

Oregon OSHA's proposed rules for extreme heat and wildfire smoke

Last summer, Oregon Occupational Safety and Health (Oregon OSHA) implemented temporary rules regarding employer obligations when employees may be exposed to extreme heat and a separate set of temporary rules for when employees may be exposed to wildfire smoke and poor air quality conditions. Those temporary rules have expired, and Oregon OSHA is seeking to replace them with permanent rules.

That rulemaking process is ongoing, which means employers can submit their comments and questions to Oregon OSHA so that it can hopefully resolve any ambiguity or concerns before publishing the final rules. There are also public hearings that employers can attend; visit Oregon OSHA's website to register. Oregon OSHA has announced that it anticipates publishing the final rules by April 2022 in order to allow employers time to comply with the notice, training, policy and other requirements in time for the extreme heat and wildfire smoke season.

Proposed extreme heat rules

As proposed, the heat illness prevention rule will apply to any workplace – not just those outdoors – when heat dangers are caused by weather and the heat index meets or exceeds 80 degrees Fahrenheit. There would be an exemption for incidental heat exposures where an employee is not required to perform work for more than 15 minutes in any 60-minute period.

Under the proposed rules, employers would be required to provide:

- sufficient shade that is immediately and readily available to employees;
- an adequate supply of cool drinking water (it must be immediately and readily available to employees, and they must have plenty of opportunities to stay



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hydrated);

- written acclimatization plans and procedures to gradually adapt employees to working in the heat (acclimatization is a preventive measure that would include considerations such as personal and environmental risk factors, and workers' activity levels);

- a written heat-illness prevention plan that spells out what will be done to protect employees and is made available to employees; and

- annual training and information for all employees and supervisors in a language that is readily understood.

The proposed rules have additional requirements if the heat index equals or exceeds 90 degrees Fahrenheit and work schedules and controls do not reduce worker exposure below that level. In those situations, employers would be required to:

- have effective communication that puts workers in contact with supervisors as needed;
- designate one or more employees and equipment to call for emergency services; and
- implement a heat illness prevention work/rest schedule that is adjusted for effective protection.

Proposed wildfire smoke rules

As proposed, the wildfire smoke rules

apply to employers whose employees may be exposed to wildfire smoke where the ambient air concentration for fine particulate matter equals or exceeds an Air Quality Index (AQI) value of 101. There are some proposed exemptions, including for enclosed buildings in which the air is filtered by a mechanical ventilation system and the employer ensures certain exterior openings are closed (except when necessary to briefly enter or exit).

Under the proposed rules, when AQI meets or exceeds 101, employers would be required to:

- determine and monitor employee exposure at the start of each shift, using certain methods, to gauge the appropriate exposure controls;
- provide annual training and information for all employees who may be exposed to wildfire smoke;
- develop and implement a system to communicate wildfire smoke hazards before exposure occurs;
- use engineering or administrative controls to reduce employee exposure to less than an AQI value of 101 (Engineering controls could include enclosed buildings or vehicles where the air can be adequately filtered; administrative controls could include relocating work to another outdoor location with better air quality or changing work schedules); and
- provide employees filtering facepiece respirators for voluntary use (The respirators must be approved by the National

Institute for Occupational Safety & Health and include what is commonly known as an N95).

When AQI exceeds 250, the proposed rules would require employees to wear NIOSH-approved filtering facepiece respirators. For respirators used exclusively for wildfire smoke, employers may implement the Wildfire Smoke Respiratory Protection Program rather than conduct medical evaluations and fit-testing under the Respiratory Protection Standard. This program is outlined in the proposed rules' appendix.

When AQI exceeds 500, the proposed rules again require that employees wear NIOSH-approved filtering facepiece respirators. Also, employers must implement a complete respiratory protection program in line with the Respiratory Protection Standard.

Employers should stay alert for when the final rules are published, hopefully in April 2022, and prepare to comply with all requirements if applicable to their workplaces.

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