Comment: Do we need this much detail? What about just saying facilities subject to new and modified NESHAPs and NSPS and permitting requirements identified in the rule outline?

Response: Added “facilities subject to new and modified NESHAPs and New Performance Standards and permitting requirements identified in the Outline section below”.

Comment: In addition, adopting these standards benefits the public by allowing the Department to ensure that the required emission reductions are achieved in Oregon.

Response: Added “In addition, adopting these standards benefits the public and the environment by allowing DEQ to ensure that the required emission reductions are achieved in Oregon.”.

Comment: What was the result?

Response: Added “DEQ received public comments in regard to other options. See the Summary of Comments and DEQ Responses section near the end of this staff report”.

Comment: Should also mention keeping Oregon's mercury limit, which is more protective of health.

Response: Added “, while retaining Oregon’s mercury limits, which are more protective of health.”.

Comment: Should also note that these facilities still have to comply with the NESHAP or NSPS.

Response: Added “Affected facilities will still be required to comply with the NESHAP or New Source Performance Standards”.

Comment: Note that the facility still needs to comply with the work practice standards.

Response: Added “Affected facilities will still be required to comply with the work practice standards”.

Comment: Note that the small coating operations still need to comply with the NESHAPs

Response: Added “Affected surface coating and paint stripping operations will still be required to comply with the NESHAP”.

Comment: Note that companies will still need to comply with the accidental release prevention program operated by EPA and the State Fire Marshall (is that right?)

Response: Added “Affected facilities will still be required to comply with the federal Accidental Release Prevention rules”.

Comment: I know this is boiler plate language, but how about "goals of this rulemaking" instead of "problems with the current rules"?

Response: I will pass this along to Maggie as an improvement suggestion.

Comment: While this can’t be changed now, I still think in the future this would be easier to follow if organized like this:

1. Align Oregon's Rules with Recent Changes

a. Discuss HOW the proposal is different

b. Discuss WHY

c. What alternatives did DEQ consider

2. Changes to ACDP

a. HOW

b. WHY

c. Alternatives

3. etc.

Response: I will pass this along to Maggie as an improvement suggestion.

Comment: How about "are more protective of public health than"?

Response: Not sure that we can make this change after the public comment period, but I will check with Nicole and Maggie.

Comment: I'm assuming this and the land use section are identical to what was put out on public notice and can't be changed at this stage. If so, that should be noted somehow for reviewers.

Response: Your email to the reviewers states that “any substantive changes to the rule language, the Statement of Fiscal and Economic Impact, the Federal Relationship, and the Land Use sections of the EQC staff report, will require re-notice of the proposed rulemaking”.

Comment: I suggest putting this information earlier, in response to (b)(i) so that people know we are making the information available in an attachment while continuing to cite the CFR. You can then mention it again in the subsequent responses. Also, will this list be just a bunch of FR page numbers, or will it be a table organized by NESHAP/NSPS number?

Response: Will add this response to (b)(i) and subsequent responses.

Comment: Is this explanation missing?

Response: Yes it is. Added “No longer used in Oregon's utility mercury rule”.

Comment: Are you sure this is under state law (i.e. the Oregon APA) or should it be "under the Oregon constitution." However, this begs the question of why it has been like this in the past. Would it be accurate to say that the issue hasn't come up before because EPA has only recently been adopting area source rules that bring in significant numbers of sources that weren't previously permitted. If not that, then some explanation of why this is only being changed now.

Response: Changed “state law” to “the Oregon Constitution” and added “This issue hasn’t come up before because EPA has only recently been adopting rules that bring in significant numbers of smaller area sources that weren’t previously permitted”.

Comment: I'm not sure this gets at the issue in the comment. If I'm reading it correctly, the commenter thinks the source wouldn't have an incentive to develop alternative implementation methods. Wouldn't the response be that the source is still subject to the federal standard and its timeline even though EQC hadn't yet adopted the standard and DEQ hadn't yet permitted the source? The alternative implementation method is about the best way for DEQ to ensure compliance - through adoption of the rule and permitting or through other means for some categories.

Response: Added “The source is still subject to the federal standards and its timeline even though the EQC hadn’t adopted the standards and DEQ hadn’t yet permitted the source. The alternative implementation method is about the best way for DEQ to ensure compliance, either through adoption of the rule and permitting or through some other means such as outreach or registration”. Deleted “Yes, exploring alternative implementation methods can take a significant amount of time.”, “DEQ sets internal timelines for review based on the availability of resources and agency priorities.”, and “DEQ does not support imposing a timeline in rule”.

Comment: This doesn't feel totally compelling. Can you try to reword a bit?

Response: Changed to “Placing new federal standards into ACDP permits prior to EQC adoption and requesting delegation of those standards from EPA puts the source in a difficult position, because the source would potentially have to demonstrate compliance to and subject to enforcement by two agencies, EPA and DEQ. Placing new federal standards into ACDP permits prior to EQC adoption and requesting delegation of those standards also puts DEQ in a difficult position, because DEQ would be required to implement those standards prior to determining whether it has the resources or expertise to do so. Prior to adopting and accepting delegation of new federal standards, DEQ typically lists other federal standards that may apply to a source in the review report to the permit.”

Comment: It would be good to mention the review report here as you do under iv.

Response: Reworded the last sentence of the response to match the response under iv.

Comment: Can this response be strengthened? Given the 3 year compliance timeline, the fact that only notifications are required initially and the fact that EPA, DEQ and trade associations do outreach to sources that might need to notify, there shouldn't be any significant impact of delay on the public.

Response: Added “However, given that EPA typically gives affected businesses 3 years to comply; only notifications are required initially; and EPA, DEQ and trade associations perform outreach to affected businesses; there shouldn’t be any significant impact of delaying permitting on the public”.

Comment: Really? 2000 sources and only $192? I thought it was a percentage fee.

Response: There are only 20 registered sources.