State of Oregon
Department of Environmental Quality Memorandum

Date: February 5, 2007

To: Environmental Quality Commission

From: Stephanie Hallock, Director

Subject: Agenda Item D, Rule Adoption: Portland-Vancouver and Salem Ozone Maintenance Plan and Supporting Rule Revisions
February 22-23, 2007 EQC Meeting

Why this is Important

The federal Clean Air Act requires that each state adopt and submit to the U.S. Environmental Protection Agency (EPA) a plan which provides for implementation, maintenance and enforcement of any new air quality standard within three years of the date EPA designates an area in attainment or nonattainment with the standard. In 1997, EPA revised the ozone air quality standard, changing from a standard based on peak 1-hour average values to a standard based on peak 8-hour average values. On June 15, 2004, EPA designated new 8-hour ozone attainment and nonattainment areas. The Portland and Salem areas were historically nonattainment under the 1-hour standard. Both areas are designated as attainment areas under the new 8-hour standard, but require maintenance plans that ensure on-going compliance with the new ozone standard.

To address the new 8-hour ozone standard, the Department has drafted an update to the existing Portland-Vancouver Ozone Maintenance Plan, and has developed an ozone maintenance plan for the Salem-Keizer area. These plans, together with their supporting rule revisions, ensure that ozone levels in the Portland and Salem areas will remain in compliance with federal health standards.

Department Recommenda-tion

The Department of Environmental Quality (DEQ) recommends that the EQC adopt the Portland-Vancouver Air Quality Maintenance Area (Oregon portion) and Salem-Keizer Area Ozone Maintenance Plan, and amend and repeal rules that implement control strategies described in the plan, as presented in Attachment A, as an amendment to the State Clean Air Act Implementation Plan (SIP).

Background and Need for Rulemaking

Some of the information in this staff report was contained in the Informational Item on the Portland-Vancouver and Salem Ozone Maintenance Plan, Agenda Item D, December 14-15, 2006 EQC meeting.

What is Ozone

Ozone forms naturally in the upper atmosphere surrounding the Earth and protects life from the damaging ultraviolet light emitted by the sun. At ground level, the same ozone is harmful to living things; it is an air pollutant that damages human health, vegetation, and many man-made materials. Ground-level ozone is the key ingredient of urban smog.

Ozone affects your health when it is inhaled. Even at low concentrations, ozone can cause respiratory problems and aggravated asthma in children, people with respiratory diseases, and even otherwise healthy adults who are working or exercising outside on smoggy days. Children are most at risk from exposure to ozone because they are often active outside during the summer and their lungs are not fully developed. Long-term exposure to ozone may lead to premature aging of the lungs and chronic respiratory illnesses.

Ozone is not emitted directly into the air. Instead it is created when gases called oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) react in sunlight and heat. Emissions of NO_x are produced when fossil fuels are burned in motor vehicle engines, power plants, and industrial boilers. Emissions of VOC are produced by thousands of sources including automobile emissions, gasoline vapors, chemical solvents, and consumer products like paint.

Ozone is mainly a daytime problem during the summer months because more sunlight and higher temperatures enhance ozone formation. Ozone levels in the air vary depending on weather and the amount of ozone forming emissions present. In mornings, ozone levels are generally low, so the air is healthy. As each hour of the day passes, pollution from human activities, such as industry, cars and trucks, and natural sources like trees and plants, are injected into the atmosphere. These emissions are then subjected to movement and mixing, which are influenced by weather characteristics such as wind speed, sunlight and temperature. During periods of high temperatures and low wind speeds, pollution can build up to unhealthy levels. This buildup of unhealthy ozone levels can persist over a several day period of poor ventilation and hot temperatures.

Federal Air Quality Health Standard for Ozone

Ozone is one of several pollutants regulated under the Clean Air Act for which the Environmental Protection Agency sets national health-based air quality standards. Other pollutants regulated under the Act include carbon monoxide, nitrogen dioxide, sulfer dioxide, lead, and particulate matter (PM10 and PM2.5).

From 1979 through 1997, the federal standard for ozone was 0.12 parts per million (ppm), based on maximum *1-hour average* ozone values. In 1997, after

reviewing the latest medical research on ozone health effects, EPA changed the federal ozone standard to 0.08 ppm, based on maximum *8-hour average* values. EPA also changed the formula for determining a violation, which is now based on a three-year average of the annual fourth highest daily maximum 8-hour average concentration.

Three areas in Oregon (Portland, Salem and Medford) formerly violated the old 1-hour standard. DEQ developed "control strategies" (administrative rule requirements that reduce emissions from new or existing pollution sources, or programs that encourage people to reduce pollution) to achieve compliance with standard and the on-going maintenance of healthy air quality. Medford achieved compliance with the standard prior to the Clean Air Act Amendments of 1990, but Portland and Salem did not. Now, all communities in Oregon are in compliance with the new 8-hour ozone standard, as well as the former 1-hour ozone standard.

Portland and Salem Air Quality Plans and Strategies for Ozone

Portland was formally designated as a nonattainment area for ozone on March 3, 1978. The first Portland-Vancouver Ozone Attainment Plan was adopted by the Environmental Quality Commission on July 16, 1982 and subsequently approved by EPA. Important control strategies in the 1982 plan included:

- A motor vehicle inspection and maintenance program for the Portland area (1975);
- Motor vehicle trip reduction and traffic flow improvements and measures; and
- VOC controls for existing major industrial sources (1978).

Area source controls on gasoline stations were adopted in 1991 to capture the vapors (VOC's) expelled from underground storage tanks when being refilled by tank trucks.

Under the 1990 Clean Air Act Amendments, the Portland-Vancouver Air Quality Maintenance Area was designated a "marginal" nonattainment area. Ozone Maintenance Plans for Portland and Vancouver were adopted by the Commission on July 12, 1996 and the Board of Directors of the Southwest Air Pollution Control Authority of Southwest Washington on March 19, 1996, respectively. Both plans relied on existing strategies and several new strategies. The 1996 Portland Ozone Maintenance Plan added the following new strategies:

- An enhanced vehicle inspection testing method;
- Emission standards (Reasonably Available Control Technology) for existing major VOC point sources (individual industrial facilities having an air quality permit);

- Employee Commute Option Program Rules and Voluntary Parking Ratio Rules to reduce motor vehicle trips;
- Barge Loading Rules that control VOCs when gasoline from refineries that is barged to Portland is unloaded at the bulk terminal;
- Stage II vapor recovery systems that capture gasoline vapors that would otherwise be vented during individual vehicle refueling;
- Aerosol Paint Rules that lower VOC content from spray paints sold in the Portland area;
- Motor Vehicle Refinishing Rules that require low-emitting painting methods at autobody shops; and
- Public education and outreach that encourages people to voluntarily reduce emissions, such as not mowing lawns and driving less on Clean Air Action Days (now called Air Pollution Advisories).

DEQ and the Southwest Clean Air Agency are now updating the 1996 Portland-Vancouver Ozone Maintenance Plans. DEQ and SWCAA coordinated closely on the data collection, modeling, maintenance analysis and strategies that support the maintenance plans. The SWCAA Board adopted the Vancouver Ozone Maintenance Plan on November 2, 2006.

DEQ is proposing to update the following strategies in the Portland-Vancouver Ozone Maintenance Plan (see Key Issues #2 and 3, pages 11-12):

- Employee Commute Option Program, and
- Industrial Emission Management Program rules.

DEQ is also developing the first Ozone Maintenance Plan for the Salem-Keizer area. The Salem-Keizer area was formally designated as nonattainment for ozone on March 3, 1978, and designated "nonattainment/insufficient data" in 1991. Because Salem is downwind from Portland, strategies that reduce emissions in Portland also benefit Salem's air quality. Salem's strategies to reduce VOC emissions in the Salem-Keizer air quality area include:

- Emission standards for existing industrial sources of VOC;
- New Source Review Program for new and expanding major industrial facilities; and
- An approved maintenance plan for Portland.

DEQ is proposing to amend the technology requirements for new and expanding major industrial sources in Salem (see Key Issue #1, page 9) to be consistent with the proposed maintenance designation and the requirements in Portland.

The attached plan and proposed rule revisions demonstrate that existing rules and strategies will maintain compliance with the 8-hour ozone standard in

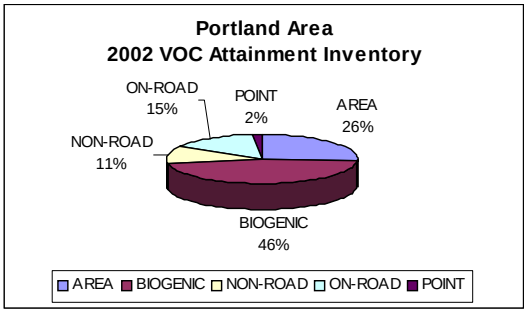
Portland and Salem through at least 2015. The 2006 plans are designed to address the new 8-hour ozone standard rather than the previous standard based on 1-hour averages.

Air Quality Analysis

As the first step in the maintenance planning process, DEQ developed an "emissions inventory" of the total releases of all pollutants that affect the air pollution problem that the plan addresses. The main pollutants that contribute to ozone formation are volatile organic compounds and oxides of nitrogen. Total airshed emissions are estimated by adding up individual emission estimates for a wide variety of different pollution source types like cars, commercial and industrial activity, construction, and personal activities like lawn mowing or painting.

The emission sources for Portland and Salem are summarized in Tables 1 and 2 below, and described in more detail in the Maintenance Plan (Attachment A-1) and in the December 2006 EQC Informational Item D. "*On-road*" mobile sources include emissions from cars, trucks, motorcycles and buses. "*Non-road*" mobile sources include emissions from airplanes, locomotives, farm and construction equipment, lawn and garden equipment, power boats and outboard motors. "*Point*" sources are facilities that have an air quality permit, including manufacturing facilities, power plants and industrial or commercial buildings with large boilers. "*Area*" sources include a wide array of business and citizen activities, such as print shops and gas stations, household products such as house paints and consumer solvents, and open burning. Pollution from individual activities may be small but the collective impact in a community can be substantial. "*Biogenic*" sources are those found in nature, including trees that produce naturally occurring hydrocarbons (terpenes) that contribute to ozone formation.

Table 1
Portland Area 2002 VOC and NO_x Attainment Inventory



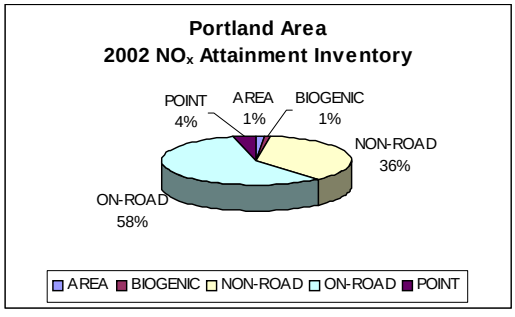
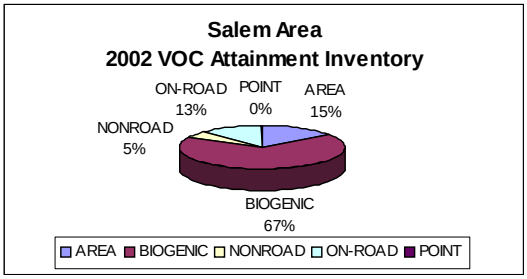
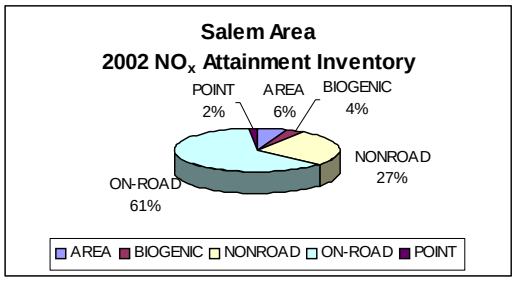


Table 2

Salem Area 2002 VOC and NO_x Attainment Inventory



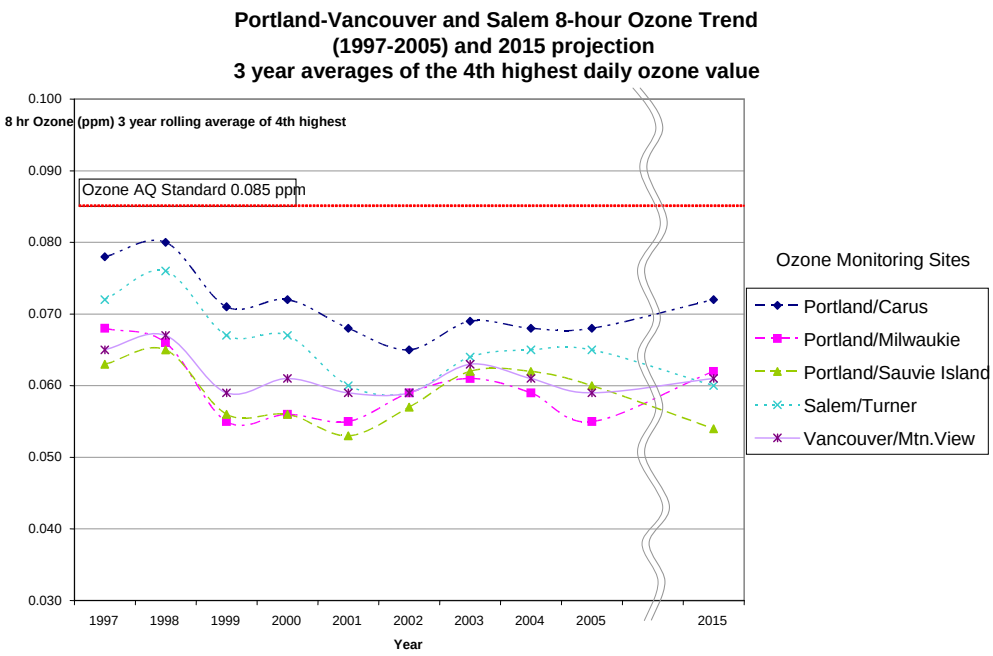


DEQ then analyzed population projections, expected increases in motor vehicle travel, and economic trends to project emissions for 2015, following EPA guidance for developing maintenance plans.

In order to evaluate future compliance with the ozone standard, DEQ used a sophisticated computer model to estimate future ozone concentrations in the Portland and Salem areas. The model combines the forecast of future emissions, worse-case summertime meteorology and atmospheric chemistry to estimate peak ozone levels in 2015.

The future forecast, described in more detail in the maintenance demonstration section of the Maintenance Plan (Attachment A-1) and the figure below, shows that ozone levels will remain well below health standards, with a significant margin of safety through at least 2015.

The Carus monitoring site is located near Canby, Oregon and is located in an area downwind of Portland that has traditionally recorded the highest ozone concentrations in the region. The model predicts that all pollution monitoring sites in the area will remain below the standard.



Effect of the Plan and Rule Revisions

The following is a summary of the proposed rule revisions within Oregon Administrative Rules, Chapter 340:

- Division 200: Adopt the maintenance plan and rules as a revision of the State of Oregon Clean Air Act Implementation Plan.

- Division 242: Revise rules for Employee Commute Options to reduce administrative burdens while maintaining alternative commute programs at larger employers. Changes include focusing the program on employers with 100 or more employees, reducing the survey requirements from annual to every two years, and other changes that modify program requirements;

- Division 242: Retain existing rules for New Source Review in the Portland area, and update the Industrial Emission Management Program to manage growth of new and expanding major industrial sources and ensure that the ozone standard will not be violated;

- Division 204: Designate the Salem-Keizer Area Transportation Study air quality area an ozone maintenance area under state rules;

- Division 224 and 225: Revise rules for New Source Review in the Salem area, to replace the emission control technology requirements for new and expanding major industrial sources in nonattainment areas with

emission control technology requirements for maintenance areas;

- Division 202: Amend DEQ rules to reflect the new federal ozone air quality standard, from the old 1-hour standard (which EPA has revoked) to the current federal 8-hour standard of 0.08 ppm, three year average; and

- Make housekeeping changes to correct the spelling of the Salem-Keizer Area Transportation Study air quality area.

The proposed plan and rule revisions will have the following effects on public health and economic development:

Public Health: The Maintenance Plan ensures continued compliance with the federal air quality health standard for ozone for at least the next ten years. Though not directly addressed in this proposal, many of the strategies in the plan also reduce emissions of air toxics and greenhouse gases.

New and Expanding Industry in Portland: Proposed revisions to the Portland-Area Industrial Emission Management Program continue the use of an emission growth allowance in lieu of offsets as part of a program to manage growth of new and expanding major industrial sources and ensure that the ozone standard will not be violated. See Key Issue #1 (page 9) for further discussion.

New and Expanding Industry in Salem: The proposed rule revisions would change the emission control technology requirements for new and expanding major industrial sources in Salem from Lowest Available Control Technology to Best Available Control Technology. This change would benefit new or expanding major industries seeking to locate in the Salem area while at the same time ensuring a very high level of emission control and protection of public health. The revised requirements are consistent with what is required in the Portland-Vancouver area. See Key Issue #3 (page 12) for further discussion.

Large Businesses in Portland: Proposed revisions to the Portland-area Employee Commute Options (ECO) rule would reduce the number of employers affected by the ECO program and focus efforts on the larger employers that achieve most of the emission reductions through the ECO program. Employers with 50-99 employees would no longer be covered by the rule. The rule change would also streamline reporting requirements for the remaining ECO-affected employers (employers with 100 or more employees). See Key Issue #4 (page 13) for further discussion.

Commission The Commission has authority to take this action under ORS Chapter 468,

Authority

Chapter 468A, 468.020 and 468A.025.

Stakeholder Involvement

DEQ discussed the proposed changes to the Portland-Vancouver Ozone Maintenance Plan and Employee Commute Option Program rules with the three transportation committees of Metro, the formal metropolitan planning organization for the Portland area. On May 25, 2006, Metro adopted Resolution 06-3695 in support of the plan and rules as proposed. The resolution was endorsed by the Joint Policy Advisory Committee on Transportation. JPACT is comprised of elected public officials from the greater metropolitan area of Portland including SW Washington. DEQ, TriMet, the Port of Portland, and the Oregon Dept. of Transportation are also on the committee.

On March 14, 2006, DEQ discussed elements of the proposed Salem-Keizer maintenance plan with the Salem-Keizer Area Transportation Study Area Technical Committee, the metropolitan planning organization for the Salem-Keizer area. Most of the discussion focused on the proposed changes for new and expanding major industrial sources.

Two informational meetings were held in Portland on April 21 and May 4, 2006. DEQ notified interested citizens and the media, and nine people attended the meetings. Two news stories appeared in the Statesman-Journal and one news story appeared in a suburban section of the Oregonian.

Public Comment

A public comment period extended from June 1 to July 14, 2006 and included public hearings in Portland and Salem on July 11, 2006. A summary of comments received and DEQ response, including proposed changes, are described in Key Issues (below); Attachment B, Summary of Public Comment and Agency Response; and Attachment C, Presiding Officer's Report on Public Hearings. A detailed summary of plan and rule changes that were made to the drafts that were available for public comment is available upon request (items #4 and #5).

Key Issues

Key Issue 1. Planning for Major Industrial Growth

There are two ways DEQ could choose to plan for the possibility of future emission increases from new major industrial sources in the Portland area. One way (Option 1) would be to wait until a business proposes to construct a new major facility, like a new factory or power plant, and at that time attempt to evaluate the effect of the proposed facility on future ozone levels and compliance with ozone standards. That analysis would be done under the New Source Review (NSR) process. For ozone however, this NSR analysis presents unique difficulties. The atmospheric chemistry that drives ozone formation is extremely complex. It is technically very difficult, labor intensive, and expensive to try to model the effect on ozone compliance from a single new

source. This complexity would make the air quality permitting process longer, less certain, more expensive, and more cumbersome for both the facility owner and the Department.

A second approach (Option 2) is to anticipate the possibility of future emissions growth from new industry during the maintenance planning process, and build into the plan "up-front" a pre-analyzed growth allowance dedicated for future industrial growth. This allowance serves as a limit on industrial emissions at a level that will not cause ozone violations. Since this growth allowance may never be fully used, the result is a very conservative and protective ozone analysis for the airshed. Evaluating this growth potential up-front, rather that waiting until new facilities are proposed, provides a more comprehensive evaluation of future ozone concentrations, and pre-analyzing these emissions in the maintenance plan helps streamline the industrial permitting process and lessens future workload on Department staff.

For the past ten years the Portland Ozone Maintenance Plan has managed industrial growth by using Option 2 described above. In 1996, the Portland Ozone Maintenance Plan established a growth allowance of 1056 tons of volatile organic compounds (VOC) and 438 tons of nitrogen oxides (NO_x) that could be used by new and expanding major industry. This growth allowance was built into the ozone compliance analysis and maintenance demonstration from the start as a conservative planning assumption. Over the last ten years, new and modified major sources have used only about 30% of the existing growth allowance.

As part of the 2006 Portland Ozone Maintenance Plan update, DEQ proposes to continue the use of the growth allowance approach as a way to plan for, manage, and limit future emission increases from new major industry. In response to Comment #4 and Comment #6 (Attachment B, Summary of Public Comments and Agency Response), DEQ is proposing to add additional safeguards and restrict even further the allocation of the growth allowance. The growth allowance management process proposed by the Department is described in the Maintenance Plan (Attachment A-1) and summarized as follows:

- The plan would establish, and EPA would authorize, a maximum growth limit of 5,000 tons of VOC and 5,000 tons of NO_x.
- DEQ would only authorize the use of the first 1,000 tons of each pollutant for new and expanding major industrial sources, and hold 4,000 tons in reserve.
- If the first 1,000 ton increment is consumed, DEQ would conduct an analysis to determine whether a second 1,000 ton increment could be released. Further allocation of growth increments would be subject to an air quality analysis and public comment period. DEQ would not

release an additional increment if its analysis showed conditions had changed since adoption of the maintenance plan and that such an action would jeopardize compliance with ozone standards.

- Any source that requests more than 1,000 tons of either VOC or NO_x would need to apply to the EQC for approval. If a source requests 1,000 or more tons of either VOC or NO_x, DEQ will evaluate ozone levels and expected trends to determine whether the proposed facility poses any risk to maintaining compliance with the ozone standard prior to making a recommendation to the EQC regarding the source application.

This careful management of the growth allowance will accommodate economic development and growth in the Portland area while still protecting air quality. Actual point source emissions represent only 2% of the 2002 VOC emissions inventory and 4% of the 2002 NO_x emissions inventory. To be conservative, the maintenance demonstration includes maximum permitted levels for existing industry and the proposed new growth allowance. Even under this scenario, future ozone levels are expected to remain well below standards.

Key Issue 2. Stringency of Portland and Salem New Source Review Program

To understand the full context of managing emissions growth from new major sources it is important to understand that the *state* New Source Review requirements used in the Portland Ozone Maintenance Area are significantly more protective than what EPA would require for Portland under the *federal* New Source Review Program. DEQ's NSR program for ozone differs from the federal program in several important ways.

- The federal NSR program only applies to major sources with emissions of 250 tons or more VOC or NO_x (or select sources with 100 tons or more). DEQ's NSR program for ozone applies to all major sources with emissions of 40 tons or more. DEQ's NSR program captures, tracks, and manages emission increases from a much wider universe of sources than the federal program, providing closer scrutiny of airshed impacts.

- Under the federal NSR program, there is no explicit limit on industrial emissions growth and emission offsets are not required. Under the Portland NSR program, the growth allowance establishes explicit growth limits, a strict process for allocation, and requires the use of emission offsets if the growth allowance cannot be used.

- Under the federal NSR program for the new 8-hour ozone standard, there is no requirement for new emission sources outside of the Portland area to assess their impacts on the Portland area. Under the Portland

> NSR program, new and modified major sources within 100 km of the maintenance area boundary must obtain an allocation of the growth allowance or obtain an offset.

Both the federal and state NSR programs require the installation of Best Available Control Technology (BACT). The use of BACT in Salem's NSR program is discussed below in Key Issue #3.

During the public comment period, Comment #8 (Attachment B, Summary of Public Comments and Agency Response) recommended that DEQ defer to the minimum federal NSR program for attainment areas. DEQ recommends keeping Portland and Salem's more protective maintenance area NSR requirements in place.

Key Issue 3. Requirements For New And Expanding Major Industrial Sources In Salem

Because Salem is still designated a "nonattainment area" for ozone under state rules, it is subject to the most strict regulatory requirements for new and expanding major industrial sources. The proposed rule would change Salem's state designation from a "nonattainment" to a "maintenance" area, and bring requirements for new and expanding major sources in line with requirements for Portland and other parts of the state.

The effect of this proposed change in Salem's designation is reflected in the control technology required of new or expanding major facilities in the Salem area (it does not affect requirements for existing facilities). New or expanding major sources would no longer be required to install "Lowest Achievable Emission Rate" (LAER) technology, but would instead be required to install "Best Available Control Technology" (BACT). LAER is typically required in areas violating air quality standards and BACT is typically used in maintenance and attainment areas where air quality is in compliance with standards.

The main distinction between LAER and BACT is the consideration of cost and other factors in determining the level of control. A LAER determination does not consider cost, even if a technology would be uniquely expensive to apply because it was developed for another process or would require special modifications to work at a specific location. A LAER determination also does not consider increases in energy use or other emissions (such as greenhouse gases) caused by the control equipment. A BACT determination begins with LAER technology, but may be less stringent if the applicant demonstrates that there are unique costs or if there are significant energy or environmental impacts from LAER in a given case. BACT is still a very high level of control and in some cases may be as stringent as LAER.

Several citizens commented that they did not want DEQ to relax industrial standards from LAER to BACT in Salem (see Comment #1, Attachment B, Summary of Public Comments and Agency Response). The Salem Chamber of Commerce and others (Comment #7) commented that BACT is a very conservative requirement and Salem's new source review requirements should be the same as required in Portland. DEQ considered all of these comments along with historical air quality data and trends. The Salem area has never violated the 8-hour ozone standard, has not violated the 1-hour standard in over ten years, and is not at risk of violating the 8-hour ozone standard. Salem's transition from "nonattainment" to "maintenance" status and the transition from LAER to BACT is consistent with transitions made by other cities in Oregon and across the nation. Therefore, DEQ recommends BACT as an appropriate level of emission control for new and expanding major industry in Salem.

Key Issue 4. Employee Commute Options Program Rules

The 1996 Portland Ozone Maintenance Plan includes the Employee Commute Option (ECO) Program rules that require Portland-area employers with more than 50 employees to implement programs that would reduce single occupancy commute travel by 10%. Affected employers must provide incentives for employee use of alternative commute options, and employers must survey employees annually to measure progress toward meeting the goal. DEQ analyzed survey data and proposed to modify the program to more effectively focus on larger employers that produce the most significant amount of emission reduction benefit, and to streamline reporting requirements. Requirements would continue to apply to employers with more than 100 employees. Local governments in the Portland area were concerned that the proposed changes could have impacts on their efforts to reduce single occupancy vehicle travel among smaller businesses within their communities. These concerns were discussed with the three transportation committees of Metro, the metropolitan planning organization for the Portland Metro area. All of the issues were resolved before the beginning of the public comment period. DEQ received only one comment on the proposed changes to the ECO rules, and that comment was in support of the proposal (see Comment #9, Attachment B, Summary of Public Comments and Agency Response).

The Department of Land Conservation and Development (DLCD) commented that DEQ should not remove the ECO program from the list of programs affecting land use in OAR Chapter 340, Division 18, as was proposed in the rulemaking notice (see Comment #5, Attachment B, Summary of Public Comments and Agency Response). DEQ's Land Use Evaluation Statement focused on ECO's classification as a transportation control measure under federal rules, and did not mention that local governments rely on the ECO

program to meet their requirements under state rules (Goal 12 and the Transportation Planning Rule). DEQ revised the proposal and no longer recommends a revision to Division 18, and will continue to recognize ECO as a program affecting state land use and transportation planning goals.

Key Issue 5. Contingency Plan

The maintenance plans include a contingency process to respond to any unforeseen changes in ozone levels not anticipated by the maintenance analysis. DEQ will track ozone levels in the Portland and Salem areas over the long term. If peak ozone levels exceed early warning action levels established in the plans, DEQ will reevaluate growth and other assumptions in the plan, identify any need for further emission reduction strategies, and modify the plan as needed to protect public health. During this time DEQ can suspend use of the industrial growth allowance and impose the emission offset requirement for new major industrial sources.

Next Steps

Should the EQC elect to adopt the maintenance plan and rules, DEQ will submit them to EPA for approval as an amendment of the Oregon State Clean Air Act Implementation Plan. The maintenance plan is required to be submitted to EPA by June 15, 2007.

The rule revisions which have the most direct impact on affected employers are changes to the Employee Commute Option Rules. DEQ intends to notify employers of the adopted rule revisions and provide any necessary technical assistance to help employers understand the rule revisions. DEQ will use existing staff for this effort. The Rule Implementation Plan is available upon request (item #6).

DEQ is tracking legal issues which may result in a need to amend the maintenance plan in the future. This maintenance plan was prepared under the guidance of EPA's 2004 Final Rule to Implement the 8-Hour Ozone NAAQS-Phase 1 (69 FR 23951, 40 CFR 51.900). On December 22, 2006 the U.S. Court of Appeals released a decision to "vacate the 2004 rule and remand the matter to EPA" (*South Coast Air Quality Management District v. EPA*). In particular, the court ruled that certain requirements adopted for the 1-hour ozone standard, such as conformity and contingency plans, must be retained to prevent backsliding. Depending on how EPA interprets the court's decision in new guidance and rules, this maintenance plan may need to be amended. In the interim, the existing 1-hour ozone maintenance plan requirements will remain federally enforceable until EPA approves the new 8-hour ozone maintenance plan.

Attachments

A. Proposed Revisions to the State Implementation Plan
   1. Portland-Vancouver AQMA and Salem-Keizer Area Ozone Maintenance Plan
   2. Supporting Rule Revisions {redlined version}

B. Summary of Public Comments and Agency Responses
C. Presiding Officer's Report on Public Hearings
D. Relationship to Federal Requirements Questions
E. Statement of Need and Fiscal and Economic Impact
F. Land Use Evaluation Statement

Available Upon Request

1. Legal Notice of Hearing
2. Cover Memorandum from Public Notice
3. Written Comments Received
4. Portland-Vancouver AQMA and Salem-Keizer Area Ozone Maintenance Plan (redlined version)
5. Summary of Plan and Rule Changes
6. Rule Implementation Plan
7. Appendices to the Ozone Maintenance Plan

Approved:

Section: _____

Division: _____

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