



Western States Petroleum Association
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Jessica Spiegel
NW Region

March 20, 2018

Submitted online at: <http://ac.ecology.commentinput.com/?id=bfe7G>

Ms. Elena Guilfoil
Washington State Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: WSPA Comments on WAC ch. 173-400 Amendments

Dear Ms. Guilfoil:

The Western States Petroleum Association (WSPA) is a non-profit trade association representing companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in Washington, California, and three other western states. WSPA appreciates this opportunity to provide the Washington State Department of Ecology (Ecology) our comments regarding the proposed amendments to WAC ch. 173-400. WSPA members own and operate each of the five petroleum refineries in the state of Washington, and many downstream emissions sources regulated by WAC ch. 173-400.

WSPA members are committed to achieving compliance with Washington's environmental regulations and support protection of the environment and consistent application of Ecology's rules. Environmental controls and compliance represent one of the largest investment categories at the Washington refineries. However, WSPA members are concerned about the proposed regulatory changes in relation to the operation of their businesses and their ability to maintain safety and compliance at their facilities.

The proposed revisions to WAC ch. 173-400, specifically, those provisions related to operation of equipment during periods of startup, shutdown, and malfunction (SSM), have significant impacts to WSPA members. WSPA has been actively involved in the stakeholder process during this rulemaking in an effort to ensure that Ecology understands the import of these proposed revisions.

Ecology's current rules contain an unavoidable excess emissions rule or "SSM rule" (WAC 173-400-107) that is approved under the Washington State Implementation Plan (SIP) by the Environmental Protection Agency (EPA). The SSM rule has been carefully applied by Washington air permitting authorities for decades to excuse civil penalties for exceedances that could not have been reasonably avoided. Without this rule, owners and operators of facilities in

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Washington faces compliance exposure if they are unable to meet emission standards, which are designed to be achievable during normal operations, when they experience unavoidable equipment malfunctions, or need to shut down equipment to safely perform necessary maintenance.

There are no apparent issues with the time-tested Washington SSM rule necessitating the current rulemaking. Rather, Ecology undertook this rulemaking in response to a 2015 SIP-call by EPA. EPA found that Washington and 35 other states do not meet certain Clean Air Act requirements due to the content of their SSM rules. Ecology proposes to revise its SSM rule to comport with the earlier SIP call. Today, however, EPA is reconsidering its criteria for review of state responses to the SIP call and may reach a different determination regarding the adequacy of Washington's SSM rule.¹ WSPA strongly encourages Ecology to reconsider the need to revise its rules until EPA has completed its reconsideration process.

WSPA appreciates Ecology's efforts to address WSPA's concerns during the rulemaking process, and intends to continue to work with Ecology to ensure that an adequate compliance approach is available for its members' Washington facilities. We welcome any questions or comments you might have. Please contact me at (360) 352-4512 or by email at Jessica@wspa.org.

Sincerely,



¹ See EPA Status Report, *Env'tl. Comm., et al. v. EPA*, No. 15-1239 (D.C. Cir., Jan. 19, 2018) ("EPA is continuing to review the SSM Action to determine whether the Agency will reconsider all or part of the SSM Action, and/or grant the State of Texas' administrative petition for reconsideration in whole or in part."); see also EPA Motion to Continue Oral Argument, *Walter Coke, Inc., et al. v. EPA*, No. 15-1166 at 6 (D.C. Cir., Apr. 18, 2017) ("EPA requests that the Court continue the oral argument currently scheduled for May 8, 2017 in these consolidated cases to allow the new Administration adequate time to review the SSM Action to determine whether it will be reconsidered. This continuance is appropriate because recently-appointed EPA officials in the new Administration will be closely scrutinizing the SSM Action to determine whether it should be maintained, modified, or otherwise reconsidered.").