

Washington State Adopts New, Permanent Wildfire Smoke Regulations

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By Kathryn P. Fletcher and Theodore G. Lee

On December 14, 2023, the Washington State Department of Labor and Industries (L&I) finalized and adopted new rules focused on protecting workers from wildfire smoke hazards that take effect on January 15, 2024.



In June 2022, L&I [adopted emergency rules](#) that added to earlier emergency rules to protect employees working outside from wildfire smoke hazards. The new rules largely incorporate the emergency rules but also have a new exemption, revised definitions, and additional clarifications on employer obligations. With these new rules, Washington joins [Oregon](#) and [California](#) as the only states to regulate wildfire smoke hazards for workers.

Quick Hits

- L&I adopted new rules related to wildfire smoke that will go into effect on January 15, 2024. The new rules permanently adopt, with some modifications, the emergency measures implemented in 2021 and 2022.

- Among various requirements, the regulations will require employers to determine the presence and level of wildfire smoke pollutants at the workplace, establish and implement a two-way wildfire smoke hazard communication system, provide information and training related to wildfire smoke to employees before commencing work that exposes them to pollutants, and determine if medical attention is needed for some certain workers.
- Exempted from the regulatory scope are certain worksites and activities, such as buildings where employers ensure that exterior openings are generally kept closed and vehicles in which the air is filtered and windows and doors are generally kept closed but opened only very briefly, as well as work within the scope of firefighters and prescribed burns.

New Wildfire Smoke Regulations

The new measures will be codified in the Washington Administrative Code (WAC) Chapter 296-820, Wildfire Smoke. A similar set of rules newly applicable to the agriculture industry are codified at WAC 296-307.

The [new regulations](#) require employers to:

- periodically determine current PM_{2.5} levels for covered worksites;
- establish and implement a two-way wildfire smoke hazard communication system in a form readily understandable by all affected employees, including means to encourage employees to inform employers of wildfire smoke hazards without fear of reprisal;
- include a wildfire smoke response plan tailored for the workplace in the written accident prevention plan program before engaging in work that exposes employees to a certain PM_{2.5} concentration level, covering ten mandatory elements;
- provide all employees “with information and training regarding wildfire smoke before work that exposes” the employees to the threshold PM_{2.5} concentration level, and training “at least annually thereafter.” Training must include the detailed information found in WAC 296-820-850, Appendix A, such as “identification of health effects and symptoms of wildfire smoke exposure,” “[t]he importance of informing the employer when the employee is experiencing symptoms of wildfire smoke exposure,” and information regarding proper respirator use; and
- implement enhanced assessment, monitoring and medical response for wildfire smoke exposure symptoms.
- At varying elevated PM_{2.5} levels, implement certain exposure controls, and comply with provision and use requirements for N95 filtering- facepieces or other compliant respirators.

The Department of Labor and Industries has set up a new [webpage](#) to provide employers with information and resources related to the new wildfire smoke rules.

Ogletree Deakins' [Seattle office](#) will continue to monitor developments and will provide updates on the firm's [Washington](#) and [Workplace Safety and Health](#) blogs as additional information becomes available.

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AUTHORS



Kathryn P. Fletcher

Of Counsel, [Seattle](#)



Theodore G. Lee

Associate, [Sacramento](#)

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