

# Proposed Rules for Adoption

## 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.

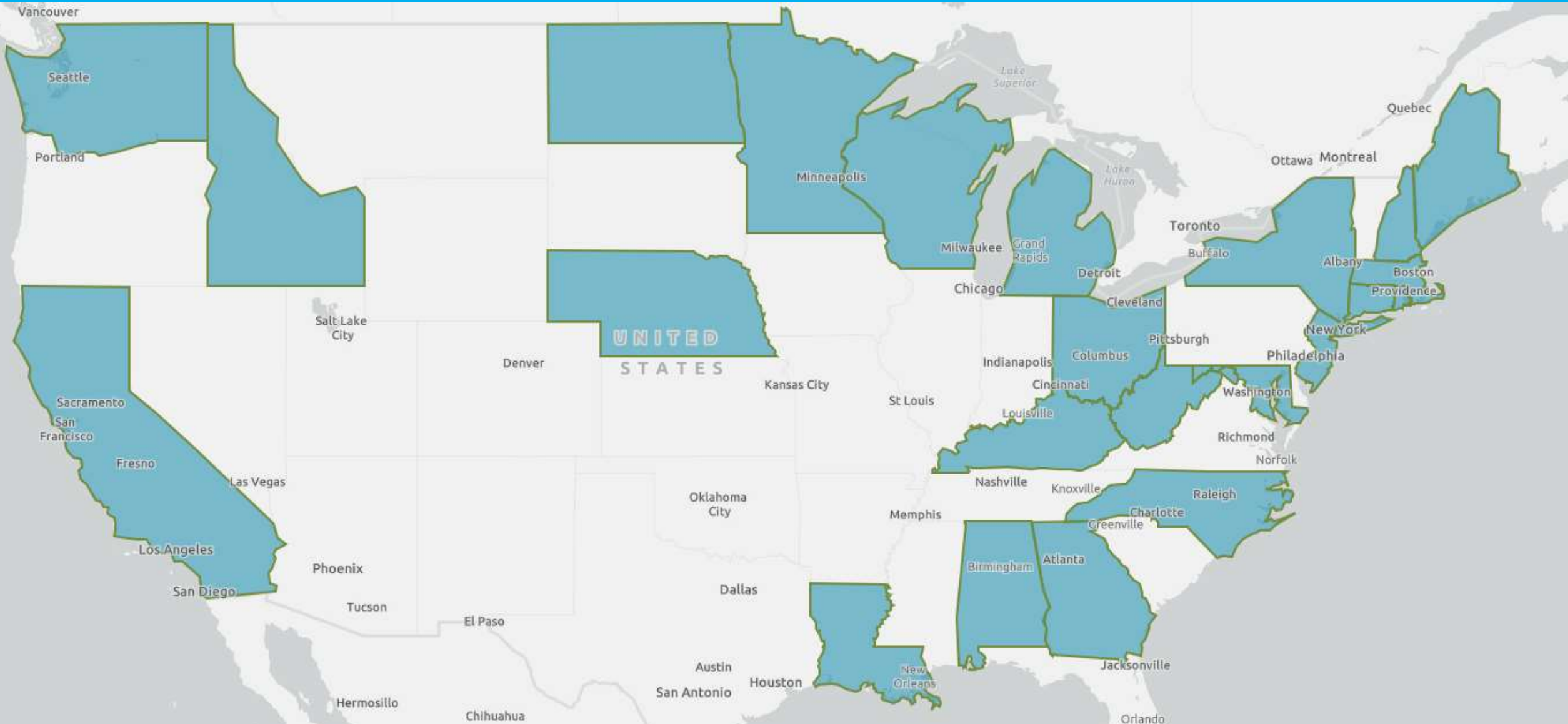
November 15, 2018  
Portland, Oregon

CleanerAirOregon

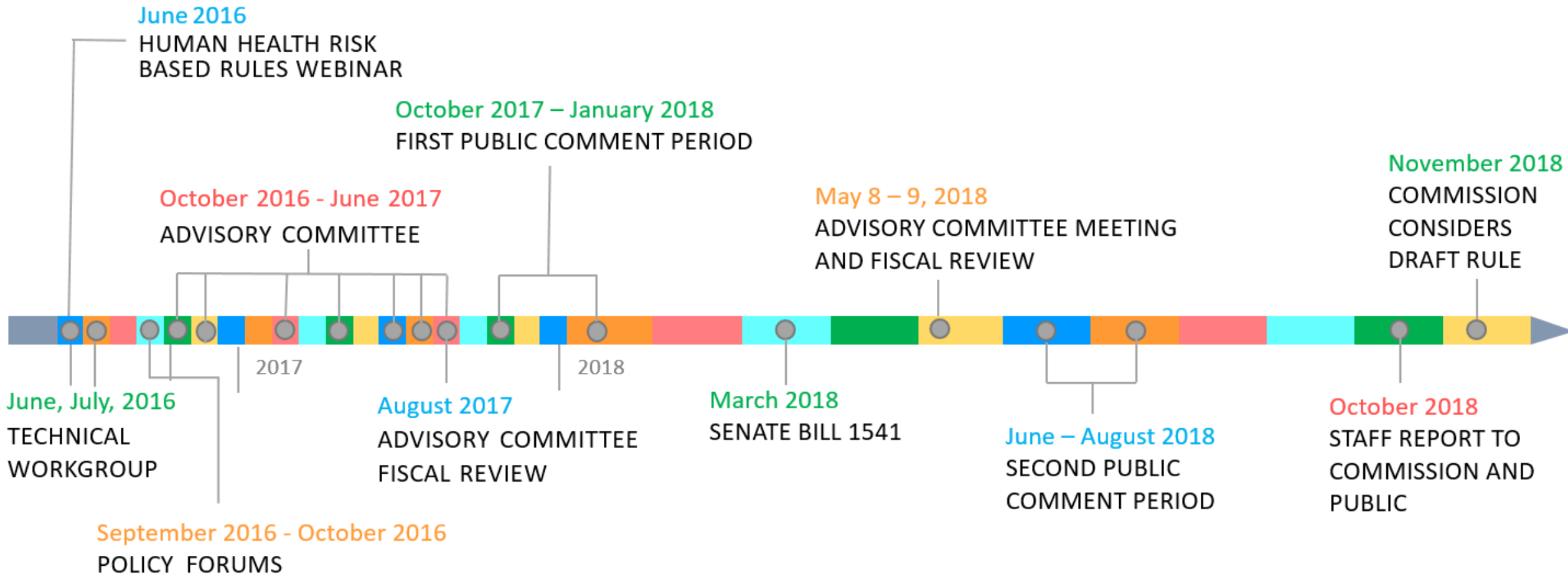
# Outline of Today's Presentation

- CAO rulemaking public process
- How CAO would work
- Key issues
- Steps for implementation
- Questions
- Recommendation

# States with health-based air toxics programs



# Cleaner Air Oregon Public Process



# Cleaner Air Oregon Public Process

*June - July 2016*

4 meetings with a Technical Workgroup of national experts



# Cleaner Air Oregon Public Process

*September - October 2016*

4 Public Forums across Oregon to involve & get input from the public at the very beginning





# Cleaner Air Oregon Public Process

*October 2016 - May 2018*

23 member Rules Advisory Committee

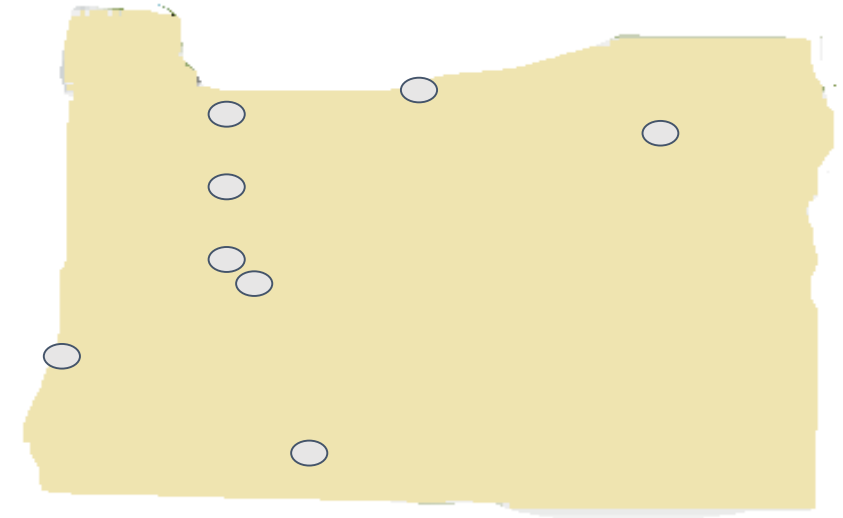
- met 8 times, for over 60 hours
- also served as the Fiscal Advisory Committee



# Cleaner Air Oregon Public Process

*October 2016 to January 2017*

First public comment period included  
9 public hearings





# Cleaner Air Oregon Public Process

*March 2018*

Legislative action  
taken through  
Senate Bill 1541



# Cleaner Air Oregon Public Process

*June - August 2018*

Second public comment period included  
2 additional public hearings



# Cleaner Air Oregon Public Process



**4,243**  
Commenters



**931** Unique comments

**410** Categories

Made changes to the  
proposed rules based on

**85** categories

# Why Cleaner Air Oregon?

## Oregon's current rules have gaps

Companies operate legally — but still emit pollution that can be harmful to neighbors.

No assessment of  
potential risks to neighbors

Limited air  
toxics reporting

Health risks are not  
considered in permit decisions





# Potential Health Effects of Toxic Air Contaminants

Toxic air contaminants increase risk of a wide range of health outcomes:

- heart disease
- respiratory disease
- cancer
- liver disease
- premature birth
- birth defects
- miscarriage
- impaired fertility
- neurological effects
- impaired cognitive abilities
- reduced immune function



# Health Equity and Environmental Justice

- Levels set to protect the most vulnerable
- Addresses cumulative risk from multiple pollutants at sources
- Prioritize sources based on communities of color, low income and children < 5 years old
- Public access to information
- More opportunities for public involvement





# How Would Cleaner Air Oregon Work?



## **Report air toxics**

Companies to report use of 600 pollutants to state regulators



## **Assess risk**

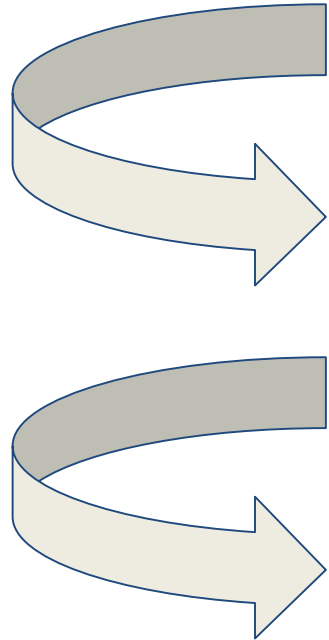
Facilities calculate potential health risks to people who live, work, and go to school nearby



## **Regulate to reduce risk**

Companies would have to act if the levels of air toxics they emit exceed health risk action levels (RALs)

# How Health Standards Are Used in CAO



## **Toxicity Reference Values (TRVs)**

- Exposure duration, exposure frequency, and multi-pathway adjustment factor

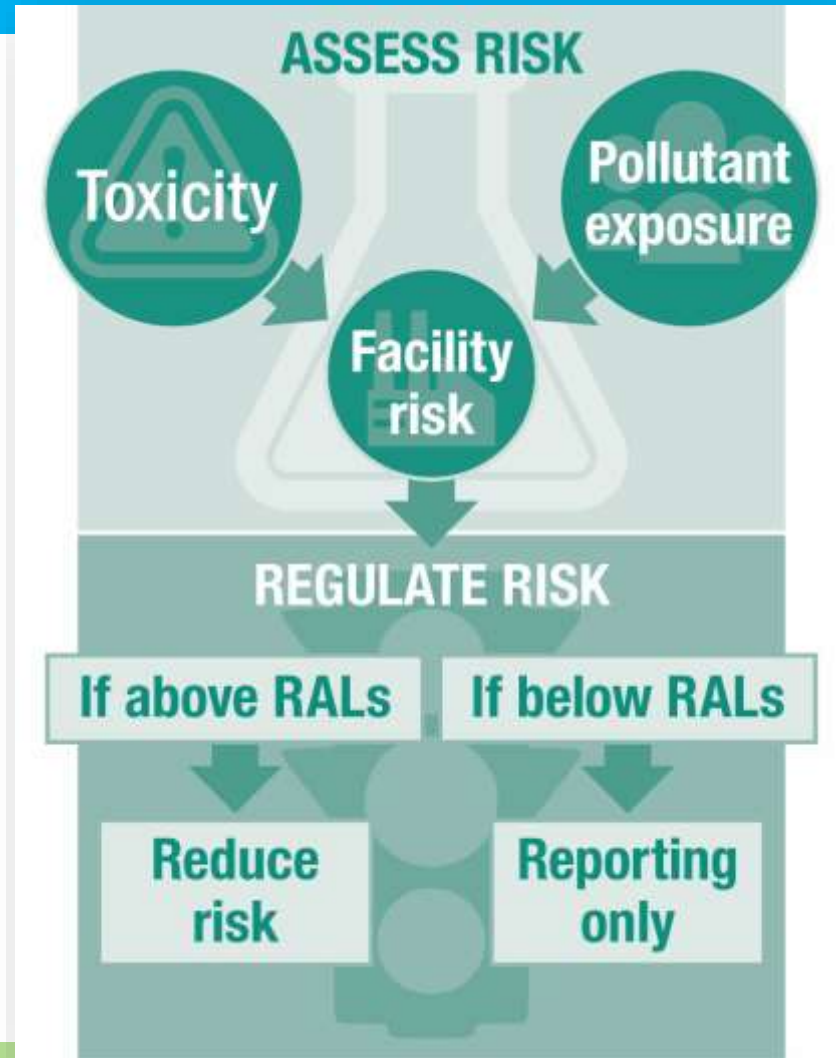
## **Risk Based Concentrations (RBCs)**

- Emissions modeling to calculate concentrations in air at specific locations

## **Calculated Risk Levels**

- Compare calculated risk to Risk Action Levels to determine what action is required

# How CAO Would Protect Health

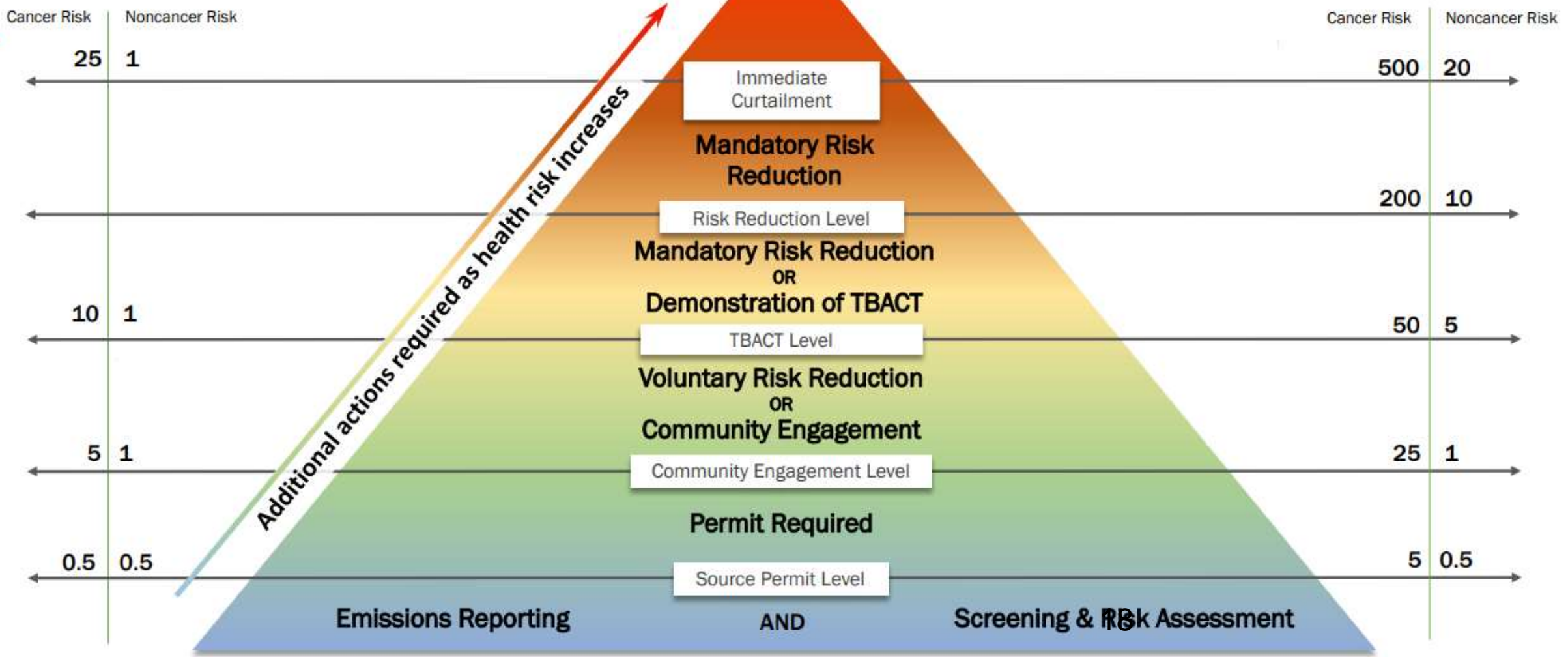


# Proposed RALS

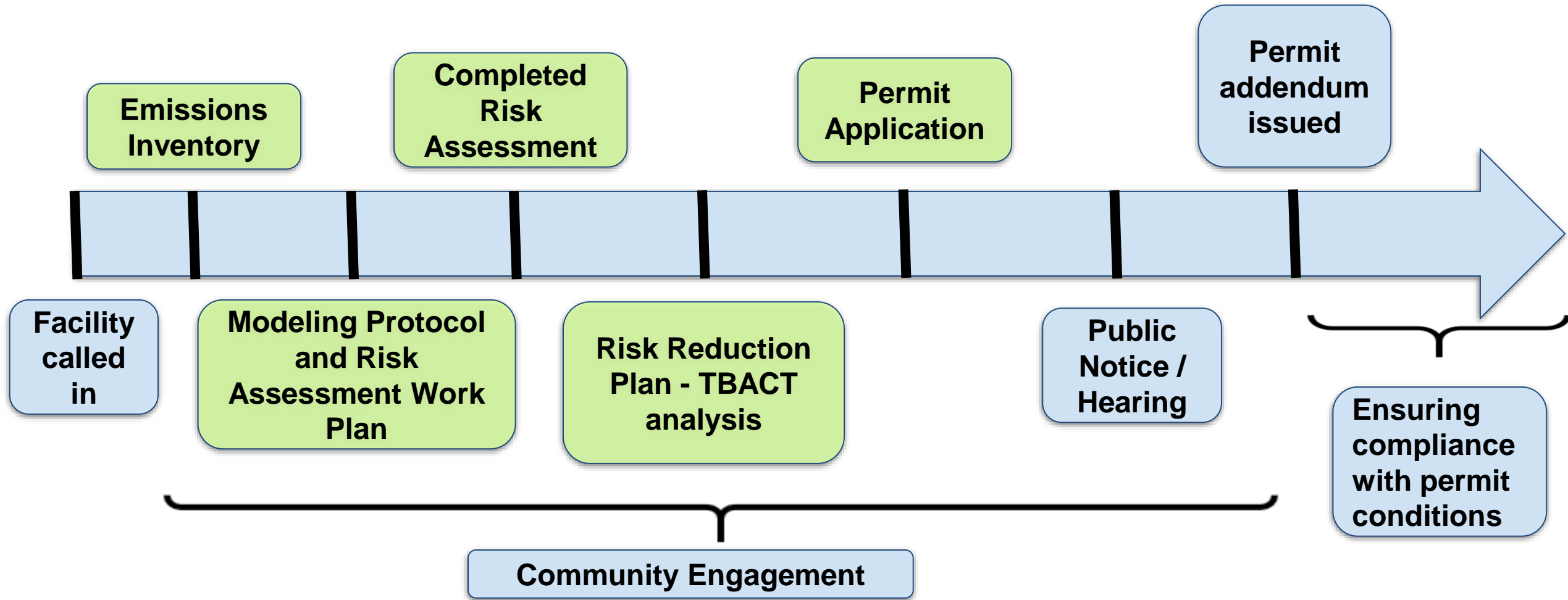
**New Facility Risk Action Levels\***

**Existing Facility Risk Action Levels\***

INCREASING HEALTH RISK



# Risk Assessment and Permitting Process



# Engaging Communities

- Rules specifically address community engagement
  - Required if risk above 25 and 1
  - Notification and meetings before permit is drafted
- DEQ and OHA to develop protocol
  - Stakeholder participation
  - Use engagement best practices
  - Engagement will be tailored to community
- Detailed pollutant and risk information available





# Flexibility For Business

- Have an off ramp for low-risk facilities
- Let companies choose the best way to reduce emissions
- Consider existing investments in pollution controls
- Investment timelines for existing facilities

# Fee and Funding Overview

- As authorized by SB 1541, DEQ has proposed to set ongoing fees in rule to fund the program
  - Annual base fees
  - Specific activity fees
- Fees would fund 11 new positions at DEQ, and existing OHA staff: a mix of permit writers, toxicologists, air monitoring and modeling analysts, community liaisons and IT support

# Fiscal Impact Statement

- DEQ used best available information to estimate both negative and positive impacts
  - Estimated: fees, costs for analysis & different types of pollution control
  - Considered estimates of number and extent of affected sources, extent of existing public health risks and potential for future risk reduction
- Changes from SB 1541
- Addressing small business impacts

# Reducing Small Businesses Impacts

## Technical Assistance

- Emissions inventory and first level risk assessments
- Technical assistance in permitting process

## Regulatory Thresholds

- Higher RALs
- Higher de minimis risk level
- Consideration for existing controls (TBACT)

## Fees

- Lower base fees for general or basic ACDP permittees

## Timing

- Tiered implementation
- Additional time to comply with risk levels
- Can apply to postpone risk reduction if financial hardship

# Key Issues in CAO Development- Assessing Risk

- Risk assessment vs. risk management
- Setting health values and protecting sensitive populations- TRVs, RBCs
- Cumulative and Area risks
- Benchmarks and Risk Action levels

# Other Key Issues in CAO Development

- Community Engagement
- Environmental Justice
- Considering existing pollution controls
- Risk Action Levels
  - Director Consultations
  - De Minimis levels
  - Community engagement
  - Risk limits and permitting



# Steps for Implementation

- Preparing for permitting new facilities and major modifications
- Existing facility prioritization and call-in
- Integrating CAO with existing DEQ permitting
  - Internal training
  - Software and tools
- Communicating with the public and businesses

# Future Rulemaking Steps

- Hazard Index rulemaking
- Area Risk Pilot rulemaking
- Future updates to CAO rules
  - Triennial TRV updates
  - 2029 sunset

# CAO Program Reporting

- 2-year and 5-report to EQC (Attachment I)
- Five-year rule review
- 2026 report to the Legislature

# Questions



# Recommendation

## **Proposed EQC motion language:**

“I move that the Oregon Environmental Quality Commission:

1. Adopt the proposed rules in Attachment A and the proposed rule amendments in Attachment B, as part of chapter 340 of the Oregon Administrative Rules, and adopt the proposed changes to the DEQ source sampling manual in Attachment D; and
1. Approve incorporating the proposed rule amendments in Attachment B that amend OAR chapter 340, divisions, 12, 200, 209, and 216, with the exception of all references to toxic air contaminants, into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and
1. Direct DEQ to submit the SIP revision to U.S. EPA for approval; and
1. Direct DEQ to prepare reports consistent with Attachment I.”