

Overview of Proposed Rulemaking

Cleaner Air Oregon

REFORMING OREGON'S INDUSTRIAL AIR QUALITY REGULATIONS

Inviting Oregonians to help create new regulations that protect what we all care about: the health of our people, a clean environment, and the economic vitality of our communities.

July 10, 2019

CleanerAirOregon

Status of CAO

- Rules proposed and adopted by the Environmental Quality Commission in November of 2018
- EQC and legislature require reporting in future years on status of program.
- Assessing new and existing facilities.
- Hiring program staff
- Other program development activities (guidance, integration with existing programs, community engagement best practices)

Why this rulemaking?

SB 1541 required changes to proposed rules. DEQ chose to address some of it in revised rules, and left some for future rulemaking.

Addressed via changes in new draft of rules:

- new benchmarks (action levels) for existing source
- requirement to consider existing regulated controls
- other parameters related to risk assessment and community engagement

Remaining provisions of SB 1541

Left to future rulemaking:

- Area risk (section 4)
- Provisions for non-cancer risk from existing facilities (Section 7)

Other future work:

- Reporting to legislature in 2026;
- Sunset of existing facility benchmarks in 2029

SB 1541 Section 7 (1/2)

TEMPORARY PROVISIONS RELATED TO BENCHMARKS FOR EXCESS NONCANCER RISK FOR EXISTING AIR CONTAMINATION SOURCES

SECTION 7. (1) Notwithstanding section 2 (2)(b) of this 2018 Act, the Department of Environmental Quality may regulate an existing air contamination source pursuant to section 3 or 4 of this 2018 Act based on a benchmark for excess noncancer risk that is adjusted to equal a Hazard Index number other than 5, if the department determines that the existing air contamination source emits a material amount of one or more toxic air contaminants that are identified by the Environmental Quality Commission by rule to be toxic air contaminants that are expected to have:

(a) Developmental human health effects associated with prenatal or postnatal exposure;

or

(b) Other severe human health effects.

SB 1541 Section 7 (2/2)

(2) The adjusted benchmark for excess noncancer risk applicable to an air contamination source described in subsection (1) of this section may be equal to a Hazard Index number determined by the department based on standards and criteria set forth by the commission in rule, but may be no less than a Hazard Index number of 3.

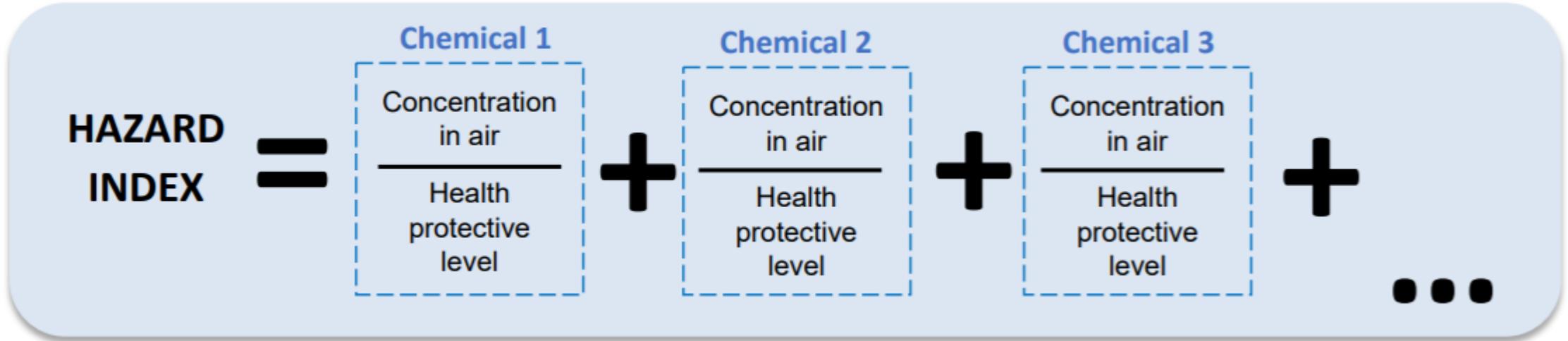
(3)(a) The commission shall adopt rules necessary to implement this section. The rules must, at a minimum:

(A) Identify toxic air contaminants for which the department may apply an adjusted benchmark for excess noncancer risk under subsection (1) of this section; and

(B) Establish standards and criteria for determining the degree to which the department may adjust the benchmark for excess noncancer risk applicable to an individual air contamination source described in subsection (1) of this section.

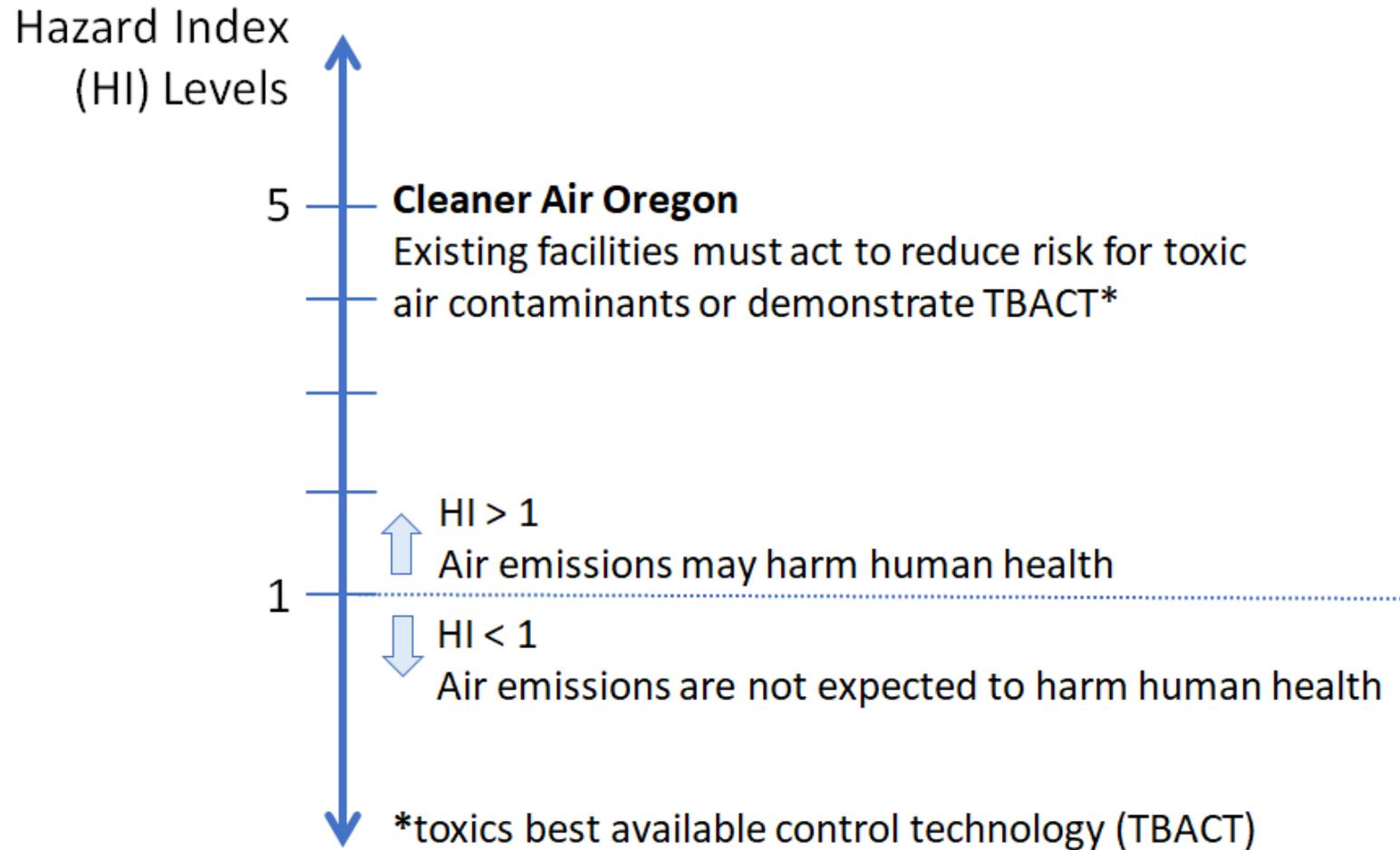
(b) Before adopting rules under this section, the commission shall establish and consider the recommendations of an advisory committee composed, at a minimum, of persons with technical expertise in toxic air contaminant risk assessment.

What is a non-cancer human health effect?



- Impacts can be chronic (impacts from exposure over longer period) or acute (impacts from exposure over a shorter term).
- Cumulative impacts to each target organ system are considered separately.

Current benchmark



Risk action levels for existing sources

Toxics Best Available Control Technology Level (TBACT)

- Facilities must either get below this level -OR- install TBACT
- Consistent with SB-1541 benchmarks



Risk Action Level	Excess Cancer Risk per Million	Noncancer Hazard Index
Community Engagement Level	25	1
TBACT Level	50	5
Risk Reduction Level	200	10
Immediate Curtailment Level	500	20

Requirements for HI rules

- Only applies to non-cancer benchmarks for existing facilities
- Requires standards and criteria for adjusting benchmarks
- Consider the recommendations of an advisory committee composed of persons with expertise in toxic air contaminant risk assessment (Technical Advisory Committee)
- Provisions are temporary (until 2029)

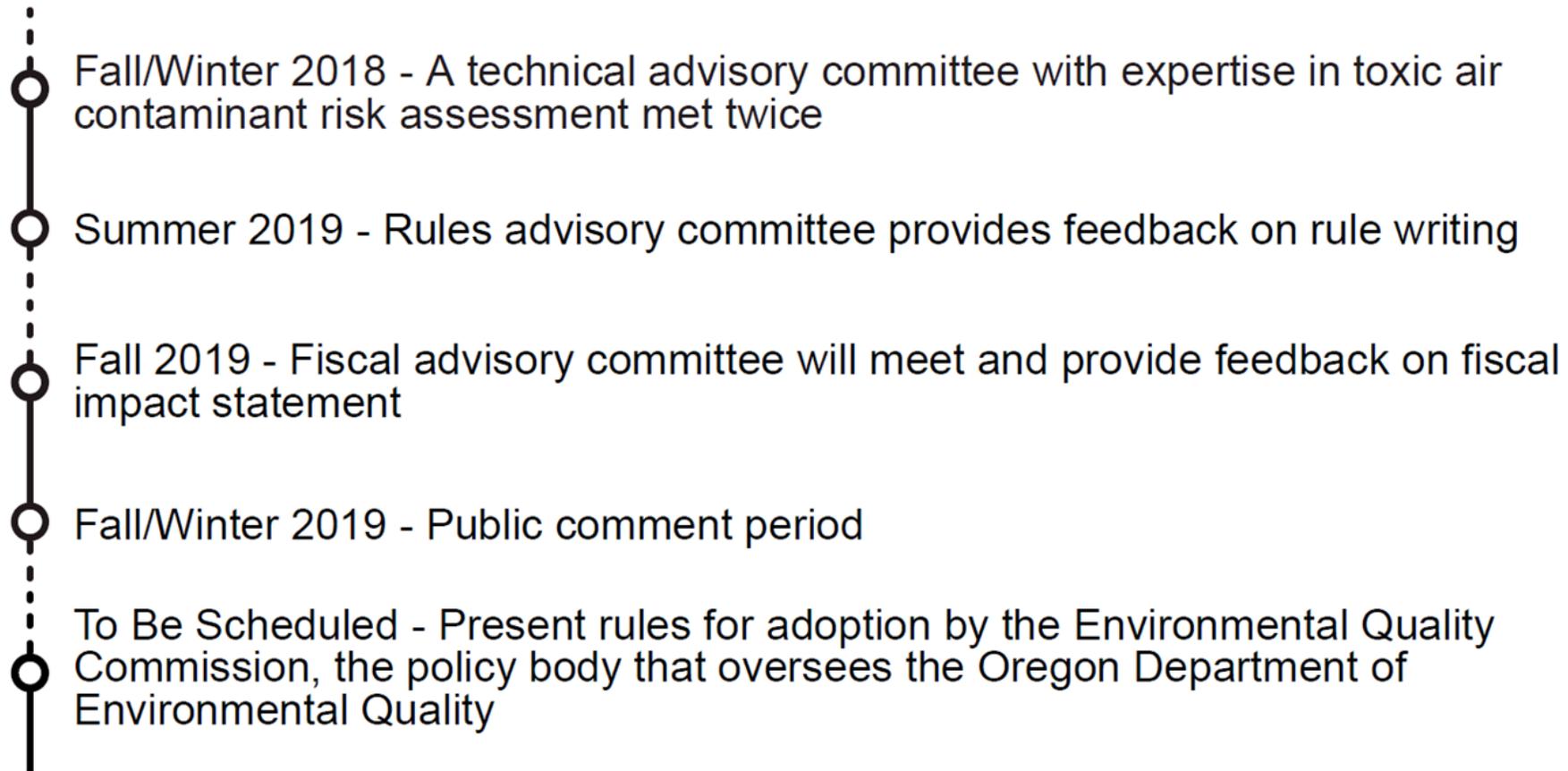
Key provisions of SB 1541 to address in this rulemaking

1. Identify the toxic air contaminants expected to have:
 - a. developmental human health effects based on prenatal or postnatal exposure or;
 - b. other severe human health effects
2. Establish standards and criteria to adjust benchmarks
3. Consider the input from the technical advisory committee

Parameters for rulemaking

- Must be consistent with statute
- Work within recently adopted rules
- Work within legislatively appropriated program resources
- Timely rulemaking- implementation is underway
- Two options provided to illustrate possible rulemaking

Process next steps and timeline



Questions to consider today

1. Are there any additional questions about the information and options presented today?
2. What are your thoughts about the options? What stands out? What is missing?
3. What are the important concepts and considerations that agencies should keep in mind?
4. Are there additional definitions of “severe” that agencies should consider? What suggestions do you have?
5. What else should DEQ and OHA consider?

Questions

