

## Summary of Public Comment and Agency Response

**Title of Rulemaking: Portland-Vancouver and Salem Ozone Maintenance Plan and Supporting Rule Revisions**

**Prepared by: Marianne Fitzgerald**

**Date: October 30, 2006**

***Comment period***

The public comment period opened on June 1, 2006 and closed at 5:00 p.m. on July 14, 2006. DEQ held public hearings on July 11, 2006 at 1:30 pm in Salem and 6:30 pm in Portland. Three people attended the Salem hearing and two people testified. No one attended the Portland hearing. Twelve commenters submitted written comments during this time period.

***Organization of comments and responses***

Summaries of individual comments and the Department's responses are provided below. Similar comments are grouped together. The persons who provided each comment are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses.

<b><i>Summary of Comments and Agency Responses</i></b>	
<b><i>Comment 1</i></b>	Do not relax industrial standards in Salem.
<b><i>Commenters</i></b>	1, 4, 5, 6, 8, 13, 14
<b><i>Response</i></b>	<p>DEQ received a number of comments from citizens in Salem who had read a local newspaper article indicating that DEQ proposed to relax industrial standards. DEQ has not proposed any relaxation in requirements for existing industrial sources. DEQ has proposed to change the emission control technology requirements for new or expanding major sources.</p> <p>Because of Salem's nonattainment status, new and expanding major industry must currently install the most stringent level of emission control technology, known as "Lowest Achievable Emission Rate" (LAER). LAER is typically required in areas violating or at risk of violating air quality standards and must be installed regardless of cost. Under Salem's proposed maintenance plan, new and expanding major industry would no longer be required to install LAER, but would instead be required to install "Best Available Control Technology" (BACT). BACT is typically used in maintenance and attainment areas that are in compliance with air quality standards. DEQ determines BACT for each new and expanding industrial source by using a process that begins with evaluating LAER technologies. If a new or expanding major source demonstrates that the cost of installing LAER is unusually high compared to the cost of installation of LAER at other similar facilities, the control level required as BACT can be less stringent than LAER. BACT provides an equivalent or very high level of emission control that would not interfere with maintenance of the ozone air quality standard.</p> <p>The Salem area has not seen an exceedance of ozone standards in ten years and is at low risk of future ozone violations. In addition, new major sources represent a very small portion of emissions of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) in the Salem area. Therefore,</p>

	DEQ recommends BACT as an appropriate level of emission control for future new and expanding major industry. This is the same level of control that has been required in Portland since 1997 to ensure that new and expanding major industry does not interfere with long-term maintenance of the ozone standard.
--	---

<b>Comment 2</b>	DEQ should adopt the maintenance plan and rules as proposed.
<b>Commenters</b>	7, 10, 11
<b>Response</b>	DEQ recommends that the EQC adopt the maintenance plan and rules as proposed, with the revisions discussed in the rule adoption package.

<b>Comment 3</b>	DEQ public notice did not adequately inform the public about changes in emission offset requirements and the growth allowance proposal.
<b>Commenters</b>	2
<b>Response</b>	DEQ disagrees. The public notice package provided ample information about the plan content and proposed rule changes. Specifically, the public notice package explained that the proposal would reestablish the growth allowance that had been included in the 1996 Portland Ozone Maintenance Plan, the size of the proposed growth allowance, and that offsets would be required if the growth allowance were fully consumed.

<b>Comment 4</b>	There should be no growth allowance that would substitute for emission offsets for future increases in emissions.
<b>Commenters</b>	2
<b>Response</b>	<p>The current Portland-Vancouver Ozone Maintenance Plan includes an industrial growth allowance that has been in place since the plan was adopted in 1996 and approved by EPA in 1997. An industrial growth allowance can be one part of an overall air quality management approach for new and expanding major sources that includes requirements for emission control technology and the use of emission offsets if needed to protect air quality. This approach allows DEQ to better forecast and plan for some increment of unanticipated industrial growth, while providing an adequate margin of safety for air quality. It also allows DEQ to track and manage the allocation of industrial emissions to make sure those increases do not jeopardize compliance with ozone standards. DEQ believes the continuation of the current industrial growth allowance approach is reasonable based on an analysis of current and expected future ozone conditions in the Portland-Vancouver area. However, in response to public comment, DEQ is proposing new safeguards that will be more responsive to any unforeseen changes in ozone levels.</p> <p>DEQ's maintenance analysis shows that an industrial growth allowance of 5,000 tons of VOC and 5,000 tons of NO<sub>x</sub> can be safely established within the Portland airshed, while still retaining a significant safety margin for compliance with the standards. DEQ proposes to establish this 5,000 ton limit in the maintenance plan as a maximum cap. As a safeguard, DEQ proposes to establish administrative procedures that only authorize the initial</p>

	<p>use of up to 1,000 tons of VOC and 1000 tons of NO<sub>x</sub>, and holds the balance in reserve. If at some point in the future 750 tons or more of this initial growth increment is used for either or both pollutants, DEQ will conduct an analysis of ozone levels and expected trends to determine if conditions support the release of another 1,000 ton increment. DEQ will not authorize any further allocation of the growth increment if such action could jeopardize compliance with ozone standards. DEQ will provide an opportunity for the public to comment on the results of the analysis and DEQ's recommendation whether to release the next 1,000 ton increment prior to making its decision. This process would be repeated as needed up to a maximum of the 5,000 ton cap. If the maximum amount of growth allowance in the plan were consumed, new or expanding major industry could not be approved without offsets. This administrative process of incremental allocation will help DEQ manage future industrial emission increases and respond to any unforeseen changes in future conditions, such as significant increases in summertime temperatures or future changes to the federal ozone standard.</p> <p>Under the proposed maintenance plan, if there is a violation of the ozone air quality standard and the contingency plan is triggered, the growth allowance cannot be used to meet emission offset requirements. In addition, if the growth allowance is consumed and cannot be reestablished, emission offsets will be required for new and expanding major sources.</p>
--	--

<b>Comment 5</b>	Do not remove employee commute option program from the list of programs affecting land use (Division 18).
<b>Commenters</b>	3
<b>Response</b>	DEQ agrees with the Oregon Department of Land Conservation and Development (DLCD) that the ECO program should remain on the list of programs affecting land use. The proposed maintenance plan no longer lists the ECO program as a transportation control measure (TCM) because TCM's can no longer be enforced under the Clean Air Act due to Portland's federal "attainment" designation under the 8-hour ozone standard. However, local governments continue to rely on ECO to meet their goals for reducing motor vehicle travel as required by DLCD Goal 12 and the Transportation Planning Rule (TPR), and this state program was not mentioned in the Land Use Evaluation Statement. DEQ has revised its rule package and no longer recommends a revision of Division 18, and will continue to recognize ECO as a program affecting land use and transportation planning goals. No additional procedures are needed to comply with the goal because the TPR is implemented by local governments and DLCD.

<b>Comment 6</b>	An industrial growth allowance is appropriate and should be increased or adopted without change.
<b>Commenters</b>	7,11
<b>Response</b>	DEQ recommends that the current industrial growth allowance for the Portland area be continued under the updated maintenance plan, with the additional air quality safeguards as described above in Comment #4.

<b>Comment 7</b>	BACT is a very conservative requirement; LAER is technically and economically inappropriate to meet federal requirements in Salem.
<b>Commenters</b>	7, 10, 11
<b>Response</b>	DEQ agrees. LAER is an extremely stringent standard without regard to cost of pollution control and is appropriate in areas that are not meeting federal health-based air quality standards. Air quality in the Salem area is well within the federal health standard and air quality projections do not warrant a more stringent standard than the Portland area. See response to Comment #1.

<b>Comment 8</b>	Portland and Salem area requirements should be consistent with area's attainment designation rather than retaining maintenance area requirements.
<b>Commenters</b>	7, 11
<b>Response</b>	DEQ disagrees. Maintenance area new source review requirements are appropriate for former nonattainment areas because they apply BACT to sources at lower significant emission rates (SER) than the requirement for attainment areas. The application of BACT at the lower SER is needed to prevent future violations of the ozone air quality standard due to growth.

<b>Comment 9</b>	Commenter supports DEQ proposal to change the number of employers regulated under the Employee Commute Program from 50 or more employees per work site to 100 or more employees per work site.
<b>Commenters</b>	8
<b>Response</b>	DEQ acknowledges the support. This change will reduce the number of affected employers from 1210 to about 585. ECO survey data indicates that the 585 larger employers generate 92% of the trip reduction and make up 86% of the total ECO-affected employees. DEQ does not anticipate a significant loss in the emission reduction benefit or other benefits of the program.

<b>Comment 10</b>	EPA commented that the growth allowance language in the plan should be revised to read "Any such increase to the growth allowance will be subject to public comment and approval by EPA" (not "EPA review").
<b>Commenters</b>	9
<b>Response</b>	DEQ agrees and the plan language has been modified to incorporate these comments. DEQ will request EPA approval of the maximum 5,000 ton cap through their approval of the maintenance plan. DEQ will administratively manage the allocation of the growth allowance as described in Comment #4.

<b>Comment 11</b>	ODEQ must ensure that its new source review program meets current EPA requirements by June 15, 2007.
<b>Commenters</b>	9
<b>Response</b>	DEQ must periodically demonstrate to EPA that its New Source Review Program for new and expanding major industry is consistent with any new federal requirements. DEQ will meet this requirement under separate action in 2007.

<b>Comment 12</b>	Recent actions by the City of Portland to require gasoline to contain 10% ethanol and diesel to contain 5% biodiesel are not addressed in the proposed maintenance plan and additional modeling should be completed in order to better evaluate whether Portland and Salem can maintain compliance.
<b>Commenters</b>	12
<b>Response</b>	DEQ analyzed the potential effect of the City of Portland's biofuels requirement on the ozone maintenance forecast. DEQ relied on Washington Department of Ecology research and estimates that VOC and NO <sub>x</sub> emissions from cars, trucks and other types of engines would increase by approximately 7% and 3%, respectively. DEQ applied this potential emission increase to all mobile sources in Multnomah County, and estimates that 2015 ozone levels would increase by less than 1% above the projected maintenance demonstration level of 0.072 ppm. The Portland-Vancouver ozone maintenance demonstration shows that an increase in future ozone levels of less than 1% would not jeopardize ozone compliance for either the Portland-Vancouver or Salem areas.

<b>Reference Number</b>	<b>Name</b>	<b>Organization</b>	<b>Date on comment</b>
1	Marty Gabe	Citizen	6/3
2	Conde Cox	Citizen	6/8
3	Bob Cortright	Dept. of Land Conservation and Development	7/11
4	Sonya Gaub	Citizen	7/10
5	Geneva and Walter Bensman	Citizens	7/12
6	Bill Sterett	Citizen	7/12
7	Marvin Lewallen	Weyerhaeuser Company	7/13
8	Dick Day	Citizen	7/13
9	Gina Bonifacino	EPA Region 10	7/13
10	Mike McLaren	Salem Chamber of Commerce	7/14
11	Kathryn VanNatta	Northwest Pulp and Paper Association	7/14
12	Frank Holmes	Western States Petroleum Association	7/14
13	Ellen Twist	Citizen	Public Hearing Comment 7/11
14	Richard Scott	Citizen	Public Hearing Comment 7/11