

# Air Toxics Programs Alignment Rulemaking



Rules Advisory Committee Meeting 2: Session 2

Oregon Department of Environmental Quality

Feb. 5, 2021

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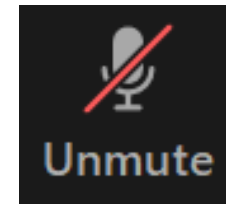
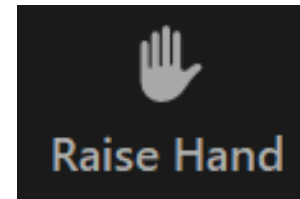
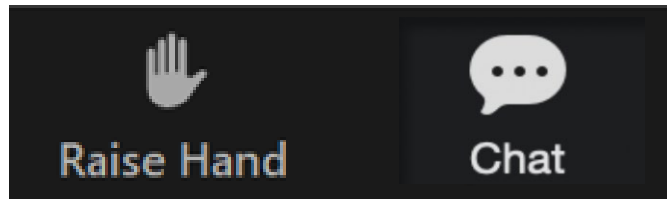
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# Committee Member Participation

The screenshot shows a Zoom Webinar window with the following elements:

- Zoom Webinar title bar with a green status bar: "You are viewing DEQ's screen" and "View Options" dropdown.
- Top right corner: "Enter Full Screen" button.
- Center: A teal phone icon, followed by the text:  
**Dial: 888-475-4499**  
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**Password: 423310**
- Bottom toolbar with icons for Mute, Start Video, Participants (2), Q&A, Chat, Share Screen, Raise Hand, Record, and a red Leave button.
- Five blue callout boxes with arrows pointing to the toolbar icons:
  - Mute/Unmute (points to Mute)
  - Start/Stop Video (points to Start Video)
  - Access Participant List (points to Participants)
  - Chat with hosts and committee members (points to Chat)
  - Raise Hand (points to Raise Hand)

# Questions?



\*9

\*6

# Opportunities for Public Participation



- Welcome! And thank you for your interest in attending today's committee meeting
- Informal public comment at 11 a.m.
- Additional opportunities for public comment this summer

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

# Today's Agenda

- 8:00 a.m. Welcome & Introductions**
- 8:10 a.m. Introduction to Division 247**
- 8:25 a.m. Proposed Updates to DEQ's Air Toxics Program and Toxicity Values for Toxic Air Contaminants**
- Safety Net Program
  - Ambient Benchmark Concentrations (ABCs)
  - Air Toxics Science Advisory Committee (ATSAC)
  - Petition Process for Toxicity Reference Value (TRV) Triennial Review
- 9:55 a.m. 20-minute break**
- 10:15 a.m. Additional Discussion of Proposed Rules**
- 11:00 a.m. Informal Public Comment**
- 11:20 a.m. RAC Roundtable**
- 11:50 a.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





# **Overview of Meeting Materials & Introduction to Division 247**

# Session 2 Materials

## Rulemaking Packet

- Rulemaking Guide
- Introduction to Division 247
- Division 246
- Division 247 – tracked changes and clean version

## Rulemaking Guide and Proposed Rules: Division 246 and 247

Cleaner Air Oregon and Air Toxics Alignment and Updates 2021  
Advisory Committee Meeting 2, Session 2



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[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



State of Oregon  
Department of  
Environmental  
Quality



# Proposals for Committee Consideration

## Proposals for Discussion: Oregon Toxic Air Contaminants Program and Health Risk-Based Standards for Toxic Air Contaminants (Division 246 and 247)

Create a standalone rule division (247) to house the list of toxic air contaminants, list of toxicity reference values, and the process for updating those lists

TRVs become the basis of Ambient Benchmark Concentrations (ABCs)

Remove redundancies between Cleaner Air Oregon and the Air Toxics Program (Safety Net Program)

Refine the authoritative source list by removing sources that will be outdated and will not reflect the best available science

Make clarifications in the petition process rule language

Efficiently develop new toxicity reference values (TRVs) as appropriate during the TRV review process

Repurpose and rescope the Air Toxics Science Advisory Committee (ATSAC) to allow for technical consultation during the TRV review process

# Introduction to Division 247

## *Key Concepts in Current Rule*

### **Division 245**

#### **Cleaner Air Oregon Program**

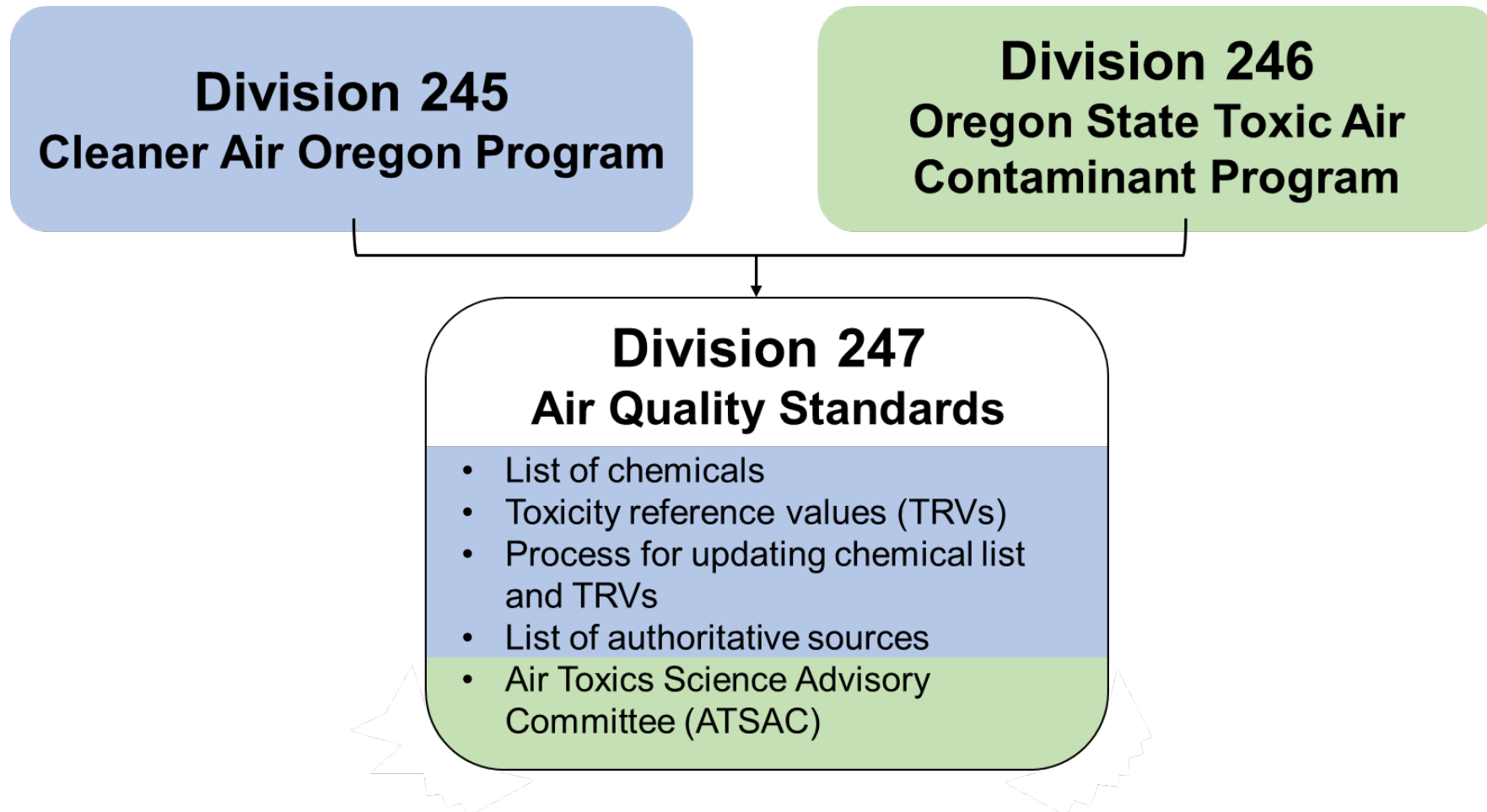
- Toxic air contaminant reporting, risk assessment, and reduction requirements
- Risk based concentrations (RBCs)
- Process for updating RBCs
- **List of chemicals**
- **Toxicity reference values (TRVs)**
- **Process for updating chemical list and TRVs**
- **List of authoritative sources**

### **Division 246**

#### **Oregon State Air Toxics Program**

- Ambient benchmark concentrations (ABCs)
- Geographic program
- Source category rules and strategies
- Pollution prevention
- Safety net program
- **Air Toxics Science Advisory Committee (ATSAC)**

# Organization of Division 247



# Overview: Proposed updates to Division 246

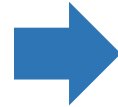
## Division 246 Oregon State Air Toxics Program

- [-0010]** Policy and Purpose
- [-0030]** Definitions
- [-0050]** Pollution prevention
- [-0070]** Air Toxics Science Advisory Committee (ATSAC)
- [-0090]** Ambient Benchmarks for Air Toxics
- [-0110]** Source Category Rules and Strategies
- [-0130 -0170]** Geographic program
- [-0190 -0230]** Safety net program



# Overview: Proposed updates to Division 246

Change “air toxics” to “toxic air contaminant” so the same terms are used in Divisions 245, 246 & 247



## Division 246 Oregon State **Toxic Air Contaminants** Program

**[-0010]** Policy and Purpose

**[-0030]** Definitions

**[-0050]** Pollution prevention

**[-0070]** Air Toxics Science Advisory Committee (ATSAC)

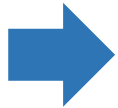
**[-0090]** **Ambient Benchmark Concentrations** for Toxic Air Contaminants

**[-0110]** Source Category Rules and Strategies

**[-0130 -0170]** Geographic program

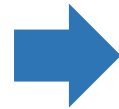
**[-0190 -0230]** Safety net program

Change “ambient benchmark” to “ambient benchmark concentration” so usage is consistent throughout Division 246



# Overview: Proposed updates to Division 246

- Update definition of ABCs to refer to TRVs in Division 247
- Remove definitions that are no longer needed



## Division 246 Oregon State Toxic Air Contaminants Program

**[-0010]** Policy and Purpose

**[-0030]** [Definitions](#)

**[-0050]** Pollution prevention

**[-0070]** Air Toxics Science Advisory Committee (ATSAC)

**[-0090]** [Ambient Benchmark Concentrations for Toxic Air Contaminants](#)

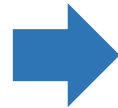
**[-0110]** Source Category Rules and Strategies

**[-0130 -0170]** Geographic program

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

# Overview: Proposed updates to Division 246

- Move ATSAC rules relating to updating ABCs to Division 247 (and adapt as needed)
- Remove rules relating to Safety Net Program and Program oversight



## Division 246 Oregon State Toxic Air Contaminants Program

**[-0010]** Policy and Purpose

**[-0030]** Definitions

**[-0050]** Pollution prevention

**[-0070]** Air Toxics Science Advisory Committee (ATSAC)

**[-0090]** Ambient Benchmark Concentrations for Toxic Air Contaminants

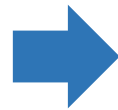
**[-0110]** Source Category Rules and Strategies

**[-0130 -0170]** Geographic program

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

# Overview: Proposed updates to Division 246

- Retain 246-0090(1)  
*Purpose rule*
- Remove 246-0090(2)  
*Establishing Ambient Benchmarks*
- Remove 246-0090(3)  
*Ambient Benchmarks*



## Division 246 Oregon State Toxic Air Contaminants Program

**[-0010]** Policy and Purpose

**[-0030]** Definitions

**[-0050]** Pollution prevention

**[-0070]** Air Toxics Science Advisory Committee (ATSAC)

**[-0090]** Ambient Benchmark Concentrations for Toxic Air Contaminants

**[-0110]** Source Category Rules and Strategies

**[-0130 -0170]** Geographic program

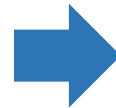
**[-0190 -0230]** Safety net program

# Overview: Proposed updates to Division 246

## Division 246 Oregon State Toxic Air Contaminants Program

- [-0010] Policy and Purpose
- [-0030] Definitions
- [-0050] Pollution prevention
- [-0070] Air Toxics Science Advisory Committee (ATSAC)
- [-0090] Ambient Benchmark Concentrations for Toxic Air Contaminants
- [-0110] Source Category Rules and Strategies
- [-0130 -0170] Geographic program
- ~~[-0190 -0230] Safety net program~~

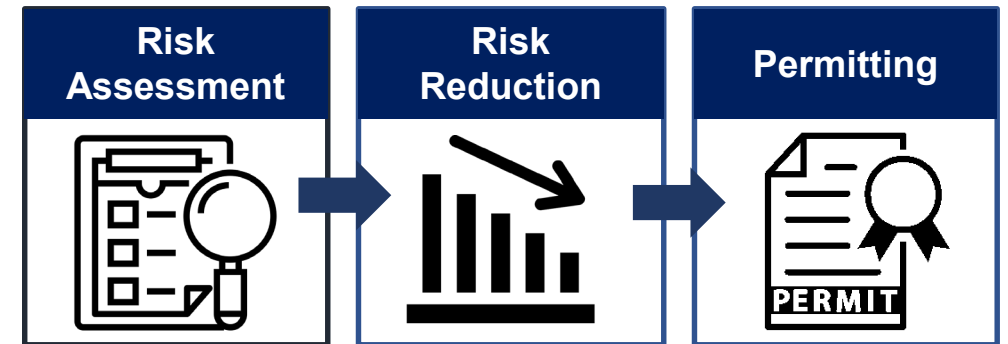
- Remove *Safety Net Program* 246-0190 to 246-0230



# Proposal : Remove the Safety Net Program

CAO acts as a statewide “safety net” for stationary sources

- CAO has a mechanism to assess and potentially reduce emissions from unpermitted sources.
- CAO has clearly established assessment and reduction rules and protocol.



Main steps in Safety Net Program and Cleaner Air Oregon

**[246-0190-0230]**

Safety Net Program

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# Proposal : Align ABCs and TRVs

## Define ABCs in terms of TRVs

340-246-0030(2)

"Ambient benchmark **concentration**" means the concentration of a ~~n-air-toxic~~ **toxic air contaminant** in outdoor air that would result in an excess lifetime cancer risk level of one in a million ( $1 \times 10^{-6}$ ) or a non-cancer hazard quotient of one **and is numerically equivalent to the "Toxicity Reference Value"** as defined under OAR 340 247-0020.

**[246-0030(2)]**

ABC Definition

ABC definition updated to align with TRV values in Division 247  
Page #7

# Proposal : Align ABCs and TRVs

## Remove existing ABCs in Division 246

340-246-0090

### Ambient Benchmark Concentrations for ~~Air Toxic Air Contaminants~~s

(1) Purpose. Ambient benchmark concentrations are concentrations of ~~air-toxic-toxic air contaminants~~ that serve as goals in the Oregon ~~Air Toxic Air Contaminants~~ Program. They are based on human health risk and hazard levels considering sensitive populations. Ambient benchmark concentrations are not regulatory standards, but reference values by which ~~air-toxic toxic air contaminants~~ problems can be identified, addressed and evaluated and are numerically equivalent to the “Toxicity Reference Value” as defined under OAR 340 247-0020. DEQ will use ambient benchmark concentrations as indicated in these rules, to implement the Geographic, and Source Category, ~~and Safety Net~~ Programs. Ambient benchmark concentrations set by the procedures described in this rule apply throughout Oregon, including that area within the jurisdiction of the Lane Regional Air Protection Agency. ~~In OAR 340-245-0300, ambient benchmarks may also be considered in the risk-based concentration hierarchy used to determine risk-based concentrations for purposes of Cleaner Air Oregon regulations in OAR 340-245-0005 through 240-245-8050. Ambient benchmarks are subject to public notice and comment before adoption by the Environmental Quality Commission as administrative rules.~~

~~340-246-0090(2) Establishing Ambient Benchmarks~~

~~340-246-0090(3) Ambient Benchmark Concentrations~~

[246-0090]

ABC Purpose

Retain purpose in Division 246

Page #11

(2) Process (ATSAC)

for setting or updating TRVs

Page #11

(3) ABCs in rule

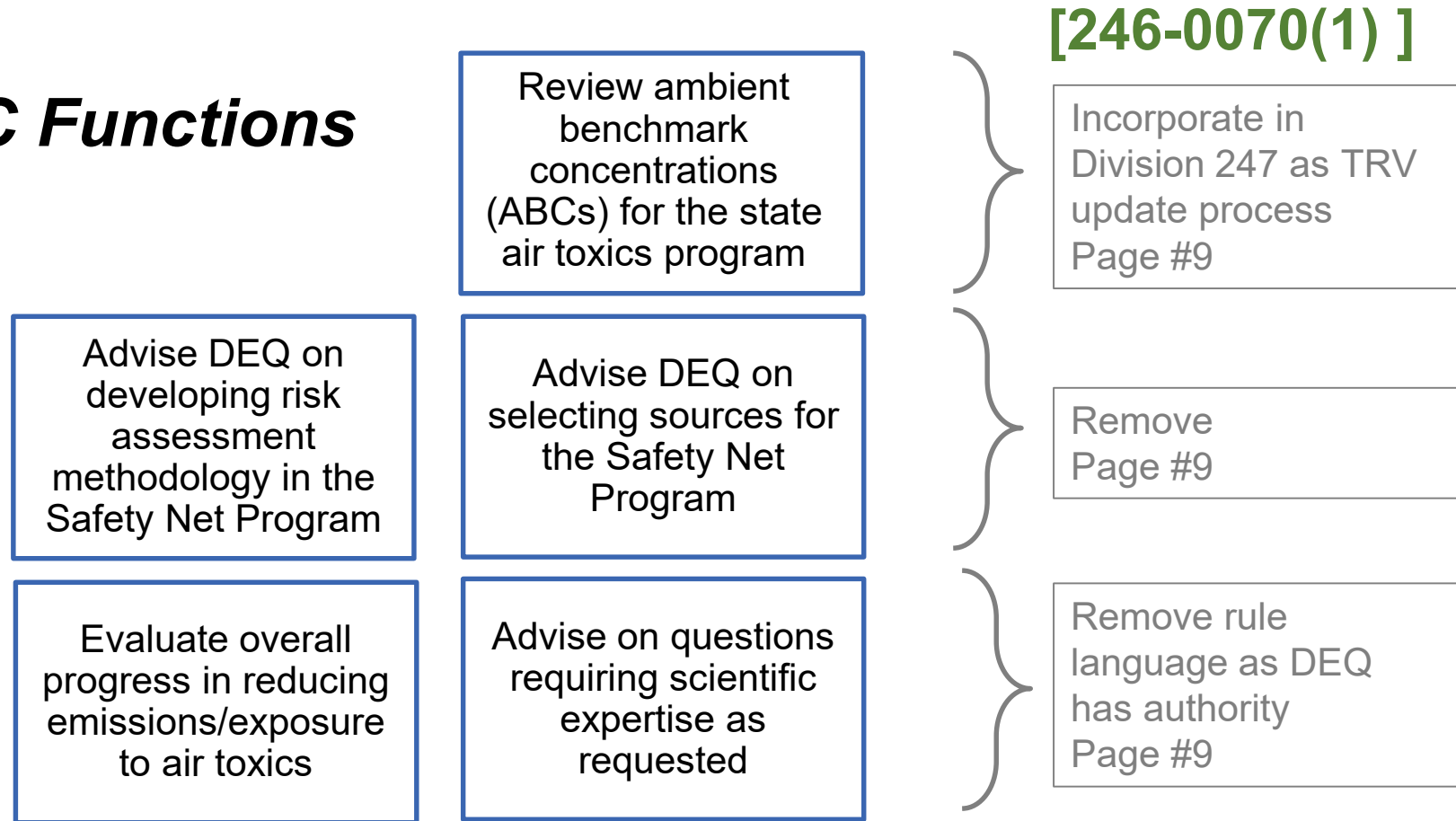
Pages #12 - 15



# Proposal : Align ABC and TRV Review Process

## Move ATSAC review role to Division 247

### *ATSAC Functions*



**[246-0070(1) ]**

Incorporate in Division 247 as TRV update process  
Page #9

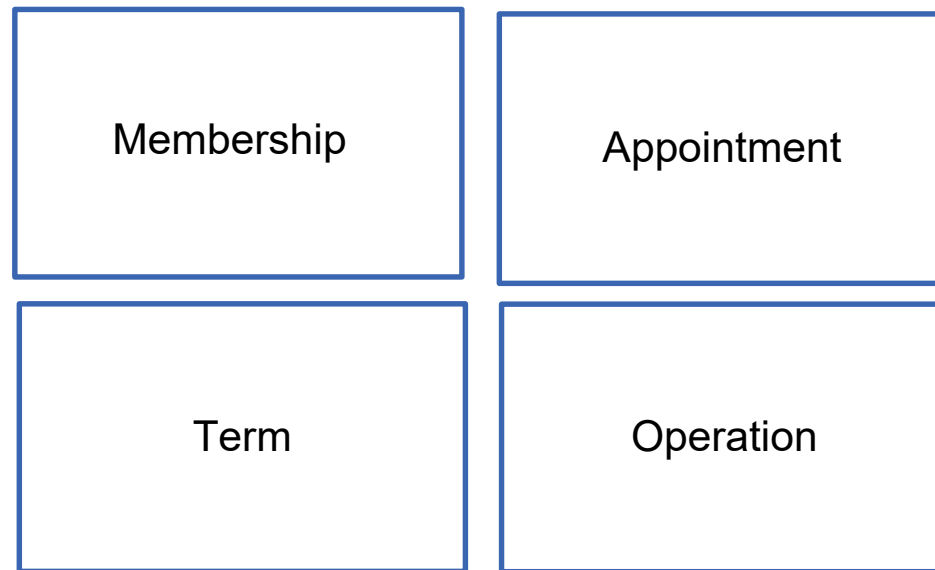
Remove  
Page #9

Remove rule language as DEQ has authority  
Page #9

# Proposal : Align ABC and TRV Review Process

## Move ATSAC operations to Division 247

### *ATSAC Operations*



**[246-0070(2) – (5) ]**

Incorporate in  
Division 247 as TRV  
update process  
Page #10

# Proposed ATSAC Scope

Review and provide feedback on updated TRVs proposed by DEQ in the TRV review



# TRV Rulemaking Process & ATSAC

**These two steps are new and being proposed in this rulemaking**

Process steps are all summarized in a public report submitted to EQC

- DEQ and OHA develop proposals for TRV updates  
*Informed by review of updates to authoritative sources and petitions*
- DEQ and OHA consult with the ATSAC on TRV updates
- DEQ and OHA consider the ATSAC's feedback and summarizes the ATSAC's recommendations
- Rules Advisory Committee considers DEQ's proposals
- Fiscal Advisory Committee considers DEQ's proposals
- Public Comment Period
- DEQ presents the proposed rules to the Environmental Quality Commission for adoption

# What skills do the ATSAC members need?

## Detailed Skills for TRV Review

- Toxicity Assessment
  - Determine how much of a chemical causes harm to health
  - Evaluate human and animal studies
- Chemistry
  - Determine what form a chemical is in when it reaches people

## Minimum Expertise Listed in Proposed Rules

Toxicity Assessment

Toxicology

Epidemiology/Biostatistics

Environmental and/or  
Atmospheric Chemistry

# ATSAC Expertise

Current Expertise in Rule	Proposed Minimum Expertise in Rule
Toxicology	Toxicology and/or Toxicity Assessment
Environmental Science or Engineering	Environmental and/or Atmospheric Chemistry
Risk Assessment	—
Epidemiology/Biostatistics	Epidemiology/Biostatistics
Medicine (Physician) with training or experience in Public Health	—
Air Pollution Modeling, Monitoring, Meteorology or Engineering	—

***Will this proposed list of expertise for the ATSAC members allow the ATSAC to review and provide feedback on updated TRVs?***

# ATSAC Membership

- At least 5, but no more than 7 members
- DEQ Director will appoint ATSAC members with concurrence with EQC
- 3-year term
- No member may have an actual or potential conflict of interest (ORS chapter 244)

# ATSAC Deliberations

- **What is currently in rule:**
  - “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.”
- **What we proposed at the last RAC meeting:**
  - Delete existing language and replace with “DEQ will consider recommendations from all ATSAC members.”

# ATSAC Deliberations

- **Specific comments from the RAC:**
  - No consensus or quorum should be required
  - ATSAC should be the independent review body adding validity to DEQ's process. By them taking a vote and having this in the record, both the EQC and public can have a stronger assurance of the outcome.
  - Wants ATSAC to approve TRVs by consensus prior to an EQC vote

# ATSAC Deliberations

- Potential issues with requiring voting or consensus
  - Different areas of expertise, different types of questions
  - Many questions are not yes-no questions
- Meeting products
  - All ATSAC recommendations will be recorded in meeting minutes
  - The ATSAC's recommendations will be summarized in a report to the EQC
- **Updated Proposal**
  - ATSAC members will provide DEQ with recommendations that DEQ will report to the Environmental Quality Commission



# Petition Process

# Petition Process for the TRV review

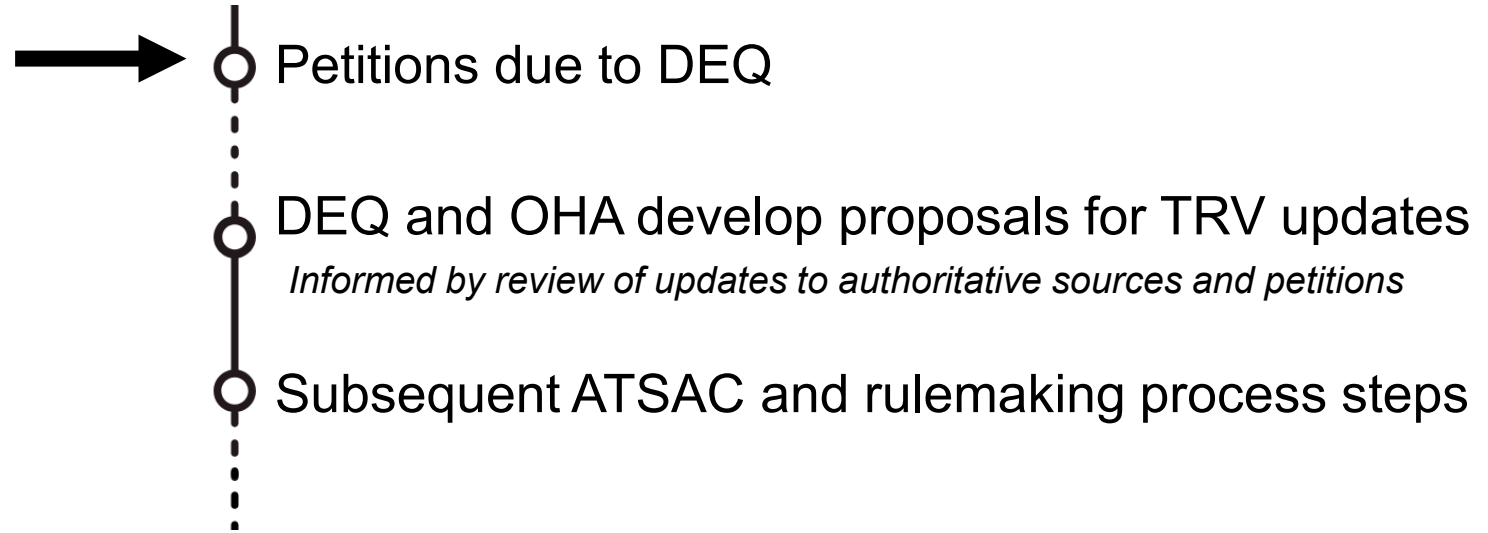
- Existing rules allow people to petition to:
  - Remove, add, or change TRVs
  - Add or remove a toxic air contaminant from the priority list
- We would like to clarify the timeline and information required for submitting a petition



# Timeline Change

Current rule:  
Petitions due 18  
months before TRV  
review begins

Proposed rule:  
Update to before  
TRV review begins  
(Oct. 31)



# Clarification to Petition Process

- **Current Rule:**
  - Requirements for removing a toxic air contaminant from the priority list are unintentionally merged with requirements for removing a chemical from the TRV list
- **Rule Proposal: [247-0040(4)(c)]**
  - Separate requirements for removing a toxic air contaminant from the priority list from the requirements for removing a contaminant from the TRV list



# Discussion/Questions?

## Petition Process





# **Additional Facilitated Discussion of the Proposed Rules**



# Public Comment

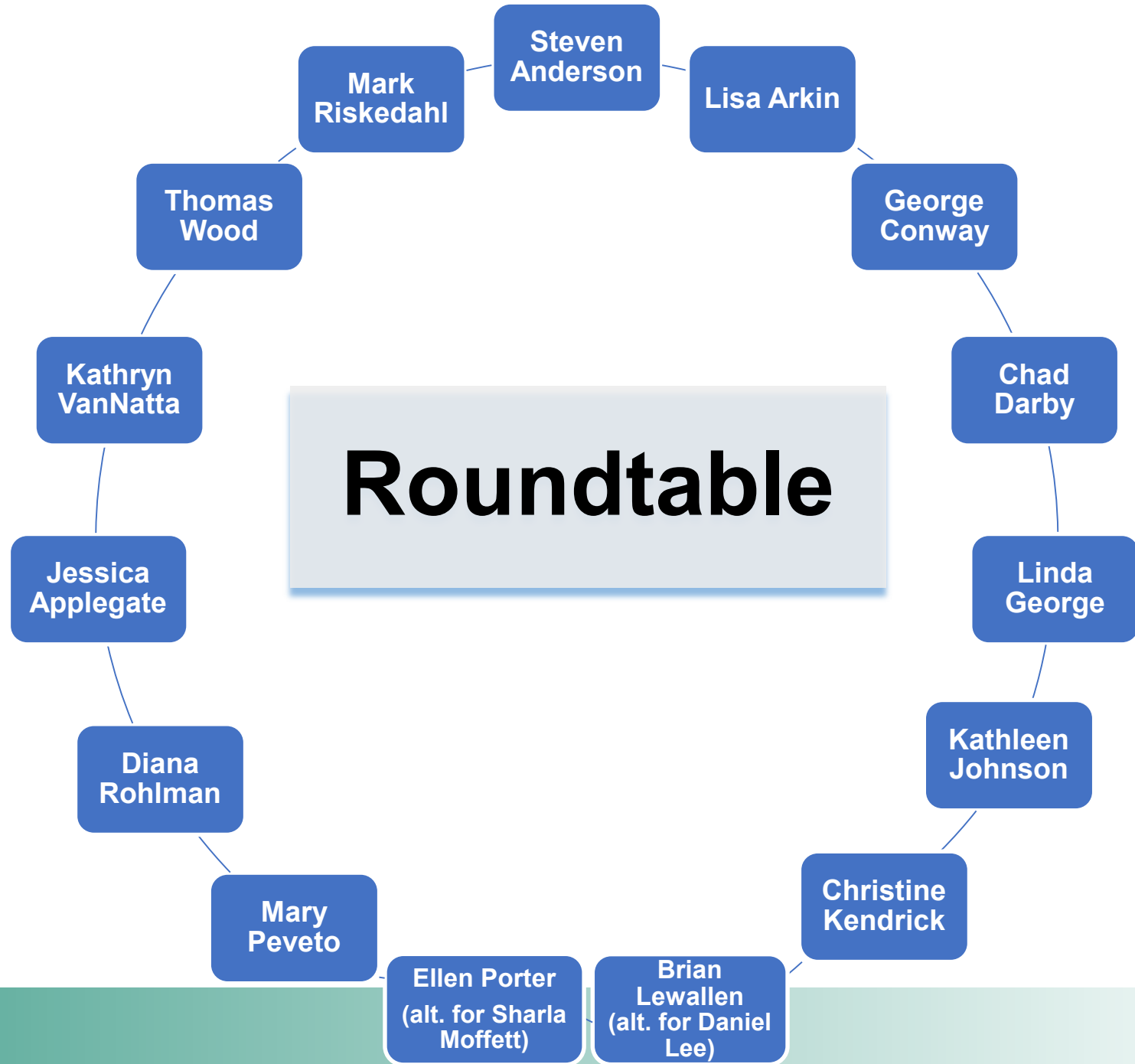
**Provide written comment:** Please provide feedback in the Q&A chat

**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



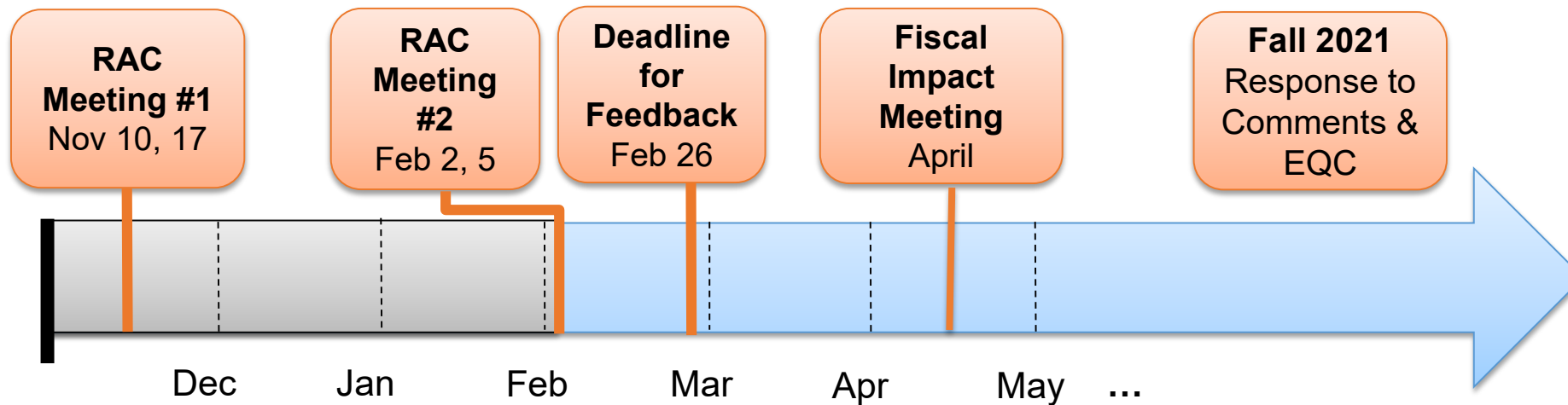
# **RAC Roundtable**

## **Donna Silverberg**



# Next Steps

**Deadline for written feedback: February 26**  
**Fiscal Impact meeting: April, to be scheduled**





# Thank you for attending!

## **More info:**

[ORDEQ.org/AirToxics2021](http://ORDEQ.org/AirToxics2021)

## **Contact:**

[cleanerair@deq.state.or.us](mailto:cleanerair@deq.state.or.us)