

Air Toxics Alignment Rulemaking



Fiscal Advisory Committee Meeting
Oregon Department of Environmental Quality
May 3, 2021

Connecting to Zoom



See visuals and hear audio online via webinar link



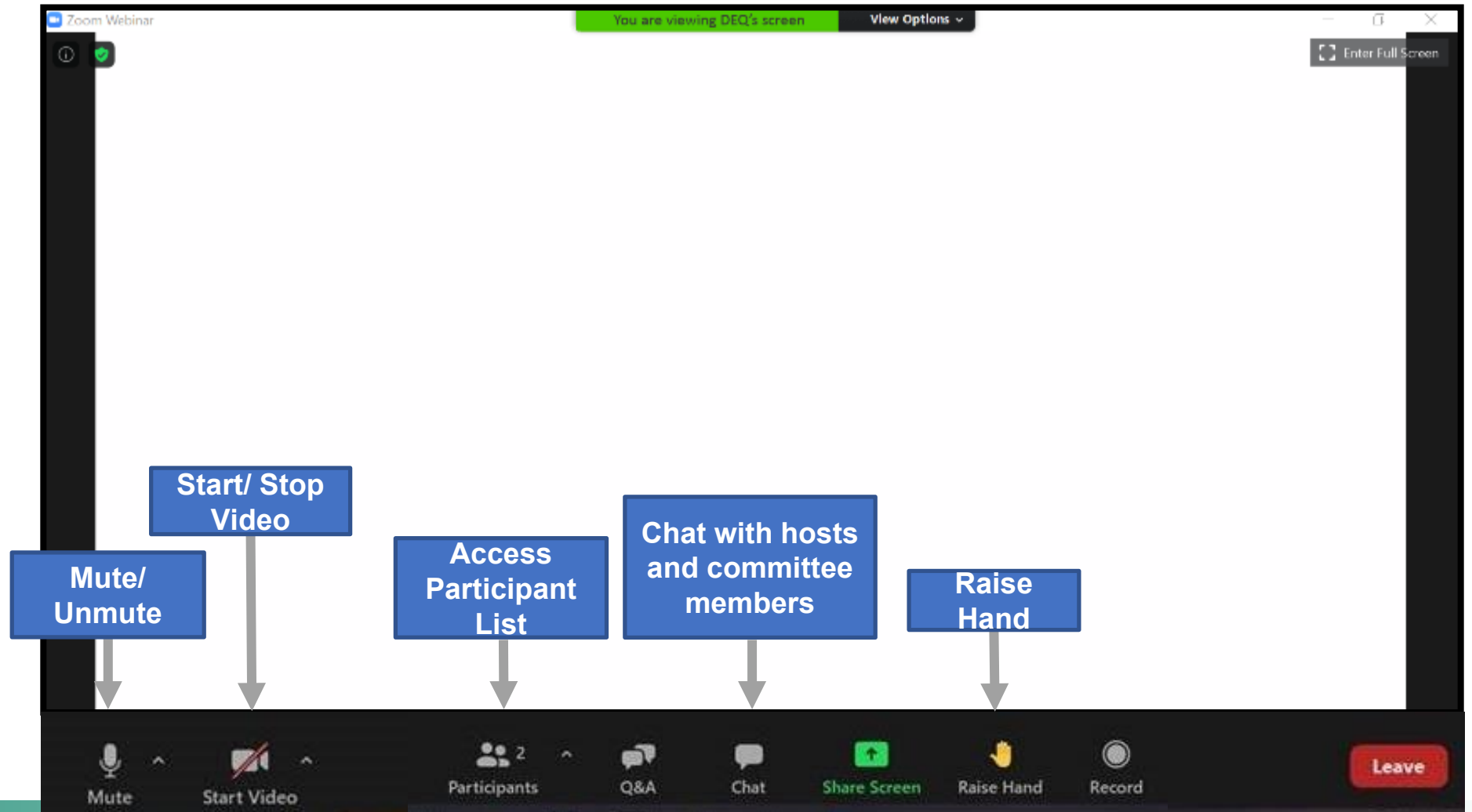
Or call the conference line by phone:

Dial: 888-475-4499

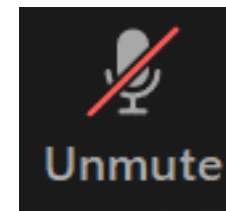
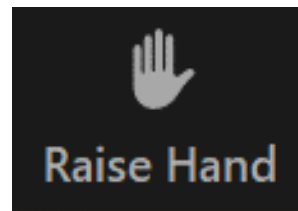
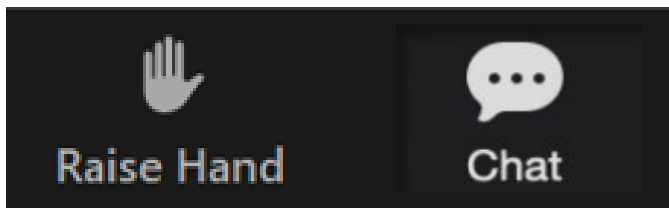
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Committee Member Participation



Questions?



*9

*6

Opportunities for Public Participation



- Welcome! And thank you for your interest in attending today's committee meeting
- Informal public comment at approximately 4 p.m.
- Additional opportunities for public comment this summer

More info:
ORDEQ.org/AirToxics2021

Today's Agenda

1 p.m.	Welcome & Introductions
1:10 p.m.	Meeting Goals, Materials, and Details of FIS
1:30 p.m.	Review Key Updates to Proposed Rules <ul style="list-style-type: none">▪ State Toxic Air Contaminant (Air Toxics) Program▪ Health Risk-based Values for Toxic Air Contaminants▪ Cleaner Air Oregon
2:10 p.m.	10-minute break
2:20 p.m.	Review and Discuss Fiscal Impact Statement Questions
3:05 p.m.	10-minute break
3:15 p.m.	Continue Discussion - Impact to Small Businesses
4 p.m.	Informal Public Comment
4:20 p.m.	RAC Roundtable
4:50 p.m.	Closing Remarks and Next Steps

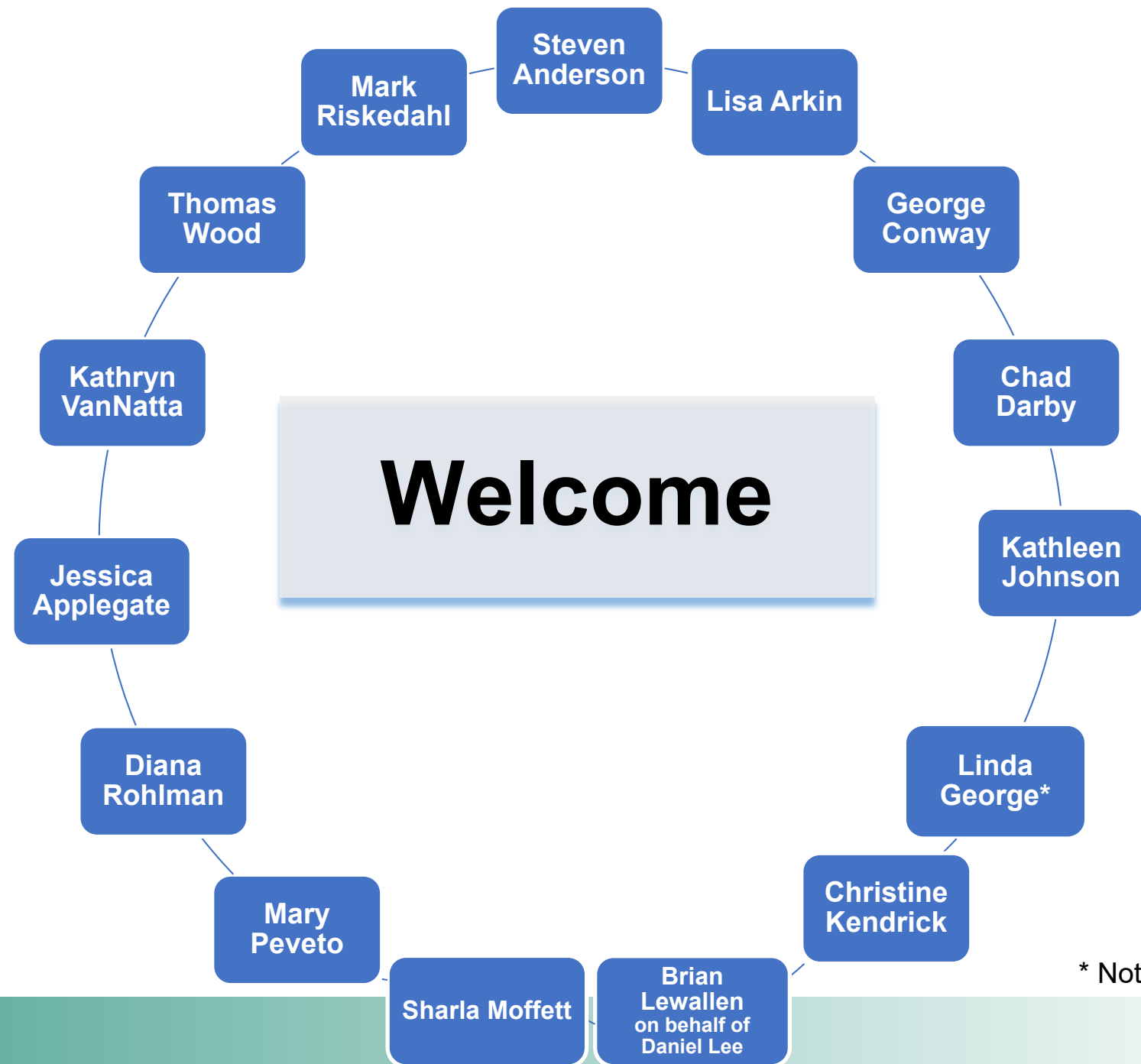
Meeting Protocols



- Mute your phone/computer when you are not speaking
- Share video during introductions and discussions, disable during presentations
- Be respectful
- Listen so we can solve problems together
- Raise your virtual hand to speak
- Speak for yourself
 - Speak as though you are right, listen as though you may be wrong
- Let others speak without interrupting them



Welcome and Introductions



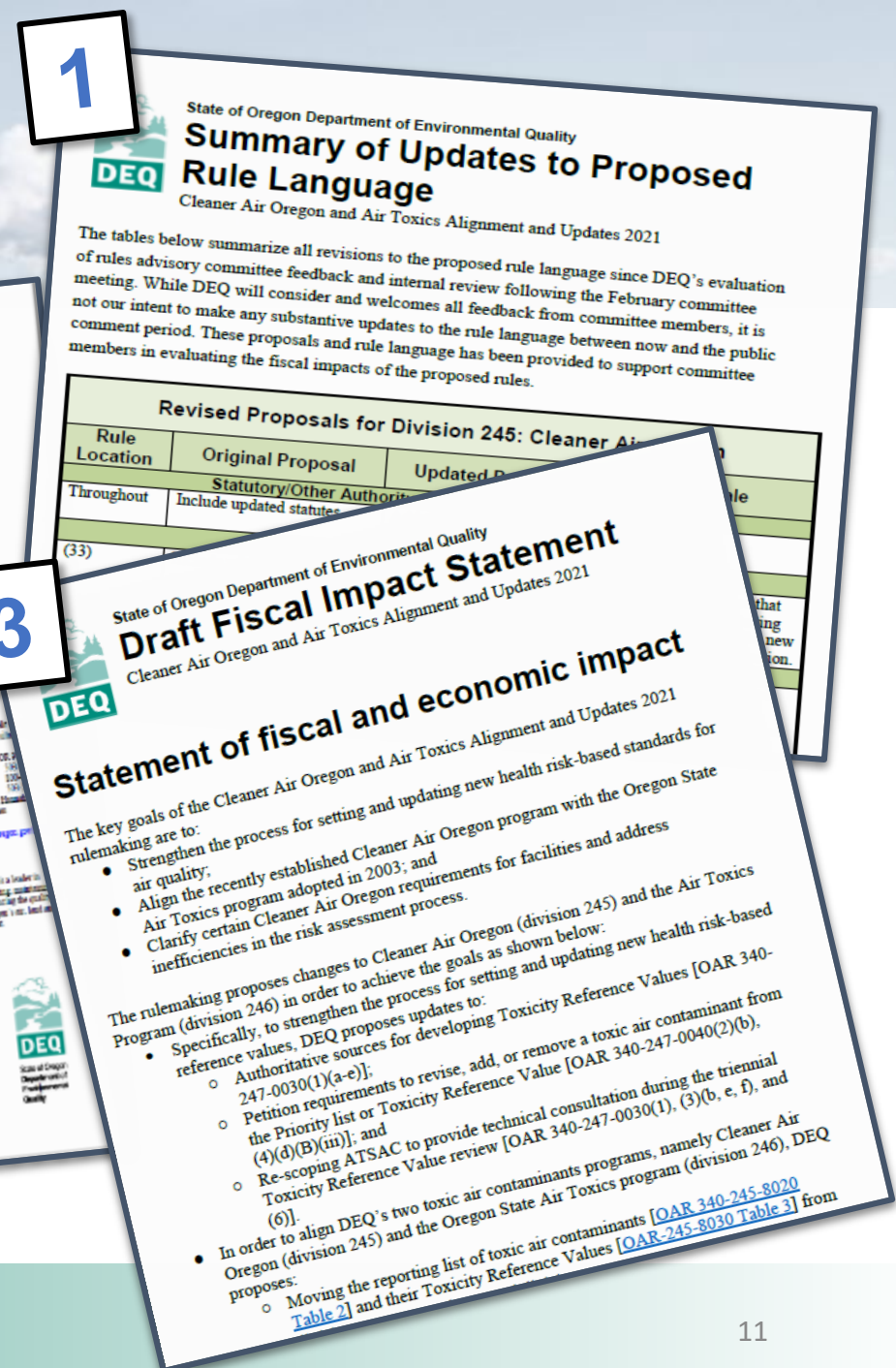
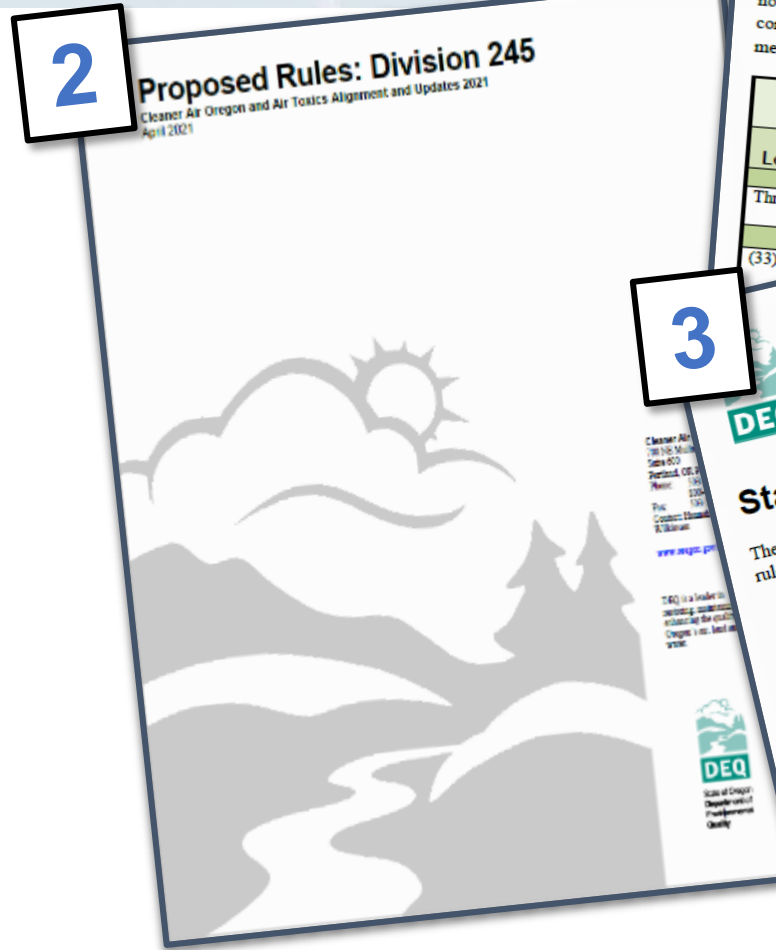
* Not in attendance



Meeting Goals, Materials, and Details of Fiscal Impact Statement

Meeting Materials

1. Summary of proposed updates to rules
2. Updated redline version of proposed rules
3. Draft fiscal impact statement



Requirements and Contents of Fiscal Impact Statement

- ORS 183.335: Agency must provide notice of fiscal impact for proposed rules
- Analysis of any significant fiscal impacts on the following:
 - State, federal and local government agencies
 - DEQ
 - The public
 - Large businesses
 - Small businesses
- Discussion of impacts to small businesses and possible mitigation measures
- Housing cost

Fiscal Advisory Committee Process

Fiscal Advisory committee:

- Reviews fiscal impact statement
- Provides observations and recommendations on:
 - Draft rule's fiscal impact
 - Extent of that impact
 - Significant adverse fiscal impacts on small businesses and potential mitigation

DEQ:

- Documents and considers committee input
- Revises fiscal impact statement if necessary

Three Fiscal Impact Statement Questions

1. Will the proposed rules have a fiscal impact?
2. What is the extent of that impact?
3. Will the draft rules have a significant adverse impact on small businesses and if so, what are recommendations for potential mitigation?

Review Key Updates to Proposed Rules



Updates to Division 246 and 247





Safety Net Program

Original Proposal:

- Delete the Safety Net Program entirely

~~[0190-0230] Safety net program~~

[246-0010(1)]

~~concern.~~ It also addresses cases of elevated health risks from ~~air~~-toxic air contaminants emissions at stationary sources and source categories of ~~air~~-toxic air contaminants emissions. In the future, it is also intended to address human exposures to toxic air contaminant emissions from stationary sources that are not addressed by other regulatory programs or the Geographic Program through a Safety Net Program. It is expected that the Safety Net Program will apply only rarely.

Revised Proposal:

- Move purpose of Safety Net Program to the Purpose statement of Division 246
- Retaining rule numbers relating to the Safety Net Program

[246-0190 through 0230]

Air Toxics Safety Net Program (0190 through 0230)

Reserved for Safety Net Program



ATSAC Expertise

Minimum Expertise in Proposed Rule

Toxicology and/or Toxicity Assessment

Environmental and/or Atmospheric Chemistry

Epidemiology/Biostatistics



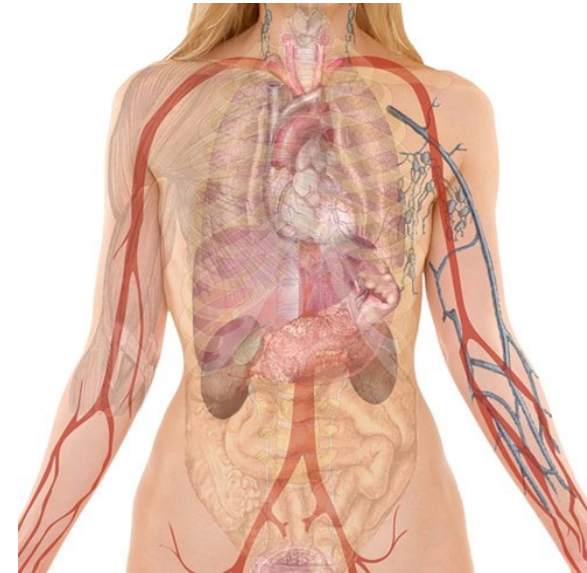
Add sub-specializations, “with additional consideration for experts with specialization in...”



ATSAC Expertise

Toxicology and/or Toxicity Assessment with additional consideration for experts with specialization in...

- **Inhalation toxicology**
- **Reproductive toxicology**
- **Developmental toxicology**

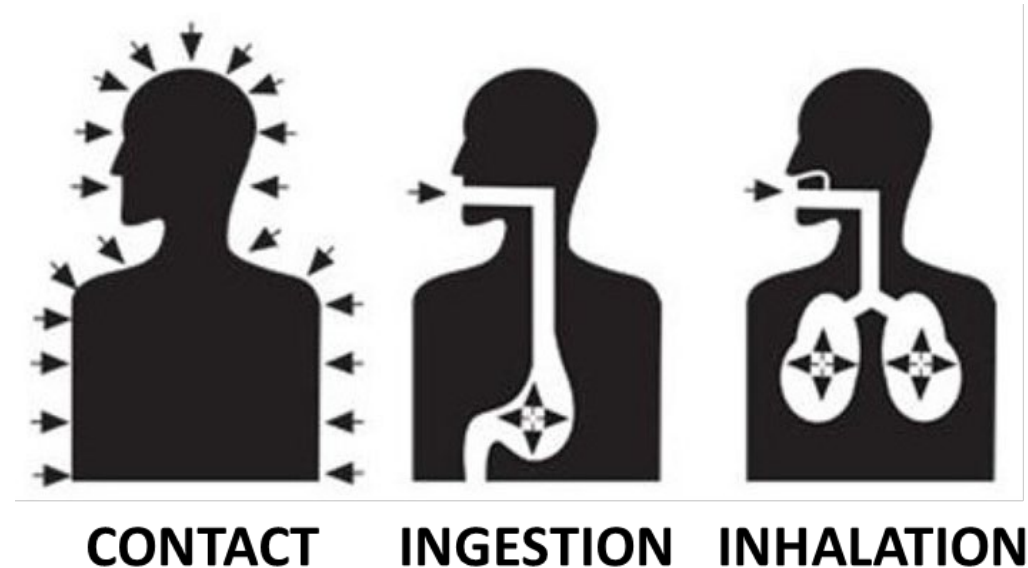




ATSAC Expertise

Environmental and/or atmospheric chemistry **with additional consideration for experts with specialization in...**

- **Multipathway exposure**
- **Bioaccumulation**





ATSAC Expertise

Epidemiology/biostatistics with additional consideration for experts with specialization in...

- **Environmental public health**
- **Neonatal and children's health**
- **Medicine**
- **Health of vulnerable populations**



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ATSAC Deliberations

Blue text = New proposal after receiving RAC feedback

Black Text = Proposal at RAC meeting in January

Green Text = Original Rule Text from Division 246

(ca) ~~The~~ ATSAC members will provide DEQ with findings and recommendations that DEQ will report to the Environmental Quality Commission, ~~including consensus, majority, and minority opinions.~~ ~~Final decisions must be made by a quorum of members, based on consensus when possible. If consensus is not possible, decisions will be made by majority vote with a quorum present.~~



Clarifying Questions?



Updates to Division 245





New Source Definition

Original Proposal:
Include relocation criteria

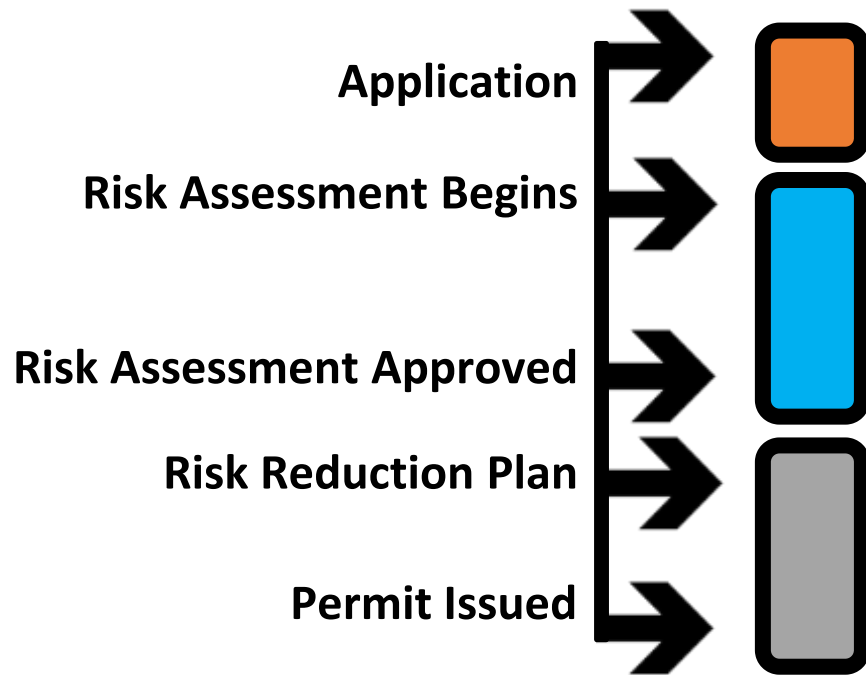
Revised Proposal:
Add clarification that
existing portable
sources are excluded
from relocation criteria



Portable asphalt plant – example of an existing portable source subject to CAO rules.



Final Risk Assessment Submittal Timelines

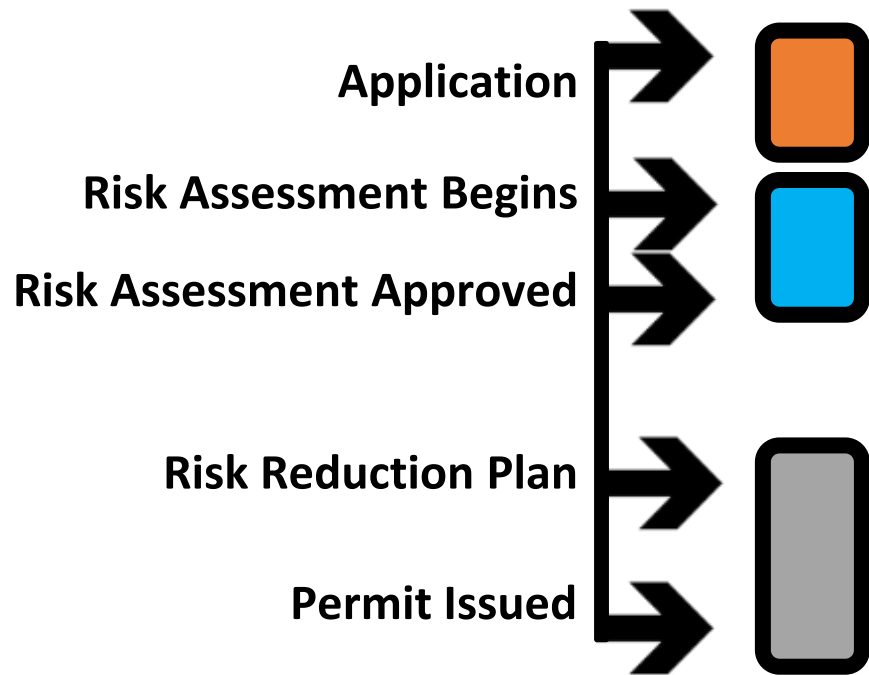


Original Proposal: Shorten L3 & L4 Risk Assessment timelines to 30 days → 60 days

Revised Proposal: Revert original timelines



Final Risk Assessment Submittal Timelines



Original Proposal: Shorten Risk Assessment timelines to 30 days

Revised Proposal: Expedited risk assessment timeline of 30 days for sources with anticipated risk above Immediate Curtailment

Emissions Inventory Requirements

New: Clarification to confirm flexibility for setting Source Risk Limits

Adds rule language from -0110(2) “Establishing Source Risk Limits” to -0040(4) “Emissions Inventory Requirements”

(2) Establishing Source Risk Limits. For new, reconstructed, and existing sources whose risk is greater than the Source Permit Level, DEQ may set Source Risk Limits based on either:

(a) The level modeled in the risk assessment required under OAR 340-245-0050 using the emissions inventory submitted under OAR 340-245-0040(1); or

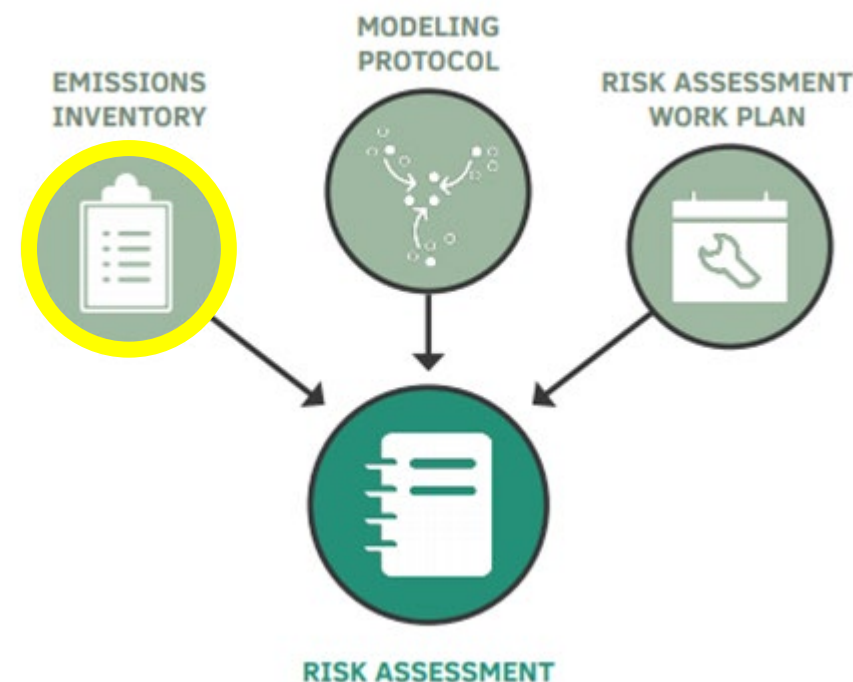
(b) For existing sources, a level other than the modeled level that reflects a reasonable estimate of risk from the source taking into account projected operations and other factors, including but not limited to:

New Source Review

Modified language:
Require only emissions inventories for all NSR types

*DEQ retains discretion to call in any existing source.

[OAR 340-245-0050(1)]



Ambient Monitoring Plan Requirements

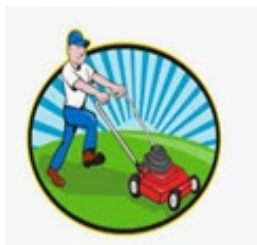
Modified Proposal: Remove previously proposed language, and remove “only” to allow regulation of TEUs not being monitored

(iii) If the Level 3 or Level 4 Risk Assessment calculates risk from the source that does not cause any exceedances of the criteria in subparagraph (ii), then DEQ shall issue a Toxics Air Contaminant Permit Addendum addressing ~~only~~ toxic air contaminant monitoring requirements, including a reporting and compliance schedule for implementing the Toxic Air Contaminant Monitoring Plan required under OAR 340-245-0230;

Exempt TEUs

Original Proposal: Curated list of exempt TEUs

Exempt TEUs
33 categories



Revised Proposal: Restored some exempt TEUs

Exempt TEUs
41 categories





Clarifying Questions?





Break 10 minutes

Fiscal Impacts of the Proposed Rules





Three Fiscal Impact Statement Questions

- ★ 1. Will the proposed rules have a fiscal impact?
- ★ 2. What is the extent of that impact?
3. Will the draft rules have a significant adverse impact on small businesses and if so, what are recommendations for potential mitigation?



Organization of Draft Impact Statement

The potential fiscal impacts of proposed rule updates to:

- Strengthen health-risk based standards (division 247)
- Align divisions 245 & 246 (Creating division 247)
- Division 245 for clarifications and to address inefficiencies



Fiscal Impacts

Strengthening health-risk Based Standards

Rule changes proposed to strengthen health-risk based standards include:

- Updating authoritative sources
- Revising the petition process
- Rescoping ATSAC

DEQ expects no fiscal impact from these procedural changes to businesses, DEQ, or other agencies.



Fiscal Impacts

Aligning Division 245 and 246

Rule changes proposed in order to align Divisions 245 & 246 include:

- Creating Division 247 to house list of toxic air contaminants and their health-risk based standards
- Removing the rule-language related to the Safety Net Program, while retaining the purpose and the rule numbers

DEQ expects no fiscal impact from these proposed changes to businesses, DEQ, or other agencies.



Fiscal Impacts

Division 245 Clarifications and Inefficiencies

Scenarios estimated to have a fiscal impact:

- Sources exceeding RALs or installing controls
- Modeling requiring a higher level risk assessment
- NSR Modifications: Emissions Inventory requirement
- Post-TACPA modifications: cost and public notice requirements



Fiscal Impacts

Division 245 Clarifications and Inefficiencies

Fiscal impacts difficult to quantify:

- Expediting timelines
- Delays in construction
- Public health benefits



Initial Findings

- The proposed rules are not expected to generate significant statewide fiscal and economic impacts
- There are no anticipated fiscal impacts related to the creation of division 247 and alignment of division 245 and 246
- There could be significant fiscal impacts for a limited number of sources based upon proposed updates to division 245, but there may be options to offset increase in costs
- Proposed rules may result in health benefits to the public



Break 10 minutes



Fiscal Impacts by Sector



State, Federal and Local Agencies

- State, federal, or local agency-owned sources will experience the same fiscal impacts as other permitted sources
- There are no significant fiscal impacts that affect all state, federal, and local agency-owned sources
- State, federal and local agency-owned sources may see a significant fiscal impact if they exceed a Risk Action Level under the proposed rule changes



Department of Environmental Quality



State of Oregon
**Department of
Environmental
Quality**

- **In the short term**, DEQ may see increased costs due to additional review requirements and deliverables
- **In the longer term**, anticipate increased efficiency due to the alignment of Divisions 245 & 246 and addressing clarifications and inefficiencies in Division 245.
 - However, it is difficult to quantify the full extent of impacts at this time



Public

- DEQ anticipates some benefit to public health from the proposed rule changes
- Improved public health may translate into lower costs related to health care

It is not possible at this time to estimate public health benefits from local reductions in exposure to toxic air contaminants



Large Businesses

- Large sources will experience the same fiscal impacts as other permitted sources
- There are no significant fiscal impacts that affect all large businesses
- A limited number of large businesses may see a significant fiscal impact if they exceed a Risk Action Level under the proposed rule changes

DEQ does not have adequate information to estimate the potential costs to specific large businesses that may be affected by the proposed rules



Three Fiscal Impact Statement Questions

1. Will the proposed rules have a fiscal impact?
2. What is the extent of that impact?
- ★ 3. Will the draft rules have a significant adverse impact on small businesses and if so, what are recommendations for potential mitigation?



Small Businesses

- Small sources will experience the same fiscal impacts as other permitted sources
- There are no significant fiscal impacts that affect all small businesses
- A limited number of small sources may see a significant fiscal impact if they exceed a Risk Action Level under the proposed rule changes

DEQ does not have adequate information to estimate the potential costs to specific small businesses that may be affected by the proposed rules



Mitigation of Impacts to Small Businesses

- Technical Assistance available to small businesses completing risk assessment process under CAO
- Tiered implementation of the CAO program could delay/defer regulatory costs for most existing smaller businesses
- Additional time for compliance with risk levels through extensions and postponement proposal
- Cost impacts may be reduced through other methods (pollution prevention, product substitution)

Will the draft rules have a significant adverse impact on small businesses?

If so, what are additional recommendations for potential mitigation?



Public Comment

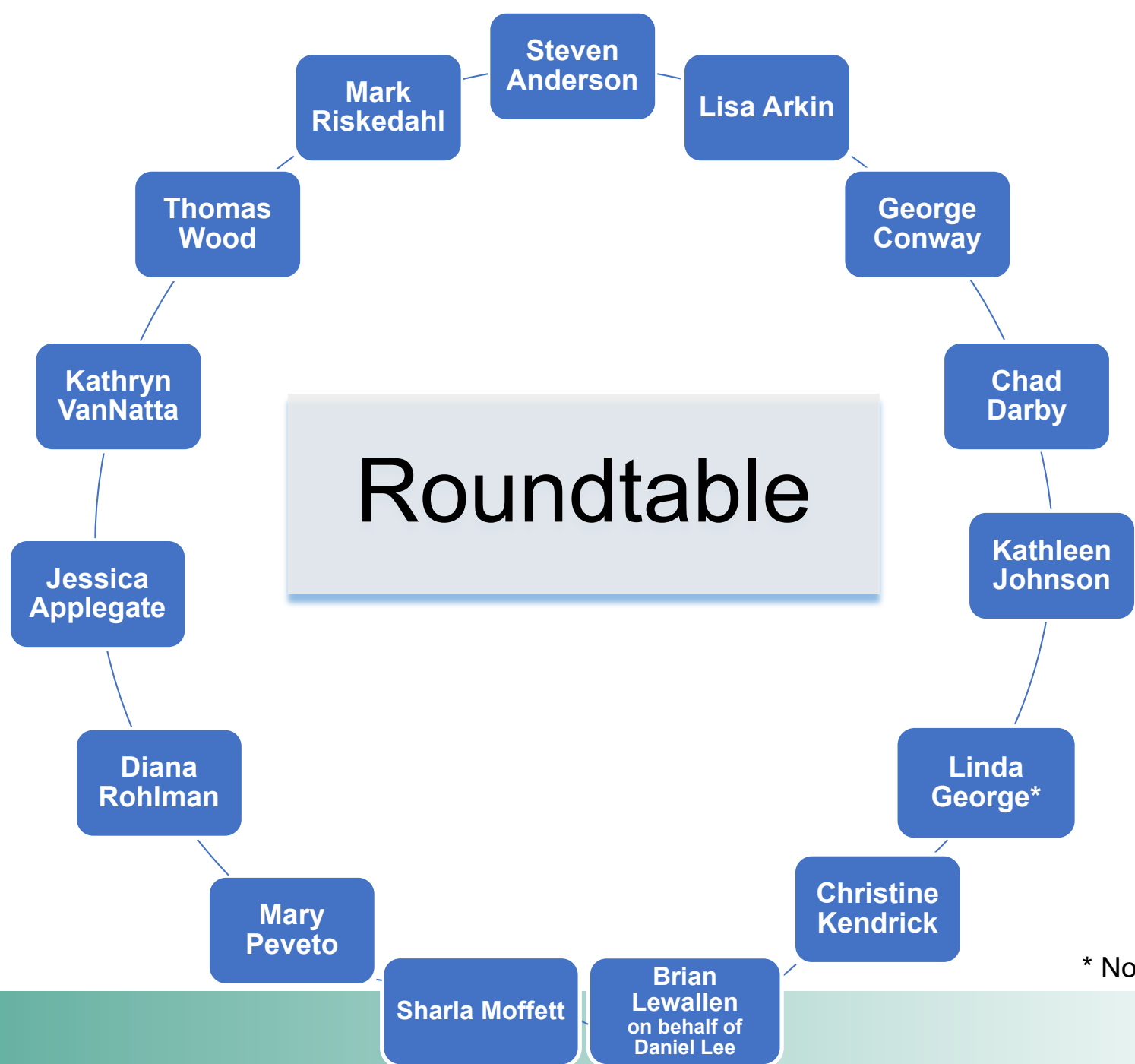
Provide written comment: Please provide feedback in the Q&A chat

Provide verbal comment: Raise your hand. We will call on you by name or last 4-digits of your phone number and unmute when called on to speak



RAC Roundtable

Donna Silverberg



* Not in attendance

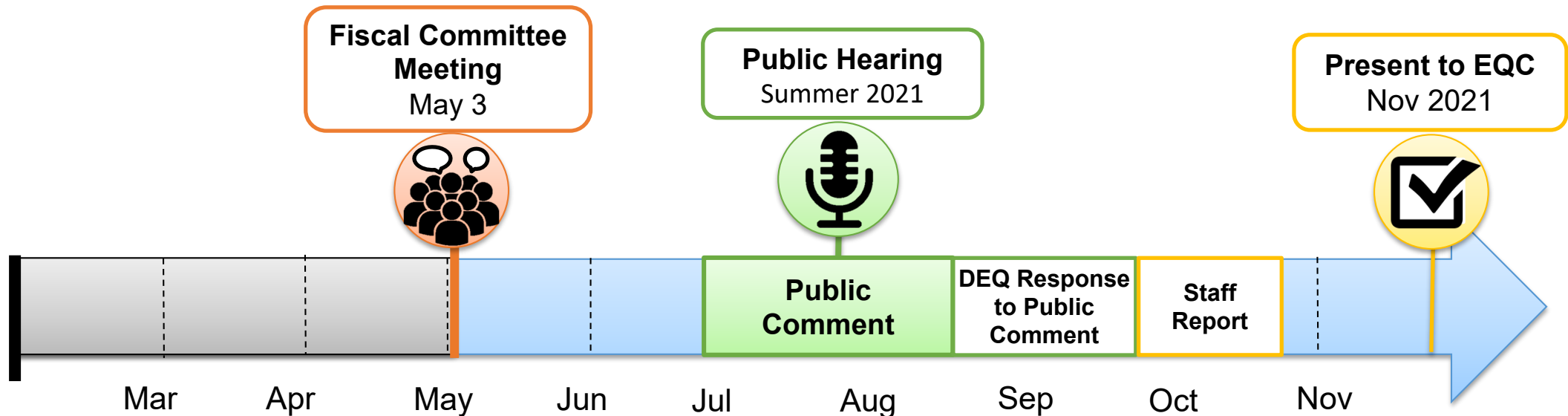
Anticipated Next steps for Committee Members

Deadline for Committee Member feedback on
the draft Fiscal Impact Statement
Wednesday, May 19

Provide written comments to
Hannah.Wilkinson@deq.state.or.us

Anticipated Next steps for Public Involvement

DEQ will be seeking public input on the proposed rules this summer during the upcoming public comment period





Thank you for attending!

More info:
[ORDEQ.org/AirToxics2021](https://ordegq.org/AirToxics2021)

Contact:
cleanerair@deg.state.or.us

