

WASHINGTON FARM BUREAU

To: Washington State Department of Labor and Industries via Cynthia.Ireland@lni.wa.gov

Date: October 20, 2022

RE: WAC 296-62-085 Wildfire Smoke Rulemaking

The Washington Farm Bureau is the state's largest agricultural organization representing more than 47,000 member families statewide. We are a voluntary, grassroots advocacy organization representing the social and economic interests of farm and ranch families at the local, state, and national levels. We respectfully request consideration of the below recommendations on behalf of our farm and ranch members.

Data should be validated prior to rulemaking

In earlier presentations regarding the rule, DOSH representatives presented data showing the number of days certain areas of the state had AQI/PM 2.5 levels above certain thresholds. A question was asked about this data's accuracy, and this was the response from DOSH (taken from the Q&A):

One thing that should be pointed out is that this is preliminary data. We have not had a chance to go through and validate it. We just wanted to be transparent with the trends we are currently seeing. Our next steps are going to be to reach out to the Department of Ecology to validate the data that we are looking at.

This is the point here on the top right chart that you indicated. This is actually the Seattle-Beacon Hill monitoring location. In response to your earlier question, per the Department of Ecology's website, it looks like they were listing the maximum to be around 209. We are not sure where this number came from, but we will be looking at that again once we have a chance to validate this data. So again, take these numbers with a grain of salt. They might not be exact, but they do reflect the general trends we are seeing right now.

Has the Department had a chance to take another look at this data, so stakeholders don't need to take the numbers "with a grain of salt?" It is important for stakeholders to know what the potential impacts of the rules will be based upon the historical information on AQI in certain areas of the state. We would expect the Department would need to obtain this data for the required Small Business Economic Impact Statement prior to finalizing any rule.

There are limitations to the methods of the exposure assessments as well. The monitors are not distributed evenly throughout the state. Because the department is relying on public health data, the monitors relied on are unevenly distributed in metro areas. This does not accurately identify the concentration in much of the state. Let us not confuse concentration with exposure. The Department has not provided any data identifying exposure.

The studies provided were conducted for public health advisory intentions. This potentially means the exposure is up to 24 hours a day for seven days a week. Exposed groups include children under the age of 14 and over the age of 65. The respiratory systems of these groups are different than those in the typical working age range. This group represents a very small percentage of the workforce, but likely represents a large percentage of the adverse effects identified in the public health studies.

There is not current airborne contaminant permissible exposure limit, threshold limit value, or other recommended limit established by NIOSH, ACGIH, or other governing or advisory agencies. Without such, respiratory protection recommendations for varying APFs are not based on scientific data. They are subjective. The Department cannot assume PELs, STELs, and ceilings without actual exposure levels and a time component.

As written, this rule is confusing

There are seven thresholds for employers to keep track of:

	Threshold	Action
1	Anticipation of wildfire smoke exposure of 20.5 µg/m ³ or more	<ul style="list-style-type: none"> • Create plan • Train employees
2	Two or more <i>current</i> readings 20.5 µg/m ³ or more	<ul style="list-style-type: none"> • Alert employees • Encouraged to provide exposure controls
3	35.5 µg/m ³ or more	<ul style="list-style-type: none"> • Alert employees • Provide exposure controls when feasible • Provide N95s for voluntary use
4	150.5 µg/m ³ or more	<ul style="list-style-type: none"> • Alert employees • Require respiratory protection
5	250.5 µg/m ³ or more	<ul style="list-style-type: none"> • Alert employees
6	500.4 µg/m ³ or more	<ul style="list-style-type: none"> • Alert employees • Require respiratory protection <ul style="list-style-type: none"> ○ N95 ○ ½ face w/P100 filters ○ Other respirator with P100 filters and APF ≥ 10 • Enroll in complete program
7	555.5 µg/m ³	<ul style="list-style-type: none"> • Alert employees • Require respiratory protection <ul style="list-style-type: none"> ○ Loose fitting PAPR ○ Full-face PAPR ○ Other respirator with APF ≥ 25

The language is redundant and complicated.

- *Redundant* – Exemption for indoor workplaces outside of the scope. (08510(2)(a)-(b))
 - *Complicated* – employers are required to check forecast, but alert employees when current readings are above thresholds. (08530(1)) & (08540(1))
 - How long prior to each shift must readings be taken?
 - Periodically thereafter?
 - *Redundant* - The wildfire smoke response plan must have a plan for wildfire smoke response. (08540(3)(e))
 - Approved forecast method does not allow third party push notifications or other alerts.
 - *Redundant* – respiratory protection training according to appendix. (08540(3)(f) – (g))
 - *Redundant* – Training according to Appendix B, which is repeated in (08550), and the same as the response plan.
 - *Redundant* – Employers are already required to allow employees to seek medical treatment. (08560(2))
 - *Complicated* – There are seven different thresholds.
 - *Redundant* - require HEPA filters in all indoor environments. (08570(3)(b))
 - Exposure controls should have a measurable impact. Avoiding work that creates dust or smoke, reducing work intensity, providing rest breaks does not reduce exposure if we're only measuring air concentrations. (08570(e)-(g))
 - Exposure controls should also include respiratory protection.
 - Are respirators with an APF of 25 or more required to have a quantitative fit test to validate?
 - *Overreaching* – is there data to support wildfire smoke causes heart failure and early death? (Appendix B 08590)
 - *Overreaching* – Sensitive groups include outdoor workers, people under the age of 18 and over the age of 65, people of color, tribal or indigenous people, and people with low income. The Department should not adopt employee safety and health rules to battle perceived social issues.
 - *Confusing* – Is Appendix B intended to be a sample response plan? If so, it needs work.
 - *Confusing* – Page 9 requirements for respiratory protection.
1. Industries such as agriculture often have multiple crews dispersed around a wide geographic area. Often, these are in remote areas with little or no cell phone service or other reliable means of communication that would allow supervisors/company safety personnel to access web based AQI information or to receive communication of AQI information from the company headquarters/office. How often are employers required to check/measure AQI levels and report them to workers during the day?
 2. Since portable air quality monitoring devices are permitted to be used, and may be the only viable alternative to remote area workers, the Department should compile a list of acceptable monitoring equipment for the purposes of the rule so that thousands of employers won't individually have to research which monitors are acceptable, how to employ them properly, etc. The Department could compile such a list and post it so that employers could be confident in purchasing the proper equipment in order to meet the requirements of the rule.
 3. The Department has asked for input regarding the threshold for required use of N95 respirators. Farm Bureau strongly urges that the threshold be set at AQI of 301.
 4. The cost difference between an N95 and a PAPR is substantial. The Department cannot assume employers will be able to afford PAPRs as a feasible alternative for all employees who cannot pass a respirator fit test or will not shave for work.

5. All outdoor employers who have never had a respirator program will likely be required to establish one according to this rule.
6. Appendix B is confusing. Is it a training? Is it a sample program? Is it a summary of the rule?

Thank you in advance for your thoughtful and responsive consideration of these concerns.

Prepared by the departments of:

Washington Farm Bureau Safety
Government Relations