



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-096

For business meeting on: July 15, 2022

Title

Court Facilities: Use of Air Filtration
Devices During Wildfires

Agenda Item Type

Action Required

Effective Date

July 15, 2022

Rules, Forms, Standards, or Statutes Affected

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

Date of Report

March 9, 2022

Recommended by

Trial Court Facility Modification Advisory
Committee

Hon. Donald Cole Byrd, Chair

Hon. William F. Highberger, Vice-Chair

Contact

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Executive Summary

The Trial Court Facility Modification Advisory Committee recommends adoption of a policy that governs responsibility for the cost of providing air filtration devices and their use at trial court facilities during wildfire events and other appropriate mitigation measures to protect court users, court staff, and judicial officers. The recommendation is based on a study performed where the data did not indicate a consistent improvement of air quality when operating the air filtration devices, and the need to make the best and most cost-effective use of limited judicial branch facilities funds.

Recommendation

The Trial Court Facility Modification Advisory Committee recommends that the Judicial Council, effective May 13, 2022, adopt the *Judicial Council Policy on the Use of Air Filtration Devices During Wildfires* (Attachment A).

Relevant Previous Council Action

The council has taken no previous action on a policy concerning responsibility for the cost and the use of providing air filtration devices at trial court facilities.

Analysis/Rationale

Over the past several years, as wildfire events have increased in scope and number, the Judicial Council's Facilities Services office has allocated an increasing portion of its Facility Modification (FM) annual budget to the deployment of air filtration devices in courthouses impacted by excessive smoke. In fiscal year (FY) 2020–21 alone, \$4,844,692 (7.4% of the annual FM budget) was expended on air filtration devices, causing a budget shortfall. To address the shortfall, the Trial Court Facility Modification Advisory Committee (TCFMAC) ceased all funding of Priority 2 Urgently Needed Facility Modifications for several months while the Judicial Council required a budget augmentation of \$2,500,000 from the state to mitigate the shortfall caused by the air filtration device expenditures.

At the April 12, 2021 TCFMAC meeting, Facilities Services staff presented cost data to the committee that showed incurred and estimated costs for air filtration device deployment, purchasing, and maintenance from fiscal years 2015 to 2020. Staff also provided an overview of current regulations and a case study based upon the conditions and costs experienced at one courthouse during a wildfire event.

The committee determined further analysis was required to identify whether the use of air filtration devices results in improvements to indoor air quality. It directed staff to develop a process to determine the effectiveness of air filtration devices and standards for how and when the air filtration devices would be deployed to facilities.

At the July 19, 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. In light of the incomplete data on the effectiveness of air filtration devices, the gap in regulatory standards and requirements, and to prevent an FM budget shortfall in FY 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 (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 filtration devices will 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 filtration devices for that trial court locality will be shared 50/50 between the Judicial Council's FM budget and the budget of the trial court.

The Interim Guidelines are temporary in nature and will remain in place until the adoption of the formal policy.

To determine the efficacy of air filtration devices (portable air cleaning equipment, also known as air purifiers, air scrubbers, or air sanitizers) 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,¹ 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 at post filtration usage.

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

Baseline indoor air quality 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.

At its October 29, 2021 meeting, the Trial Court Facility Modification Advisory Committee reviewed the testing performed by a licensed industrial hygienist of the effectiveness of air filtration devices in three courthouses and found they did not appear to consistently improve air quality throughout the facilities tested. Further, no other state agency uses such devices on a regular basis during these conditions. Based on these findings, the committee approved the proposed policy that the Judicial Council not fund the deployment of air filtration devices in trial court facilities.

¹ The most harmful pollutants from wildfires are the fine particles or particulate matter with diameters of 2.5 micrometers and smaller, which are referred to as PM2.5.

On November 15, 2021, the Trial Court Facility Modification Advisory Committee held an out-of-cycle open meeting where revisions to the draft policy and to the invitation-to-comment memorandum (ITC SP21-10) were approved.

On January 31, 2022, the Trial Court Facility Modification Advisory Committee received a presentation from staff on the comments that were submitted during the invitation-to-comment period. The committee voted to recommend the Judicial Council adopt the draft policy. Four votes were in favor of the motion and two votes were opposed.

The proposed policy states that the Judicial Council will no longer pay for air filtration devices during wildfire events. The policy includes mitigation measures the council and courts can take to limit the effects from wildfire smoke in court facilities, such as adjusting the ventilation system's 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 exercise its discretion to 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. The policy permits trial courts to fund the use of air filtration devices at their discretion.

Policy Implications

The policy is consistent with the Judicial Council's responsibilities for trial court facilities under Government Code section 70391 and represents a cost-effective use of limited state and judicial branch funding. The policy also includes mitigation measures the Judicial Council and courts can take to limit the effects from wildfire smoke in court facilities to protect the health and safety of court users, court staff, and judicial officers in trial court facilities.

Comments

At the November 3, 2021 Court Executive Advisory Committee meeting, the committee received a presentation from staff on the results of the testing performed by a licensed industrial hygienist, a review of the draft policy, and a notification of the invitation-to-comment period.

The proposed policy was circulated for public comment from November 22, 2021, through January 10, 2022.

Three comments were received during the comment period. The first comment was from a member of the public (1) requesting access to the industrial hygienist reports, which were included in the invitation to comment and emailed directly to the commenter; and (2) providing suggestions that the Judicial Council should prioritize upkeep of Judicial Council owned and managed facilities, develop a long-term strategy to improve indoor air quality for existing buildings and new construction projects, and consider continuance of the Interim Guidelines for the safety of facility occupants with preexisting medical conditions. The commenter also suggested that a formal process should be developed that allows emergency court authority for facilities shut down during wildfires. This process exists and is addressed in the language of the policy.

The second comment was from a court executive officer confirming that the proposal appropriately addresses the stated purpose, that facilities funding would be better allocated to address the much-needed deferred maintenance and repair of facilities around the state, and that there was sufficient time for implementation of the policy. The commenter also provided suggestions for an additional mitigation measure of reaching out to the California Governor's Office of Emergency Services for potential funding and expertise to support wildfire smoke mitigation measures, such as reimbursement of N95 masks or provision of other associated equipment.

The third comment was from a court executive officer and committee member of the TCFMAC. The commenter described his experience with air filtration devices improving the air quality in his facilities during a wildfire smoke event. The commenter also described his conversations with both the industrial hygienist who performed the indoor air quality assessment for the Judicial Council and the California Air Quality Resources Board, which led him to believe that, when used properly, air filtration devices should reduce indoor levels of PM2.5 and generally improve indoor air quality. These comments were previously heard and discussed by the TCFMAC at its October 29, 2021 meeting. The committee opted to focus on the study performed. It accepted the industrial hygienist's conclusion that the use of air filtration devices in the facilities tested did not reduce the level of PM2.5 particulates, nor did the devices provide an improvement to indoor air quality throughout any of the facilities tested.

The commenter opined that other state agencies not utilizing air filtration devices had the ability to close their facilities, an option not available to trial courts, which are required to operate if safe to do so. These comments were previously heard and discussed by the TCFMAC at its October 29, 2021 meeting. The commenter wrote in support of current mitigation efforts—including the deployment of air filtration devices—and identified expense as one of the biggest challenges in using air filtration devices. The commenter suggested the Judicial Council purchase air filtration devices and deploy them to court facilities prone to wildfire smoke events. This comment is addressed in the Alternatives Considered section. The commenter also suggested a more structured cost analysis be conducted. This comment is addressed in the Alternatives Considered section.

No changes were made to the policy based upon these comments.

Alternatives considered

Alternatives considered included:

1. Performing an analysis of the costs to purchase and maintain air filtration devices in lieu of renting the equipment. The cost analysis was discussed at the April 12, 2021 Trial Court Facility Modification Advisory Committee meeting. The cost to purchase air filtration devices deployed in FY 2020–21 was compared to the costs spent on renting the equipment during that fiscal year. While the initial investment to purchase and maintain the equipment is less than the rental costs, the year-over-year costs must be considered along with the efficacy of the equipment.

An updated cost analysis was performed in January 2022, and the costs associated with the purchase of 764 air filtration devices is detailed in the table below.

Year		Equipment	Maintenance	Storage/ Deployment	Total Cost
Acquisition Year		\$ 1,573,000	\$ 921,000	\$ 322,000	\$ 2,816,000
AY+1			\$ 1,059,150	\$ 370,300	\$ 1,429,450
AY+2			\$ 1,218,023	\$ 425,845	\$ 1,643,868
AY+3			\$ 1,400,726	\$ 489,722	\$ 1,890,448
Total		\$ 1,573,000	\$ 4,598,898	\$ 1,607,867	\$ 7,779,765

2. Additional 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, or (b) as provided in the Interim Guidelines below:

- a. If the outside Air Quality Index (AQI) (level) is 400 or less, the air filtration devices will 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 filtration devices for that trial court locality will be shared 50/50 between the Judicial Council's budget and the budget of the trial court.

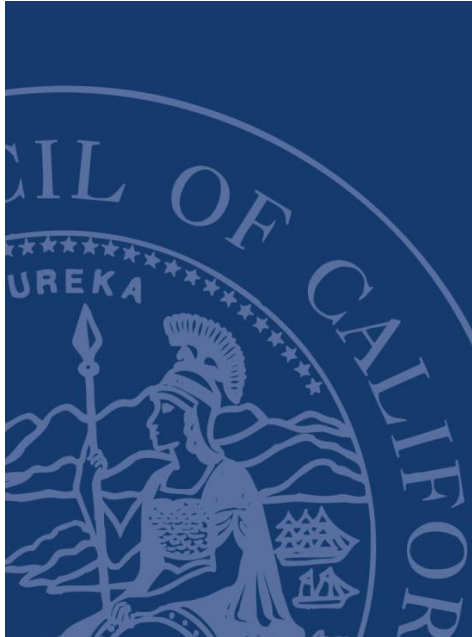
or (c) as provided in the Interim Guidelines but with the AQI trigger changed from 400 to 250, or some other level. The alternatives were rejected by the committee, based in part on the findings of the pilot program that indicate a lack of consistent improvement of air quality when operating the air filtration devices in operating courthouses.

Fiscal and Operational Impacts

Due to the extensive nature of fires statewide in FY 2020–21 and the many requests from trial courts for deployment of air filtration devices, the Judicial Council expended \$4.8 million deploying air filtration devices. The unplanned air filtration devices expense limited the Judicial Council's ability to perform urgently needed facility rehabilitation projects. As a result, the Judicial Council was required to seek emergency funding from the state to augment the Facility Modification budget to respond to emergency maintenance projects, such a water leaks/floods and failed HVAC systems. The policy will help the Judicial Council to fulfill its maintenance obligations under the current budget and in the future.

Attachments and Links

1. Attachment A: *Judicial Council Policy on the Use of Air Filtration Devices During Wildfires*
2. Attachment B: Summary of Comments



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

JULY 15, 2022

1. Purpose and Scope

The purpose of this Judicial Council 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. (Gov. Code, § 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 PM_{2.5} 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 PM_{2.5} 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 PM_{2.5} 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.

Summary of Comments and Advisory Committee Responses:
Draft Judicial Council Policy on the Use of Air Filtration Devices During Wildfires
 (All comments are verbatim)

	Comments	Advisory Committee Responses	Change to draft?
1.0	COMMENTS: Lolana Haunani, Member of public		
1.1	<p>Dear Trial Court Facility Modification Advisory Committee, Regarding Your Request for Specific Comments, in relation to the "Draft Judicial Council of California Policy on the Use of Air Filtration Devices During Wildfires" please find below commentary below:</p> <p>Question 1: Does the proposal appropriately address the stated purpose?</p> <p>The proposal as it stands now solves only one problem – it reduces expenditure from the Judicial Council budget in regard to deploying portable air filtration devices during wildfires.</p> <p>The Draft Policy reasoning and commentary that: <i>a hygienist study determined that the indoor local air filtration was ineffective, and that no other public entity deploys such devices</i>, are not valid reasons to cease deployment of devices since the methodology of the studies appears to have been deficient, and those topics should be evaluated further.</p>	<p>The committee accepted the industrial hygienist's testing and written reported conclusion that the use of air filtration devices in the facilities tested did not reduce the level of PM2.5 particulates, nor did they provide an improvement to indoor air quality throughout any of the facilities tested.</p>	No
1.2	<p>As a member of the general public, I am concerned with the lack of detail that has so far been provided in regard to the tests funded by public funds, carried on behalf of the Judicial Council by the industrial hygienist.</p> <p>Specifically, lacking details:</p> <ul style="list-style-type: none"> • Type and length of baseline conditions data gathered for each of the facilities • Monitoring equipment deployed – make, model, calibration details • Facilities & spaces evaluated: infiltration/air tightness; air pressure; ventilation systems details • Air filtration equipment deployed: specific location deployed (area & volume) make, model, clean air delivery rate • Parameters documented and time period of analysis with data sampling frequency • Raw Data captured • External and Buildings Conditions during deployment periods <p>As per Rules of Court Rule 10.500 the hygienist study, and associated data are judicial administrative records disclosable to the general public. Hereby I formally request that</p>	<p>The links to the industrial hygienist's report were provided to the commenter by email on 12/29/2021. These reports are also available in the Invitation to Comment, via the first hyperlink on page 4 which links to the November 15, 2021 TCFMAC meeting materials. The reports are immediately following the draft policy, beginning on PDF page 12. The commenter suggested a formal process should be developed that allows emergency court authority for facilities shutdown during wildfires.</p>	No

Summary of Comments and Advisory Committee Responses:
Draft Judicial Council Policy on the Use of Air Filtration Devices During Wildfires
 (All comments are verbatim)

	Comments	Advisory Committee Responses	Change to draft?
	the hygienist report is made available for review by the general public on the committee web page.		
1.3	<p>During the recent years a large number of court facilities have been affected by wildfires in neighboring areas of their community.</p> <p>If air filtration through existing or upgraded ventilation systems in the facilities, combined with localized air filtration devices like the ones evaluated, cannot cope with worsening indoor air quality, the Judicial Council and the Courts should develop a formal process allowing emergency court authority for facilities shutdown during wildfires.</p> <p>It is unsettling that the committee does not look further to explore the options for maintaining the health and safety of court staff and the citizens of California accessing services in the courts.</p>	The process to allow courts to close during an emergency exists and is referenced in the language of the draft policy.	No
1.4	<p>Wildfire smoke is to remain an issue for California for many years to come due to the increasing numbers of wildfires due to climate change. One of your committee members during a prior meeting discussion on the topic mentioned that their court facility is not ideally sealed from the outside, mentioning that even <i>"a bat can fly in"</i>.</p> <p>Wildfire smoke particles are definitely a lot smaller than bats, and one suggestion is that the Judicial Council leaves the testing of portable air cleaners to the scientists employed at organizations like Underwriter Laboratories, and prioritizes instead the upkeep of facilities transferred to the state per Senate Bill 1732. One of <i>"Benefits to Public"</i> listed in the <i>"Transfer of Court Facilities"</i> factsheet on the Judicial Council website is the <i>"Increased safety and security at California courthouses"</i>.</p>		No
1.5	Wildfire smoke can make anyone sick, but people with asthma, Chronic Obstructive Pulmonary Disease (COPD), or heart disease, and children, pregnant women, and responders are especially at risk. In the current commentary this relates to judiciary staff and court users with some of those pre-existing conditions visiting the courts.	The Facilities Services follows industry standards and best practices to service and maintain the HVAC systems and implements the mitigation measures identified in the draft policy. A recent enhancement was to	No

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	Comments	Advisory Committee Responses	Change to draft?
	The committee should plan to develop a long-term strategy to improve the indoor air quality issue for existing buildings and new judicial courthouse construction projects.	upgrade the HVAC filters in our facilities to MERV 13, where possible.	
1.6	<p>Question 2 Would a continuation of the Interim Guidelines as currently stated or at a different AQI trigger level better address the stated purposes and why?</p> <p>A continued use of the Interim Guidelines with a lower outdoor air trigger of 151 AQI will ensure that court staff and court users with pre-existing medical conditions will not be detrimentally affected by PM 2.5 air pollutants whilst in a court facility.</p> <p>Respectfully submitted, Iolana Haunani</p>	The industrial hygienist's report concluded that, "the data did not indicate consistent improvement of air quality when operating the A(ir)F(iltration)D(evice)s." As such, the decision to lower the Interim Guidelines was rejected by the committee at the October 29, 2021 meeting.	No
2.0	COMMENTER: Nancy CS Eberhardt, Court Executive Officer, San Bernardino County Superior Court		
2.1	<p>Sent on behalf of Nancy Eberhardt, ITC SP21-10 Comment: Use of Air Filtration Devices During Wildfires From Nancy Eberhardt, CEO - San Bernardino Superior Court Here are my comments on the Invitation noted above, due 1/10/22</p> <p>Does the proposal appropriately address the stated purpose? Yes</p>	Acknowledged.	No
2.2	<p>Would a continuation of the Interim Guidelines as currently stated or a different AQI trigger level better address the stated purposes and why? Given the study results indicating general lack of improved air quality, facilities funding would be better allocated to address the much needed deferred maintenance and repair of facilities around the State. Although the safety of our judicial officers and employees are a top priority, it does not appear continued expenditures in this area is addressing the air quality situation.</p>	Acknowledged.	No
2.3	<p>Are there other mitigation measures the Judicial Council has not considered? Would it be possible to tap into Cal-OES funding and expertise to supply information and or reimburse for costs of N95s or other equipment that may better address the issue?</p>	Grant funding to reimburse costs of N95 or other equipment to support mitigation efforts can be requested through the Cal OES	No

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	Comments	Advisory Committee Responses	Change to draft?
		Division of Grant Management. Grant funding must be applied for and managed by the entity that is requesting the funding. While the committee is unable to pursue grant funding on behalf of the courts, the court can apply directly for this funding. The link to the Cal-OES Division of Grant Management was provided, which includes information and application instructions for all current state and federal grant funding available to support local and regional entities to enable effective emergency prevention, response and recovery efforts.	
2.4	What would the implementation requirements be for courts? No known requirements	Acknowledged.	No
2.5	Would a May 2022 Judicial Council approve of this proposal provide sufficient time for implementation? Yes, however to develop alternative plans including closure of courts, maintaining N95s for distribution, researching other solutions or other emergency response may take time and funds to implement ahead of the next fire season.	Acknowledged.	No
2.6	How well would this proposal work in courts of different sizes? In this instance, it appears court size is less of an issue than geography. In fire prone areas, preparation in the absence of air scrubbers as a viable option may require research into other solutions or the need to assess the viability of maintaining access to the courts during a fire event.	Research was performed to identify viable mitigation measures, such as N95 masks and the minimization of outside air in HVAC operations during wildfires. These mitigation measures are included in the draft policy.	No

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Draft Judicial Council Policy on the Use of Air Filtration Devices During Wildfires
 (All comments are verbatim)

	Comments	Advisory Committee Responses	Change to draft?
	Nancy CS Eberhardt, Court Executive Officer, San Bernardino County Superior Court, San Bernardino, Ca 92415		
3.0	COMMENTER: Darrel Parker, Court Executive Officer, Santa Barbara Superior Court		
3.1	<p>January 10, 2022 Trial Court Facility Modification Advisory Committee Hon. Donald Cole Byrd, Chair Policy on the use of Air Filtration Devices During Wildfires Dear Chair Byrd, Thank you for the opportunity to comment on the proposed policy.</p> <p>The proposal makes clear that the Judicial Council will no longer pay for air filtration devices during wildfire events because:</p> <ul style="list-style-type: none"> • A recent evaluation found they “did not appear to consistently improve air quality throughout the facility tested”; • No other state entity uses these devices on a regular basis; • There are other mitigating measures a court may use including curtailing or closing operations. <p>The background data provided also suggests a strong incentive to stop funding air scrubbers is the nearly \$5 million spent on rented equipment in fiscal year 20-21.</p>	N/A	N/A
3.2	The Santa Barbara Superior Court endured, what was then, the largest wildfire in California’s history beginning in December of 2016. Fortunately, facilities staff distributed air scrubbers throughout courts affected by the unprecedented smoke in courthouses throughout Santa Barbara County. The improvement to the air quality in all our facilities was evident.	These comments were previously heard and discussed by the Trial Court Facility Modification Advisory Committee at its October 29, 2021 meeting. The committee opted to focus on the study performed and accepted the industrial hygienist’s conclusion that the use of air filtration devices in the facilities tested did not reduce the level of PM2.5 particulates, nor did they provide an	No

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	Comments	Advisory Committee Responses	Change to draft?
		improvement to indoor air quality throughout any of the facilities tested.	
3.3	<p>Given the contrast between my experience and the findings of the industrial hygienist I was surprised at a representation that air scrubbers are not effective. I contacted the author of the reports cited and was informed that air scrubbers do work when deployed in sufficient number and in facilities where outside air can be controlled. The hygienist indicated that one of the courthouses where the scrubbers were deployed required fifteen scrubbers, but only ten were available. Further, there were broken windows in parts of the building that compromised the effectiveness of the scrubbers deployed. I contacted the Manager, Indoor Exposure Assessment Section, Research Division of the California Air Quality Resource Board. I indicated that I had been informed that air scrubbers are not effective. He indicated, <i>"CARB's position is that when used properly, air filtration devices should reduce indoor levels of PM2.5 and improve indoor air quality. There are two major caveats. They should contain a MERV 13 or higher filter with HEPA filters preferred and they should be 'sized' correctly for the room with a proper clean air delivery rate (CADR)."</i> * * *</p>	<p>These comments were previously heard and discussed by the Trial Court Facility Modification Advisory Committee at its October 29, 2021 meeting. The committee opted to focus on the study performed and accepted the industrial hygienist's conclusion that the use of air filtration devices in the facilities tested did not reduce the level of PM2.5 particulates, nor did they provide an improvement to indoor air quality throughout any of the facilities tested. The industrial hygienist's reports did not indicate that there were insufficient air scrubbers deployed to any of the facilities tested. None of the reports indicated that broken windows compromised the test results.</p>	No
3.4	<p>There has been an undeniable increase in wildfires over the last ten years. More research is being conducted throughout the US and in health agencies to evaluate the long-term effects and the most effective methods for dealing with the smoke. More science on this topic is in development now.</p> <p>The suggestion that no other agency uses smoke detectors and therefore courts should not ignore the unique responsibility of courts. Many state agencies have the luxury of shuttering their doors when conditions become inconvenient. The Court has a constitutionally mandated obligation to operate when it is safe to do so. If air scrubbers</p>	<p>State agencies such as CDCR, along with locations such as the state capital, were included in the analysis determining a lack of state agency usage of air scrubbers. CDCR does not have the ability to close their facilities and does not routinely use air scrubbers.</p>	No

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	Comments	Advisory Committee Responses	Change to draft?
	<p>create a healthier work environment during increasingly more prevalent wildfires that seems to be the responsible action to take.</p> <p>There are other mitigating efforts courts can take to reduce the impact of wildfire smoke on courts. The Judicial Council facilities staff have done a commendable job deploying MERV filters in all courthouses where those can be deployed. Courts throughout the state now have hundreds of N95 masks in their supply rooms and distributed throughout their facilities. Other courts have purchased their own high-quality filtration devices.</p>		
3.5	<p>It is impractical, however, for most courts to obtain the number of air scrubbers necessary to improve working conditions during a wildfire. As we've seen the last several years a court does not even need to be that close to a wildfire to be adversely affected by the wildfire smoke as shifting winds carry the noxious smoke across the state.</p> <p>The expense then seems to be one of the biggest challenges in dealing with air scrubbers. The Judicial Council spent close to five million dollars in rental expenses during fiscal year 2020-2021. According to data on the TCFMAC website there were 823 air scrubbers deployed over 99 separate locations for an average of 8.3 air scrubbers per location. The average cost per day of an air scrubber was \$170/day. This ranged from a low of approximately \$70 per day in Sacramento to a high of \$400 per day in Solano. Certainly, the demand for these devices during peak periods of use can lead to increased cost per day. Perhaps a better solution would be to control the costs rather than to cease deployment.</p> <p>The cost of air scrubbers typically used for this purpose is between \$600-1000 per unit. Given the purchasing power of the Judicial Council it may be able to acquire these devices at even less costs. If the Judicial Council were to purchase an allocation of air scrubbers, it could fix its costs at a pre-determined annual amount. The average number of days for which air scrubbers were deployed in California courts was 38.19 days per event. The cost per day for acquiring air scrubbers would be a low of \$130 to a</p>	<p>At the April 12, 2021, Trial Court Facility Modification Advisory Committee meeting, Facilities staff presented cost data to the committee which showed estimated costs to purchase and maintain air scrubbers in lieu of renting. The committee determined further analysis was required to identify whether the use of air scrubbers results in improvements to indoor air quality and directed staff to develop a process to determine the effectiveness of air scrubbers and standards for how and when air scrubbers would be deployed to facilities. While the initial investment to purchase and maintain the equipment is less than the rental costs, the year over year costs must be considered along with the efficacy of the equipment. An updated cost analysis was performed in January 2022 and the costs associated with the purchase of 764 air scrubbers is detailed in the table below.</p>	No

Summary of Comments and Advisory Committee Responses:
Draft Judicial Council Policy on the Use of Air Filtration Devices During Wildfires
 (All comments are verbatim)

	Comments	Advisory Committee Responses					Change to draft?																										
	<p>high of \$217.00 per day. But once acquired the cost would not be repeated until the device has exhausted its useful life.</p> <p>If the Judicial Council were to purchase 500 air scrubbers and deploy them in court facilities prone to wildfire smoke in advance of wildfire season, they may be able to find a more cost-effective comprehensive solution that affords a safer workplace for California’s courts. Judicial Council staff would avoid some of the costs associated with renting devices, deploying them and then accommodating rental agencies when they need to collect the devices.</p> <p>Before the branch decides to stop providing a resource that has proven useful at reducing smoke hazards in many circumstances a more structured cost analysis should be conducted. While wildfires continue to spread, we must find ways to keep our courthouse doors open. We have learned resiliency through many natural disasters and most recently the pandemic. I encourage the Judicial Council and the Trial Court Facilities Modification Advisory Committee to explore acquiring air scrubbers and deploying them around the state in advance of the next wildfire and more effectively using the limited dollars provided to the committee.</p> <p>Thank you for your consideration.</p> <p>Darrel Parker, Court Executive Officer, Santa Barbara Superior Court</p>	<table><tr><td>Year</td><td>Equipment</td><td>Maintenance</td><td>Storage/ Deployment</td><td>Total Cost</td></tr><tr><td>Acquisition Year</td><td>\$ 1,573,000</td><td>\$ 921,000</td><td>\$ 322,000</td><td>\$ 2,816,000</td></tr><tr><td>AY+1</td><td></td><td>\$ 1,059,150</td><td>\$ 370,300</td><td>\$ 1,429,450</td></tr><tr><td>AY+2</td><td></td><td>\$ 1,218,023</td><td>\$ 425,845</td><td>\$ 1,643,868</td></tr><tr><td>AY+3</td><td></td><td>\$ 1,400,726</td><td>\$ 489,722</td><td>\$ 1,890,448</td></tr><tr><td>Total</td><td>\$ 1,573,000</td><td>\$ 4,598,898</td><td>\$ 1,607,867</td><td>\$ 7,779,765</td></tr></table>	Year	Equipment	Maintenance	Storage/ Deployment	Total Cost	Acquisition Year	\$ 1,573,000	\$ 921,000	\$ 322,000	\$ 2,816,000	AY+1		\$ 1,059,150	\$ 370,300	\$ 1,429,450	AY+2		\$ 1,218,023	\$ 425,845	\$ 1,643,868	AY+3		\$ 1,400,726	\$ 489,722	\$ 1,890,448	Total	\$ 1,573,000	\$ 4,598,898	\$ 1,607,867	\$ 7,779,765	
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