|  |
| --- |
| **General Comments** |
| Why are these meetings being held on Friday afternoons. Many of the safety professionals in the electric utility industry, which this rule will affect if it is adopted, are on modified work schedules, so they are off on Fridays. |
| Please find other days than Friday to hold these meetings. |
| Will the presentation(s) be provided to the attendees? If so, will the questions and answers be included? |
| Where can we send written comments/language suggestions? |
| Wildfires will affect many employers throughout the state. Will exposing, creating, correcting, and controlling employers be cited as per “multi-employer” worksites? For example, if an employer started the fire, or if a property owner/developer/manager did not properly manage wildlands, or if fire fighting response is not fast or effective enough, can such employers be cited as exposing, creating, controlling, or correcting employers? |
| Does the agency plan on establishing evacuation standards or plan where farmworker housing is in danger? |
| Will penalties be assessed by L&I? |
| Do you know why WA Department of Ecology uses the same index value ranges as the AQI? Doesn't this cause more confusion for people looking at the ranges? Why not report the WAQA simply in terms of PM 2.5? |
| So, what parts of this proposed rule are mandatory and what parts are not? I am confused. |
| Perhaps refer to an uncontrolled fire versus a controlled campfire or woodstove heating fire. |
| To follow up on the question of how to determine if the AQI is due to wildfire smoke: Wouldn't any AQI measurement reaching the action level (whether 69 or the EPA level) cause health effects? Should this essentially be a poor air quality rule rather than just wildfire? |
| If employers utilize the EPA AQI email alerts, would L&I consider that as a “safe harbor” for employers? For example, if the email indicated that the AQI was acceptable for that day, then L&I couldn’t issue a citation to an employer. |
| I am hearing comments regarding voluntary vs mandated requirements? Can you please clarify what is voluntary? Thank you |
| I agree with Robert Battles. The first I heard about this rule was a notice from Farm Bureau a few days ago. I don't believe this issue has been clearly communicated to businesses |
| Can we read this word for word to finish out the next hour? |
| Thank you for clarifying upcoming mandatory use rules. |
| Everybody is stretching we are sitting on a computer!!!!!!! Lets get this boredom show over with. |
| Isn't this draft rule more of an air quality rule than just wildfire smoke rule? Some days over 90 degrees could be over the AQI without wildfires being the cause. |
| Is there an expected date for this draft rule to be finalized and be implemented? |
| With many of theses questions being answered "live", will they be transcribed and posted on the web? |
| Then I am making a request that any Q&A's are answered in writing, not "live". |
| Is there a simple FAQ sheet developed yet? I think that would help. |
| Is this "Emergency" rule dealing with Wildfire Smoke already a done deal for this summer? Are all these comments being taken for consideration are only to be going forth with the "Final" rule? When does this "Emergency" Rule go into effect? |
| All our dining centers, because they bring in outside air to make up the air used by kitchen exhaust, exceeded this standard during last year's smoke events, as did research buildings with hazardous exhaust... really any building we cannot put on recirculation during smoke events because of exhaust demands. |
| These virtual meetings are not the right place for stakeholders meetings, especially one which like this that will effect every business in this state (too much to cover/questions/ technical data ), with the state opening back up on the 30th, what are the chances we can hold a in-person stakeholder meeting some time in mid/late July so stakeholders can plan and attend. Can LNI accommodate this? |
| When is it anticipated that this standard will be approved and in effect? |
| Let's protect worker and figure out how to do that. The company I work for protected our employees during our last wildfire season without being regulated to do it. |
| Since the Draft Rule may not be ready for the earlier 6/30 deadline or goal, what will guide employers/employees in the interim? How can workers be provided the needed information, prevention and safety? |
| I am consulting for safety at Benton PUD and I agree with Mr. Garcia's comments about Electrical Utilities. Our work requires unencumbered communication between crew members while working on power lines. Clear and constant communication is paramount to our safety since we work with a very hazardous commodity. |
| The cellular telecommunications industry would echo electric utility comments as reliability of communication infrastructure is very important (and would extend beyond the exemption language that limits the exemption to directly assisting firefighting response). |
| Water utilities industry has the same challenges as posed by electric and gas as discussed. All work is outdoors. Emergencies include responding to water main breaks/leaks and depressurization associated with fire hydrant use. |
| Similar to the pandemic, wildfire smoke is an environmental public health problem and should also be treated as so because it virtually affects everyone who lives in WA state. In following the hierarchy of controls, what steps is WA state taking to prevent wildfires from occurring in the first place? Is L&I collaborating with other agencies to address this? |
| No one here is saying not to protect workers. We are trying to get information, find answers to VALID questions, and understand the science behind the LNI decisions. Many of us have done a great deal to protect our workers from wildfire smoke, including shutting down workplaces, without being told to do so by LNI or otherwise. Lectures, judgement, and virtue signaling is counter-productive to this effort. |
| When do we need to submit comments and concerns by? |
| What is the deadline for written comments? |
| In utility industry—have to communicate over distance, bucket truck, air, must be able to have direct, communicate without masks , as mask can interfere, and create safety issue. Will those circumstances be accommodated in this rulemaking? |
| Can reasonably anticipate wildfire smoke. Definitions of wildfire smoke and wildlands very broad-could be campfire, chimney (sparsely populated). Source could be different than wildfire. Could be fires…when you have elevated background levels that are not related to wildland fires, but all around us, Canada, etc, going on around us, how do you know the source? Distance from air monitors, and industries like mine who work in the middle of nowhere. Long distance to a monitor---look at rule draft, great you removed the mandatory mask, the dramatically lower AQI, will make difficult for employer to comply. Don’t have issue with providing mask and training, not sure how we will comply with the monitoring. Could you define wildfire season, and this is when you need to pay attention? How do we know? How do we comply?Oregon uses a visual monitoring, 3, 2, 1etc. Perhaps consider? |
| Do not feel the agency did as much stakeholdering as it believes. This was during legislature as Emergency Rule at last minute, could have been done over longer period of time. Feel amounts of exposures should be at a national level. I have concerns with this rule, most in this call were focused on the legislature. |
| Busy on session, could not participate deeply in this rulemaking. This is concerning and disturbing, problems with our climate, getting worse, need standards to match risk to employees. Having in 2021, risks employees take to provide our food, build, supply chain, tenure, complaints of how affecting only the employer, is concerning!! Hope that we can have a more productive conversation with the understanding we need to protect **workers** and the risks are changing due to climate issues. |
| Are utility workers like loggers as specific reason to be at specific location? Maintain electric grid reliability. Where would utility work fit in with emergency use? In many instances, a crew could goes to more than one location, there is a priority of the work. Yes, you can move them to another location, but then risk of grid reliability. |
| When will Emergency Rule go in effect? Will keep volume mask in permanent or implement mandatory? Will there be more meetings before June 30? |
| The term “emergencies” any coordination with WUTC for natural gas? |
| Fresh produce and tree fruit industry, remind you not all emergency things are true emergency as in EMS. Crops are time dependent, has to be done, for example, when ready to pick, has to be done, extreme financial loss if not done, no other options. Please keep in mind.  |
| **WAC 296-62-08510 Purpose and Scope** |
| That's identified here as exempt, but if we move outdoor workers into these locations for refuge we need to monitor the locations we've moved them into? |
| CA's rule exempts enclosed bldgs/structures only if the bldg has air that is filtered by mechanical ventilation. Why doesn't the draft rule? Why is LNI waiting to look at this? |
| Will restaurants with outdoor decks be captured by this even though servers are primarily inside and outside for short periods of time? |
| Has other emergency response activities, i.e. Utilities, been discussed under the exemptions? Or partial exemptions? |
| Why was an action level of 69 AQI determined? CA's action level above 150 AQI. |
| Exemption under (2)(c). Is that assumed to be 1 hour cumulative? |
| Please also look at how frequently we can exceed those levels in eastern Washington during smoke events. |
| Would truck drivers be considered outdoor workers? Even though they are in an enclosed and mechanically ventilated space? |
| Enclosed vehicles are only covered if they have cab filters. |
| The draft rule requires the vehicle to have cabin-filtered air. Not all trucks will fit this requirement. |
| Just a follow up, since truck drivers do exit the truck, would professional drivers be considered outdoor workers or is the length of time exposure? |
| An important issue relates to the trigger levels in the draft. WA used a very conservative EPA equivalent AQI of 69.The burden of proof should be on WA to explain why they disagree with the EPA index for air quality from a worker health standpoint. Wildfire smoke is a community exposure, not a workplace generated exposure. Exposure can, and will occur outside of the workplace, and people need to be taking steps to limit their exposure outside of the work shift. The public is getting exposure and control guidance based on EPA AQI levels that set a threshold for sensitive groups at 101. What research is driving WA to set a different scale with much lower thresholds for the workplace that will create confusion for the people? WA lowered the federal EPA levels as an early warning mechanism; this should not be the basis for a workplace exposure limit. WA reduced the federal EPA exposure level for that layer from 35.5 to 20.5 ug/m3, a significant and apparently arbitrary reduction; the EPA limit is also set on annual exposure, which won’t occur with wildfire smoke, they have a 24 hour limit almost double higher-WA should not introduce a new scale. AirNow is a well know site that the public uses and is familiar with. Adding new scale will create confusion in workplaces.-Thresholds for CA, WA and OR should be consistent – smoke moves freely between the states. |
| Would it make sense and help clarify when the scope is active to rely on the AHJ to declare a wildfire event? And the Oregon option was a 5 3 1 visibility reference based on opacity of the smoke if I understood it correctly. |
| It is tough to believe that you can legally have a pm 2.5 rule that only applies to wildfire smoke but not something else like wood stove smoke in areas such as Spokane valley that have winter inversions. Same health issue, different source, supposedly same risk to workers. Can you legally do that? |
| Scope question: If the 69 AQI number relies on the Perlmutt study (https://europepmc.org/article/med/26174436) cited in the April ppt, why is the rulemaking isolated to wildfire smoke vs. air quality generally? The study was conducted in New York City, where there are no wildfires, so the pm2.5 exposure studied would likely have been the result of petroleum combustion or perhaps aggregate particulates (can't see the methods due to paywall), but not the combustion of vegetation as would occur in west coast wildland fires. |
| I may have missed this earlier but the prior meeting the AQI levels of 151 was discussed in referance to the Cal standard, Why are you proposing so low of AQI or WAQA? |
| The EPA air quality map and WAQA air quality map use the same reference to AQI ranges. Why is EPA AQI 69 equal to WAQA 101 if they are both referencing the same ranges? |
| I think the department needs to understand your audience. You are saying we should work inside or sit in our vehicles..... |
| Please consider that there are workers that ensure delivery of fresh water, removal of waste water, roads and traffic signals that must function for police and fire. All of these employees have phones that provide the EPA air quality guidelines. Consider how they will perceive guidelines that differ from the national AQI, which all news crews discuss during wildfires. Feasible but reasonable? Employers have to enforce the rule. Employees have to believe it protects them. And, everyone is tired of wearing a mask, especially if not deemed necessary. |
| **WAC 296-62-08520 Definitions** |
| Isn't the AQ 69 issue with people who are sensitive already covered by ADA requirements to accommodate employees with medical conditions? |
| Employees affected at the unhealthy to sensitive groups threshold should have an existing workplace accommodation with the employers HR department based upon documentation from their PHCP. There is a well established procedure for this. Shouldn't we set thresholds affecting all workers, maybe not for Haz Com, but before we begin offering respirators at the "unhealthy" for everyone range? |
| The definition of "sensitive groups" is extremely broad. It's breadth seems to make almost meaningless. Will this definition be narrowed in the future? Can you provide background on why it is so broad. |
| One of the studies you cited excluded occupational exposures. How can you compare a worker's exposure and resulting health effects to those experienced by the general population, which includes sensitive populations, children, elderly etc., who are less likely to be in the general work force? |
| I understand sensitive groups could be affected, Haz Com to the members of our workforce is a non-issue, but again, this workforce population needs to have that conversation with their HCP, and document their condition with the employers HR department so they may be accommodated appropriately. This is very different than how the general workforce assigned to outdoor work might be affected. |
| The PM2.5 threshold that you have chosen (20.5) for this draft rule corresponds to the low end of the "Unhealthy for Sensitive Groups" category on the WAQA index. Are there many health and safety rules of general applicability that trigger based on the risk to the most vulnerable and not risk to the general public? |
| Smoke sensitive groups will also experience symptoms consistent with COVID and should not report to work as it is. Given that we are already asking our workers to not report to work sick, and now might not be able to accommodate workers during smoke events requiring that those workers take leave, does the state intend to make more sick leave available to outdoor workers? |
| Adverse symptoms should be listed/defined. |
| Many employees who make up the sensitive group this rule is intending to protect will also be sensitive to respirators. |
| Define readily available. |
| My point was that this rule is designed for sensitive groups and then offers a solution that may put them in another hazardous situation. This may be why other rules are written for healthy working adults. |
| I would recommend that somewhere in the rule you define or list the adverse symptoms of wildfire smoke exposure since supervisors need to be trained on this. |
| **WAC 296-62-08530 Identification of Harmful Exposures** |
| Associated General Contractors of WA concurs with the comments from Weyerhaeuser about having an AQI threshold that is in congruence with EPA and other western states. Consistency enhances safety, having variable rules adds to confusion and decreases compliance. |
| OR's regulation allowed for use of the 5-3-1 Visibility Chart, which has been proven effective when tested by the military in Afghanistan. |
| Cascade Natural Gas concurs with the comments from Weyerhaeuser about having an AQI threshold that is in congruence with EPA and other western states. Consistency enhances safety, having variable rules adds to confusion and decreases compliance. |
| AWB agrees with the comments from Weyerhaeuser regarding the AQI threshold that is in congruence with EPA and other western states. |
| The PM2.5 threshold that you have chosen (20.5) for this draft rule corresponds to the low end of the "Unhealthy for Sensitive Groups" category on the WAQA index. Are there many health and safety rules of general applicability that trigger based on the risk to the most vulnerable and not risk to the general public? |
| Why are other States and Jurisdictions trigger levels higher? CA trigger level is a 151 AQI! Why wouldn't WA align themselves with other regulatory agencies that already have a specific requirement and trigger level? Why does WA feel the need to go above and beyond others? |
| Washington Farm Bureau concurs with the comments from Weyerhaeuser about having an AQI threshold that is in congruence with EPA and other western states. Consistency enhances safety, having variable rules adds to confusion and decreases compliance. |
| **WAC 296-62-08540 Hazard Communication** |
|  |
| **WAC 296-62-08550 Information and Training** |
| Will the Department be creating training materials that can be used to train employees? |
| Are employers required to provide medical treatment beyond first aid under 08550(3)(c)? |
| **WAC 296-62-08560 Exposure Symptom Response** |
| Does 296-62-08560(3) require "medical treatment beyond first aid"? What exactly is required? |
| **WAC 296-62-08570 Exposure Controls** |
| In the section we are now discussing the term "emergencies" is used along with a definition tied to firefighting. Gas companies have certain requirements from the WUTC to perform certain tasks. Has L&I done any coordination with WUTC with regard to mandated tasks natural gas companies are required to perform? |
| Are there any air monitoring requirements needed once I move employees to an enclosed building? Based off of the language of "If engineering controls are not sufficient to reduce exposure to PM2.5 to less than 20.5μg/m3 (WAQA 101, AQI 69), then the employer must reduce employee exposures as much as feasible.", wouldn't this suggest that I need some way to verify that my exposure control (in this case, moving them to inside of an enclosed building) is working? |
| In terms of feasibility and monitoring, what will employers be required to provide (in the event of a complaint) to prove they have reduced the exposure to PM2.5 in line with 296-62-08570? |
| Controls for exposure, and as it cascades down to respiratory protection. A few have reviewed, how supposed to prioritize between engineering and administrative controls and face masks, or, is it a choice of the Employer? Definition of feasible, ha, some read as whenever possible, dictionary, says easy and convenient. Haha, clarify, what do you mean by feasible 2) is there an order of preference to follow, is it just employer choice eg, administrative or PPE? |
| Not feasible to move inside the building and call them a worker, tree workers by definition can’t be inside. Would go straight to masks. |
| In able to do job, logger, hooking log, not in a cab, can’t be in a cab, can’t be in building, where does being able to do the job and feasibility cross that line when the only way is to do outside, working, can we go straight to the mask. Job involves moving and be outside, can we go straight to the mask. |
| **WAC 296-62-08580 Respiratory Protection** |
| Will KN95s be sufficient for compliance with this standard, as long as the FDA EUA is in place? |
| An N95 or KN95 in an outdoor environment with normal dust etc. will be useless in a short time due to plugging. That part of the rule is not practical for agriculture. |
| The rule indicates that KN95s can be used only if the N95s are not available. Can we use our supply of KN95s instead of the N95s? |
| If FFR's and other PPE is provided by the employer, are medical evaluations and fit-testing required for each employee before he/she elects to use or not use the PPE? |
| If an employer has the N95s available and has informed employees they are available and the AQI levels does that mean the exposure levels still need to be assessed or would that encompass the rule? |
| 296-62-08580 (1) (b) and (c) "If NIOSH-approved respirators are not readily available, employers may instead provide KN95 filtering face piece respirators." This does not indicate that we can use the KN95's only that we can use them IF the NIOSH approved respirators are not available. The question is, If the N95's are available Can we use the KN95's to use that supply? |
| So, if it's voluntary, will the Department cite or not? |
| How often should an employer check AQI or PM 2.5 to determine if we need to enforce "voluntary" respiratory protection |
| The rule in California is => 151 AQI for unhealthy and their heat issues are as, or more, significant than WA states. This proposed reg never states when respiratory protection is required. Its all voluntary? Someone can refuse the offered voluntary respirator and work until they become sick? How does this help and employer protect their employees. Should there not be an upper limit where work needs to cease outdoors, such as => 301 AQI? |
| Are you planning on listing approved devices for measuring air quality in local environments, as wind patterns, terrain, and other factors can affect the air quality and it may be quite different than the nearest official measuring station or reporting center? |
| N95 respirator or KN95 masks will not meet FR requirements. Electrical linemen are required to wear FR clothing. How do we address the material of construction of the respirator/mask with the requirement of the garments? |
| If wearing the respirator is voluntary for the employee- would employers be required to perform medical, spirometry and fit test for employees? I can foresee employees who have facial hair not too happy and- potentially grieve this to the union-about the requirement to Get a fit test and be clean shaven for it when they will more likely than not choose not to wear a respirator when smoke conditions occur Since it’s voluntary for the employee. Thank you. |
| Most handheld PM monitors are nephelometers, which tend to highly overestimate particulate exposure unless calibrated against a reference standard. Also, Ecology monitoring sites using nephelometers report their readings based upon a rolling average which doesn't as accurately reflect current PM 2.5 concentrations. |
| How long will KN95s be allowed as N95s are becoming more available. |
| Respirator use follows voluntary use standard (no fit testing/medical evaluations required) and employers are to encourage employees to use respirators. If the employer requires respirators to be used under this rule (for example AQI hits a certain threshold) and employer requires employees to wear respirators, can that still be done under the voluntary use standard? |
| Will the facial hair on the sealing surface still apply even though medical evaluation and fit testing will not be conducted? |
| Could we add clarifying language that employers can use KN95 respirators to draw down COVID-related stockpiles? |
| Assume we will also be required to provide the information in table 2 WAC 296-842-11005? Should that be indicated in the emergency rule? |
| Right now we need to make KN95s an option, N95s are still in high demand. |
| For a farmer—the availability of equipment and affordability—every farm in eastern Washington…every farm cannot afford to provide a respirator for all employees. |
| Are you just going to say KN95 acceptable for this season? Might be the easiest. Rather than find out in N95 available. Understand it may not be acceptable beyond this year. Is KN95 with exhalation valves acceptable? Is there an advantage? |
| **Appendix A Protection from Wildfire Smoke Measuring PM 2.5 Levels at the Worksite (Mandatory if an Employer Monitors with a Direct Reading Instrument)** |
| Could there also be a reference to EPA FRM or FEM in Appendix A? If that's what we are using for monitoring? |
| In the Table of Contents, it says that both indices are mandatory. |
| **Appendix B Protection from Wildfire Smoke Information to be Provided to Employees (Mandatory)** |
| Super random question... In Appendix B, there is a drawing of a showing proper fitting of a filtering face piece respirator. Are there better diagrams/photos that you could include in there? I think I recognize it from an OSHA training or reg, but there has got to be better resources out that for that visual. Not sure if you are allowed to use photos in a regulation making (as opposed to drawings). Super specific comment, so I apologize for it being a little out there. |
| In the Table of Contents, it says that both indices are mandatory. |
| The Table of Contents says Appendix B is mandatory. This includes a diagram of how to fit-test a mask. Earlier you said that fit-testing is not required. This appendix also says to read and follow the "manufacturer's instructions..." We are getting conflicting messages here. Please distinguish for me. |
|  |
| **Research** |
| Has DOSH provided the updated research mentioned as basis for trigger points and, if so, where may the public find same? |
| Can we see citations to this research? |
| Can you provide the research on which you relied? |
| Why should we have to wait for the full rulemaking documents to be filed to be given the quoted data sources, or have to do a public records request on this information? Rulemaking needs to be transparent. |
| Wouldn't it be more beneficial to allow us to review the research used in the health risk assessment prior to completing the rulemaking project? |
| Perhaps the 69 AQI number relies on the Perlmutt study? (https://europepmc.org/article/med/26174436) which was conducted in New York City, where there are no wildfires. Does that study of health impacts translate? |
| Stakeholders deserve a better explanation for the VASTLY different AQI proposed in WA beyond, "the research is in the data that will be published with final rule documents". The data needs to be presented clearly, transparently and the rationale for selecting this trigger must be explained beyond just "we did research". You expect employers to show our work when we make informed decisions about worker safety and health. Why, with all the resources at your avail, are you not willing to do the same? |
| Thank you Mandi. Spot on!!! |
| Why was Mandi Kime's question not answered? |
| But the studies you cited excluded occupational exposures. This trigger level is protecting a very small percentage of the work population at the expense of the large percentage of the work force. As others have stated, this will place an undue burden on the employer. Public health exposures and occupational exposures are two different things. Not all industries employ children < 18 years of age. |
| We have data from a BAM located in Pullman, happy to share. |
| AWB agrees with Mandi Kime at AGC regarding the research and basis for this rule. We formally request all material the Department has relied upon for this rule be made available/provided to the stakeholders. This rule will impact almost every Washington employer. It requires a better stakeholder process. |
| Dr. Reul- thank you for the response, your link does not work. so, I am wondering how this correlates to workplace intermittent exposure, and what the parameters of the study are that make it relevant to workplace safety and health. What duration of exposure increases mortality? |
| The Washington Growers League concurs with AGC and AWB regarding release of research. |
| So, WA DOSH is proposing a smoke threshold lower than California and EPA without releasing research to justify the lower threshold? Is that an accurate assessment? |