

# Cleaner Air Oregon Air Toxics Alignment Rulemaking



**Oregon Department of Environmental Quality**

Nov. 17, 2021

# Background for Rulemaking



## Division 245

### Cleaner Air Oregon Program

Regulates industrial sources of toxic air contaminants

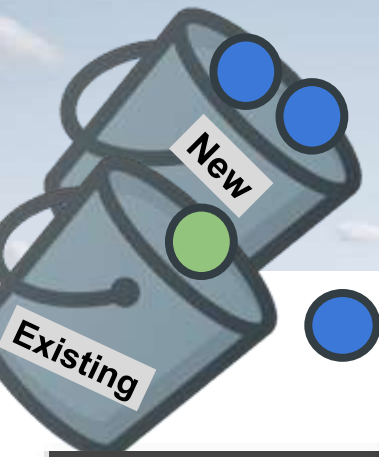


## Division 246

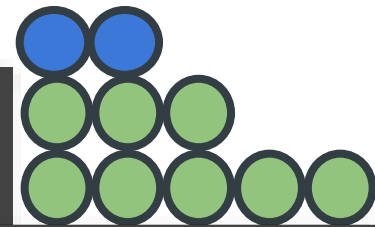
### Oregon State Air Toxics Program

Assesses impact of toxic air contaminants from all sources

# CAO Implementation and Rule Updates



Facility starts CAO Process



Emissions Inventory and Source Testing

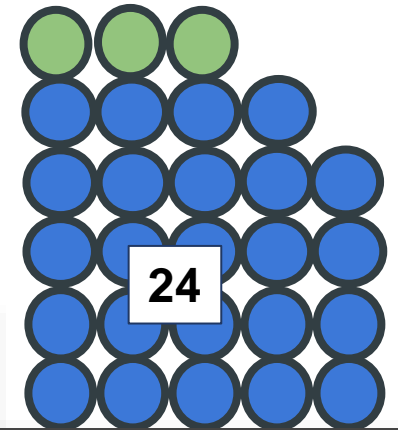


Modeling + Risk Assessment Work Plan



Risk Assessment

Risk Reduction<sup>1</sup>



24

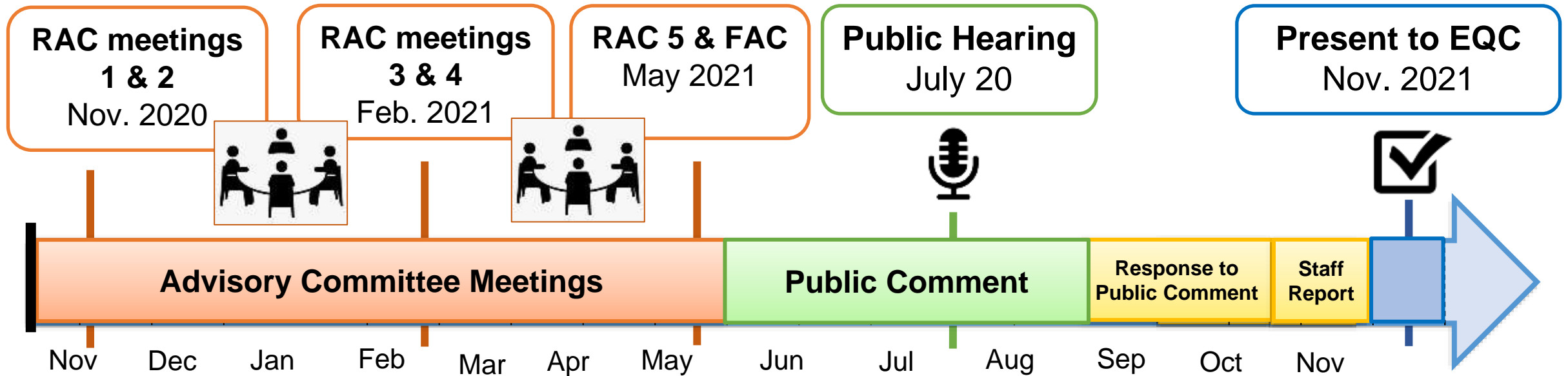
Permitting

<sup>1</sup>Risk reduction is only applicable to existing facilities

# Rulemaking Objectives

1. Align DEQ's Air Toxics Program [Division 246] and the recently established Cleaner Air Oregon Program [Division 245]
2. Strengthen the process for setting and revising toxicity values for toxic air contaminants [Division 247]
3. Clarify certain CAO requirements and address inefficiencies in the risk assessment process [Division 245]

# Rulemaking Process & Timeline





# **Rulemaking Objective #1**

## **Aligning DEQ's Programs**

### **Addressing Toxic Air**

### **Contaminants**

# DEQ's Programs Addressing Toxic Air Contaminants



## Division 245 Cleaner Air Oregon Program

### Priority List

TACs reporting list of 600+ TACs

### Toxicity Reference Values (TRVs)

Health-based standards for 250+ TACs

### Triennial Review

Process for updating Priority List and TRVs

## Division 246 Oregon State Air Toxics Program

### Air Toxics List

List of 55 air toxics in rule

### Ambient Benchmark Concentrations

Health-based ABCs for the 55 air toxics in rule

### ATSAC

Process for updating ABCs

# Aligning the list of toxic air contaminants and reference values

## Division 247

### Health Risk-based Standards for Toxic Air Contaminants

A single list of toxic air contaminants and toxicity values with one process for updating that can be used by both programs



**Division 245**  
Cleaner Air Oregon



**Division 246**  
Oregon Air Toxics Program



# Safety Net Program

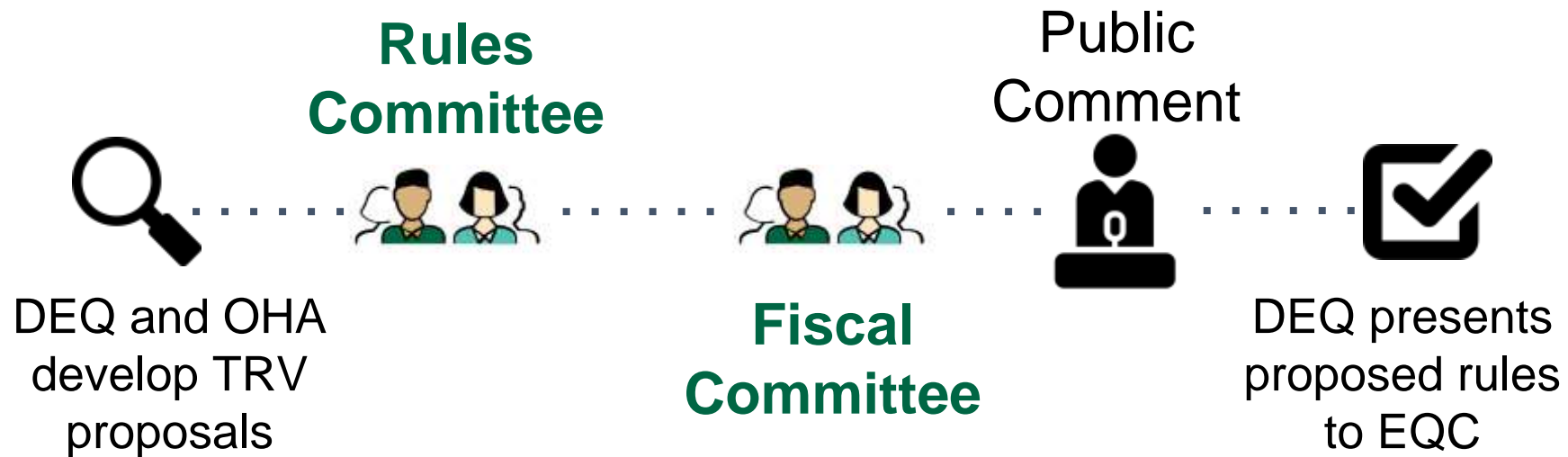
- Safety Net Program rules from the Air Toxics Program are now covered by Cleaner Air Oregon
- Retain purpose and placeholders for future Safety Net Program



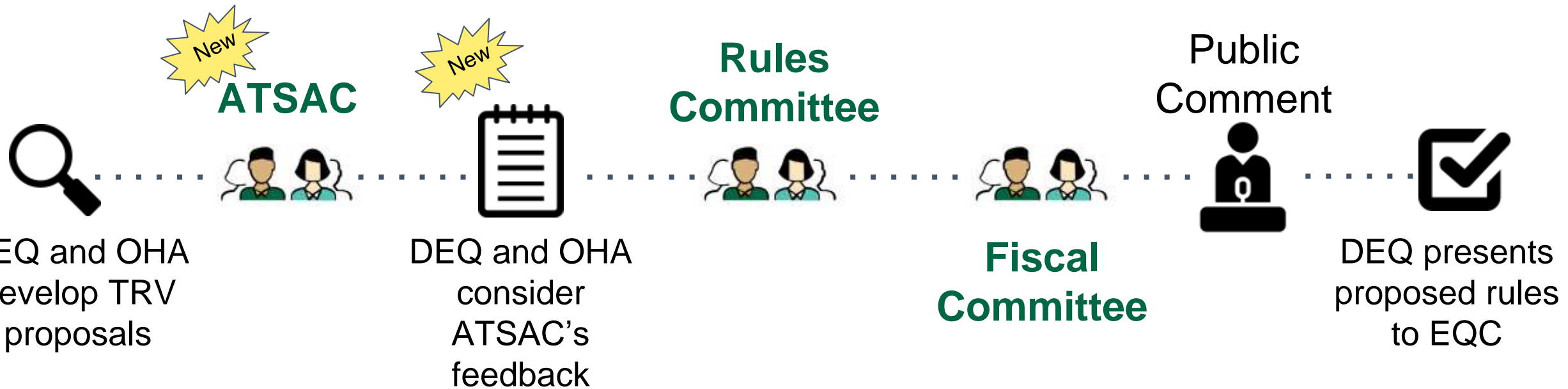
# **Rulemaking Objective #2**

## **Strengthening the process for setting and revising toxicity values for toxic air contaminants**

# Current Process for Updating Toxicity Reference Values (TRVs) in Cleaner Air Oregon



# Proposed Process for Updating TRVs



# Revised ATSAC Scope and Expertise Proposal

An independent science committee that will provide input on updates to air contaminant TRVs



## Minimum Expertise in Proposed Rule

Toxicology and/or Toxicity Assessment

Environmental and/or Atmospheric Chemistry

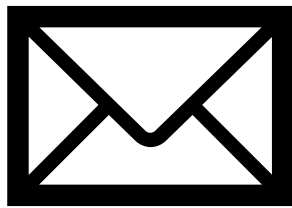
Epidemiology/Biostatistics

**+ 9 *priority sub-specializations***

# Additional Proposed TRV Rule Changes



Authoritative Sources



Petition Process



# **Rulemaking Objective #3**

## **Clarifying CAO requirements and addressing inefficiencies in the risk assessment process**

# Goal of Proposed CAO Updates

Clarify or update requirements that

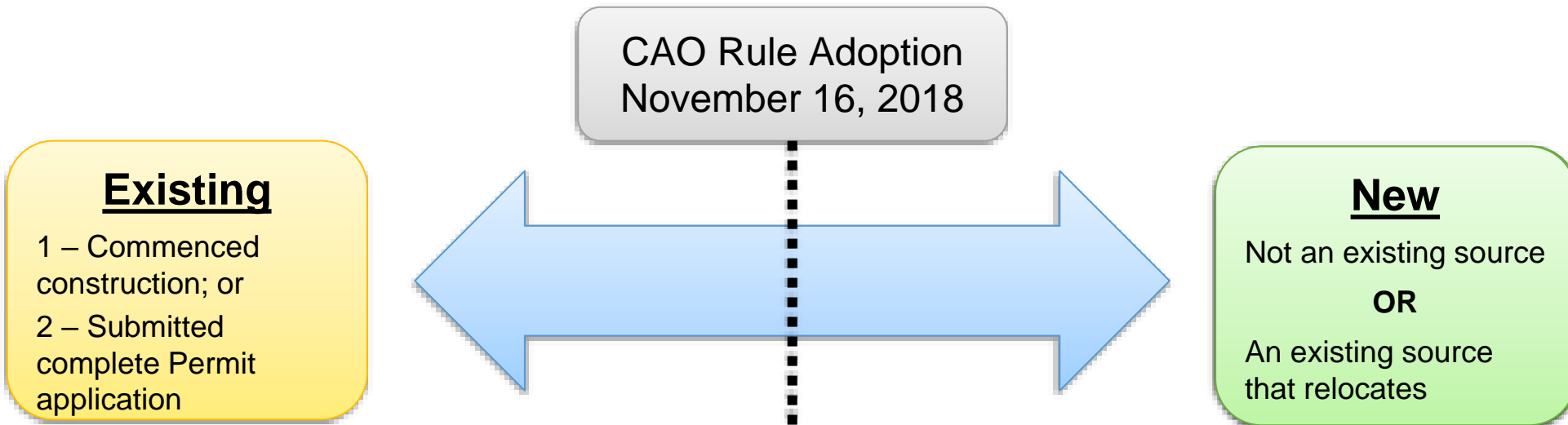
- are confusing/ambiguous to DEQ and sources
- have led to unintended outcomes in process, or assessments are not representative
- can improve program efficiency for agency and facilities



# 1. New vs. Existing Source Definition

## Proposal

Clarify definition of 'New' source by including 'Existing' sources that relocate.



# 2.Toxics Emissions Units (TEUs)

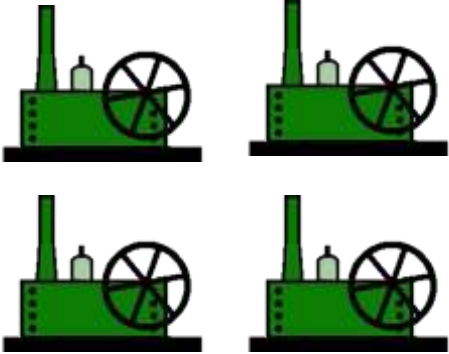
## Proposal

- Exempt TEUs: revise list of categorically exempt
- Aggregated TEUs: require risk to be included in final risk [options]

Exempt



Aggregated



# 3. Submittal Timelines

## Proposal

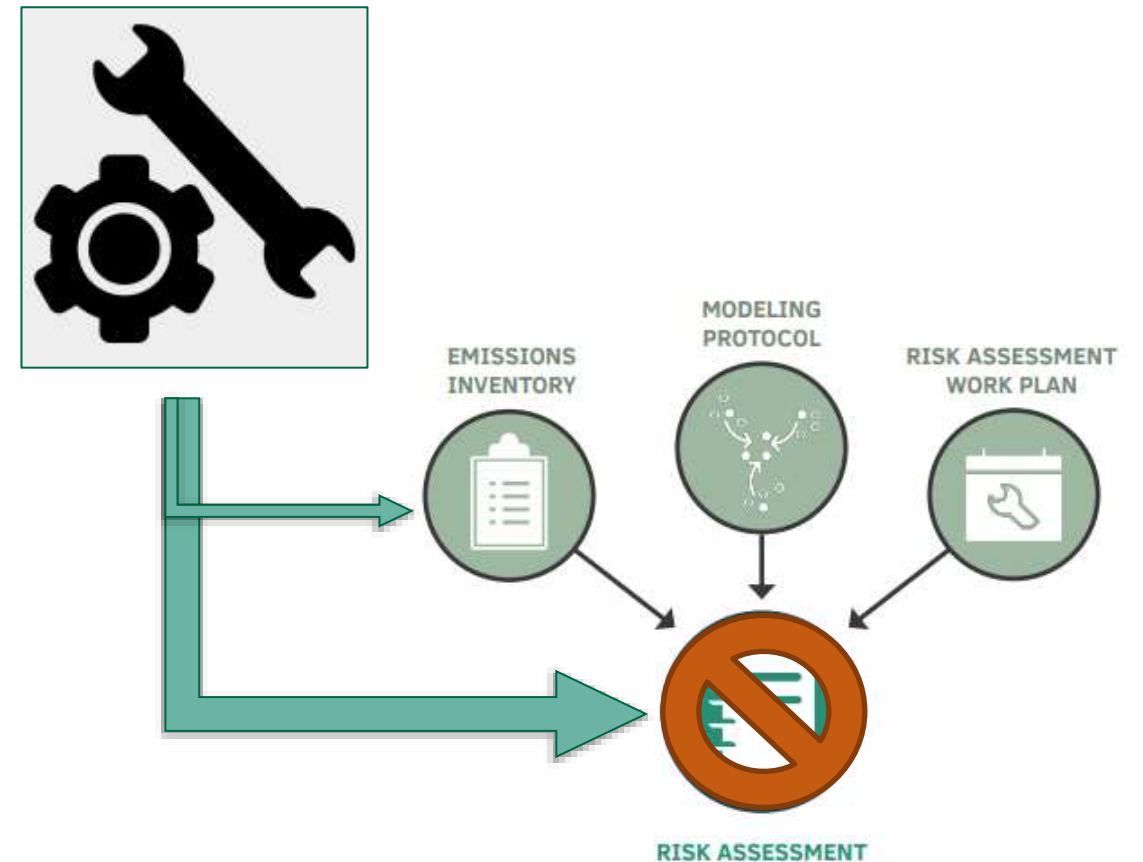
- Provide for expedited Risk Assessment timeline for sources with potential extreme risks
- Decrease the Risk Reduction Plan submittal timeline to 30 days
- Require 60 day timeline for Zoning/Land Use changes



# 4. Major Modifications at a Source

## Initial Proposal

- Include State Type B NSR modifications
- Revise to require only Emissions Inventory instead of Risk Assessment



# 5. Immediate Curtailment

## Proposal

- Provide expedited timeline (15 or 30 days) for a source with potential extreme risk to either:
  - Submit Risk Assessment; or
  - Provide data demonstrating potential lower risk
- Provide timeline (10 days) and requirements for Immediate Risk Reduction plan.





# **Fiscal Impact & Response to Public Comment**

# Fiscal Impact Statement Findings

- No fiscal impact from proposed rule changes under Objectives #1 & #2
- There could be significant fiscal impacts for a limited number of sources – including small businesses – from proposed rule changes under Objective #3
- Small Business Technical Assistance is available to small businesses to mitigate potential fiscal impact

# Public Comment Summary

- Comments: 158 written (16 unique) & 1 oral
- Most comments received on the following subjects:
  - Generally supporting or opposing the rulemaking
  - ATSAC areas of expertise and scope changes
  - Aggregated & Exempt Toxics Emissions Units (TEUs)
  - Immediate Curtailment Risk Reduction Plan submittal timelines
  - Zoning & Land Use Changes



# Rule changes in response to public comment

- Change to allow sources to provide revised data to demonstrate they do not exceed Immediate Curtailment Risk Action Level
- Change to add geographic boundary (1.5KM) around sources for changes to zoning that could increase risk
- “Portable and stationary” language removed to maintain program applicability to sources as defined in OAR 340-200-0020 (166)
- New Source definition clarified to exclude existing, permitted portable sources



**Questions?**

# Recommendation to EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in Attachments A1 through A4 of this report along with the changes as shown in Addendum A of this report as part of Chapter 340 of the Oregon Administrative Rules.