

# Oregon Air Quality Permitting Updates 2022

## Rulemaking Advisory Committee

### Meeting 4

April 15, 2022  
9 a.m. – 2 p.m.

For Zoom technical issues, email [bvaldez@kearnswest.com](mailto:bvaldez@kearnswest.com)



# Rulemaking Resources

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**Rulemaking webpage:**

<https://www.oregon.gov/deq/rulemaking/Pages/aqpermits2022.aspx>

**Rulemaking contact: Jill Inahara**

[jill.inahara@deq.oregon.gov](mailto:jill.inahara@deq.oregon.gov)

**Rulemaking notifications:** Subscribe to DEQ

[https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic\\_id=ORDEQ\\_244](https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_244)

# DEQ and Kearns & West

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## Oregon DEQ

**Jill Inahara**

Environmental Engineer

**Ali Mirzakhali**

AQ Division Administrator

**Karen Williams**

Air Quality Planner

**Tim Wollerman**

AQ Operations Manager - interim

**Dave Kauth**

Environmental Engineer

## Kearns & West

**Ben Duncan**

Senior Director / Facilitator

**Bianca Valdez**

Associate

*For Zoom technical issues, email*

*[bvaldez@kearnswest.com](mailto:bvaldez@kearnswest.com)*

# RAC #4 Agenda

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Time	Topic
9 a.m.	<b>Welcome, agenda overview, and participation guidelines</b>
9:10 a.m.	Draft Proposed Rules Overview and Discussion
10:45 a.m.	Break
11 a.m.	Draft Proposed Rules Overview and Discussion
12:45 p.m.	Break
1 p.m.	Roundtable Discussion
1:30 p.m.	Next Steps and Closing Remarks
1:40 p.m.	Public Input
2 p.m.	Adjourn meeting

# Webinar Participation Tips

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## Thank you for joining us today!

- Please join audio by either phone or computer, not both.
- RAC members: Stay on mute when not speaking, and please join us on video if able.
- RAC members are joined as panelists and members of public as attendees.
- For discussion and comments, use “Raise Hand” button to get in the queue; if joined by phone press \*9.
- Say your name and affiliation before speaking.
- Move around and take care of yourself as needed!
- For Zoom technical issues, email [bvaldez@kearnswest.com](mailto:bvaldez@kearnswest.com).

# Participation Guidelines

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- Honor the agenda and strive to stay on topic
- Provide a balance of speaking time
- Bring concerns and ideas up for discussion at the earliest point in the process
- Address issues and questions – focus on substance and avoid personal attacks
- Seek to learn and understand each other's perspective
- Listen and speak with respect



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# Goals of Rulemaking

- Improve and strengthen our permitting program
- Enhance community protection, and incorporate Environmental Justice
- Increase permitting issuance efficiency
- Increase regulatory certainty

## Approved Air Quality Implementation Plans in Oregon





# Why now?

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- Notice of Intent to Construct (NC) issues with certain sources are resource intensive
- Begin to address Environmental Justice concerns/impacts
- Ensure consistency across state

# Purpose of rulemaking

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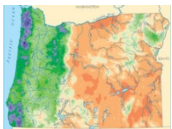
Protect air quality, addressing Environmental Justice concerns/impacts



Enhance and improve permitting program



Address rule deficiencies identified in the Secretary of State backlog audit



Improve program consistency across the state

# Proposed rule changes that begin to address EJ

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- Eliminate Generic PSELS
- Review process for smaller increases in emissions
- Eliminate source operation for 48 hours without using pollution control device
- Retain permit terms (5-10 years) to allow for community input

# Environmental Justice Recommendations

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1. Rename the permit categories (plain language)

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2. Make:
  - draft permits understandable to a wide range of audiences;
  - plain language educational materials and instructive visuals of the air permitting process, different permit categories; and
  - explanations on how to review air permits

# Environmental Justice Recommendations

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2. Make:
  - draft permits understandable to a wide range of audiences;
  - plain language educational materials and instructive visuals of the air permitting process, different permit categories; and
  - explanations on how to review air permits
3. Prioritize early and continuous engagement with the public

# Environmental Justice Recommendations – continued

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4. Establish at least one community liaison position in each of DEQ's regions

# Environmental Justice Recommendations – continued

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5. Fund or otherwise provide independent technical experts for communities to meaningfully participate in the permitting process



# Environmental Justice Recommendations – continued

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4. Establish at least one community liaison position in each of DEQ's regions
5. Fund or otherwise provide independent technical experts for communities to meaningfully participate in the permitting process
6. Is DEQ open to incorporating additional environmental justice measures into this rulemaking?

# Environmental Justice Recommendations – continued

---

4. Establish at least one community liaison position in each of DEQ's regions
5. Fund or otherwise provide independent technical experts for communities to meaningfully participate in the permitting process
6. Is DEQ open to incorporating additional environmental justice measures into this rulemaking?
7. Does DEQ have any plans for additional environmental justice-oriented rulemaking once these draft rules are finalized?

# Environmental Justice Recommendations – continued

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8. Attach to each permit a description of the EJ impact of source

# Environmental Justice Recommendations – continued

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9. Permits should include explanations why DEQ required a different permit than what was applied for

# Environmental Justice Recommendations – continued

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8. Attach to each permit a description of the EJ impact of source
9. Permits should include explanations why DEQ required a different permit than what was applied for
10. Report to communities on how their involvement shaped and informed DEQ's permitting decisions



On break – will return 10:58 a.m. PT



# Permit Limits for NAAQS Compliance

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- Why did DEQ scale back its proposal to add additional enforceable permit limits (on throughput, emissions rates, etc.) in addition to annual PSELs?



# Permit Limits for NAAQS Compliance - continued

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- Why did DEQ scale back its proposal to add additional enforceable permit limits (on throughput, emissions rates, etc.) in addition to annual PSELs?
- Would DEQ add permit conditions to limit short-term potential to emit only where monitoring or where modeling shows a source may cause or contribute to a NAAQS exceedance?

# Notice of Intent to Construct Clarifications

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1. Why has DEQ chosen not to require BAT or air quality analysis for any Type 2 projects?

# Type 2 NC: BAT thresholds

Potential option:

<b>SER (tons/year)</b>	<b>Pollutant</b>	<b>BAT Threshold (tons/year)</b>	<b>% of SER</b>
100	Carbon monoxide	15	15%
40	Nitrogen oxides (NO <sub>x</sub> )	5	13%
15	PM <sub>10</sub>	2	13%
10	Direct PM <sub>2.5</sub>	2	20%
40	PM <sub>2.5</sub> precursors (SO <sub>2</sub> or NO <sub>x</sub> )	5	13%
40	Sulfur dioxide (SO <sub>2</sub> )	5	13%

# BAT vs. BACT vs. TACT vs. MACT

Technology	Requirement
Best Available Technology (BAT)	State requirement for minor sources that trigger Type 2 and Type 3 NCs
Best Available Control Technology (BACT)	EPA requirement for major sources that trigger Prevention of Significant Deterioration
Typically Achievable Control Technology (TACT)	Applies to emissions units that are not already subject to emission standards for the regulated pollutant.
Maximum Achievable Control Technology (MACT)	Applies to emissions units that are subject to National Emission Standards for Hazardous Air Pollutants.

# Notice of Intent to Construct Clarifications - continued

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1. Why has DEQ chosen not to require BAT or air quality analysis for any Type 2 projects?
2. Clarify economic considerations in the new BAT standard, without defining when cost impacts will render a technology “infeasible”

# Notice of Intent to Construct Clarifications - continued

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## 2021 Quarter 4

Pollutant	Average (\$/ton)	Incremental (\$/ton)
ROG	38,249	114,746
NOx	36,166	108,308
SOx	19,124	57,373
PM <sub>10</sub>	8,521	25,373
CO	757	2,178

From South Coast Air  
Quality Management  
District  
(Southern CA)

# Notice of Intent to Construct Clarifications - continued

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1. Why has DEQ chosen not to require BAT or air quality analysis for any Type 2 projects?
2. Clarify economic considerations into the new BAT standard, without defining when cost impacts will render a technology “infeasible”
3. Clarify overall health and environmental impacts of emissions from the facility

# Notice of Intent to Construct Clarifications - continued

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2. Clarify economic considerations into the new BAT standard, without defining when cost impacts will render a technology “infeasible”
3. Clarify overall health and environmental impacts of emissions from the facility
4. Clarify consideration of “pollution prevention”



# Notice of Intent to Construct Clarifications - continued

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1. Why has DEQ chosen not to require BAT or air quality analysis for any Type 2 projects?
2. Clarify economic considerations into the new BAT standard, without defining when cost impacts will render a technology “infeasible”
3. Clarify overall health and environmental impacts of emissions from the facility
4. Clarify consideration of “pollution prevention”
5. Reference environmental justice as a relevant consideration in assessing BAT

# Type 2 vs Type 3 Notice of Intent to Construct

Type 2 NC	Type 3 NC
Equipment with potential to emit <b>less than</b> the SER	Equipment with potential to emit <b>more than or equal</b> to the SER
<b>Would not</b> increase emissions from the source above the PSEL	<b>Would</b> increase emissions from the source above the PSEL
Would not increase emissions from the source above the netting basis by more than or equal to the SER	Would not increase emissions from the source above the netting basis by more than or equal to the SER
<b>Would not</b> be used to establish a federally enforceable limit on the potential to emit	<b>Would</b> be used to establish a federally enforceable limit on the potential to emit
<b>Would not</b> require a TACT determination or a MACT determination	<b>Would</b> require a TACT determination or a MACT determination
<b>Does not require</b> permit modification	<b>Requires</b> permit modification
BAT and AQ modeling required <b>if over threshold</b>	BAT and AQ modeling required

# Type 4 Notice of Intent to Construct

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- Type 4 changes are subject to New Source Review - clarification

# Type 4 Notice of Intent to Construct - continued

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- Type 4 changes are subject to New Source Review - clarification
- BAT and air quality analysis requirements apply only to Type 3 NCs—not to Type 4?

# How NCs Work with CTE or PTE PSELS\*

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- Provide examples, with numbers, of the kinds of projects that will fall into each of the categories

\* CTE = capacity to emit; PTE = potential to emit; PSEL = Plant Site Emission Limit

# How NCs Work with CTE or PTE PSELS\* - continued

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- Provide examples, with numbers, of the kinds of projects that will fall into each of the categories
- When sources' PSELS are set at CTE or PTE, won't every project, that is not a replacement, increase the source's capacity to emit, and thus its PSEL?

\* CTE = capacity to emit; PTE = potential to emit; PSEL = Plant Site Emission Limit

# How NCs Work with CTE or PTE PSELS\* - continued

---

- Provide examples, with numbers, of the kinds of projects that will fall into each of the categories
- When sources' PSELS are set at CTE or PTE, won't every project, that is not a replacement, increase the source's capacity to emit, and thus its PSEL?
- Will most proposed changes that do not involve replacing an existing emissions unit fall into the Type 3 category?

\* CTE = capacity to emit; PTE = potential to emit; PSEL = Plant Site Emission Limit

Proposed Rule Change	Improved and strengthen our permitting program	Enhance community protection, and incorporate environmental justice	Increase permitting issuance efficiency	Increase regulatory certainty
Provide no expiration date for Major New Source Review permits that must be incorporated into a Title V permit	<b>X</b>		<b>X</b>	
Provide flexibility for Exempt Toxics Emissions Units under Cleaner Air Oregon	<b>X</b>		<b>X</b>	







# RAC #4 Agenda

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# Staffing & Capacity

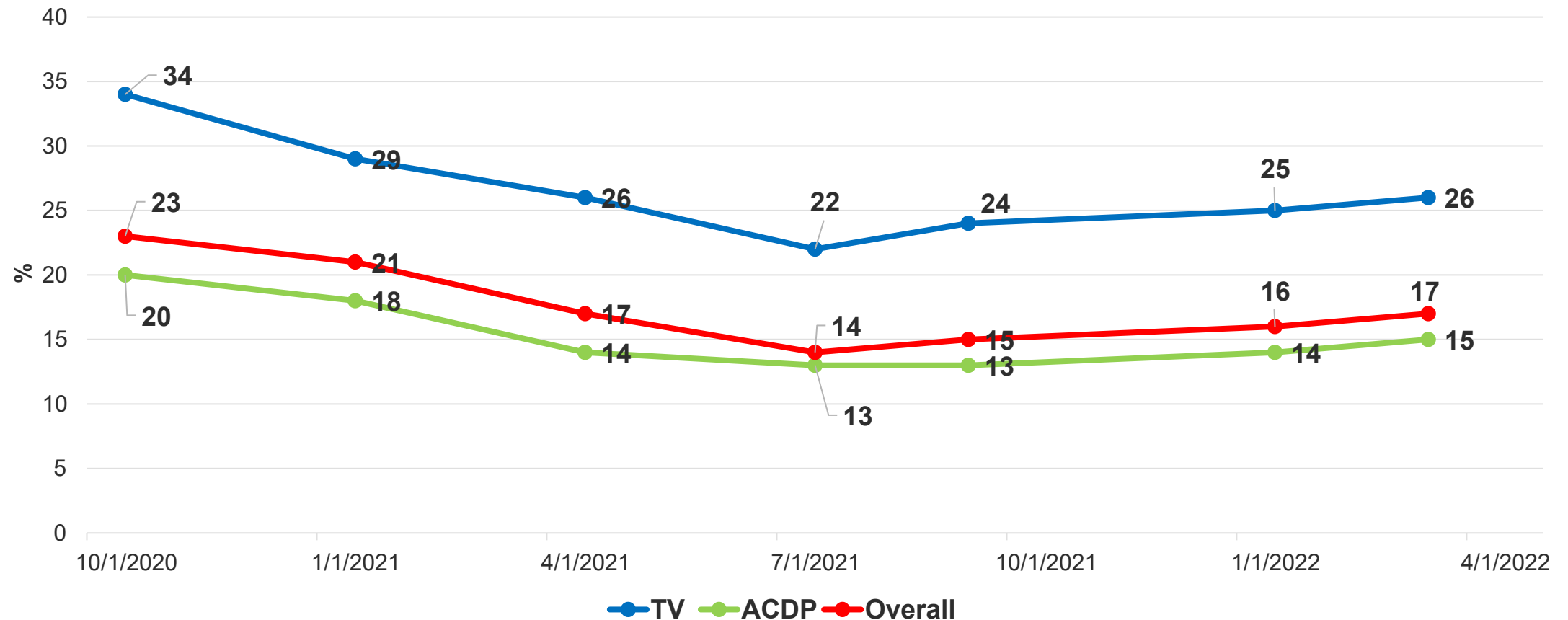
	ER	NWR	WR	HQ
Short permitting staff	2 vacant	3 vacant	4 vacant & 3 retiring	X
Onboarding and training		3 new hires		
AQ manager turnover		X	X	X

# Staffing and Capacity

	ER	NWR	WR	HQ
Short permitting staff	2 vacant	3 vacant	4 vacant & 3 retiring	X
Onboarding and training		3 new hires		
AQ manager turnover		X	X	X

- Time to review Type 3 NCs (not tracked). We track:
  - ACDP Complex Technical Mods with PSEL increase
  - ACDP Moderate Technical Mods with PSEL increase
  - Construction ACDPs
  - Title V Significant Mods

# AQ Permit Backlog Status





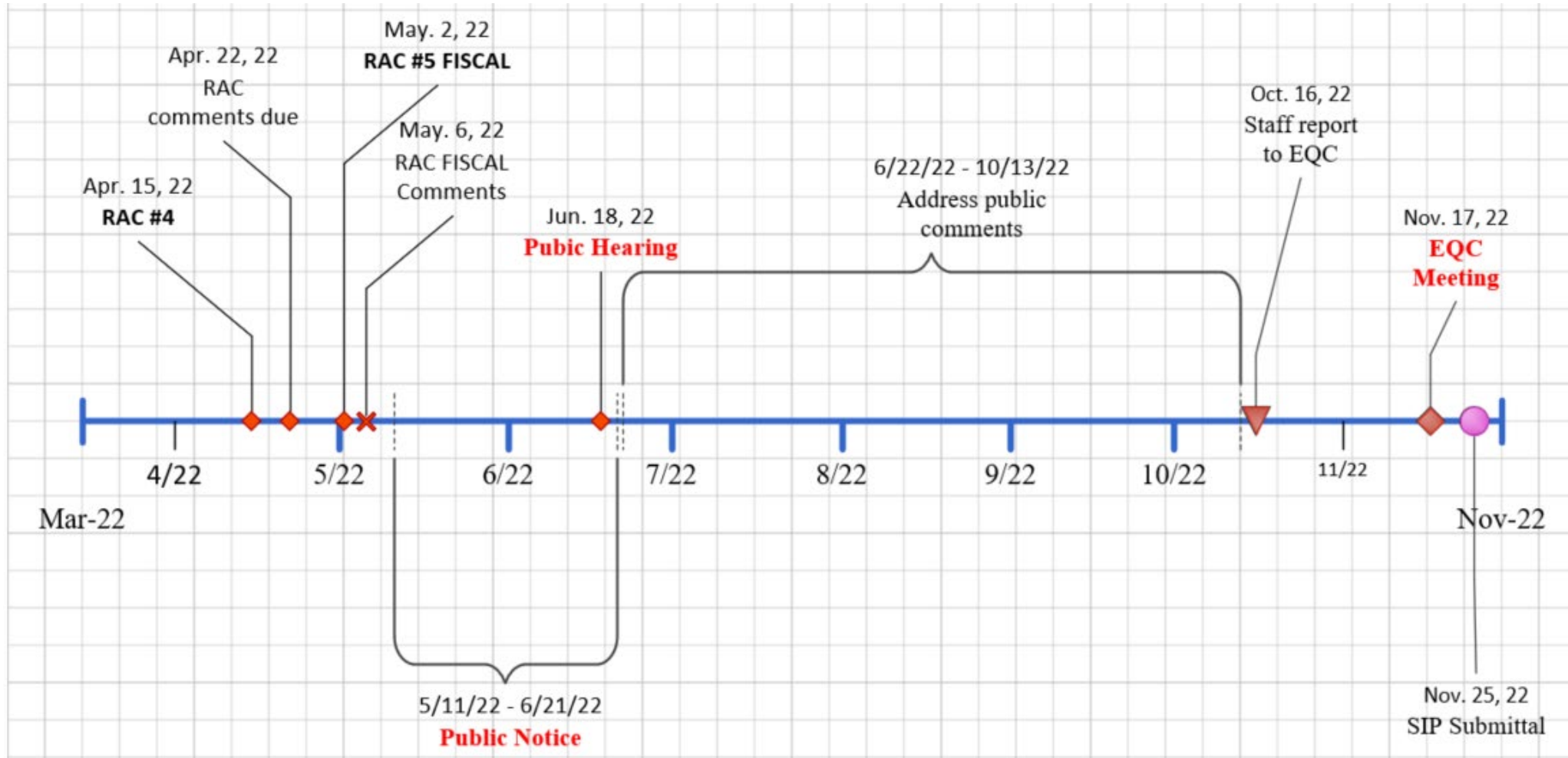
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# Rulemaking Timeline



# RAC #4 Agenda

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# Next steps

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- DEQ will post a meeting summary
- Please fill out the post-RAC#4 meeting survey
- Deadline to submit written comments post-RAC#4 is April 22, 2022
  - Submit comments to [2022.aqpermits@deq.oregon.gov](mailto:2022.aqpermits@deq.oregon.gov)
- Sign up for meeting notifications
- Fiscal Advisory Committee meeting is scheduled for May 2, 2022, from 9 a.m. – 12 p.m.
- Deadline to submit written comments on fiscal is May 6, 2022

**Rulemaking contact: Jill Inahara**

[jill.inahara@deq.oregon.gov](mailto:jill.inahara@deq.oregon.gov)

**Rulemaking notifications:** Subscribe to DEQ

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# RAC #4 Agenda

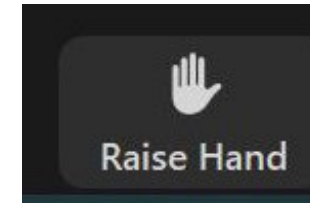
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# Public Input Period

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- Public input period: 1:40 p.m. – 2 p.m.
- Raise your hand if you'd like to make a comment
- When making public input, please:
  - Respect time limits as assigned
  - Use respectful language
  - Address issues and questions—focus on substance
  - When possible, relate comments to topics on the RAC agenda
- Public input will be considered by DEQ but is not part of the formal comment period



Thank you!