

# WDFW Public Comment Assessment and Best Practices

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# Acknowledgments

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## Notes:

- Study does not include nor engage tribal input or collaboration, as that is conducted through government-to-government processes.
- All results and best practices are selected from a wider range, that are included in the full report.
- All best practices are suggested and stem from collected data.
- All best practices should be reviewed and vetted by legal counsel prior to adoption and implementation.





"...participation serves three particularly important democratic values: legitimacy, justice, and the effectiveness of public action" (Fung, 2006, p. 74)."

# Project Purpose

to identify and develop a suite of best practices for inventorying, synthesizing, and presenting public comment to agency decision-makers

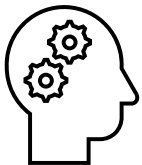
increase understanding of public comment and rulemaking best practices



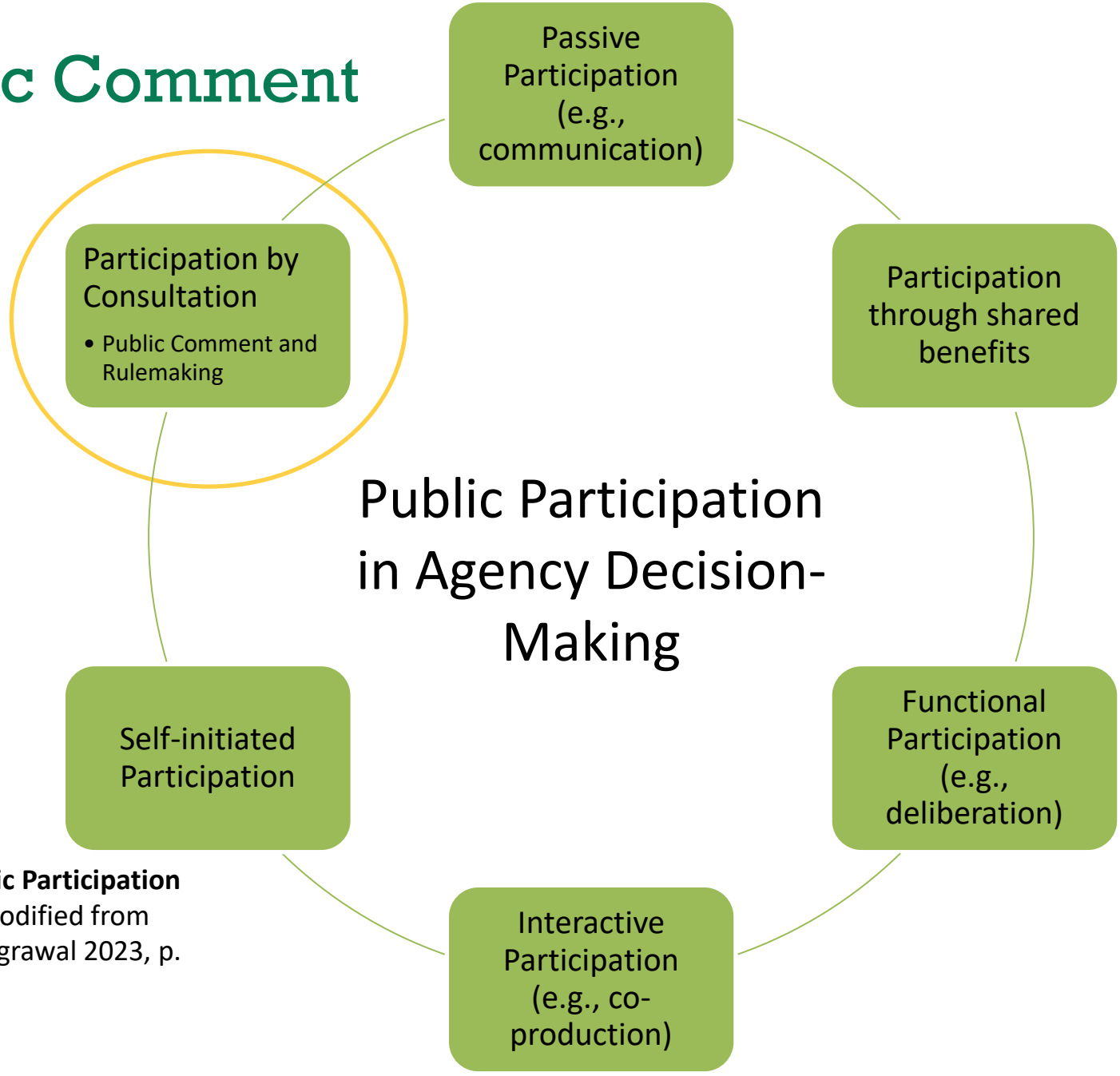
enhance agency public comment, rulemaking, and public engagement



enhance agency-public interactions, environmental justice considerations, good governance, and decision-making



# Public Comment



**Figure. Public Participation Typology** (modified from Miller and Agrawal 2023, p. 221)



# Public Comment at WDFW

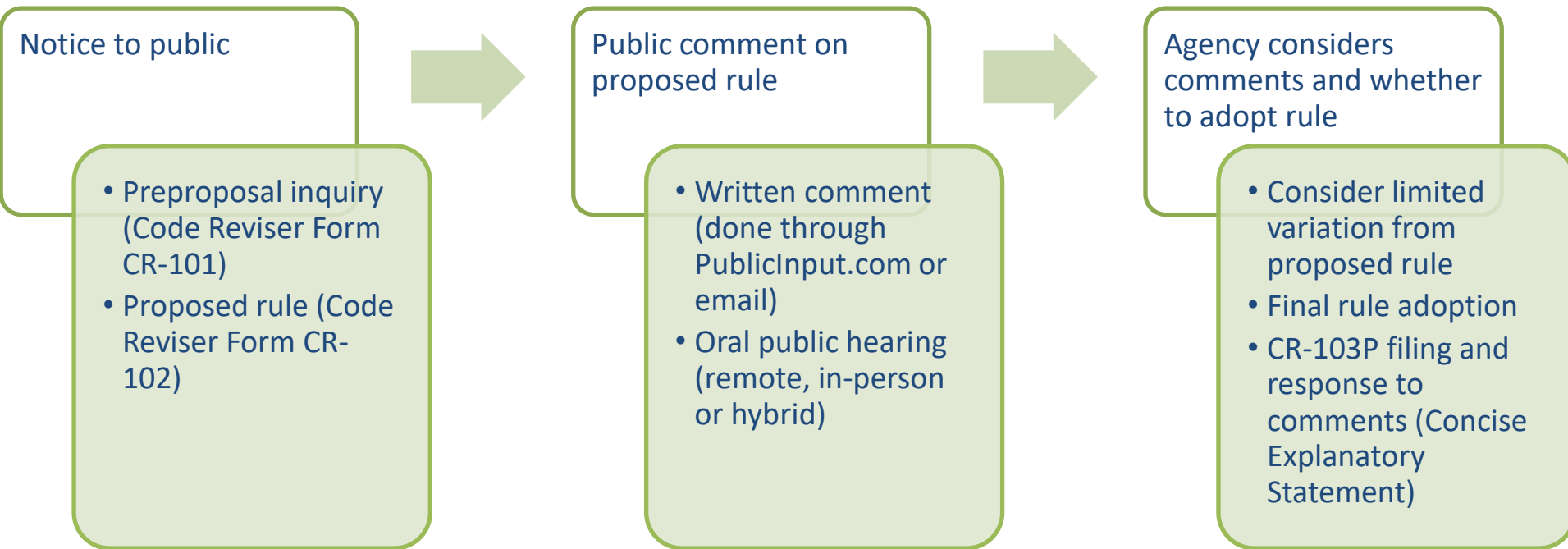
## Rulemaking (Scott Bird, Rules Coordinator, WDFW)

- **Permanent:** After consideration of the submitted comments and hearing testimony, the Commission or Director adopts the final rule that will have legal effect on a set effective date.
- **Emergency:** If there are extenuating circumstances, WDFW bypasses the notice and comment process and creates an emergency rule. The rule can only remain in effect for a maximum of 120 days.
- **Expedited:** If the rule applies only to internal government operations or incorporates federal or state laws, WDFW may eliminate the need for a comment period and public hearing and adopt or repeal a rule.



# Public Comment at WDFW

## Rulemaking at WDFW (Scott Bird, Rules Coordinator, WDFW)

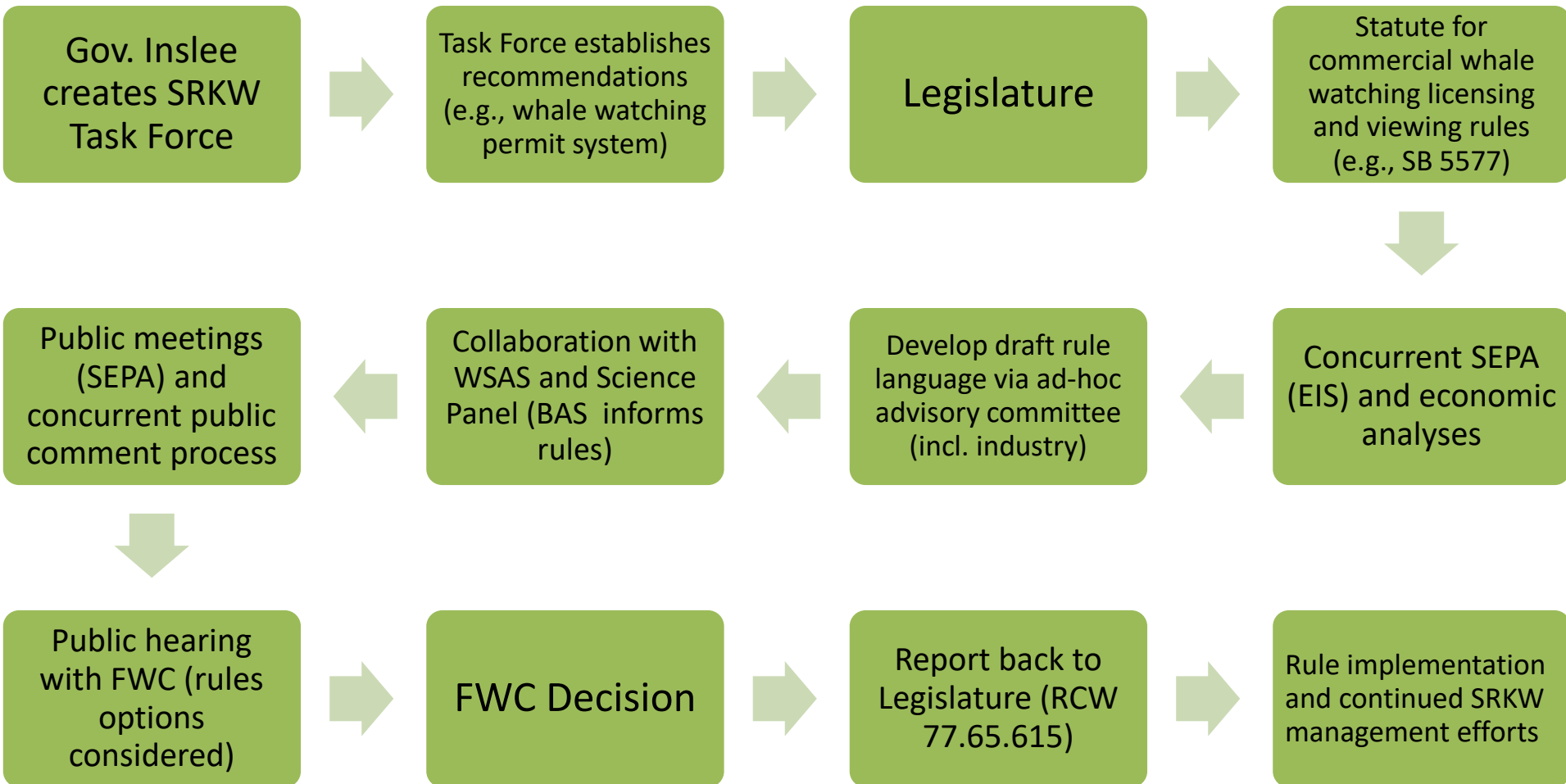


Note: Procedures vary for emergency and expedited rules



# Public Comment at WDFW

## Major Projects: SRKW conservation and management





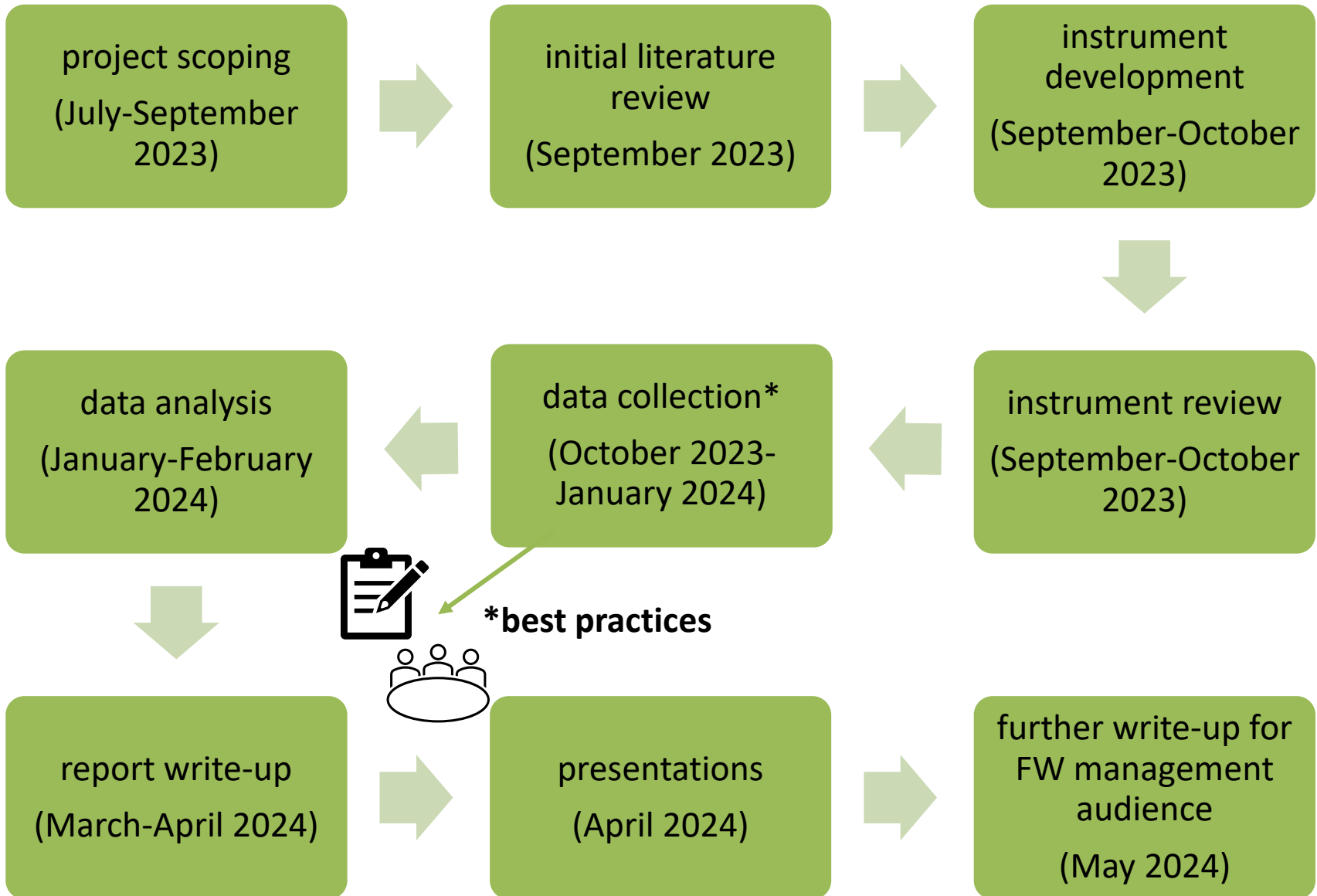
# Public Comment at WDFW

## Emerging Advancements

- E-comment software (*PublicInput*) (~2021)
- Translations of draft documents (e.g., Ukrainian, Russian, and Vietnamese for smelt rulemaking; Spanish for Conservation Policy)
- CAPE unit to assist with outreach, engagement, audience assessments, communications, and environmental justice



# Project Process and Timeline



# Project Participants

Participant Type	Participant Program or Agency	Participant # (n=37)
Internal WDFW	Communications and Public Engagement (CAPE)	4
Internal WDFW	Habitat	4
Internal WDFW	Fish	9
Internal WDFW	Wildlife	4
Internal WDFW	IT	2
Internal WDFW	Other	3
External WDFW	WA Department of Ecology (ECY)	1
External WDFW	WA Labor & Industries (LNI)	1
External WDFW	WA Office of Financial Management (OFM)	1
External WDFW	WA Office of the Insurance Commissioner (OIC)	1
External WDFW	WA Department of Natural Resources (DNR)	1
External WDFW	WA Department of Health (DOH)	4
External WDFW	Municipal Research and Service Center (MRSC)	2



# Presentation Road Map

1. Public Comment Process
2. Public Comment Notification and Collection
3. Public Commenters
4. E-Comment Platforms
5. Public Comment Composition
6. Public Meetings
7. Artificial Intelligence (AI), Bots, Spam, Fake Comments, and Mass Comment Campaigns (MCCs)
8. Public Comment Review and Integration
9. Alternative Approaches
10. Environmental Justice (EJ)

# Public Comment Process

## Results:

- WDFW tended to adhere to a standard and routine approach with limited variations (context- or program-dependent)
  - Variations did exist within procedural minutiae
- Non-WDFW tended to adhere to similar approaches, but with more variation (e.g., alternative approaches)

## Best Practices:

- Provide more guidance to WDFW staff regarding public comment and rulemaking processes.
- Provide more capacity for public comment and rulemaking processes, notably for public comment coordination.



# Public Comment Notification and Collection

## Results:

- WDFW and other participating agencies tended to use similar notification and collection approaches (e.g., news releases, emails, phone, public meetings, informal conversations).
- Some non-WDFW used their e-comment software programs as the primary and centralized mechanism for public comment.

## Best Practices:

- Prioritize consistent and comprehensive use of agency public comment software (*PublicInput* or future alternative).
- Prioritize early/long-term engagement and relationship building with the public.



# E-Comment Platforms

## Results:

- WDFW and 2 non-WDFW participating agencies use a dedicated e-comment platform. WDFW has been using *PublicInput*, but inconsistently across the agency.

Agency Users	Participants	Comments	Projects
Wildlife Program	109662	84979	74
Habitat Program	13525	510	10
Fish Program	12801	10989	69
SEPA	7546	8309	96
Director's Office	3459	5462	14
Demographics	2027	864	56
Enforcement	99	74	4
Totals	149119	111187	323

## Best Practices:

- Prioritize additional guidance, resources, training, templates, and support to ensure *PublicInput* is used more consistently and comprehensively.
- Integrate web platform best practices, when or if possible, including segmentation (breaking up content into segments for public comment).



# Public Commenters

## Results:

- Public Commenters were diverse and ranged by agency, rule, and context. WDFW tended to engage the broader public more often.
- WDFW and some non-WDFW participants did hear from WA and non-WA residents.

## Best Practices:

- Recognize that public commenters do not typically represent the public nor public sentiments at large.
- Participants were fairly split on WA vs. non-WA resident commenter prioritization. Agencies can prioritize local vs. non-local, but not favor one perspective more than another.





# Public Comment Composition

## Results:

- All participating agencies received comments in all shapes and sizes, including many public comments reflected a preference or voting-orientation.
- All participating agencies received Mass Comment Campaigns (MCCs) (e.g., form letters).

## Best Practices:

- Provide guidance on how best to intake and process MCCs regardless of source or collection mechanism (e.g., email, mail, or *PublicInput*).
- Develop more detailed, accessible, tailored, and voluntary guidance to the public regarding what type of public comments (e.g., content, type, and composition) are recommended.



# Public Meetings

## Results:

- WDFW and non-WDFW participating agencies shared diverse experiences with public meetings.
- Non-WDFW agencies often engaged more tailored audiences and used more alternative approaches.



## Best Practices:

- Recognize that public meetings (even virtual/hybrid) do not necessarily allow for generalizable or representative commenters or comments, with rare exceptions.
- Consider the use of an external impartial facilitator for public meetings, notably those that may focus on contentious rules or topics.



# AI, Bots, Spam, Fake Comments, and MCCs

## Results:

- AI, bots, and spam were shared more among WDFW participants than non-WDFW participants.
- MCCs were shared among majority of participants.

## Best Practices:

- Consider the use of commenter verification and/or authentication process (e.g., CAPTCHA)
- Prioritize technology or processes to help manage and process public comments (e.g., deduplication tools to sort MCCs)

Terms	Definitions
<b>Artificial Intelligence (AI)</b>	forms of machine learning, which include a variety of methods, that can recognize data patterns (e.g., text, image, numbers) (forms of recognition that if conducted by humans would require intelligence) (Engstrom and others 2020)
<b>Bots</b>	software programs that operate automated and sometimes repetitive tasks via the Internet, including the creation of public comments (Rinfret and others 2022)
<b>Fake Comments</b>	comments submitted using contact information (e.g., email addresses or names) that belong to other people or fake contact information (e.g., email addresses or names) (Rinfret and others 2022)
<b>Machine Learning</b>	involves the use of algorithms that autonomously learn by deciphering data (e.g., texts, images, numbers, natural languages) patterns and generating inferences (Coglianese 2020)
<b>Mass Comment Campaigns (MCCs)</b>	letter campaigns tending to consist of a few sentences or paragraphs whose stock language is created or shared by an organization or advocacy group, often with personalized stories or anecdotes added by individual submitters (Balla and others 2022)
<b>Spam</b>	comments or content regarded as meaningless or completely unrelated (e.g., commercial emails being submitted as public comments) (Savitz 2021)



# Public Comment Review and Integration

## Results:

- Review has taken place, although details and approaches vary.
- Review has often been context-dependent and conducted via “binning” or a thematic categorization process.
- Non-WDFW participating agencies also seemed to vary, with some engaging in more thorough analysis.

## Best Practices:

- Provide guidance on how best to review and analyze public comments to agency staff, including with templates, examples, and trainings.
- Consider opportunities that allow commenters to share diverse types of comments (e.g., evidence-based and story-based).



# Alternative Approaches

## Results:

- WDFW tended to have a standardized and routinized approach.
- Non-WDFW participating agencies tended to engage in more alternative approaches.

## Best Practices:

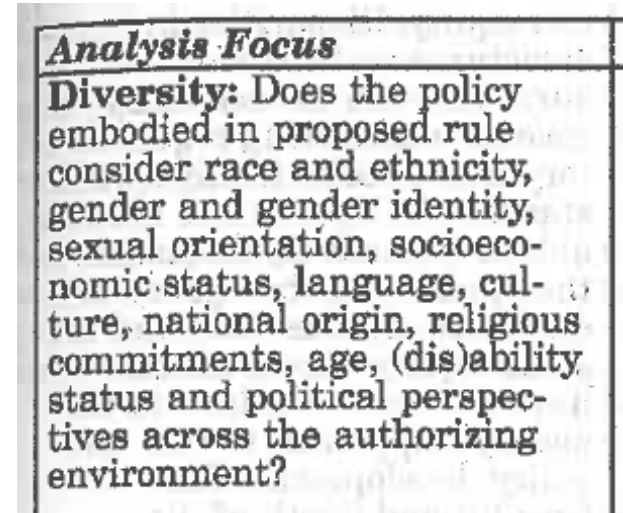
- Explore and adopt alternative approaches to public comment and/or rulemaking, when deemed beneficial and appropriate.
- Alternative approaches may include: early engagement; tailored engagement; community workshops; focus groups; polls and surveys; interviews; and negotiated rulemaking.



# Environmental Justice (EJ)

## Results:

- WDFW did not fully consider EJ within public comment or rulemaking, with minor exceptions.
- Non-WDFW participants considered EJ more often and consistently (backgrounds, HEAL Act), with some exceptions.



(Hoffman 2023, p.545)

## Best Practices:

- Enhance relationships with diverse communities.
- Engage in alternative approaches or activities that also consider EJ. Examples: provide translation/interpretation services, explore community compensation, offer childcare and transportation services, and apply EJ guiding questions.



# Project Limitations

- multiple foci with varying and often disparate interdisciplinary literatures (e.g., public meetings, e-rulemaking, technology, and environmental justice)
  - partly related to scope creep
- project timeline expediency
  - an exhaustive review of the literature was not feasible; however, some content saturation was achieved
- reliance on internal and external WA state agency staff input based on snowball sampling
- reliance on qualitative methods and fieldnotes



# Suggested Next Steps

- Disseminate to relevant agencies' staff
- Disseminate to broader fish and wildlife management community
- Obtain EMT approval for the implementation of best practices
- Form a cross-agency working group
  - Ensure working group provides progress updates to leadership
  - Ensure working group engages other relevant agency programs, divisions, and units





# Questions?

# Thank you.

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