

Cal/OSHA Wildfire Smoke Emergency Regulation Now in Effect

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In late July, the California Occupational Safety and Health Standards Board adopted an emergency regulation to protect workers from health hazards arising from wildfire smoke. The regulation became effective July 30, 2019, and will remain in effect through January 28, 2020.

Modified Regulation

The adopted wildfire smoke regulation is substantially similar to the proposed regulation, which we summarized in May. However, the adopted regulation has eased some requirements for when employers are required to provide respirators to employees.

Under the original version of the proposed rule, any time the Air Quality Index (AQI) for PM2.5 was greater than 300, employers had to provide respirators and employees were required to wear them. Under the adopted version, respirator use is mandatory only when the AQI exceeds

500. However, employers are still required to provide respirators to employees who request them when the AQI is greater than 150, but less than 500. The regulation also requires employers to “encourage employees to use respirators” when the AQI exceeds 150.

The adopted regulation also includes an additional exemption. Employees who are exposed to an AQI greater than 150 “for a total of one hour or less during a shift,” are exempt from this regulation. Accordingly, employees who are outside only briefly during a work shift are likely exempt.

Impact of Adopted Regulation

Significant portions of the regulation remain unchanged from what was originally proposed. This means that employers are required to monitor AQI in order to determine employee exposures to PM_{2.5}, establish and implement a system for communicating wildfire smoke hazards, make respirators available to employees when AQI exceeds 150 and an employee requests a respirator and require employees to wear respirators when AQI exceeds 500, and implement an “effective training and instruction” program on wildfire smoke hazards. The adopted regulation includes an appendix detailing the mandatory information that employers must provide employees. For employers that do not usually provide

employees with respirators, those employers may now be obligated to have a respiratory protection program.

While this regulation was adopted on an emergency basis and will expire, the California Division of Occupational Safety and Health (Cal/OSHA) has already scheduled a public advisory meeting for August 27, 2019, to discuss whether this emergency regulation should be made permanent.

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