

Hydraulic Code Rule Update

Habitat Committee Briefing, August 4, 2022

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This presentation will cover:

What are the Hydraulic Code Rules?

Rule-making steps and schedule

Review of relevant 2021 legislation

Considerations for the proposed rule amendment



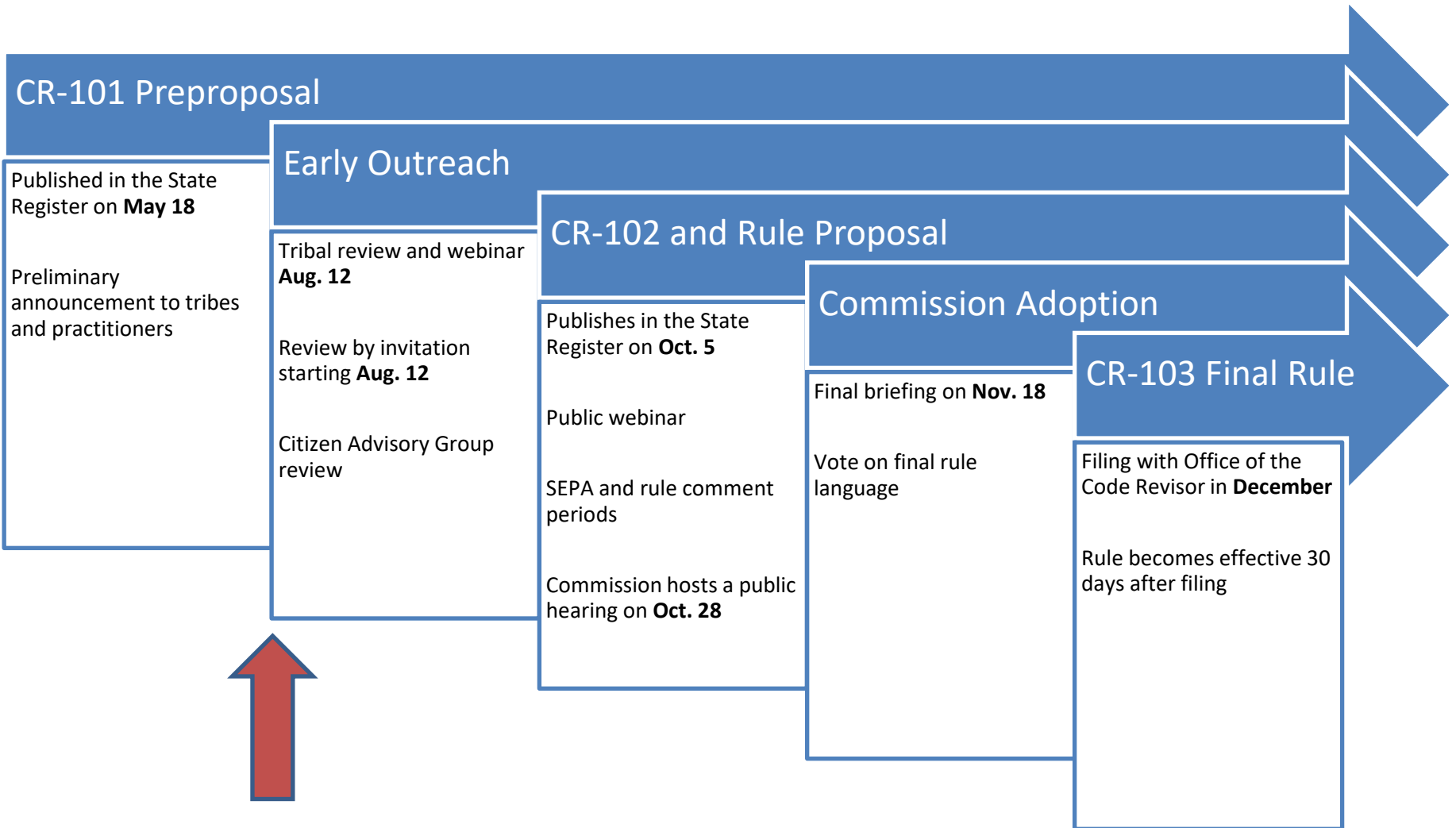
Chapter 220-660 WAC Hydraulic Code Rules

Regulations for administration of the Hydraulic Project Approval (HPA) program

- Criteria generally used by the department to review and condition hydraulic projects to protect fish life
- Procedures, permit provisions, steps for HPA appeals, and civil compliance
- WAC 220-660-370 addresses shoreline stabilization in saltwater areas



Rule Making Steps



2021 Legislation

Three bills made changes to RCW 77.55 Construction Projects in State Waters

- **ESHB 1382** created the Habitat Recovery Pilot Program. The Commission adopted an expedited rule in December 2021.
- **SSB 5273** concerns the replacement of shoreline stabilization. Rulemaking is under way.
- **SSB 5381** modified the existing Fish Habitat Enhancement Project (FHEP) streamlined permitting process. An expedited rule is anticipated for early 2023.

All three bills went into effect on July 25, 2021

Rule making amends WAC 220-660, the Hydraulic Code Rules



SSB 5273

- Language is similar to WAC 220-660-370
- Applies specifically to the replacement of residential marine shoreline stabilization
- Requires the use of the least impacting technically feasible alternative for the protection of fish life
- Requires a site assessment with alternatives analysis
- WDFW may provide a report exemption based on scale and nature of the project
- Does not differentiate between standard, expedited and emergency permits
- New statutory language is found in RCW 77.55.231(1)



Integrating SSB 5273 into rule

Goal: Integrate new requirements for replacement of residential marine shoreline stabilization into WAC 220-660-370

- Keep the existing mandatory report components in the rule and apply them to replacement residential marine stabilization
- Feasibility defined in SSB 5273
- Address how emergency and expedited HPA applications will be handled
- Edits for clarification and readability



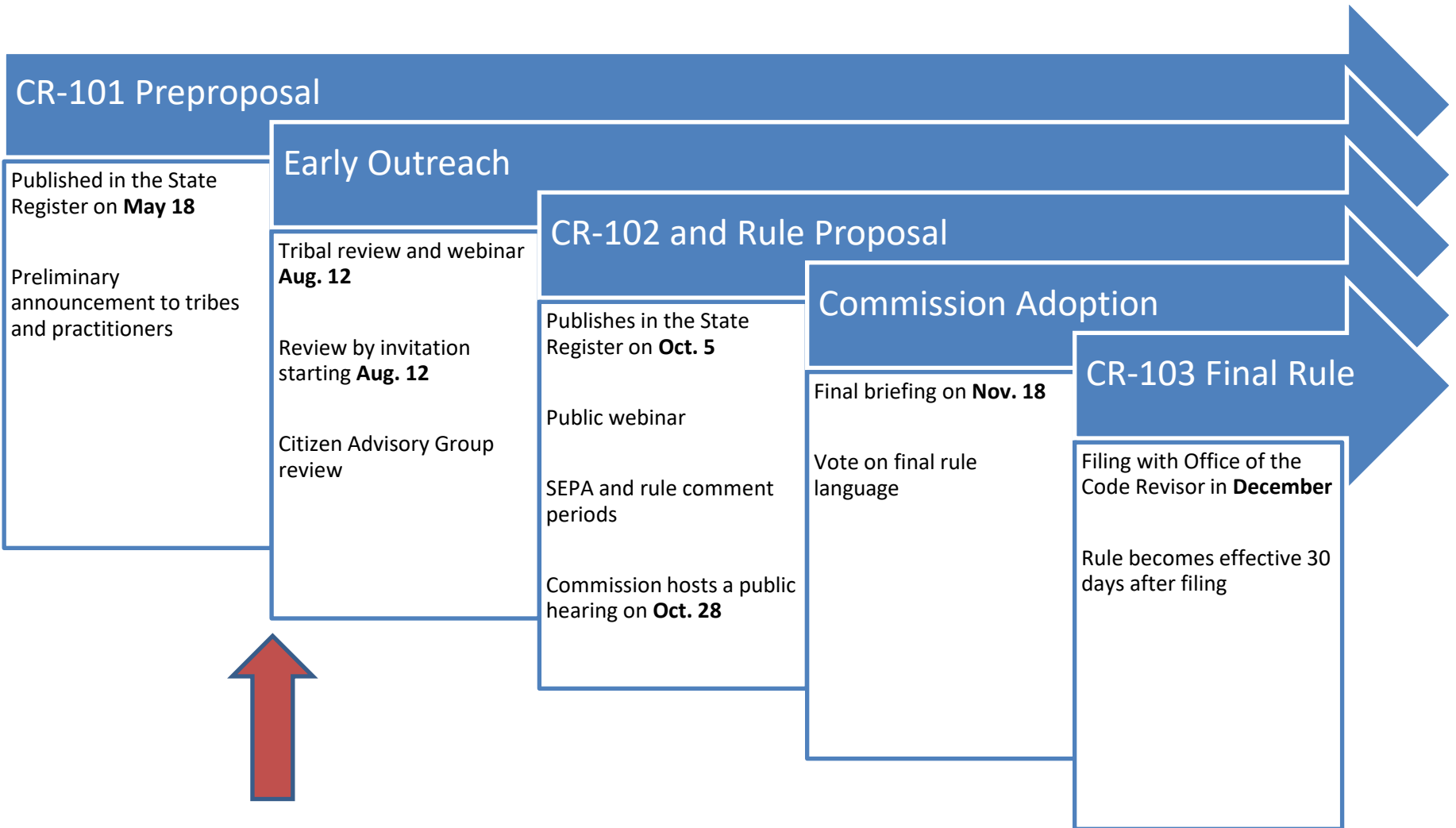
Integrating SSB 5273 into rule

Goal: Provide some certainty for applicants while retaining enough flexibility that our biologists can apply their best professional judgement to each unique project.

- Building rule language vs. addressing in internal guidance for evaluating permit applications.
 - Existing guidance: Marine Shorelines Design Guidelines (MSDG)
- Extension of report requirement by a “qualified professional” to residential marine shoreline stabilization replacement.
- Report exemptions



Rule Making Steps





Questions?

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For Reference: Preferred alternatives comparison

New armor & waterward replacement (already in WAC)	Replacement residential armor (in RCW)
(i) Remove the bank protection structure	(i) Remove the structure and restore the beach
(ii) Control upland drainage	(ii) Remove the structure and install native vegetation
(iii) Protect, enhance, and replace native vegetation	(iii) Remove the structure and control upland drainage
(iv) Relocate improvements or structures*	(iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering
(v) Construct a soft structure	(v) Remove the hard structure and construct upland retaining walls
(vi) Construct upland retaining walls	(vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line
(viii) Construct hard structure at the ordinary high water line	(vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure



For Reference: Existing rule vs. new statute

Existing: WAC 220-660-370	New: RCW 77.55. 231
New and waterward replacement of marine shoreline armoring	Replacement residential marine bank protection and armoring
Must use least impacting technically feasible alternative	Must use least impacting technically feasible alternative
Includes most-to-least preferred alternatives list	Includes most-to-least preferred alternatives list
Requires a site assessment, alternatives analysis and design rationale prepared by a qualified professional	Requires a site assessment and alternatives analysis report when proposing hard armoring
WDFW may provide a report exemption based on scale and nature of the project	WDFW may provide a report exemption based on scale and nature of the project
“feasible” is not defined	"feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics, in light of overall project purposes

