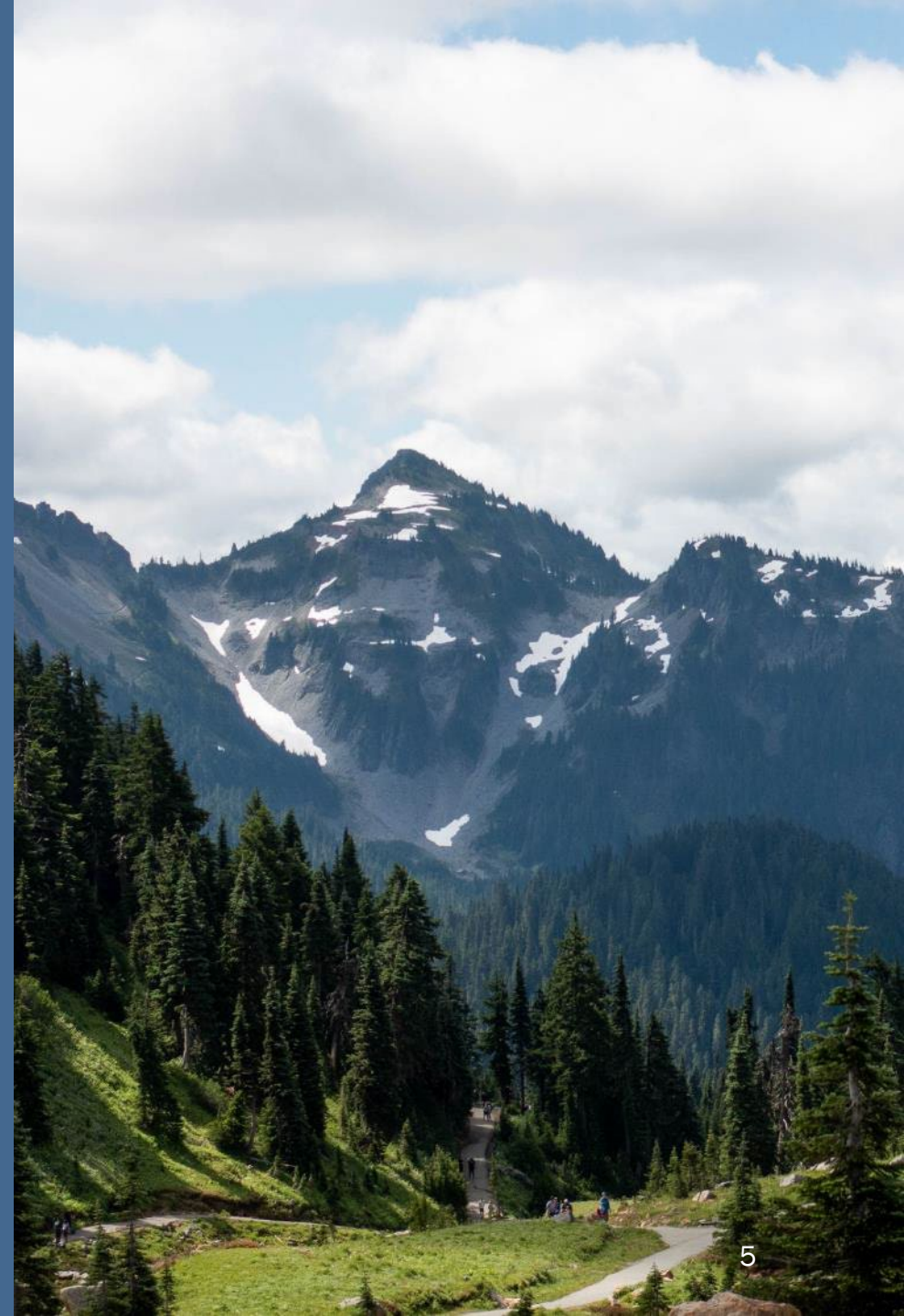
Agenda

1. Overview of Safer Products for Washington
2. Rulemaking overview
3. Discussion: preliminary draft rule
4. Next steps





Overview of Safer Products for Washington

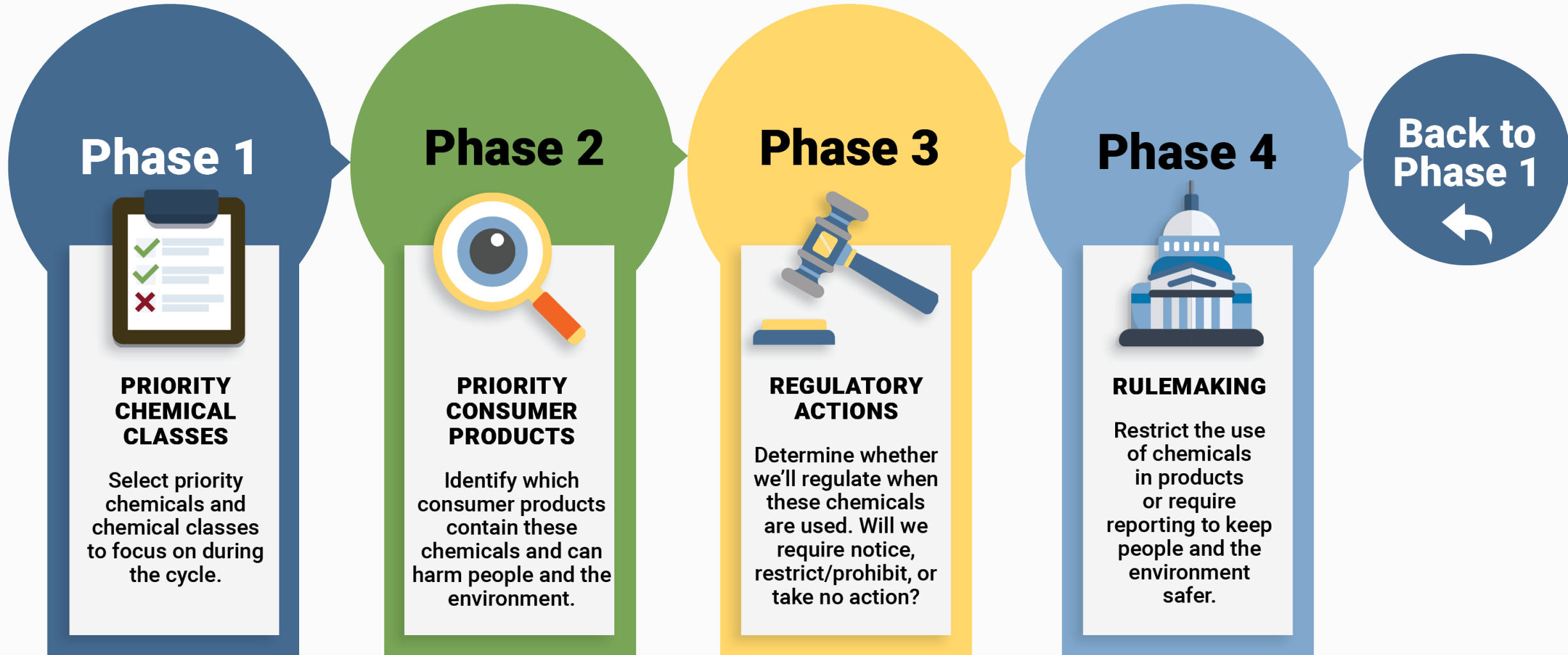


Safer Products for Washington

- Cyclical process for systematically regulating classes of chemicals in consumer products.
 - Statute: Chapter 70A.350 RCW
 - Rule: Chapter 173-337 WAC
- Equitably reduce exposure to toxic chemicals from consumer products.
- Prevent releases of toxic chemicals into the environment.



Safer Products for Washington implementation process



Safer Products for Washington cycles

- **Cycle 1: Adopted new rule (Chapter 173-337 WAC) in May 2023**
- **Cycle 1.5:**
 - Phase 3: Regulatory Determinations Report submitted June 2024
 - Phase 4: Adopt rules by December 2025
- **Cycle 2**
 - Phase 1: Priority Chemical Report submitted June 2024
 - Phase 2: Priority Products Report due June 2025

Cycle 1.5: Focus on PFAS

In 2022, the Legislature amended Chapter 70A.350 RCW to add specific requirements to reduce PFAS in products.

Revisions directed Ecology:

- Consider products in the PFAS Chemical Action Plan.
- Identify firefighting personal protective equipment as a priority product.
- Determine regulatory actions by **June 2024**.
- Adopt rules by **December 2025**.

Why PFAS?

- RCW 70A.350.010 defines PFAS as a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.
- The carbon-fluorine bond makes PFAS persistent in the environment.
Many PFAS are:
 - **Mobile** in the environment or bioaccumulate.
 - **Pervasive** environmental contaminants.
 - **Toxic** to people and the environment.
 - **Detected** in nearly everyone.

Priority products from the chemical action plan



Apparel
and gear



Firefighting personal
protective equipment



Cleaning products including
automotive washes



Automotive waxes
and polishes



Floor waxes
and polishes



Ski
waxes



Hard surface
sealers



Cookware and
kitchen supplies

Safer Products for Washington phase 3

- Three possible regulatory actions: no action, reporting, or restriction.
- To recommend a restriction, Ecology must identify safer, feasible, and available alternatives.
 - Does the restriction reduce a significant source or use of PFAS?
 - Are safer alternatives feasible and available?
 - Consider other regulations and market analysis.

Phase 3



REGULATORY ACTIONS

Determine whether we'll regulate when these chemicals are used. Will we require notice, restrict/prohibit, or take no action?

Evaluating alternatives to PFAS in priority products

We evaluated alternatives to PFAS in:

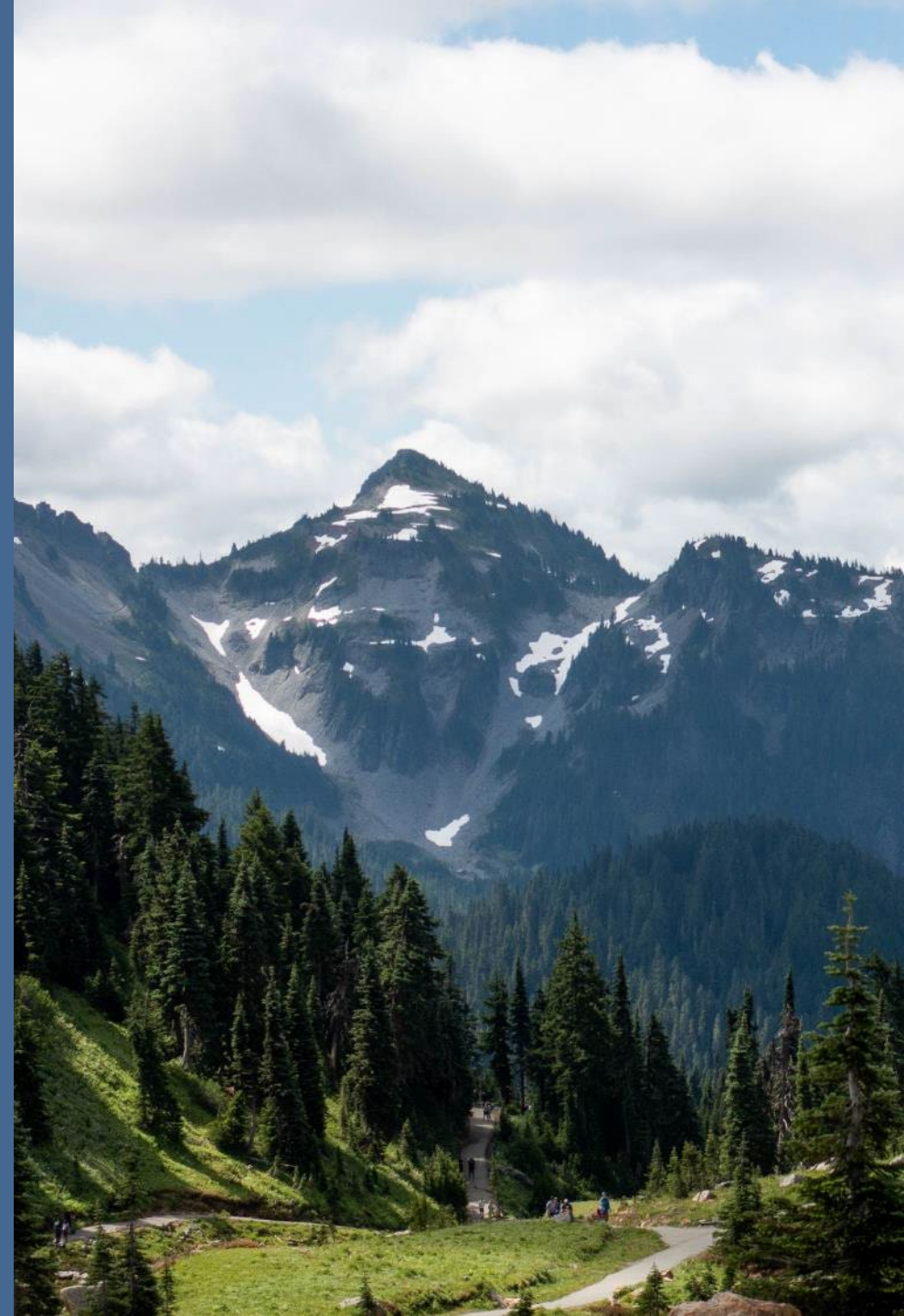
- Apparel and gear.
- Automotive washes.
- Automotive wax.
- Cleaning products.
- Firefighting personal protective equipment.
- Floor wax.
- Ski wax.

We didn't evaluate alternatives to PFAS in:

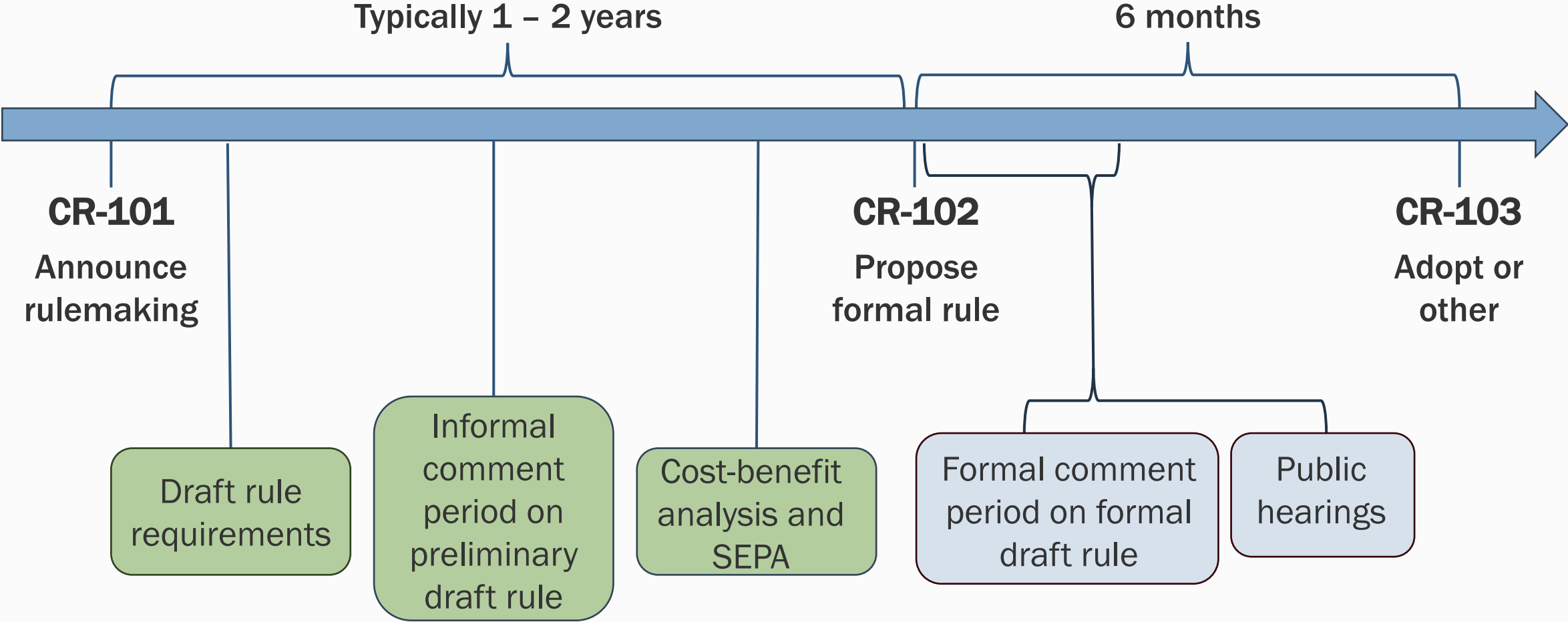
- Cookware and kitchen supplies.
- Hard surface sealers.



Rulemaking Overview



Rulemaking process



See slide 49 for figure description.

Opportunities to provide feedback

CR-101

INFORMAL comment period

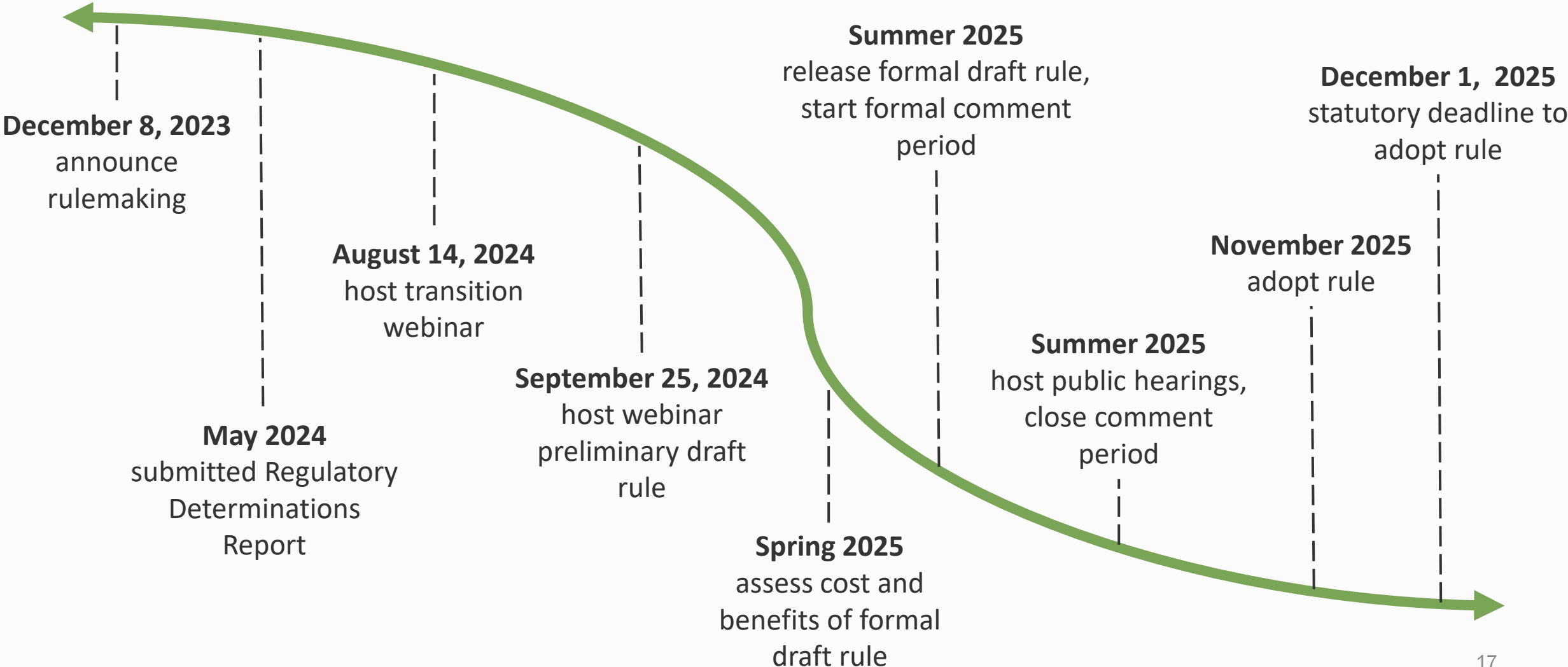
- Create draft rule requirements.
- Write preliminary draft rule.
- Provide INFORMAL public comment period.
- Significant changes are ok.

CR-102

FORMAL comment period

- Release formal draft rule, cost-benefit analysis, and SEPA.
- Provide FORMAL public comment period and hearings.
- Must refile the CR-102 form if significant changes to rule.

Cycle 1.5 rulemaking timeline



Scope of cycle 1.5 rulemaking

Implement regulatory actions in the Regulatory Determinations Report (submitted May 2024)

Restrictions on PFAS in:

- Apparel (NOT extended use).
- Automotive washes.
- Cleaning products.

Report use of PFAS in:

- Apparel (extended use), footwear, gear.
- Automotive waxes.
- Cookware and kitchen supplies.
- Firefighting personal protective equipment.
- Floor waxes and polishes.
- Hard surface sealers.
- Ski waxes.

Preliminary draft rule structure

Part A – General

010 Authority and purpose

015 Applicability

020 Requesting an exemption

025 Acronyms and definitions

030 Enforcement and penalties

035 Severability

040 Federal preemption

045 Relation to other laws and rules

050 Equity and environmental justice

055 Previously owned priority consumer products

060 Reporting requirements

065 Confidential business information (CBI)

Preliminary draft rule structure (cont.)

Part B – Chemicals and Consumer Products

110 PFAS

111 Ortho-phthalates

112 Flame retardants

113 Alkylphenol ethoxylates

114 Bisphenols

Applicability (section 015)

This chapter applies to persons who:

- Manufacture, distribute, sell (including but not limited to wholesale, online, or retail) or offer to sell a priority consumer product that contains a priority chemical in or into Washington state.

This chapter doesn't apply to:

- Consumer products excluded from Chapter 70A.350 RCW.
- Consumer products transported or stored in Washington state as part of interstate commerce.
- The recycling or disposal of existing stock.

Requesting an exemption (section 020)

A person required to comply with this chapter may request an exemption from the requirements of this chapter. They must:

- Submit a request to Ecology.
- Provide justification.

Examples:

- The product has specific performance requirements not compatible with safer alternatives (outdoor electronics).
- Wanting to use a chemical within the priority chemical class that meets our within-class criteria for safer.

Acronyms and definitions (section 025)

Defined terms

- Consumer product
- Credible evidence (new)
- Existing stock
- Extreme and extended use (new)
- Firefighting personal protective equipment (new)
- Gear for recreation and travel (new)
- Intentionally added priority chemical
- Manufacturer



Part B: Chemicals and consumer products

Section 110 – PFAS

- (5) Apparel
- (6) Apparel intended for extreme and extended use
- (7) Footwear
- (8) Gear for recreation and travel
- (9) Automotive washes
- (10) Automotive waxes
- (11) Cleaning products
- (12) Cookware and kitchen supplies
- (13) Firefighting personal protective equip.
- (14) Floor waxes and polishes
- (15) Hard surface sealers
- (16) Ski waxes

Regulatory actions

Restrictions on PFAS in:

- Apparel (NOT extended use)
- Automotive washes
- Cleaning products

Report use of PFAS in:

- Apparel (extended use), footwear, gear
- Automotive waxes
- Cookware and kitchen supplies
- Firefighting personal protective equipment
- Floor waxes and polishes
- Hard surface sealers
- Ski waxes

Reporting requirements (section 060)

- Applies to nine new product categories.
- Start tracking on January 1, 2026.
- Notify Ecology annually.
- Manufacturers must provide notice that the priority consumer product contains intentionally added PFAS.
- Use the High Priority Chemicals Data System to notify Ecology.
- Include the name of the chemical and its CAS RN, the product category, the product component, a description of the function of the chemical, and the concentration range.

Restrictions: Rebuttable presumption

Overview

- Applies to three new product categories.
- The language is tailored to each chemical-product combination.
- Example process:
 - Ecology tests regulated PFAS products.
 - Ecology detects total fluorine in a regulated PFAS product and notifies the manufacturer.
 - The manufacturer may rebut the presumption or work with Ecology to get to compliance.

Restrictions: Rebuttable presumption (cont.)

Example language

Ecology presumes the detection of total fluorine indicates the intentional addition of PFAS.

Manufacturers may rebut this presumption by submitting a statement to Ecology that includes the following information.

- The name and address of the person submitting the statement.
- A statement that PFAS were **not** intentionally added and credible evidence supporting that statement. Include information, data, and sources relevant to demonstrate that the total fluorine is from a source other than intentionally added PFAS.

Questions and feedback

What questions or feedback do you have on the information we covered so far?

- Questions?
- Feedback?



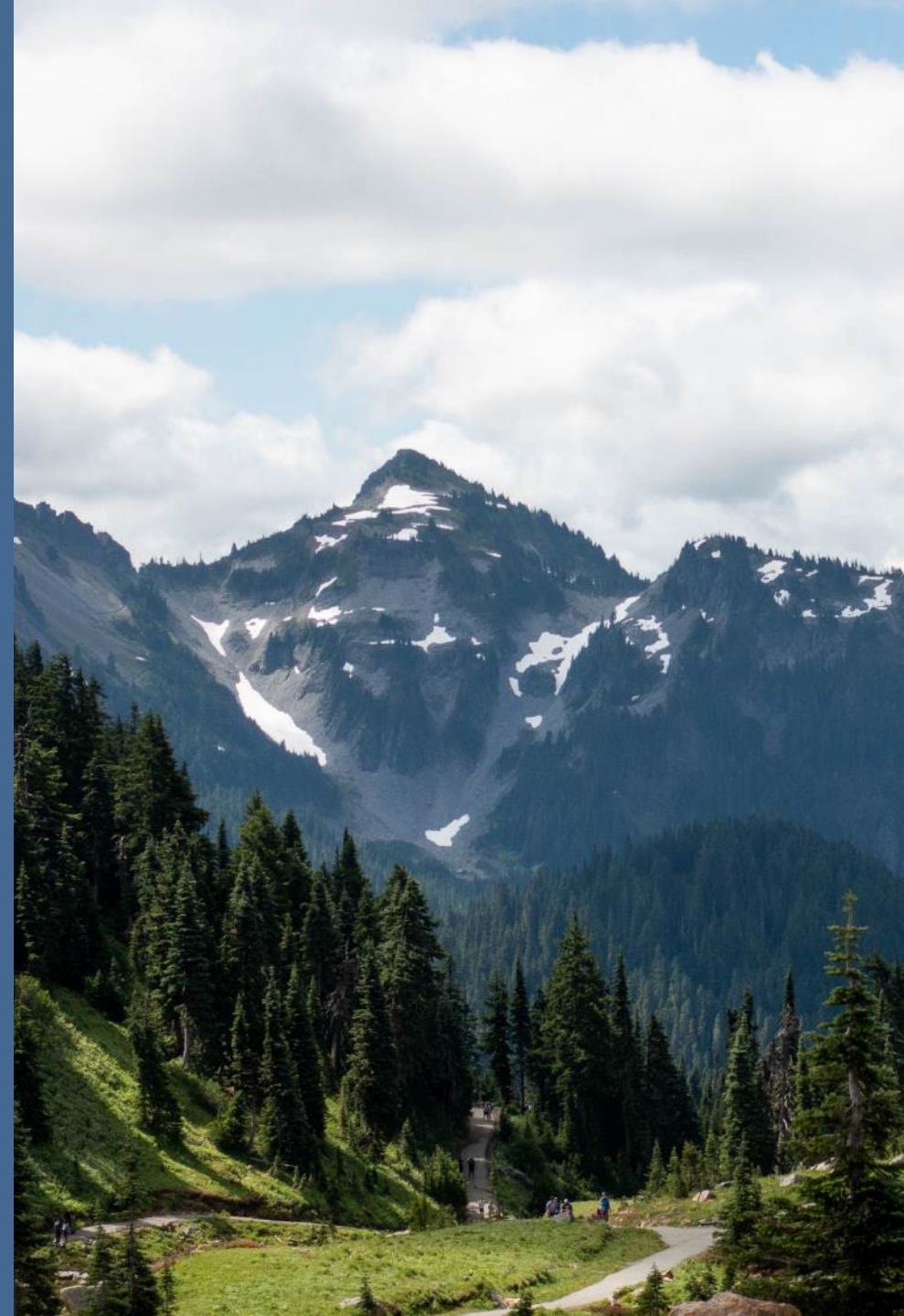


Time for a quick break



Discussion

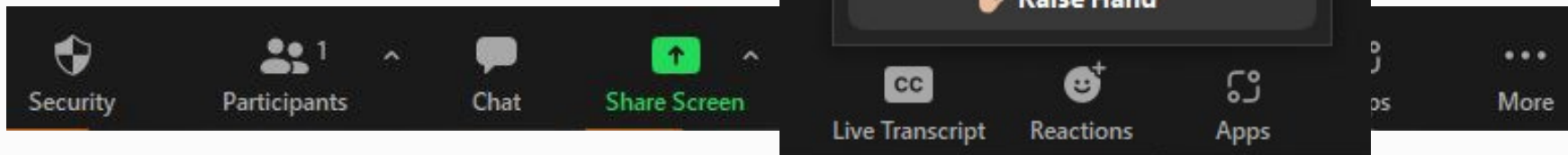
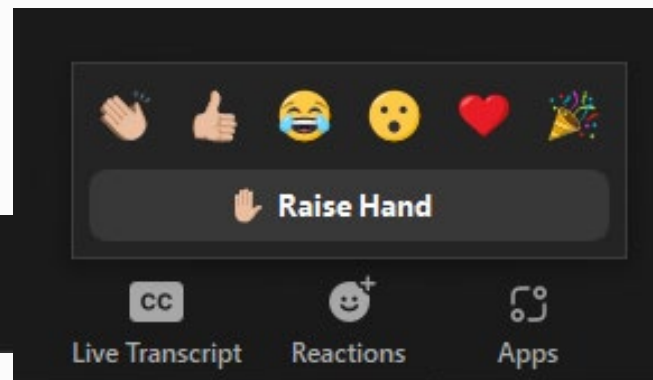
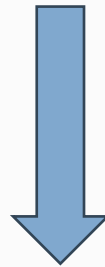
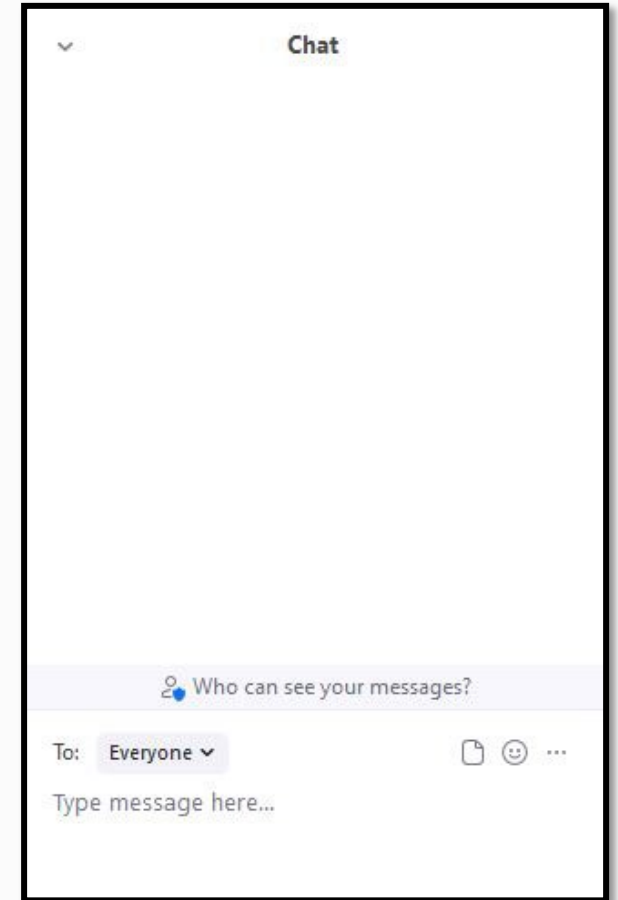
Preliminary draft rule



Tell us your ideas

To share feedback:

- Type your ideas in the chat.
- Raise your hand to share your ideas verbally.



Apparel and gear

Apparel (NOT extreme and extended use)

- Ex: clothing, uniforms, athletic wear
- Doesn't include footwear or gear
- Restriction on intentionally added
- **Effective Jan. 1, 2027**

Apparel (extreme and extended use)

- Ex: extreme weather for extended periods (experts and professional users)
- Doesn't include footwear or gear
- Reporting (track in 2026, **report by Jan. 31, 2027**)

Questions

- Are these dates feasible?
- Thoughts about potential costs related to complying with these dates?
- Questions or thoughts about products in these categories?

Apparel and gear (cont.)

Footwear

- Ex: boots, casual, dress, hiking, running, sandals
- Reporting (track in 2026, report by Jan. 31, 2027)

Gear for recreation and travel

- Ex: backpacks, camping furniture, sleeping bags, umbrellas
- Reporting (track in 2026, report by Jan. 31, 2027)

Questions

- Are these dates feasible?
- Thoughts about potential costs related to complying with these dates?
- Questions or thoughts about products in these categories?

Automotive washes

Draft requirements

- Includes boats, cars, RVs, trucks.
- Restriction on intentionally added
- Effective Jan. 1, 2027

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Automotive waxes

Draft requirements

- Such as all-in-one, spray wax, wet wax.
- Doesn't include products applied during automotive manufacturing.
- Reporting (track in 2026, report by Jan. 31, 2027)

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Cleaning products

Draft requirements

- Such as all-purpose cleaners, disinfectants.
- Doesn't include PFAS used as propellant function.
- Restriction on intentionally added.
- Effective Jan. 1, 2027

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Cookware and kitchen supplies

Draft requirements

- For things like frying pans, cooking pots, rice cookers, waffle makers, griddles, bakeware, reusable baking liners, and cooking utensils.
- Doesn't include internal electrical components.
- Reporting (track in 2026, report by Jan. 31, 2027)

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Firefighting personal protective equipment

Draft requirements

- As defined in statute (RCW 70A.400.005(4)).
- The clothing worn by firefighters in the performance of their duties. Such as jackets, pants, shoes, gloves, helmets, respirator.
- Reporting (track in 2026, report by Jan. 31, 2027)

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Floor waxes and polishes

Draft requirements

- For items like multi-surface floor finishes, semi-gloss, and high-gloss.
- Is designed to polish, protect, or enhance a floor's surface.
- Reporting (track in 2026, report by Jan. 31, 2027)

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Hard surface sealer

Draft requirements

- Are used to seal hard, porous surfaces (stone, unglazed tile, concrete, wood).
- Is intended for interior and exterior applications.
- Reporting (track in 2026, report by Jan. 31, 2027)

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



Ski waxes

Draft requirements

- Such as hot wax, spray wax, and rub-on wax.
- When it's used on snow equipment (Nordic skis, alpine skis, and snowboards).
- Reporting (track in 2026, report by Jan. 31, 2027).

Questions

- Is this date feasible?
- Thoughts about potential costs related to complying with this date?
- Questions or thoughts about products in this category?



General discussion

What else would you like to tell us?

- Questions?
- Feedback?





Next steps

Cycle 1.5 rulemaking



Next steps for cycle 1.5 rulemaking

Before Oct. 16, share feedback by:

- Using our online comment form.
- Requesting a meeting.
- Emailing our team.

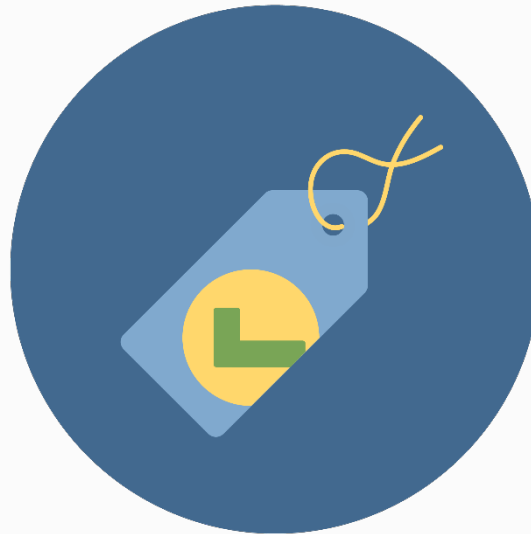
Next year, we intend to:

- Conduct an economic assessment on the formal draft rule in spring 2025.
- Propose the formal draft rule in the summer of 2025.

Thank you for joining us!



SaferProductsWA@ecy.wa.gov



ecology.wa.gov/Safer-Products-WA



Chapter 70A.350 RCW
Chapter 173-337 WAC

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Figure Description, slide 7

- **Slide 7:** This slide demonstrates the four phases of a standard Safer Products for Washington cycle: priority chemical classes, priority consumer products, regulatory actions, and rulemaking.
- Safer Products for Washington implementation cycle are defined in four phases. Once phase four is complete, it's back to phase 1.
- **Phase 1:** Priority Chemical Classes in which we select priority chemicals and chemical classes to focus on during the cycle.
- **Phase 2:** Priority Consumer Products in which we identify which consumer products contain these chemicals and can harm people and the environment.
- **Phase 3:** Regulatory Actions in which we determine whether we'll regulate when these chemicals are used. Will we require notice, restrict/prohibit, or take no action?
- **Phase 4:** Rulemaking in which we restrict the use of chemicals in products or require reporting to keep people and the environment safe.

Figure Description, slide 15

Slide 15: This slide shows the three milestones of the rulemaking process. We file the CR-101 form to announce the rulemaking, and this officially starts the rulemaking effort. This phase typically lasts one to two years and includes drafting the rule requirements, an informal comment period on the preliminary draft rule, a cost benefit analysis, and SEPA review. Then we file the CR-102 form and materials to propose the formal draft rule. This process lasts six months. During this time, we start the formal comment period (which typically lasts 30 – 45 days) and host formal hearings. If the Ecology director supports adopting the rule, then we file the CR-103 form and materials with the Code Reviser.