

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

ITC SP21-10

Title	Action Requested
Court Facilities: Use of Air Filtration Devices During Wildfires	Review and submit comments by January 10, 2022
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Judicial Council Policy on the Use of Air Filtration Devices During Wildfires	May 13, 2022
Proposed by	Contact
Trial Court Facility Modification Advisory Committee Hon. Donald Cole Byrd, Chair	Jennifer Chappelle, 916-263-1945 jennifer.chappelle@jud.ca.gov

Executive Summary and Origin

At its October 2021 meeting, the Trial Court Facility Modification Advisory Committee (TCFMAC) recommended to the Judicial Council that it adopt the proposed policy which terminates the recent practice of providing air filtration devices at Judicial Council expense during wildfire events. The policy permits trial courts to fund such services if they want.

Background

Over the past several years, as wildfire events have increased in scope and number, the Judicial Council's Facilities Services has allocated an increasing portion of its Facility Modification (FM) annual budget to the deployment of air filtration devices (portable air cleaning equipment, also known as air purifiers, air scrubbers, or air sanitizers) in courthouses impacted by excessive smoke. In fiscal year 2020-21 alone, \$4,844,692 were expended on air filtration devices, causing a budget shortfall. To address the shortfall, the TCFMAC ceased all funding of Priority 2 FMs for several months while the Judicial Council sought a budget augmentation from the State.

At the July 2021 TCFMAC meeting, the committee received a presentation from staff on the available data on the effectiveness of air filtration devices, industry standards, and workplace safety regulations. Due to the lack of data, standards, and regulations, and to prevent a budget shortfall in fiscal year 2021-22, the committee 1) adopted interim guidelines for deployment and funding of air filtration devices (Interim Guidelines), 2) approved a pilot study on the effectiveness of air filtration devices in courthouses affected by wildfire smoke (which

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concluded on September 30, 2021), and 3) directed staff to develop a formal policy on the use of air filtration devices during wildfires. The Interim Guidelines are as follows:

- a. If the outside Air Quality Index (AQI) (level) is 400 or less, the air scrubbers be provided exclusively at the expense of the trial court that requests the use of such devices; and
- b. If the AQI is in excess of 400, the cost of air scrubbers for that trial court locality will be shared 50/50 between the Judicial Council's budget and the budget of the trial court.

The Proposal

The goal of this policy reviewed and discussed at the October 2021 TFMAC meeting is to make clear that the Judicial Council will no longer pay for air filtration devices during wildfire events since a recent test conducted by a licensed industrial hygienist of the effectiveness of such devices in three courthouses found they “did not appear to consistently improve air quality throughout the facility tested.” Further, no other state agency uses such devices on a regular basis during these conditions. This policy also addresses other mitigation measures that can be used during such wildfire events, including the possibility that a local court may exercise its discretion to curtail or fully close operations at a given location when necessary.

To determine the efficacy of air filtration devices in operating court facilities, the Judicial Council retained an industrial hygienist to perform indoor air quality assessments at three courthouses impacted by wildfires during the summer of 2021. The purpose of the assessment was to evaluate indoor air quality before and after using air filtration devices. Specifically, the hygienist monitored particulate matter 2.5 (PM2.5) levels, provided recommendations for the optimal number and locations of air filtration devices for each building to best improve the air quality in the building, conducted air monitoring for PM2.5 while using air filtration devices, and analyzed the PM2.5 levels post-filtration usage.

These steps were undertaken to determine if the use of air filtration devices in buildings situated near wildfires improve the indoor air quality for the occupants.

Baseline data was collected without the use of air filtration devices and was compared to data collected during and after using air filtration devices. The comparison was performed by calculating the difference in concentrations of PM2.5 between the indoor and outdoor air.

The data did not indicate a consistent improvement of air quality when operating the air filtration devices. Slight improvements in PM2.5 levels were identified but were localized to locations very near where the air filtration devices were operating. The hygienist concluded that the use of air filtration devices in the facilities did not reduce the level of PM2.5 particulates, nor did they provide an improvement to indoor air quality throughout any of the facilities.

Additionally, a review of the practices of other California state government agencies identified that air filtration devices are not routinely used by other State and public agencies. Given the lack of improvement in indoor air quality as defined by PM2.5 levels with the use of air filtration devices, and the lack of air filtration device usage by State and public agencies, the policy would establish that the Judicial Council would not fund the deployment of air filtration devices in trial court facilities.

Alternatives Considered

Alternatives considered included continuing to fund, in whole or in part, deployment of air filtration devices during wildfire events (a) on request with 100% of the cost carried by the FM budget; (b) as provided in the Interim Guidelines; or (c) as provided in the Interim Guidelines but with the AQI trigger changed from 400 to 250 or some other level. The alternatives were rejected based, in part, on the findings of the pilot program which indicate a lack of consistent improvement of air quality when operating the air filtration devices in operating courthouses.

The policy includes mitigation measures the Judicial Council and courts can take to limit the effects from wildfire smoke in court facilities, such as adjusting the ventilation systems air intake settings. The courts may provide respirators, such as N95 filtering facepiece respirators, to all employees for voluntary use in accordance with California Code of Regulations, title 8, section 5144. Further, when conditions warrant it, a court may curtail or fully close in-person operations and/or rely on remote access to provide continuing public services when air pollution is at such an extreme level that it is prudent to do so.

Fiscal and Operational Impacts

Due to the extensive nature of fires statewide in FY2020/21 and the many requests from trial courts for deployment of air scrubbers Judicial Council expended \$4.8 million deploying air scrubbers. These unplanned expenses limited the Judicial Council's ability to perform other needed rehabilitation of failed and almost failed building systems and required Judicial Council to seek emergency funding from the State to augment the FM budget to respond to emergency maintenance projects, such a water leaks/floods and failed HVAC systems.

Since the pilot program testing established that the deployment of air filtration devices did not significantly improve indoor air quality in the operating court facilities tested and that other State and public agencies do not deploy air scrubbers during wildfire smoke events, the policy would establish that the Judicial Council would not fund the deployment of air filtration devices in trial court facilities.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Would a continuation of the Interim Guidelines as currently stated or at a different AQI trigger level better address the stated purposes and why?

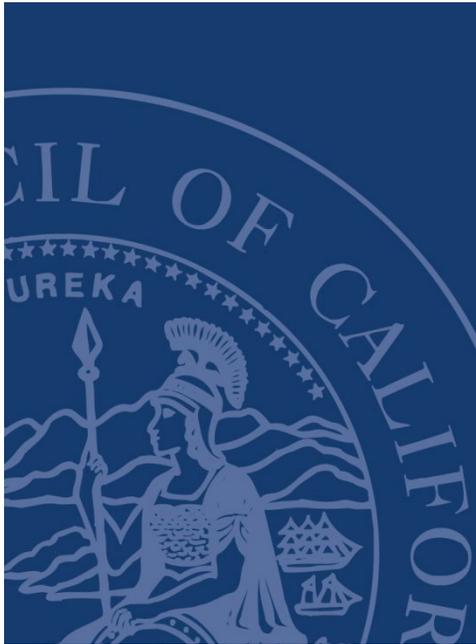
The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Are there other mitigation measures the Judicial Council has not considered?
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures?
- Would a May 2022 Judicial Council approval of this proposal provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

All written comments received will be judicial administrative records disclosable under Rules of Court Rule 10.500.

Attachments and Links

1. Materials for November 2021 Meeting of TCFMAC (see Action Item 1):
<https://www.courts.ca.gov/documents/tcfmac-20211115-materials.pdf>
2. Materials for October 2021 Meeting of TCFMAC (see Action Item 6):
<https://www.courts.ca.gov/documents/tcfmac-20211029-open-materials.pdf>
3. Materials for July 2021 Meeting of TCFMAC (see Action Item 7):
<https://www.courts.ca.gov/documents/tcfmac-20210719-OPEN-materials.pdf>
4. Minutes for the July 2021 Meeting of TCFMAC (see Action Item 7):
<https://www.courts.ca.gov/documents/tcfmac-20210719-Open-Minutes.pdf>



Judicial Council of California Policy on the Use of Air Filtration Devices During Wildfires

NOVEMBER 15, 2021

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1. Purpose and Scope

The purpose of this Judicial Council of California policy is to establish guidelines for the use of air filtration devices during wildfires to mitigate the impacts of wildfire smoke on Judicial Council-owned and Judicial Council-managed court facilities and operations. This policy also includes an analysis of the efficacy of air filtration devices.

2. Legal Authorities

Government Code section 70352 establishes the Court Facilities Trust Fund (Fund 3066) and authorizes money deposited in this fund and appropriated by the Legislature to be administered by the Judicial Council for the operation, repair, and maintenance of court facilities and for other purposes provided by statute.

Government Code section 70301 includes heat, ventilation, air-conditioning, light, and fixtures for those rooms and chambers as components of court facilities. (Section 70301(d).) Section 70301(g) defines “maintenance” as the ongoing upkeep of buildings, equipment, grounds, and utilities required to keep a building and its systems in a condition adequate to support its designed level of service. Section 70301(h) defines “responsibility for facilities” as the obligation of providing, operating, maintaining, altering, and renovating a building that contains the facilities.

3. Policy Goal

The goal of this policy is to define actions that can be taken by the Judicial Council during wildfire events to support court facilities, court operations, and court occupants.

4. Definitions

- 4.1 **Air filtration devices:** Portable air cleaning equipment, also known as air purifiers, air scrubbers, or air sanitizers, designed to filter the air in a single room or area by using fans to draw in air from a room, passing it through a filter to remove particles, then expelling the filtered air back into the room.
- 4.2 **Particulate matter 2.5 (PM2.5):** Solid particles and liquid droplets suspended in air, known as particulate matter, with an aerodynamic diameter of 2.5 micrometers or smaller.
- 4.3 **Air Quality Index:** The U.S. Environmental Protection Agency’s index for reporting air quality, ranging from 0 (“Good”) to 301 and higher (“Hazardous”). An index value of 151 is considered “Unhealthy,” in which some members of the general public may experience health effects and members of sensitive groups may experience more serious health effects
- 4.4 **Mechanical ventilation system:** Heating, ventilation, and air-conditioning system used for moving air between indoor and outdoor areas, along with heating and cooling in buildings.

4.5 **Filtering facepiece respirator:** A negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium (examples include N95 filtering facepiece respirators).

5. **Efficacy of Air Filtration Devices**

The Judicial Council has determined, based upon the findings of a professional industrial hygienist, that air filtration devices do not significantly reduce the level of PM2.5 particulates and do not provide a significant improvement to indoor air quality in the court facilities studied.

6. **Air Filtration Use by Other Public Agencies and the Private Sector**

A review of the practices of other California state government agencies demonstrates that air filtration devices are not used by the Department of General Services, the Department of Corrections and Rehabilitation, or other state agencies for state-owned buildings. A similar review of the practices of public and private universities in California has failed to demonstrate any regular use of air filtration devices in their facilities during the occasions of wildfires.

7. **Judicial Council-Permitted and Judicial Council-Funded Deployment of Air Filtration Devices**

7.1 Given the lack of improvement in indoor air quality as defined by PM2.5 levels with the use of air filtration devices and the lack of use by public agencies and the private sector, the Judicial Council will not fund the deployment of air filtration devices in trial court facilities.

7.2 Courts occupying Judicial Council-owned and Judicial Council-managed facilities may utilize air filtration devices at their own expense.

8. **Other Mitigation Measures**

8.1 When the outdoor Air Quality Index for PM2.5 is 151 or greater, building operators of mechanical ventilation systems in Judicial Council-owned and Judicial Council-managed facilities may minimize the quantity of outside air provided to the extent feasible to mitigate the impact of wildfire smoke.

8.2 Any deviation from the standard operations of mechanical ventilation systems in Judicial Council-owned and Judicial Council-managed facilities must be coordinated with Judicial Council Facility Services staff.

8.3 Employers may provide respirators, such as N95 filtering facepiece respirators, to all employees for voluntary use in accordance with California Code of Regulations, title 8, section 5144. The Judicial Council will not be responsible for provision of respirators to employees of other entities, court users or the public.

8.4 Further, when conditions warrant it, a court may curtail or fully close in-person operations and/or rely on remote access to provide continuing public services when air pollution is at such an extreme level that it is prudent to do so.

9. Questions Regarding Facility Operations During Wildfires

Judicial Council Facility Services staff are available to assist with questions regarding facility operations during wildfires.

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