

# Electronic Alert

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## Important Reminders for Employers About Oregon's Wildfire Smoke Rules

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With wildfire season in full effect, it is important for employers to remember their obligations under Oregon OSHA's wildfire smoke protection rules.

When the air quality index (AQI) is at or above 101, primarily generated by wildfire smoke, the wildfire smoke rules apply to covered employers. Employers and employees with internet access can use free government apps and websites to determine air quality. Employers can also purchase testing devices to determine air quality. Testing must occur at the start of each shift and as needed to comply with the communication and exposure control requirements described below.

### **Key Requirements Under the Rules:**

*Annual Training:* Each year, employers must ensure that employees and supervisors are trained on certain aspects of wildfire smoke protection, including how to use and maintain their filtering facepiece respirators. Only specific NIOSH-approved respirators can be used. Employers subject to the rule are required to provide respirators to employees at no cost.

*Documentation:* Employers must document that they trained employees and keep records of the training for at least one year.

*Communication System:* Employers must develop a two-way communication system between supervisors and employees that enables them to communicate wildfire smoke hazards before they are exposed. If changes in the air quality at the work location could necessitate an increase or decrease in the level of exposure controls, employers must inform employees. Employees must be able to report their concerns regarding exposure controls and health symptoms that could require medical attention.

*Exposure Controls:* Employers subject to the rule must implement certain exposure controls, including engineering and administrative controls (such as air filtering and ventilation in buildings and vehicles or re-locating workers). Moreover, when the AQI is at or exceeds 101, employers must provide filtering facepiece respirators to employees for voluntary use, and when the AQI reaches 251, they must be provided for mandatory use, unless use of the respirator would expose the employee to a substantially more serious injury or illness than the potential acute health effects of wildfire smoke exposure. Additional mandatory requirements apply when the AQI reaches 501. The exposure control requirement does not apply if "the employer can demonstrate that such controls are functionally impossible or would prevent the completion of work."

If employees are likely to be exposed to an AQI of 101 or above, employers are required to implement a wildfire smoke assessment.

## **Exemptions:**

### *Fully Exempt Workplaces & Operations*

Employers are exempt from the rules when they have:

- Operations in enclosed buildings, structures, and vehicles in which air is filtered by a mechanical ventilation system, and when exterior openings are kept closed except when it is necessary to briefly open doors to enter or exit;
- Employees operating or riding in motor vehicles that have air filtered through a properly maintained cabin air filter system, and the windows, doors and other exterior openings are kept closed (other than briefly opening to enter or exit);
- Decided to suspend their operations to prevent employees from being exposed to wildfire smoke at certain levels; and
- Employees working from home.

### *Partially Exempt Workplaces & Operations*

Other than the requirements to provide training and NIOSH-approved filtering facepiece respirators for employees to use voluntarily, employers are exempt from the rules when they have:

- Work activities in which employees have only intermittent exposure (less than 15 minutes of exposure in an hour to wildfire smoke levels of AQI 101, with a total of less than one hour in a single 24-hour period of exposure);
- Emergency operations that are directly involved in the protection of life or property, public safety power shutoffs, or restoration of essential services; or
- Operations that include wildland firefighting and associated support activities such as fire camp services and fire management.

Heat and wildfire-related illness may lead to a host of other issues, including workers' compensation claims and the need for medical leave. Through the remainder of the warm and dry months, employers should ensure their policies and practices are in compliance with OR-OSHA's heat and smoke rules.

*This E-Alert covers the basics of OR-OSHA's highly technical and dense rules, and employers are encouraged to reach out regarding specific questions as the rules relate to your workplace. For questions, contact Bruce Garrett at 503-276-2175 or [bgarrett@barran.com](mailto:bgarrett@barran.com).*