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To: [Pyke, Chris \(LNI\)](#); [Ireland, Cynthia D. \(LNI\)](#)
Subject: Wildfire Smoke Rule Input, Skagit Public Utility District #1
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External Email

Hi Chris and Cynthia,

We just learned that the emergency wildfire smoke rule expired on 9/29. We find it odd that it expired just as the local public health offices and NWS started issuing air quality alerts for Skagit, Whatcom, and Snohomish County for the poorest air quality we've seen so far this year. Has there been any effort to extend the emergency rule for the remainder of the year?

We were blind-sided by the expiration of the emergency rule and found it concerning that the effective dates weren't put in section 296-62-08510 that covers scope where we could have seen it much more readily. We also just found out the deadline for input into the permanent rule is less than a week away.

The credibility for sensible rulemaking by L&I is in serious doubt among those who work in my agency and among several groups in our service area in and around Skagit County. We understand sensible rules intended to protect our people. But employers must enforce these rules. Now, the rules we are trying to help L&I implement look and feel like a moving target and employers (and L&I) get left looking incompetent (at worst) and arbitrary (at best). This seriously erodes worker confidence in future efforts to introduce new protections and enforcement.

Having said that, we do have some input we would like you to consider for the permanent rule.

Throughout the document: the language switches back and forth between $\mu\text{g}/\text{m}^3$ and AQI as the applicable unit of interest. We believe this is confusing. Employers are interested in regulatory triggers and the numbers to better enforce rules – and so are employees. Neither group is inclined to do the conversion of the $\mu\text{g}/\text{m}^3$ unit to the AQI number. We realize that AQI is “unitless”, but it is a commonly understood expression in comparison to micrograms in industry. And just because an expression is unitless and not scientific doesn't mean it doesn't have value. The agencies who communicate air quality (public health, clean air, etc.) are using AQI. It makes far more sense to stay consistent with that practice. Employers are capable of informing employees that the AQI number is the only expression on an air quality website applicable to this rule. The table on line 90 is – in our opinion – the only place we should see the microgram to AQI conversion. Everywhere else, AQI should be used and the use of micrograms per cubic meter should be eliminated.

Like the above discussion about $\mu\text{g}/\text{m}^3$, the term $\text{PM}_{2.5}$ is very confusing. We recommend replacing the term with another expression that is already in widespread use – “air quality” or “AQI level”. For example, line 125 to 127 states:

“A wildfire smoke response plan must be included in the written accident prevention program before work that exposes the worker to a PM_{2.5} concentration of 20.5µg/m³ (aqi 69) or more.”

We believe it should instead say:

“A wildfire smoke response plan must be included in the written accident prevention program before work exposes workers to an AQI of 69 or more.”

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296-62-08580 (3), line number 237 to 240 and (4), line number 241 to 243: we suggest that an AQI of 301 should be the trigger for mandatory N-95/respirator use. California’s current emergency rule uses an AQI of 500, which we believe is far too high an AQI to begin mandatory respiratory protection. Oregon’s permanent rule uses an AQI of 251 to trigger mandatory respiratory protection. We believe an AQI of 201 or 251 may be too low of a trigger – especially with a utility where the topography varies greatly in the employee’s work area, and where the work tends to be very transient – taking them through various areas with AQI values that differ greatly. It is rarely possible for the employer to know exactly where a utility employee may be to enforce a mandatory respiratory protection standard at the AQI 201/251 level, but it would be much more realistic at an AQI of 301 since development of an AQI at that level happens much more slowly and with far less variability from place-to-place. Such leeway would make it far more likely that employers could effectively enforce the mandatory respiratory provisions of the rule.

We note that (4) and (5) are very similar in prescriptive language but have small differences in applicability (assigned protection factor triggers at different AQI levels, and P100 use applicability). We suggest combining these sections together and using a different method to call out applicability. Perhaps the chart describing the type of respiratory protection with corresponding AQI levels would be more useful here and should be heavily emphasized.

We also suggest a much simpler reference to mandatory respiratory protection rules in 296-842 be included. That would leave section (4) only discussing the types of respiratory protection covered by this rule and the provisions of 296-842. It would limit sections (4) through (7) to stating the applicability of 296-842 to this new rule. Lines 263 to 272 are covered in 296-842 and should be eliminated. Interestingly, the notes in lines 273 to 284 should probably be highlighted and made part of the applicability language of section (4). We think it’s far wiser to not have a well-established rule regurgitated inside another rule.

Otherwise, we believe the rest of the rule is clear, enforceable, and can be effective in practice.

Thank you for your time and consideration.

Best,

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