

# Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

## Questions and Answers

As a follow-up to the wildfire smoke meeting held virtually on October 13, 2022, and in an effort to promote transparency and share information with stakeholders, the Department of Labor & Industries (L&I) has drafted this document to provide a copy of the written questions asked during the meeting, as well as responses to those questions. [TVW](#) livestreamed this meeting and all questions that were answered live can be found on their website. All questions and feedback received by stakeholders will be considered as L&I finalizes the draft of the permanent rule language.

Question #	NAME	QUESTION	ANSWER
1	Anonymous Attendee	Can you please explain why "for wildfire smoke" was removed from item 1 in the purpose and scope?	As Chris was explaining, the AQI is highly unlikely to get above AQI 69 (or 20.5 ug/m3 of PM2.5) unless there is a wildfire. To avoid confusion about source, this wording was removed.
2	Stephen Frost	Consider exempting electrical power providers and their employees from this rule, since WAC 45 and this rule conflict on PPE and other protections that are required for linemen and other electrical power workers. (Arc flash PPE, etc.)	Thank you for your comment, Stephen.
3	Tiffany Knudsen	Is this only for wildfire season or all year?	As currently drafted, this rule would be in effect throughout the year, whenever employees are exposed to wildfire smoke. However, as Chris mentioned, it is highly unlikely that employees would be exposed to AQI above 69 unless there is wildfire smoke in the vicinity.
4	Anonymous Attendee	Is Chris Pyke's email chris.pyke@lni.wa.gov in case we would like to ask more questions in the future?	Yes.
5	Stephen Frost	I have attended all of the small stakeholder meetings since this process was started and I have asked many times if the diagrams for fit testing that are in the back of the rule would eventually lead to a REQUIREMENT for the employees to wear a FFR. During those sessions, I was	Thank you for your comment, Stephen. Shaving, medical evaluations, and fit-testing would not be required at 201 or 301 AQI.

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

		assured that mandates and fit-testing would not be part of the rule until the AQI reached 555. Now it appears that the draft rule introduces levels (201 or 301) where the employer would be required to mandate that employees wear an N95 mask. Along with REQUIRING employees to wear N95 masks, OSHA Appendix A to 1910.134 includes requirements for fit testing employees. One of the requirements is to be clean-shaven to provide a proper seal.	
6	Stephen Frost	Is being clean-shaven going to be a requirement that is not expressed in the rule, but is insinuated because of OSHA's mandatory requirement for fit-testing?	Being clean shaven would be required at AQI 500, but not below that. At AQI 500, employers would be required to follow Chapter 296-842 WAC, which includes shaving, fit-testing, medical evaluations, etc.
7	Stephen Frost	Are these written questions/answers available to us?	You should be able to see these if you toggle to the "answered" tab.
8	Anonymous Attendee	<p>I remain confused. You state the rule only applies to wildfire smoke. The stated reason is that it is not possible to discriminate between WFS and other sources. However, any time the AQI is 69 or over the rule applies. The rule will apply to non-WFS, it appears.</p> <p>Please clarify. Is the rule limited to only WFS, or does it apply any time AQI is 69 regardless of source?</p> <p>More simply, is this a PM 2.5 rule, or a WFS only rule?</p>	As currently drafted, this rule would be in effect whenever employees are exposed to wildfire smoke. As Chris was explaining, the AQI is highly unlikely to get above AQI 69 (or 20.5 ug/m3 of PM2.5) unless there is a wildfire. Sometimes there are situations when there is both wildfire smoke AND other ambient sources of PM2.5. When that is the case, this rule applies. If there is no wildfire smoke, this rule does not apply.
9	Anonymous Attendee	Do employees have to be clean shaven at AQI of 201 and/or 301?	No.

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

10	Stephen Frost	Where can I find the written documentation of this meeting after it ends?	We will be posting the written Q&A on our website after the meeting. The live answered questions will be available on tvw.org as this session is being recorded.
11	Patrick Holden	Will the department offer it's own PM2.5 app?	That is not currently in the plan for implementation for the department. There are several sources of information on current PM2.5 mentioned in the rule.
12	Stephen Frost	I want to preserve and share the questions and answers with managers of the electric utilities in our safety group.	
13	Anonymous Attendee	What is the reasoning behind using trigger concentrations rather than time-weighted averages, like nearly every other exposure level?	Wildfire smoke is a unique exposure in that it effects a large number of workers across the state and levels can fluctuate rapidly. With other contaminant exposures, the department requires that each employer monitor exposures in each workplace. If the department were to use time-weighted averages, each employer would be responsible for measuring PM2.5 at each of their worksite to determine exposures, which would be burdensome for employers, and would not provide information in a timely manner for employers to protect their employees.
14	Anonymous Attendee	Do you have a listing of the scientific journal articles that show the majority of health effects occur at 20.5 micrograms/m3?	We have posted some sources that we have relied upon in this rule development at this location: <a href="https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke#additional-resources">https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke#additional-resources</a>
15	Patrick Holden	Will the regulation reflect remove the term Wildfire Smoke from the rest of the language as it did in the scope?	We will address your question that was asked below later.

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

16	Anonymous Attendee	How does the scope of the rule apply to employers with multiple buildings such as a university campus, healthcare campus, etc., where employees, although not outdoor works may be outdoors up to one hour a day traveling from building. Should there be exceptions for those not continuously working outdoors or those who are not primarily outdoor workers?	Thank you for your question. There are time threshold exemptions that are in the scope of the rule, which addresses workers who exit and enter briefly, but are not primarily outdoor workers. You can see these in 62-08510(3), here: <a href="https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/_WildFire/Wildfire-2022-10-wfs-stakeholder-packet.pdf">https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/_WildFire/Wildfire-2022-10-wfs-stakeholder-packet.pdf</a>
17	Anonymous Attendee	This still does not explain how employers should determine what exposures are subject to this rule, particularly in areas that are also subject to windblown dust, inversion layers, and other potential sources of PM2.5. Our entire state has seen impacts from smoke originating in Oregon and California, which are certainly not "wildfires in the vicinity." You stated that only PM2.5 due to wildfire smoke is subject to this rule, but there's nothing that provides a practical explanation for how we are to distinguish between sources.	<p>Thank you for your comment. As currently drafted, this rule would be in effect whenever employees are exposed to wildfire smoke. As Chris was explaining, the AQI is highly unlikely to get above AQI 69 (or 20.5 ug/m3 of PM2.5) unless there is a wildfire.</p> <p>Sometimes there are situations when there is both wildfire smoke AND other ambient sources of PM2.5. When that is the case, this rule applies. If there is no wildfire smoke, this rule does not apply. That said, employers do not have to distinguish between sources.</p>
18	Anonymous Attendee	The Emergency Wildfire Smoke rule is effective June 15th through September 29th. Right now the AQI in Tacoma is 101. Are employers required to provide N95's for voluntary use?	The wildfire smoke emergency rule is not currently in effect. We would encourage employers to take measures to prevent employee exposure to PM2.5, but this is not a requirement at this time.
19	Patrick Holden	Are exhalation valves allowed in the N95?	Yes.

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

20	Anonymous Attendee	Has there been any coordination of this rulemaking effort with the one for outdoor heat exposure? That draft rule requires employers to allow workers to remove PPE for rest periods, frequency as needed based on temperature & work methods. That would appear to contradict with this rule. Both will apply during the hottest part of the year.	Thank you for your comment. We are taking this into consideration as we coordinate with our outdoor heat rulemaking team.
21	Anonymous Attendee	I came in late - how are we to differentiate between wildfire smoke and other particulates in the air? Such as during harvest heavy traffic etc. I do not see any methodology to do that.	As currently drafted, this rule would be in effect whenever employees are exposed to wildfire smoke. As Chris was explaining, the AQI is highly unlikely to get above AQI 69 (or 20.5 ug/m <sup>3</sup> of PM <sub>2.5</sub> ) unless there is a wildfire. Sometimes there are situations when there is both wildfire smoke AND other ambient sources of PM <sub>2.5</sub> . When that is the case, this rule applies. If there is no wildfire smoke, this rule does not apply.
22	Anonymous Attendee	How will the department defend not requiring fit testing when OSHA does? My understanding is the rules must be as effective or stricter than federal regulation, no?	OSHA does not have a regulatory standard for exposure to wildfire smoke, therefore this rule itself will be more effective than what OSHA has.
23	Stephen Frost	I know of no FFR's or PAPR's that are arc flash rated, so again I'm asking for an exemption for electrical utility workers due to the conflict with WAC 45 arc flash PPE requirements and OSHA's arc flash PPE requirements.	<p>An exemption would not be needed because what you described is already addressed in our policies under "Greater Hazard"</p> <p>Greater Hazard. A greater hazard defense may exist when compliance with a standard would result in greater hazards to employees than non-compliance and:</p> <ul style="list-style-type: none"> <li>(1) There are no alternative means of employee protection; and</li> <li>(2) An application of a variance would be inappropriate</li> </ul>

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

			What you describe would fall under the "Greater Hazard"
24	Anonymous Attendee	<p>One of the studies referenced on your website states: “(e)xposure assessment is challenging, as there is no standard approach for defining what constitutes a wildfire smoke-affected day or period in the health effects literature. Common methods utilize area monitoring particulate matter (PM) measurements, satellite data, chemical transport models, or a combination of these approaches. Differences in effect estimates across studies in part may be due to differences in their exposure assessment approaches, limiting useful comparison within the growing published literature of wildfire smoke epidemiology. More research to define wildfire smoke-affected time periods is needed to validate methods currently in use”.</p> <p>Researchers are using different techniques for estimating PM. How reliable are these regulatory limits when researchers are all using different methods to assess levels of PM?</p>	L&I is relying on peer-reviewed literature for its rulemaking. We would like to better understand your question; please follow up with us outside this meeting or raise your hand to clarify.
25	Marissa Mianzo	Oregon enforces use of N95s at an AQI of 251 without fit test, med evaluation, etc. My suggestion is to keep it consistent with another state that has possibly done the research.	Thank you for your feedback, we will take this under advisement.
26	Anonymous Attendee	At the time N95 becomes required 201 AQI or 301 AQI would workers be required to be clean shaven as an N95 would do little to protect without this?	There would be no requirement to ensure employees are clean shaven. The training provided should educate workers on the importance of shaving to ensure effective use as well as other methods to choose size and fit checks, however the department elected to not make it a regulatory requirement.

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

27	Anonymous Attendee	Isn't a fit test or medical questionnaire required for employees who are required to wear an N95 respirator? I don't quite understand how employers will be required to enforce their employees to wear the N95's without a proper fit test and medical questionnaire being completed.	An employer can choose to have employees medically evaluated and fit tested prior to N95 use. It is not going to be regulatory requirement in the rule to do so. Wildfire smoke events can happen suddenly and the preference would be to provide PPE even if the medical and fit test is not current, although I would highly encourage any employer to be prepared before an event happens, however this can be challenging for different industries.
28	Patrick Holden	Do you recognize who you are aiming this regulation at? Farmers, small construction companies, landscaping contractors, are going to be absolutely overwhelmed by this standard.	Thank you for your comment; we will take this under advisement.
29	Anonymous Attendee	Why can't KN95s be used instead of N95?	KN95s are not effective against the small particulate, PM2.5, that is in wildfire smoke.
30	Anonymous Attendee	It is important that stakeholders can review and consider feedback from other stakeholders. L&I is not publishing all written submissions. Why are you withholding some information?  Please publish all written submissions.	We have recently published written submissions here: <a href="https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke#stakeholder-feedback">https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke#stakeholder-feedback</a> .
31	Anonymous Attendee	OR OSHA sets the mandatory respirator use at 251 AQI. This seems to split the difference between the proposed 201 and 301. Therefore, doesn't it just make good sense to adopt the same rule and keep it the same between both states?	Thank you for your comment. We will take this under advisement.
32	Anonymous Attendee	It seems by expanding upon the term sensitive groups, you are causing unneeded confusion.	Thank you for your comment.

## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

33	Anonymous Attendee	I think I speak for everyone when I say, the definition for sensitive groups needs to be re-worked. Outdoor workers SHOULD NOT be included in this. This is not in line with any other Wildfire Standard I am aware of and only cause's confusion. If everyone covered by the rule is considered part of a sensitive group that term seems to become useless, as everyone all time no matter the circumstances are included, as long as they are simply outdoors.	Thank you for your comment.
34	Anonymous Attendee	I agree with the other stakeholders that outdoor workers should not be included in Sensitive Groups	Thank you for your comment.
35	Stephen Frost	Have you really thought through this rule proposal or have you just brainstormed at L&I? It appears to me that you need to suspend the rulemaking until you consider clarifying all the stakeholder questions from this session and all the prior sessions.	Thank you for your comment. If there are particular questions you would like us to consider, please feel free to send them to us.
36	Anonymous Attendee	I agree with Marissa M. to have the final rule consistent with Oregon's action level for requiring N95 respirators at AQI 251 instead of the 150.5.	Thank you for your comment.
37	Patrick Holden	I am not confused by your answer, I'm confused why you keep giving it over and over again. Clearly your answer conflicts with what you say in the standard.	Thank you for your comment.
38	Stephen Frost	The question is, "have you thought this rulemaking through?"	The Department has held many stakeholder meetings over the past year detailing the thinking and background for the rulemaking. You can find this information on our stakeholder page, here: <a href="https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke#background">https://lni.wa.gov/safety-health/safety-rules/rulemaking-stakeholder-information/wildfire-smoke#background</a> .



## Wildfire Smoke Virtual Stakeholder Meeting - October 13, 2022

### Questions and Answers

39	Patrick Holden	It is actually about the 500 level trigger and Chris said this would be truly disaster conditions. So why put the burden to develop full respiratory programs on small businesses and contractors?	Thank you for your comment. One thing we have heard from stakeholders is that they would like us to be identical to Oregon and California, both of which have this provision.
40	Anonymous Attendee	Was this presentation recorded?	Yes. You can see a recording of this meeting on TVW, the link is in the chat.