



March 1, 2018

Elena Guilfoil  
Department of Ecology  
300 Desmond Drive  
Olympia, WA 98503

Subject: Comments on Proposed Amendments to Chapter 173-401 WAC

Dear Ms. Guilfoil:

The Southwest Clean Air Agency (SWCAA) has reviewed the proposed amendments to Chapter 173-401 Washington Administrative Code (WAC) published in the State Register under Register Notice WSR 18-04-085. SWCAA would like to submit the attached comments to the Department of Ecology (Ecology) in response to the proposed amendments.

If you have questions or wish to discuss the above comments, please call me at (360) 574-3058 extension 126.

Sincerely,

Wess Safford  
Air Quality Engineer



**Comment #1 - WAC 173-401-800(2)(d)(ii)**

Ecology proposes to revise the public notice requirements for affected program actions. The revisions will require public notices to include the start date and end date of the associated public comment period. The proposed language specifies that Washington state holidays that fall within the time period are to be excluded from the thirty day period. SWCAA requests this language be removed.

Comment periods and waiting periods in existing state and local air quality regulations are generally based on consecutive calendar days. Likewise, comment periods and notification requirements in related federal air quality regulations are based on consecutive calendar days. Excluding state holidays in this one particular section will increase the likelihood of administrative or procedural errors, cause confusion, and does not serve any obvious purpose. Please consider that some local agencies (e.g. SWCAA) don't recognize the same holidays as the State of Washington which creates further complication. Agency staff are not available to the public on some State holidays, but they are also not available on weekends and yet those days are not excluded. If the intent of the proposed change is to ensure a minimum number of agency work days during the comment period, a solution is to define the comment period in terms of business days rather than excluding holidays. Such a change would increase the overall number of review days for the public as well if that is the underling intent. However, neither of these changes are needed or warranted. These rules set a minimum number of days for comment which can be lengthened at the Agency's discretion. The public may request additional days if they feel it is needed. It often makes sense to adjust a comment period length, but those adjustment should be done at an Agency's discretion and not mandated.

In addition, rule section 401-800(2)(d) specifically delineates requirements for public notices, not comment periods. Comment period length and other requirements are addressed in rule section 401-800(3). The manner in which days are to be counted would be more appropriately addressed in that rule section.

**Comment #2 - WAC 173-401-800(2)(e)(i)**

Ecology is proposing to revise the public availability requirements for draft permits and the associated administrative record. The term 'technical support document' is cited in revisions to section 401-800(2)(e)(i). This term comes from the permitting process for the New Source Review program and is not generally referenced in the Air Operating Permit program. The corresponding term commonly used with regards to the Air Operating Permit program is 'basis statement'.



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Elena Guilfoil  
Department of Ecology  
300 Desmond Drive  
Olympia, WA 98503

Subject: Comments on Proposed Amendments to Chapter 173-400 WAC

Dear Ms. Guilfoil:

The Southwest Clean Air Agency (SWCAA) has reviewed the proposed amendments to Chapter 173-400 Washington Administrative Code (WAC) published in the State Register under Register Notice WSR 18-04-085. SWCAA would like to submit the attached comments to the Department of Ecology (Ecology) in response to the proposed amendments.

If you have questions or wish to discuss the above comments, please call me at (360) 574-3058 extension 126.

Sincerely,

Wess Safford  
Air Quality Engineer



**Comment #1 - WAC 173-400-040(2)(e)(i)**

The proposed language for this rule section reads:

*"(i)(A) At least twenty-four hours prior to the planned boiler startup or shutdown; or  
(B) As early as possible, but no later than two hours after restarting the boiler after an unplanned shutdown (i.e., malfunction)."*

There appears to be some text missing. Earlier versions of the proposal began as follows"

*"(i) The permitting authority is notified at least one working day prior to the boiler startup..."*

**Comment #2 - WAC 173-400-171(6)(a)(vi)**

Ecology proposes to revise the requirements for public notices found in rule section 400-171(6)(a). One of the new requirements is the inclusion of the start date and end date of the associated public comment period. The proposed language specifies that Washington state holidays that fall within the time period are to be excluded from the thirty day period. SWCAA requests this language be removed.

Comment periods and waiting periods in existing state and local air quality regulations are generally based on consecutive calendar days. Likewise, comment periods and notification requirements in related federal air quality regulations are based on consecutive calendar days. Excluding state holidays in this one particular section will increase the likelihood of administrative or procedural errors, cause confusion, and does not serve any obvious purpose. Please consider that some local agencies (e.g. SWCAA) don't recognize the same holidays as the State of Washington which creates further complication. Agency staff are not available to the public on some State holidays, but they are also not available on weekends and yet those days are not excluded. If the intent of the proposed change is to ensure a minimum number of agency work days during the comment period, a solution is to define the comment period in terms of business days rather than excluding holidays. Such a change would increase the overall number of review days for the public as well if that is the underling intent. However, neither of these changes are needed or warranted. These rules set a minimum number of days for comment which can be lengthened at the Agency's discretion. The public may request additional days if they feel it is needed. It often makes sense to adjust a comment period length, but those adjustment should be done at an Agency's discretion and not mandated.

In addition, the purpose of rule section 400-171(6)(a) is to define the content of public notices, not the length of comment periods. It should only cite the requirement to include starting and ending dates in the public notice. The sole purpose of rule section 400-171(7) is to establish the length of public comment periods. Comment period length and the manner in which days are to be counted should therefore be in that rule section. As proposed, the new language in rule section 400-171(7) contains a cross reference back to rule section 400-171(6)(a) rather than directly addressing comment period length.

**Comment #3 - WAC 173-400-171(10)(a)**

Ecology proposes to revise the requirements for public hearing notices in a fashion similar to the proposed changes for public comment period notices. The proposed language contains a cross reference to rule section 400-171(6)(a) and excludes Washington state holidays that fall within the notice period. SWCAA believes this should be removed for the same reasons presented in Comment #2 above.