

Written Feedback on draft rule, WAC 296-62-085 Wildfire Smoke

WAC 296-62-08510 Purpose and scope

Removing “for wildfire smoke” changes the scope and purpose of this draft rule. Without “for wildfire smoke” the proposed rule can be interpreted to be an all-encompassing rule on air quality. If the Department is seeking to regulate ozone in general and not wildfire smoke specifically, then this needs to be made abundantly clear.

AQI 69 is too low for application of this rule. Such a low threshold makes this a de facto regulation of ozone instead of focusing on wildfire smoke.

WAC 296-62-08570 Exposure controls

Requiring employers to implement effective exposure controls at AQI 101 is too low a threshold for application of this rule.

WAC 296-62-08580 Respiratory protection

The requirement for the employer to provide respirators when $PM_{2.5}$ is $20.5 \mu\text{g}/\text{m}^3$ (AQI 69) is too low a threshold.

The requirement for the employer to provide N95 filtering-facepiece respirators when $PM_{2.5}$ is $35.5 \mu\text{g}/\text{m}^3$ (AQI 101) is too low a threshold.

N95 filtering-facepiece respirators should not be required when $PM_{2.5}$ is $150.5 \mu\text{g}/\text{m}^3$ (AQI 201) or when $PM_{2.5}$ is $250.5 \mu\text{g}/\text{m}^3$ (AQI 301). If the choice is either AQI 201 or AQI 301 being the triggering threshold, then AQI 301 is preferable, but it should only trigger a voluntary response, not a required response.

Unfitted respirators are ineffective. This is shown in graphic *PM_{2.5} Concentration Inside Respirator ($\mu\text{g}/\text{m}^3$) in the Wildfire-2022-10-wfs-stakeholder-packet*. Improper use of a respirator can pose a greater risk to health than the environmental risk that its use is trying to mitigate. This rule would require workers to act on their own initiative to receive the potential benefit of a respirator while assuming all the risk associated with wearing one.

Where the current PM_{2.5} is 500.4 µg/m³ (AQI 500) or more, the requirement should be for employers to provide N95 filtering-facepiece respirators to all exposed employees for voluntary use. Half-piece and other respirators should be available to employees under voluntary use. Requiring all employees to be enrolled in a complete respiratory protection program and to wear respirators is unreasonable.

Employers should have leeway to make decisions that are in the best interest of their employees. It is unreasonable to expect employers to enroll all employees in a respiratory protection plan just by virtue of them working outdoors.

General comment:

The posture of the Department was clearly demonstrated at the in-person meeting in Tukwila where every L&I representative was masked, including one in a PAPR, while every stakeholder showed their faces. This draft rule was developed over the past two years in an environment of normalizing and encouraging the use of face coverings without fit testing, enrollment in a respiratory program, or unequivocal efficacy data.

Respirators are not zero cost. Many are single use plastics that end up in storm drains, wetlands, and oceans. Placing a barrier between a person's respiratory tract and the atmosphere is inherently risky. This rule perpetuates the normalization of wearing PPE symbolically instead of efficaciously and is ill-advised.