Clean Fuels Program Expansion 2022 Rulemaking

Reporting Workshop

Jan. 20, 2022

Zoom Meeting Tips

- Please see below webinar instructions and tips below:

    - If you have not already **connected your audio**, click on the arrow next to the microphone icon, then click "Join Computer Audio" **or** "Switch to Phone Audio" to connect your computer speakers or to view the conference line information.

    - Please **keep yourself on mute** when not speaking. To mute and unmute, either select microphone icon, or use your personal phone.

    - **Use video** if possible, to promote face to face communication. Click the video icon to turn on your webinar camera.

If you are experiencing technical difficulties, please send a text to Gillian Garber-Yonts at 206-617-7626.
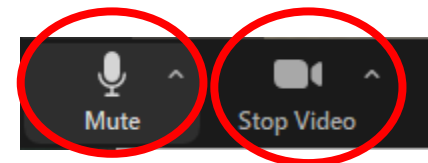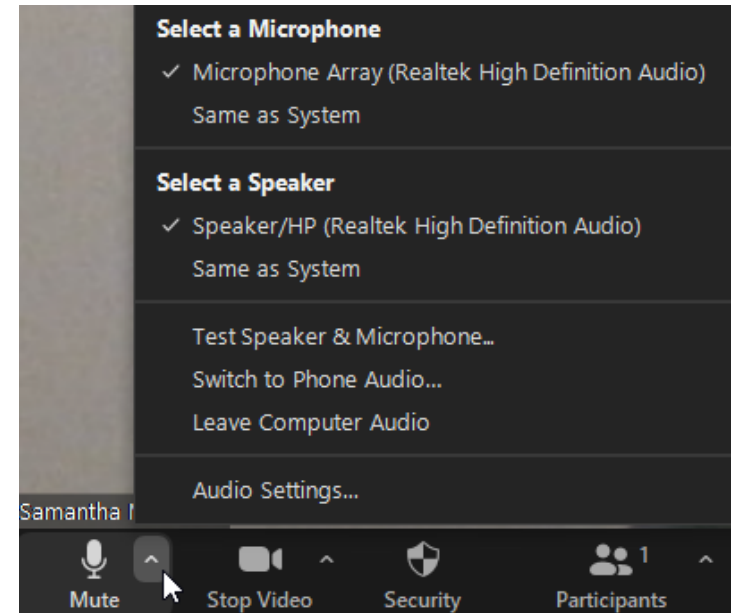
Zoom Meeting Tips
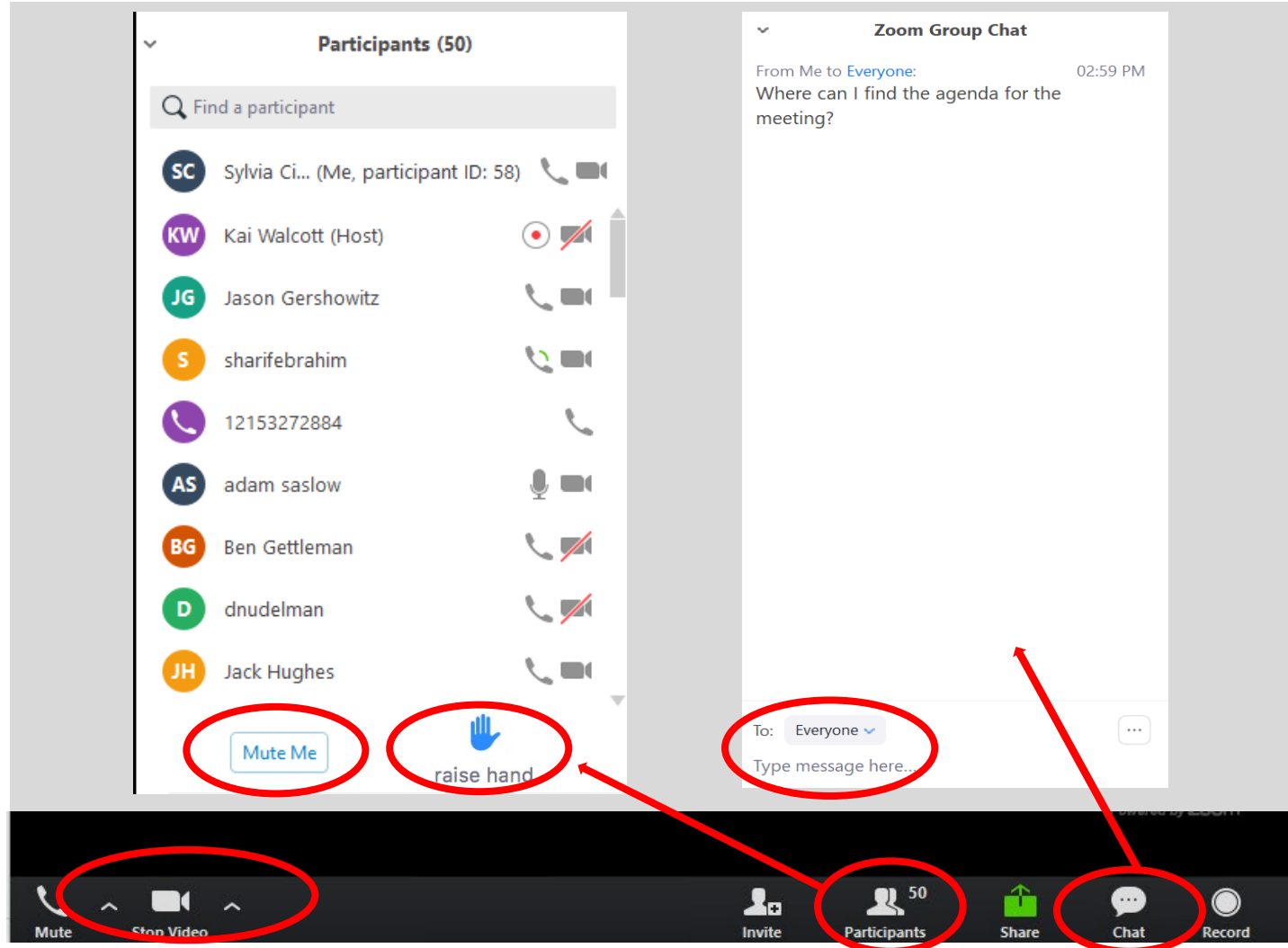
- To raise your hand by phone, press *9.

- To unmute yourself by phone, press *6.

Comment instructions

To make verbally ask a question or make a comment:

▸ If you have joined by Zoom, click "Raise Hand."

▸ If you have joined by phone, press *9 to raise your hand.

▸ The facilitator will call on participants. You will receive an "unmute" request. Please accept it. If you are commenting by phone dial *6 to unmute.

▸ Please provide your name and affiliation.

▸ We will do our best to balance hearing from as many parties as we can on a topic while getting through all of the topics in this workshop.

▸ **If we run out of time and you have not had a chance to speak, you can still provide written comments after the meeting.**

*9

How is this different than a RAC meeting?

Participate in an open and mutually respectful way

Balance of speaking time

Serve as a liaison to your larger community of interest

Act in good faith

- DEQ and the facilitator will seek to prioritize calling on RAC members, but this is an open discussion.
- Comments on other topics or the broader rulemaking should be reserved for next week's RAC meeting.

Meeting Agenda

- Staff introductions
- Topics with DEQ proposals
  - Simplify aggregator language
  - Electricity credit generator hierarchy
  - FSE Registration Submission
  - Exempt fuel use documentation
  - Change of ownership, control, or bankruptcy provisions
  - Production for Import transaction types
- Break (5-10 minutes)
- Topics without DEQ proposals
  - Fossil vs. renewable natural gas credit generation
  - Establishing new transaction types
  - Other simple rule updates
- Wrap up

Meeting Agenda

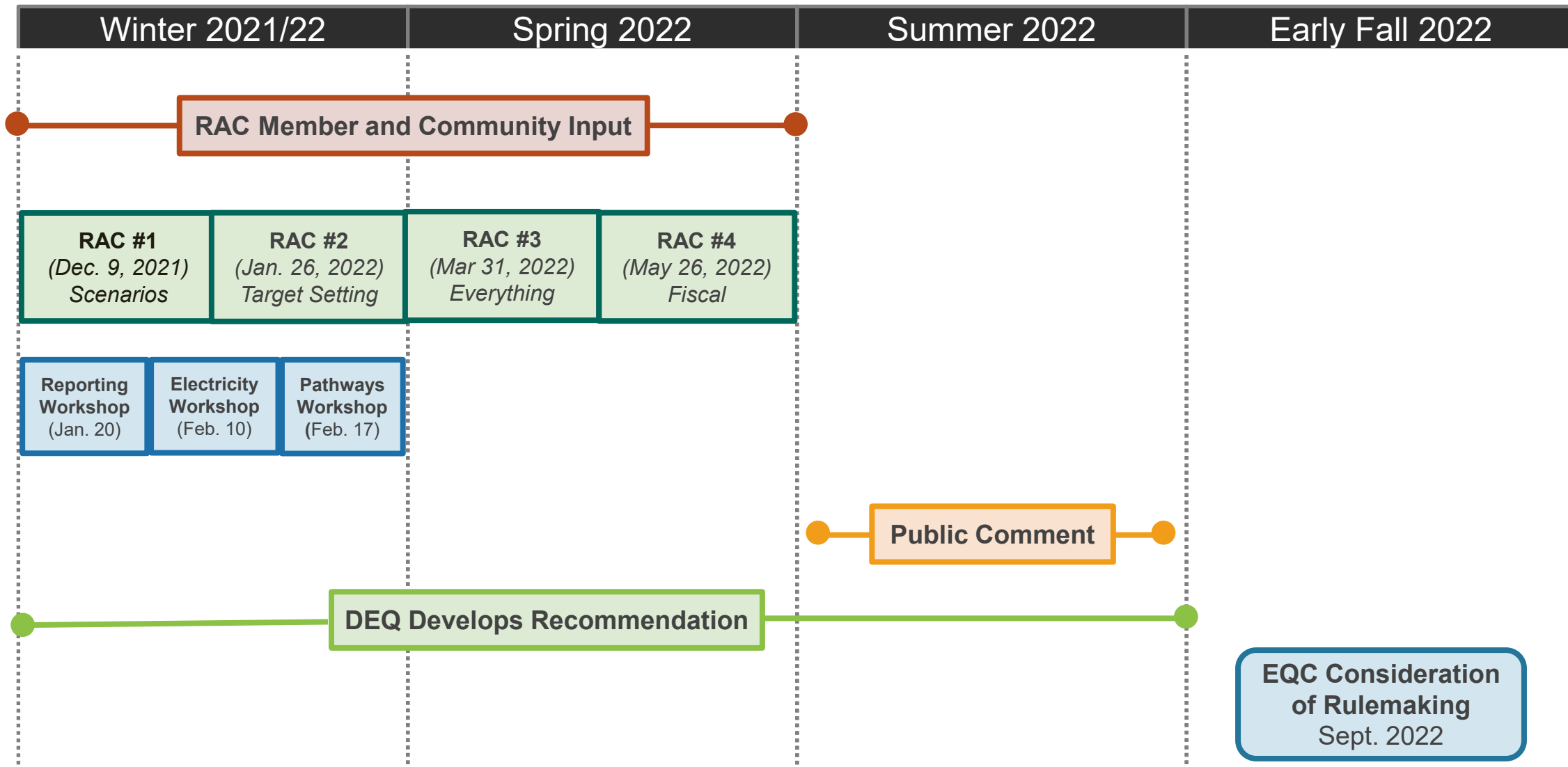| Time	Topic
1-1:10 p.m.	Welcome and Introductions
1:10-1:20 p.m.	Review Agenda
1:20-2:55 p.m.	Presentation and Discussion: Topics with DEQ Proposals
2:55-3:00 p.m.	Break
3-3:45 p.m.	Presentation and Discussion: Topics without DEQ Proposals
3:45-3:50 p.m.	Wrap-up
3:50-3:55 p.m.	Public Comment
3:55-4:00 p.m.	Next Steps
4 p.m.	Adjourn

DEQ Introductions

- Cory Ann Wind

- Stephanie Summers

- Bill Peters

- Kiara Winans

- Please send all comments or questions to the rulemaking inbox: cfp2022@deq.oregon.gov

Clean Fuels Program Expansion 2022 Rulemaking Timeline

Winter 2021/22	Spring 2022	Summer 2022	Early Fall 2022

RAC Member and Community Input

RAC #1 (Dec. 9, 2021) *Scenarios*

RAC #2 (Jan. 26, 2022) *Target Setting*

RAC #3 (Mar 31, 2022) *Everything*

RAC #4 (May 26, 2022) *Fiscal*

Reporting Workshop (Jan. 20)

Electricity Workshop (Feb. 10)

Pathways Workshop (Feb. 17)

Public Comment

DEQ Develops Recommendation

EQC Consideration of Rulemaking Sept. 2022

Goals for this workshop

- Discuss DEQ proposals for issues that have been brought up by stakeholders or DEQ staff
- Get feedback for topics where we have an issue but not a proposal
- Review a few other simple updates
- Review draft rule language, where we have it
  - We're not wordsmithing the rule language today but reviewing it at a higher level to discuss intent
  - Please submit rule writing suggestions via written comments

Simplify aggregator language

- OAR 340-253-0100(3)(b) currently states that "An eligible credit generator may designate an aggregator for its credit generation"

- This was intended to cover any credit generator in the program

- DEQ proposes to remove the many individual mentions of credit generators designating an aggregator within other rules in the division and let this clause cover all credit generators

Discussion

- Any questions on this topic?

- Is this change sufficiently clear?

- Are there any credit generators who should not be allowed to designate an aggregator?

Electricity credit generator hierarchy

Create a hierarchy for electricity credit generation between the owner and the service provider/fleet operator

- Currently, the rule gives the owner (of the charger or fleet depending on the type of EV) and the service provider/fleet operator the ability to generate credits with no hierarchy between the two
- This has created back and forth between service providers/fleet operators and owners when both entities try to enroll fuel supply equipment
- DEQ proposes to create a hierarchy with the owner having the first priority to generate credits and the service provider/fleet operator having the second priority

Electricity credit generator hierarchy

Straw Proposal Rule Language: OAR 340-253-0330 (3)

(3) For non-residential charging. For electricity used to charge an electric vehicle at non-residential locations, such as in public, for a fleet, at a workplace, or at multi-family housing sites, subsections (a) through (c) determine the person who is eligible to generate credits. Only one entity may generate credits from each piece of charging equipment.

(a) Owner of the electric-charging equipment. The owner of the electric-charging equipment is the entity given priority to be able to generate the credits. The owner may sign over the right to generate the credits to the service provider. This must be documented with a signed letter.

(b) Service provider of the electric-charging equipment. If the owner declines to generate credits, the service provider of the electric-charging equipment may generate the credits. The owner must sign over the authority to generate credits to the service provider in a signed letter. This letter must be uploaded with the registration of the fuel servicing equipment in OFRS.

(c) Electric Utility. If the owner or service provider of the electric-charging equipment does not generate the credits, then an electric utility or an aggregator designated to act on the utility's behalf is eligible to generate the credits. The utility or its aggregator must have an active registration approved by DEQ under OAR 340-253-0500. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to DEQ.

(d) Backstop and Incremental Aggregators. If an electric utility does not register or designate an aggregator under subsection (cb), then backstop and incremental aggregators are eligible to claim any credits that the utility could have generated for the following year, as provided in sections (10) and (11), as applicable. The backstop aggregator may claim any base credits and the incremental aggregator may claim any incremental credits.

Discussion

- Any questions on this topic?

- Is the charging equipment owner or fleet owner the right default across all the EV categories in OAR 340-253-0330?

- Is a letter the best way to document the transfer of credit generation rights from the owner to the operator?

- What if the owner is unresponsive?

- How should this provision handle existing equipment? Should there be a grandfathering or effective date?

FSE registration submission and registration

Require FSE registrations be submitted in the first 45 days of the quarter (for which reporting is occurring) in order to qualify for credit generation in that reporting period

- Currently, the rule states that the FSE may be registered for the quarter after they are submitted
- DEQ proposes to register FSE that are submitted in the first 45 days for use in the open reporting period
- Any FSE submitted after that time will be registered and eligible to generate credits in the next reporting period

Discussion

- Any questions on this topic?

- Are there other ideas for how to handle this issue?

Exempt fuel use documentation

Clarifying language for exempt fuel use

- – Currently, exempt fuel use categories are defined in the rule but how to document that exemption is broadly defined
- – DEQ proposes updating rule language to more specifically define the ways to document exempt fuel use

Exempt fuel use documentation

Proposed Rule Language: Clarifying language for exempt fuel use (OAR 340-253-0250)

(b) To be exempt, the regulated party must document that the fuel was supplied for use in a motor vehicle listed in subsection (2)(a).

(A) The following can be used to document that fuel was supplied to those motor vehicles if the specific customer and vehicle type is listed:

(i) Individual receipts or invoices for each fuel sale claimed as exempt; or

(ii) If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document the customer's vehicle(s) being fueled belong to an exempt category under (2)(a) must be provided.

(B) Another method of documentation can be used but must be approved by DEQ prior to exemptions being claimed. The method must:

(i) Establish that the fuel was sold through a dedicated source to use in one of the specified motor vehicles; or

(ii) Be on a fuel transaction basis if the fuel is not sold through a dedicated source.

(C) Records must be kept in support of this information and be provided to DEQ upon request.

Discussion

- Any questions on this topic?

- Does the by receipt or invoice method provide sufficient evidence that the fuel is being supplied to an exempt vehicle or user?

- What details should it contain to assure that the fuel is going to an exempt vehicle or user?

Change of ownership, control, or bankruptcy

- Given recent experiences, we believe we should spell out the process for when entities in the program undergo a change of ownership, control, or bankruptcy

- Straw proposal language modeled after CA LCFS provisions for the same topics is available for review and discussion in the memo for this meeting

- Draft language contains 30-day notification requirements to DEQ, instructions on who reports for which quarters, and how credits and deficits will be handled

Discussion

- Any questions on this topic?

- Is the draft language sufficiently clear?

"Production for Import" transaction types

Adding additional Transaction Types for gallons reported as "Production for Import"

- In order to classify fuel produced for import into Oregon in a way that allows the gallons to be correctly rolled up for the GHG Reporting Program, there need to be Production for Import categories both within and outside the bulk system
- DEQ proposes to add these transaction types for reporting in the Oregon Fuels Reporting System
  - This will also streamline reporting for Producers importing from out of state

"Production for Import" transaction types

Adding additional Transaction Types for gallons reported as "Production for Import"

- Add definitions to OAR 340-253-0040 for:
  - Import inside of the bulk system of production for import gallons
  - Import outside the bulk system of fuel production for import gallons

Discussion

- Any questions on this topic?

- Any other considerations?

Break

- Back at XX:XX

Credit generator fossil vs renewable NG

- Currently, the rule states that renewable natural gas (RNG) credits can be generated by the RNG supplier and that fossil natural gas credits can be generated by the owner of the compressor or LNG station

  – With the possibility of switching between renewable and fossil there has been confusion/difficulty switching from one generating entity to the other

  – Switching to renewable means that the generating entity changes from the FSE owner to the supplier

    - Example: if the FSE owner is currently generating credits using fossil NG but then begins receiving renewable NG, they would no longer be eligible to generate credits through the program. The supplier of that fuel is now the entity that is allowed to generate credits. The entity that is supplying the fuel would need to sign up for the CFP and report the fuel to the CFP to generate credits.

Discussion

- Any questions on this topic?

- Is there a need to change this in the rule? Are suppliers able to determine what equipment is being serviced and register FSE if they are able to take credit for the RNG?

- Should DEQ allow the owner of the FSE to generate the credits for renewable natural gas, as well?

- What is the best way to incentivize switching from fossil to renewable natural gas?

Establishing new transaction types

- Currently, establishing new transaction types must occur during a rulemaking

- This hampers the ability of DEQ to respond to reporting issues that require a new transaction type

  - An example of this is the Import for Production transaction types mentioned earlier which we are proposing new transaction types for in this rulemaking

  - Because DEQ cannot create new transaction types outside of a rulemaking, an inconvenient work around had to be determined with the currently available transaction types

Discussion

- Any questions on this topic?

- Should DEQ establish an administrative way to adopt new transaction types?

- Would the process in rule for DEQ to adopt new temporary or substitute pathway codes work for adding new transaction types?

- What would be the proper documentation provided by DEQ to present during the comment period?

- What would be the proper notification to affected entities?

Other simple rule updates

1. Product transfer documents (PTD) must contain a destination for the fuel if known. If fuel destination is not known or the transfer is not changing locations, this should be noted in the PTD.

2. Changing registration status from a large to a small importer of finished fuels requires at least one year of submitted reporting showing that the company is below 500,000 gallons for the year. Then, the following year, they can change their status to a small importer.

3. B99/R99 must be reported as 99 percent biodiesel or renewable diesel and 1 percent petroleum diesel if the actual blend percentage is not known. If actual percentages are known, the fuel should be reported with those percentages. It must not be reported as B100/R100.

4. Change "Position holder sale" to "Position holder sale without obligation" as it is named in the OFRS.

5. Add Position holder sale with obligation as a transaction type so that obligation can be passed below the rack with one transaction when it is sold with obligation.

Discussion

- Any questions?

Wrap up discussion

- Questions and comments related to this workshop or reporting into the CFP?

- Please leave questions and comments on the broader rulemaking to next week's RAC meeting

Written Comment Instructions

To submit comment after the meeting:

▸ Email comments to CFP.2022@deq.oregon.gov with "Reporting Workshop Meeting Public Comment" as the subject line **by the end of day on Friday, February 4**.
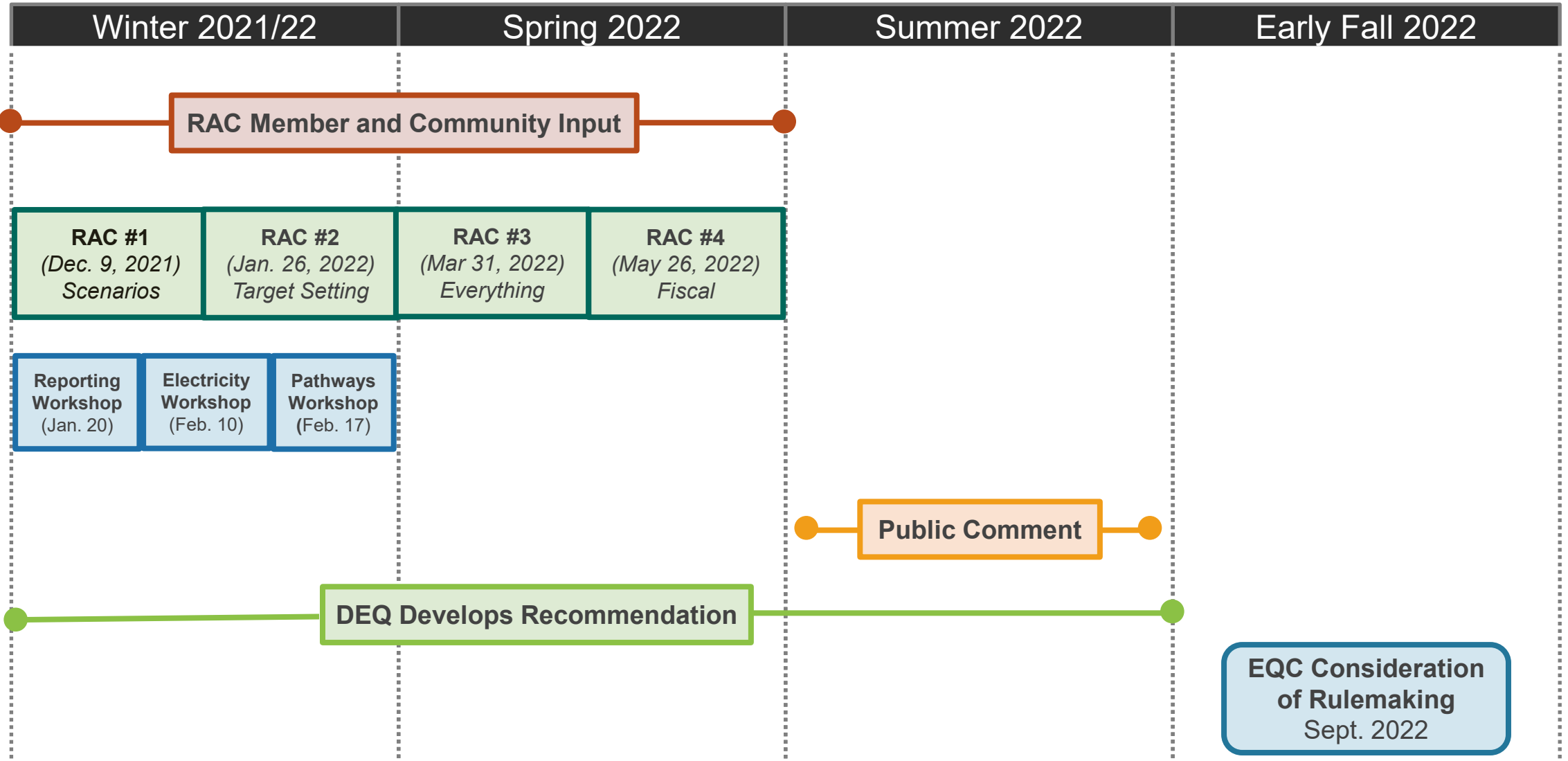
▸ Thank you for sharing your feedback.

Next Steps

RAC #1 → **RAC #2** → RAC #3 → RAC #4

▸ Next RAC meeting: **Wednesday, January 26**

▸ Next Workshops:

  ▸ Electricity Workshop on February 10

  ▸ Pathways Workshop on February 17

Clean Fuels Program Expansion 2022 Rulemaking Timeline

Thank you!