

Rulemaking Advisory Committee Meeting #1

PFAS 2025:

PFOA and PFOS as Oregon Hazardous Substances

OAR 340-122-0115

Nov. 19, 2024

Zoom Webinar

Agenda

Time*	Topic
1 p.m.	Welcome and meeting overview
1:10 p.m.	Introductions
1:30 p.m.	Rulemaking orientation
1:45 p.m.	Break
1:50 p.m.	PFAS background
2:15 p.m.	Break
2:30 p.m.	Rule concept presentation and discussion
3:25 p.m.	Break
3:30 p.m.	Public input
3:45 p.m.	Continue discussion
4:15 p.m.	Wrap up and next steps
4:30 p.m.	Meeting adjourns

*Note: Times subject to change and topics may begin and end earlier than listed

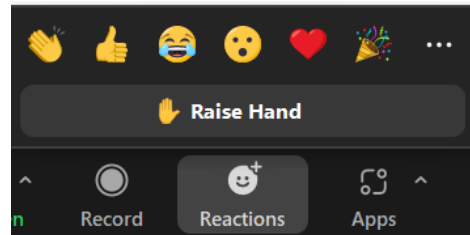
Zoom tips

Join audio either by phone or computer, not both

For committee member discussion and comments, use the raise hand button to get in the queue; if by phone press *9

If comfortable and able, RAC members please keep your camera on

For Zoom issues, send a message to Annie Rohlf, or email Annie.Rohlf@deq.oregon.gov or text 503-706-3681



Meeting ground rules

- Listen and treat everyone with respect
- Allow one person to speak at a time
 - Please raise your (virtual) hand to speak
- Move around and take care of yourself as needed
- Share constructive feedback on rule concepts



Introductions – DEQ staff



Franziska Landes



Annie Rohlf



Sarah Van Glubt



Cade Anslem



Dan Hafley

Introductions – RAC members

Name	Affiliation	Representing
Negonnekodoqua Blair	Confederated Tribes of the Umatilla Indian Reservation	Tribal
Anzie St Clair	Port of Portland	Aviation Industry, Government
Jim Denson	Waste Management	Landfills
Jamie DeWitt	Oregon State University	Academia and Research
Heather Gosack	WSP	Environmental Consulting
Jeremy Haney	Oregon Military Department	Military
Jeff Hunter	Perkins Coie, on behalf of Oregon Business and Industry	Business and Industry


Introductions – RAC members

Name	Affiliation	Representing
Michael Karnosh	Confederated Tribes of Grand Ronde	Tribal
Johnny Leavy	City of Medford Public Works Water Reclamation Division and Association of Clean Water Agencies	Wastewater Facilities
Karen Lewotsky	Oregon Environmental Council	Environmental Advocates, Rural Communities
Jamie Porter	Rainbow Water District	Water Providers
Rose Poton	Verde	Environmental Advocates, Low-Income and Minority Communities
Teryn Yazdani	Columbia Riverkeeper	Environmental Advocates

Questions from the RAC?



Rulemaking orientation



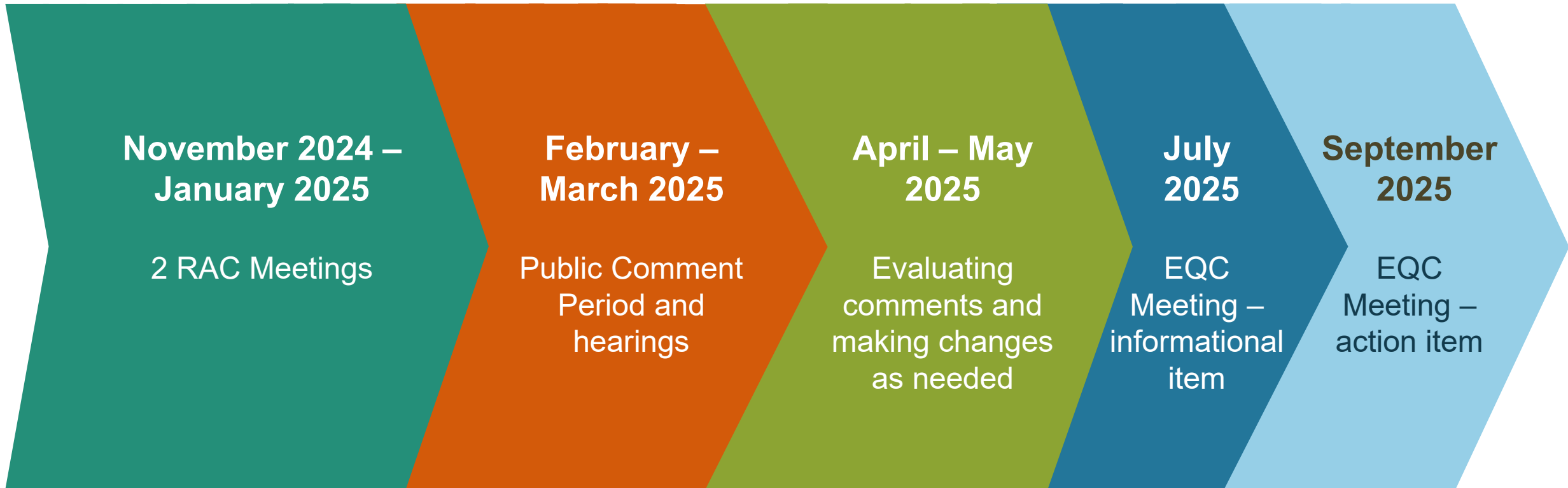
- Rule development process
- Timeline
- Charter
- Role of the RAC

Rule development process

- Background research and engagement
- Consultation with RAC
- Draft rule language
- Public notice rule language

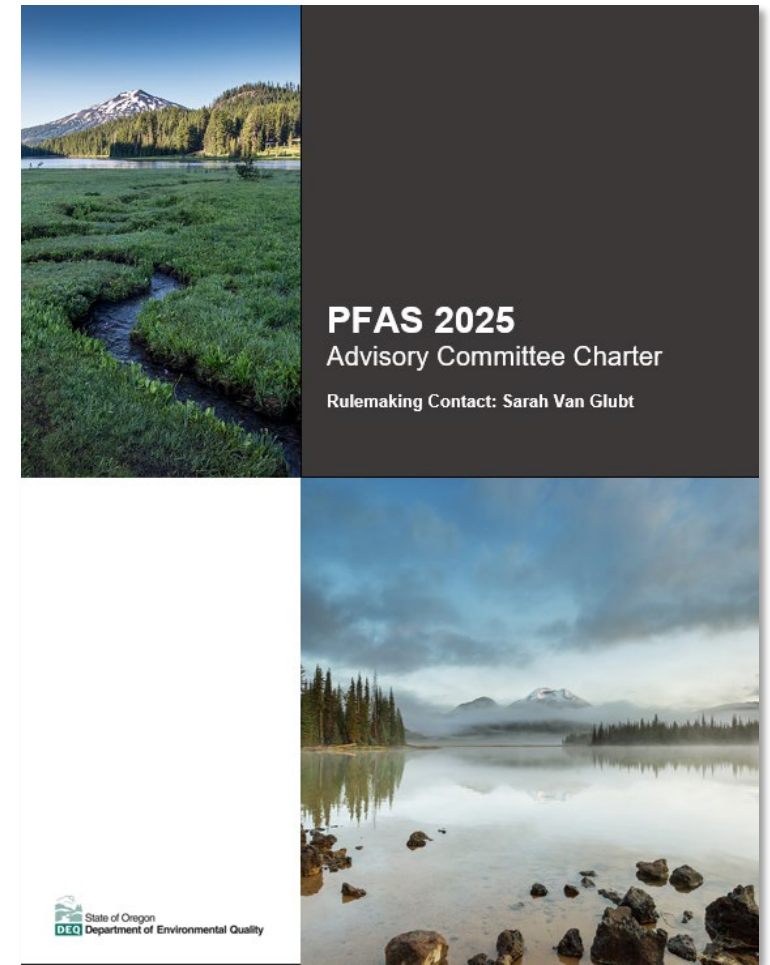


Rulemaking timeline: 2024-2025



Rules advisory committee

- Provide input to DEQ on proposed rulemaking to update the definition of hazardous substances in OAR 340-122-0115 (30) to match the federal list of CERCLA hazardous substances, most notably:
 - perfluorooctanoic acid and
 - perfluorooctane sulfonic acid
- Provide input to DEQ on the fiscal, economic, and racial equity implications for parties and communities impacted by the proposed rules.



RAC meetings preview

Meeting 1 – November 2024

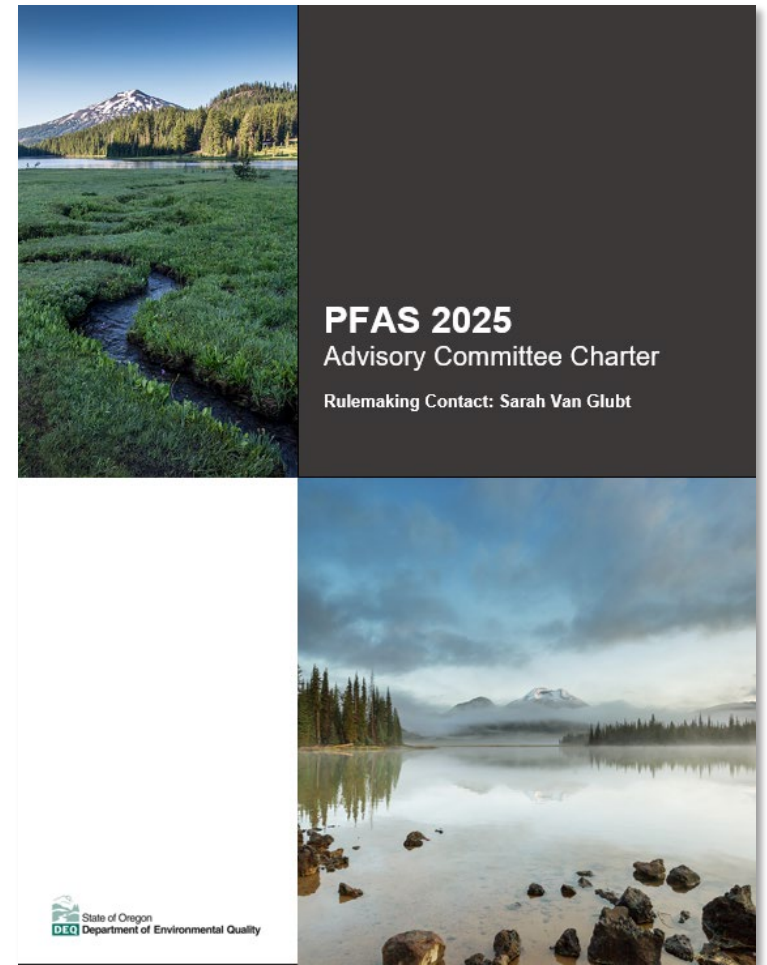
- Rulemaking orientation, RAC charter
- PFAS Background
- Proposed rule concept

Meeting 2 – January 2025

- Fiscal Impact Statement – identifies and projects economic impact
- Racial Equity Statement

Rules advisory committee charter

- Roles
 - DEQ facilitator
 - Committee
 - Non-committee attendees
- Committee meetings
 - Open to the public
 - Advertised through the GovDelivery notice
 - Accessible via Zoom webinar
- Public records and information exchange
- Public involvement



Role of the RAC

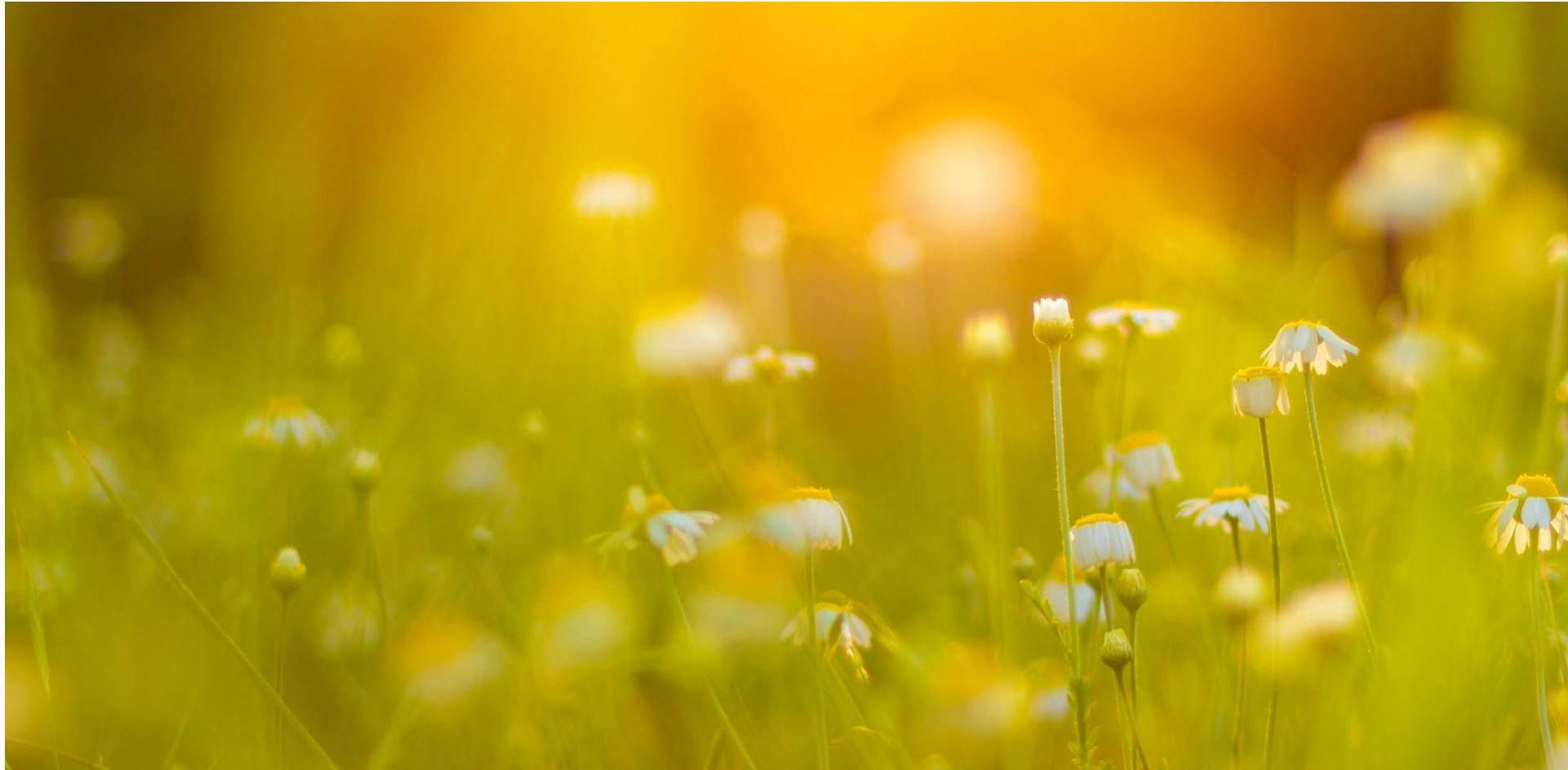
- Part of the public involvement process
- **Advisory-only**, not a decision-making body
- Provides **feedback** and comments on proposed rule concepts
- Input is **not limited** to these meetings



Questions from the RAC?

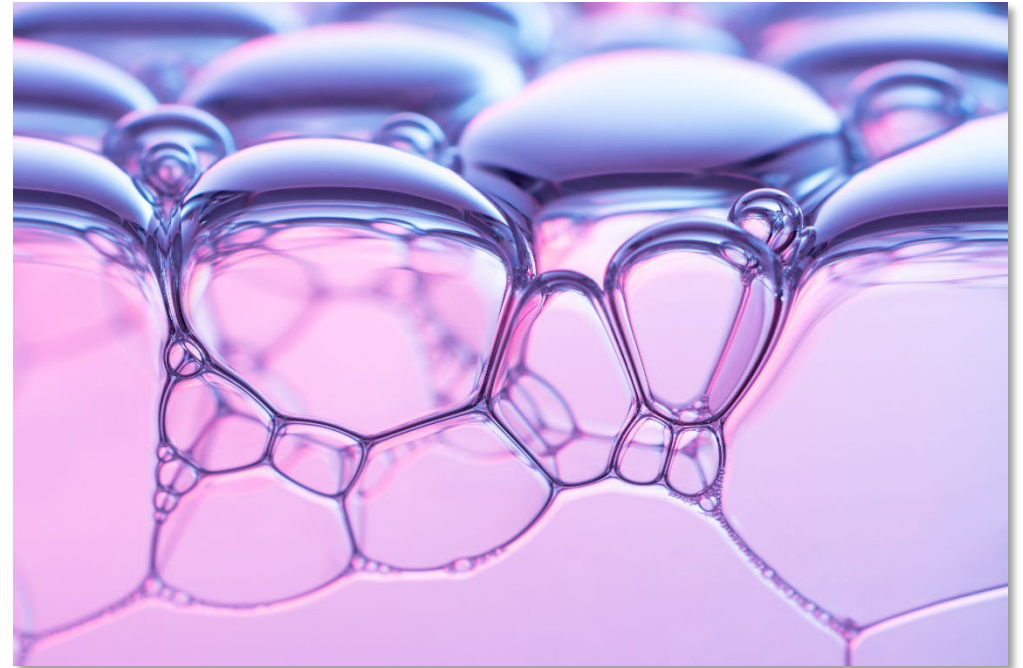


Break



What are PFAS?

- Per- and polyfluoroalkyl substances
- Class of human-made chemicals
- Manufactured since 1940s
- Strong carbon-fluorine bonds
- Called “forever chemicals”, environmentally persistent
- Provides products resistance to oil, grease, stains, water, and heat



PFAS uses/facilities

Example Industry Users



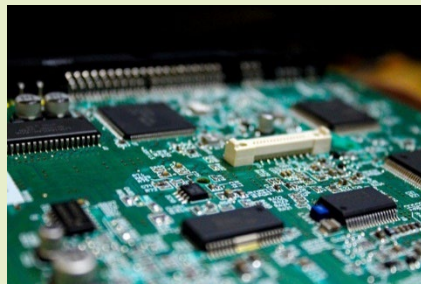
Firefighting foams



Metal plating



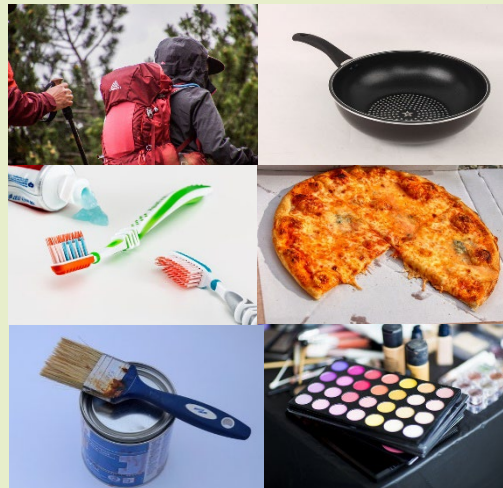
Bulk fuel storage



Semiconductor manufacturing



Paper products manufacturing



Consumer products

Example Passive Receivers



Landfills

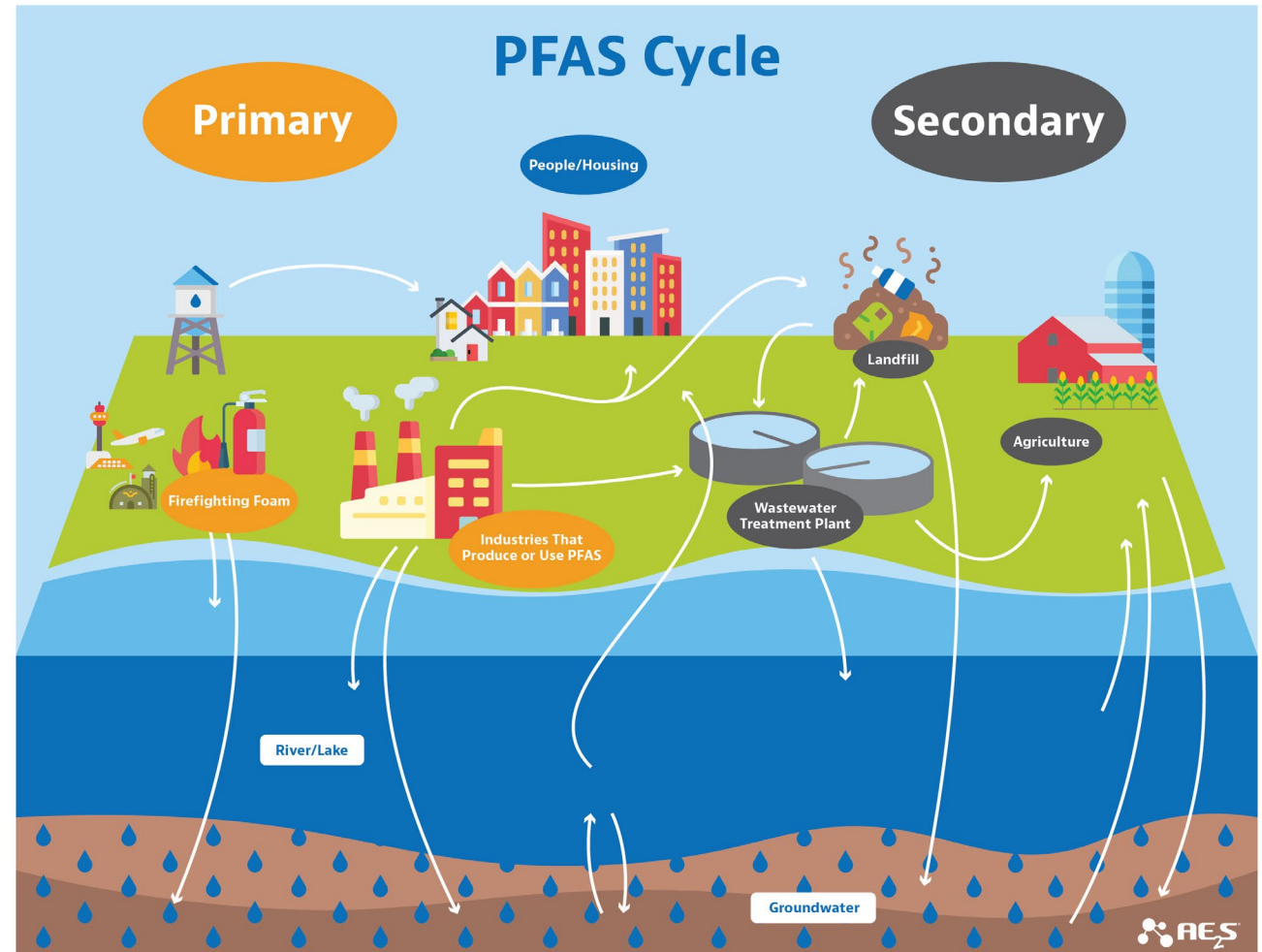


Wastewater treatment plants

PFAS in the environment

PFAS may be released to the environment from places where PFAS products were manufactured, used, or stored.

PFAS may travel away from the source and impact soil, groundwater, surface water, etc.



PFAS environmental concerns

- Mobile
- Persistent
- Bioaccumulative
- Adverse health impacts at low exposure levels, such as:
 - Cancer
 - Liver, immunological, endocrine, and cardiovascular damage
 - Low birth weight and developmental impacts to children

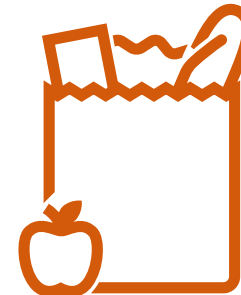
Drinking
contaminated
water



Eating fish from
contaminated
water



Eating food
contaminated during
growing, processing,
or packaging

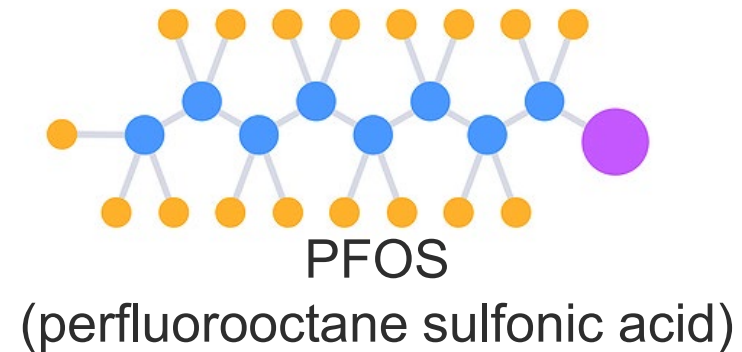
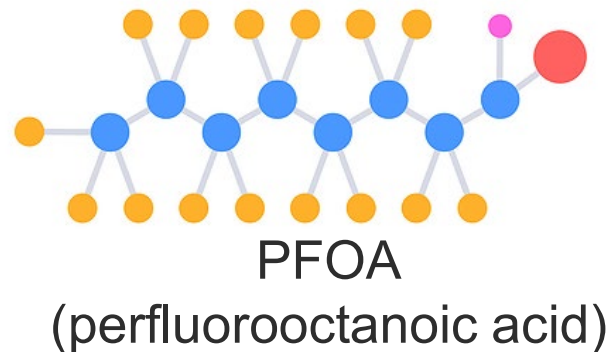


Ingesting
contaminated
soil



PFOA and PFOS

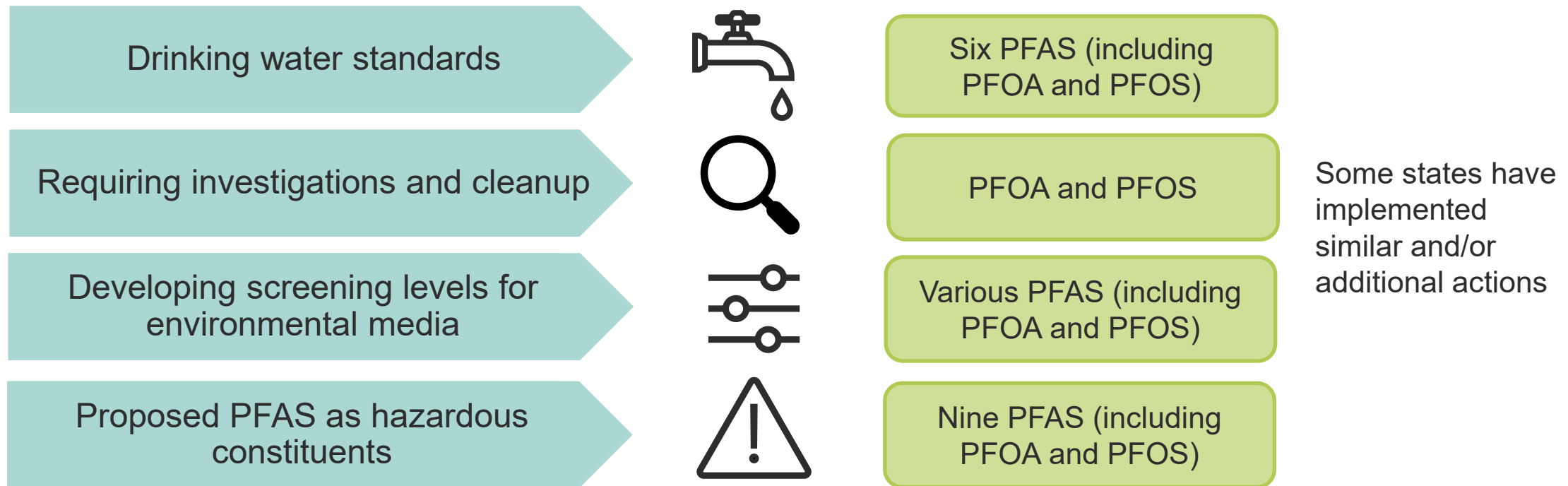
- Two of the best studied and most prevalent PFAS
- Long history of use, phased out of US manufacturing in early 2000s
- Persistent due to chemical structure – still widely detected today
- Toxic – known or suspected carcinogens



Actions for PFAS around the country

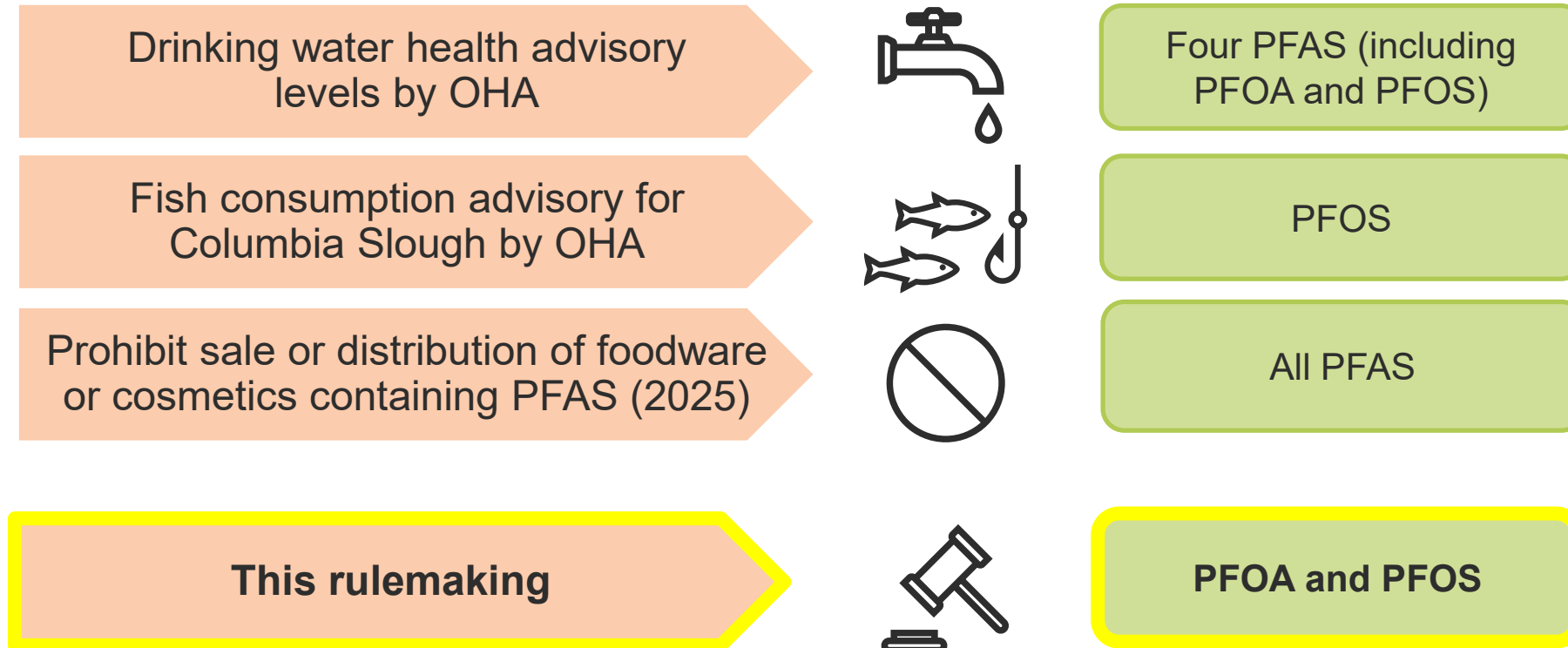
As awareness of the toxicity and presence of PFAS in the environment has increased, so have federal and state responses.

Example U.S. Environmental Protection Agency actions:



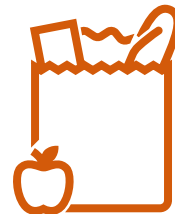
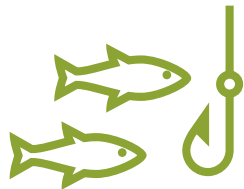
Actions for PFAS in Oregon

Example Oregon actions:



PFAS background takeaways

- Commonly used
- Mobile in the environment
- Highly persistent
- Toxicity/exposure concerns
- Actions to address PFAS are wide ranging and ramping up around the country



Questions from the RAC?



Break



This rulemaking

Oregon statutes and rules give DEQ authority to require investigation and remedial actions at sites with a release or threat of release of **hazardous substances** to the environment.

This rulemaking:

- Proposes to update Oregon's definition of hazardous substances (OAR 340-122-0115)
- Will particularly impact DEQ's Cleanup Program



DEQ's Cleanup Program

Purpose: protect human health and the environment from a release or suspected release

- Evaluate the presence of hazardous substances
 - What, how much, and where?
- Determine exposure risk for people or the environment
 - Who? What is the risk?
- Oversee cleanup actions
 - Short-term and long-term considerations
 - Remove and/or manage contamination



DEQ's Cleanup Program: PFAS investigations

- PFAS have been detected in Oregon at concentrations exceeding health-based levels, including groundwater, soil, drinking water, and fish
- Currently, the Cleanup Program works with parties on a volunteer basis to assess PFAS contamination
- Many more sites are suspected for potential PFAS releases



Rulemaking impact to Cleanup Program

- Allow DEQ to **require** investigation and remedial actions of responsible parties at sites where PFOA or PFOS have been or may have been released
- Support data collection to understand the presence of PFAS in Oregon
- Support identification of sources and cleanup if necessary
- Align with the EPA's approach



Regulatory background: Federal cleanup law

Comprehensive Environmental Response, Compensation, and Liability Act

Federal (EPA) authority to respond to releases or threatened releases of compounds that may harm human health or the environment

- Compounds covered by CERCLA are called hazardous substances



Regulatory background: Oregon cleanup law

- Oregon cleanup law is largely modeled after CERCLA
- Oregon hazardous substances include CERCLA hazardous substances at the time the rule was last updated (2006) – PFOA and PFOS not included

OAR 340-122-0115

(30) "Hazardous substance" means:

- (a) Hazardous waste as defined in ORS 466.005;
- (b) Any substance defined as a hazardous substance pursuant to section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, P.L. 96-510, as amended, and P.L. 99-499;
- (c) Oil as defined in ORS 465.200(18); and
- (d) Methane generated at a historic solid waste landfill; and
- (e) Any substance designated by the commission under ORS 465.400

CERCLA
hazardous
substances

Updates to CERCLA hazardous substances

The EPA added PFOA and PFOS added as CERCLA hazardous substances in May 2024 and indicated they may propose to add additional PFAS in the future.

Compound	Action (year)	Rationale
Saccharin (artificial sweetener)	Removed (2010)	The EPA reevaluated and determined saccharin does not meet the criteria for remaining on the CERCLA list of hazardous substances.
Waste types from specific industries related to metals production and smelting	Removed (2022)	Removed to align with the updated list of Resource Conservation and Recovery Act (RCRA) hazardous wastes.
1-Bromopropane	Added (2022)	Added to align with the updated list of Clean Air Act hazardous air pollutants.
PFOA	Added (2024)	The EPA determined may present a substantial danger to public health or welfare or the environment when released.
PFOS		

Other compound changes

- Removed: saccharin and certain metal industry wastes
 - No known sites with data available
- Added: 1-Bromopropane
 - Solvent, widely used in cleaning and degreasing operations, spray adhesives, and dry cleaning
 - Not included in a current EPA-approved method
 - No known sites with data available
- No anticipated near-term program impacts; no current plans for inclusion in site investigations



Rule concept

DEQ Draft Proposal

- No language changes to Oregon rule defining hazardous substances
- Rather, update the rule to include the current list of CERCLA hazardous substances
- Oregon rulemaking is required to incorporate updates



Rulemaking intent

Purpose

- Give DEQ the authority and discretion to respond to PFOA and PFOS **releases to the environment** to protect human health and the environment
- Align with the EPA's approach

Does not

- Does not impact the ability of industries to use PFAS
- Does not impact other chemical or waste definitions (e.g., hazardous waste)
- Does not automatically impose investigation, treatment, or disposal requirements
- Does not automatically impact DEQ permits

Why PFOA and PFOS?

- Consistent with the EPA – future rulemakings would be needed to incorporate additional CERCLA hazardous substances updates
- Two of the most commonly detected to date
- High toxicity
- Commonly found in fish tissue
- Analytical methods also encompass various other PFAS compounds

RAC rule concept discussion

1

How might you or the communities and parties you represent be positively or adversely impacted by this rulemaking?

2

Who might be most impacted by this rulemaking?

3

What other data or information should we consider?

Break



Public input period

To provide input please raise your hand or put your comment/question in the chat.

Input can also be emailed to PFAS.2025@deq.oregon.gov

RAC rule concept discussion continued

1

How might you or the communities and parties you represent be positively or adversely impacted by this rulemaking?

2

Who might be most impacted by this rulemaking?

3

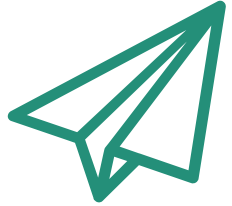
What other data or information should we consider?

Next steps



- Connect with your networks
- Email any questions or feedback to:
PFAS.2025@deq.oregon.gov
or any of the rulemaking team
- RAC meeting #2 likely January 2025

More info



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[PFAS 2025 web page](#)

Title VI and alternative formats

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