



WASHINGTON REFUSE & RECYCLING ASSOCIATION

October 21, 2022

Ms. Cindy Ireland
Rulemaking Lead
Department of Labor & Industries
PO Box 44620
Olympia WA 98504-4620

RE: Permanent Wildfire Smoke Rule Informal Comments

Dear Ms. Ireland:

The Washington Refuse and Recycling Association (WRRA) is the oldest Solid Waste Trade Association operating on the West Coast of the United States, founded 75 years ago. WRRA represents the private sector solid waste and real recycling industry in Washington - from curbside collection service to state-of-the-art recycling facilities and landfills. WRRA member companies and the solid waste industry serve a vital role in public health, safety, and environmental protection.

WRRA has participated throughout the rulemaking and stakeholder process and offered comments on the previous emergency wildfire smoke rules. We appreciate the Department's work toward protecting our industry's most valuable asset: its workers.

Thank you for the opportunity to comment on the permanent rule. The brief window to comment on the draft permanent does not afford associations the opportunity to consult with industry members or provide substantial and meaningful review. However, many issues that WRRA commented on previously in the emergency rule remain relevant to the permanent rule draft. We submit WRRA's attached comments on the emergency rule as comments on the informal draft of the permanent rule.

Respectfully submitted,

Brad R. Lovaas

Executive Director



WASHINGTON REFUSE & RECYCLING ASSOCIATION

May 13, 2022

Ms. Cindy Ireland
Rulemaking Lead
Department of Labor & Industries
PO Box 44620
Olympia WA 98504-4620

RE: 2022 Emergency Wildfire Smoke Rule

Dear Ms. Ireland:

The Washington Refuse and Recycling Association (WRRA) is the oldest Solid Waste Trade Association operating on the West Coast of the United States, founded 75 years ago. WRRA represents the private sector solid waste and real recycling industry in Washington - from curbside collection service to state-of-the-art recycling facilities and landfills. WRRA member companies and the solid waste industry serve a vital role in public health, safety, and environmental protection.

Our members work in their communities every day and provide essential services. Washington's solid waste system is a successful public-private partnership. Washington's regulated and municipal solid waste collection system provides for excellent service, has consistently beat the national recycling rate by double digits, and maintains family wage jobs in every community in which we operate - all at a transparent and affordable price. We have an obligation to serve and to provide universal service as directed by the state and local governments.

WRRA provides the following comments on the proposed emergency draft rule and requests that the department defer any significant changes from the 2021 emergency rule to the permanent rulemaking.

Comment #1: WRRA members are essential service providers and support protecting workers from dangerous wildfire smoke exposure.

WRRA supports the Department's goal to protect workers from wildfire smoke exposure. Our industry's greatest asset is our workers. Throughout the COVID-19 pandemic, our workers were on the front lines to ensure that garbage pick-up occurred on time. To prevent another

public health crisis, we maintained continuity of the essential public health services provided by our industry.

Comment #2: The emergency rule should use established AQI thresholds and protective measures from the 2021 rule while a cost-benefit analysis is conducted for the permanent rule.

The Department should defer substantial changes from the 2021 emergency rule to permanent rulemaking. WRRRA and other members of the business community urged the Department to use well established air quality standards for the 2021 emergency rule. We again request that the Department hold significant departures from established standards for permanent rulemaking where stakeholders and the Department can review and engage with the best available data.

The emergency rule should reflect the established risk level to workers. The proposed rule triggers when workers are exposed to PM_{2.5} of 20.5µg/m³ or a score of 69 out of 500 on the federal Air Quality Index (69). An AQI score between 50 and 100 means that “air quality is acceptable” though “pollution in this range may pose a *moderate* health concern for a *very* small number of individuals (emphasis added).”¹

The proposed 2022 emergency rule departs from the 2021 emergency rule and requires employers to provide respirators at 101 AQI, instead of 151 AQI. When AQI values are between 101 and 150, members of sensitive groups may experience health effects, but the general public is unlikely to be affected.² California’s wildfire smoke rule triggers at a 151 out of 500 AQI score.³ At scores of 151-200, “everyone may begin to experience health effects” and “sensitive groups may experience more serious health effects.”

Many organizations use similar thresholds to protect athletes and others that engage in outdoor physical activities. For example, the National Collegiate Athletic Association (NCAA) finds that at 150 AQI “outdoor activities should be shortened” and “sensitive athletes should be moved indoors.”⁴ Similarly, the American Lung Association finds that “unusually sensitive individuals” should limit outdoor exertion under 100 AQI and “everyone else” should limit prolonged outdoor exertion at over 150 AQI.⁵ The 151 AQI threshold is backed by science and aligns with California and Oregon, allowing companies to use a consistent approach along the West Coast. Workers in sensitive groups should always have the *option* to wear respiratory protection at lower AQI.

¹ Environmental Protection Agency, “A guide to Air Quality and Your Health” at pg. 3. https://www.airnow.gov/sites/default/files/2018-04/aqi_brochure_02_14_0.pdf

² *Id.*

³ California Code of Regulations, [Title 8, section 5141.1\(a\)\(1\)\(A\)](#)

⁴ NCAA Sports Science Institute, “Air Quality.” <https://www.ncaa.org/sport-science-institute/air-quality>

⁵ American Lung Association, “What Is the Air Quality Index?” <https://www.lung.org/clean-air/outdoors/air-quality-index>

The 2021 emergency rule allowed employers to provide KN95 filtering facepiece respirators during the 2021 wildfire season. KN95 respirators have been used effectively by many companies who purchased large quantities for the 2021 rule. In industries such as waste collection, KN95 masks are easier for employees to use while performing their job duties than N95 respirators. At the very least, the Department should conduct a cost-benefit analysis on KN95s and N95s, along with appropriate AQI thresholds before the final rule.

Several employers have requested that the Department conduct a cost-benefit analysis for the final rule and maintain the standards from the 2021 emergency rule for 2022. WRRRA would support this process. The Department should work closely with stakeholders to determine appropriate threshold(s) for the final rule.

Comment #3: Local air agencies, Labor and Industries, or the Department of Ecology should have a larger role in providing notice and guidance when wildfire smoke is expected.

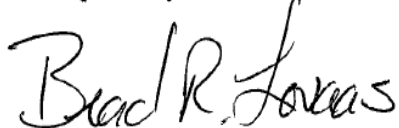
WRRRA understands and supports the goal to protect workers from exposure during the coming wildfire season, but employers need further guidance and resources from regulators to be successful. Before imposing new emergency requirements on employers, the State should develop their own protocols for providing notice to employers when the rule may be in effect. WRRRA understands this will require significant work and likely imposes a burden on limited state agency resources. However, this is precisely the same difficulty that employers face in implementing the emergency rule requirements. We all share the goal of protecting workers. A successful policy will require strong support and engagement from all relevant state agencies.

Comment #4: Clarity for transportation sector employers where commercial vehicles are dispatched to service areas across large geographic areas.

Transportation sector employers often dispatch many workers in vehicles across significant geographic areas, and the solid waste industry is no different. Employers need clear direction on air quality monitoring for workers out in the field. Monitoring the AQI for dozens or more workers in moving vehicles at every point along a collection route is unfeasible. The emergency rule should provide clear, workable direction to transportation sector employers on where and when AQI can be measured to determine worker exposure.

Please direct any questions or comments to Rod Whittaker at rod@wrra.org. Thank you for the opportunity to comment.

Respectfully submitted,

A handwritten signature in black ink that reads "Brad R. Lovaas". The signature is written in a cursive, flowing style.

Brad R. Lovaas

Executive Director