

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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NOTICE OF PROPOSED MODIFICATION TO
CALIFORNIA CODE OF REGULATIONS

TITLE 8: New Section 5141.1
of the General Industry Safety Orders

Protection from Wildfire Smoke

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named standards in which modifications are being considered as a result of public comments and/or Board staff consideration.

On May 21, 2020, the Standards Board held a Public Hearing to consider revisions to Title 8, Section 5141.1 of the General Industry Safety Orders. The Standards Board received oral and written comments on the proposed revisions. On July 23, 2020, the Standards Board gave notice of additional revisions to the proposed regulation, and further written comments were received. The standards have been modified as a result of these comments and Board consideration. Modifications are now proposed for subsection (f)(4)(A).

A copy of the full text of the standard, as amended on July 23, 2020, with the modifications clearly indicated, is attached for your information. Anything that has been added is indicated by a bold double underline, and anything that has been removed is indicated by a bold double strikethrough.

Pursuant to Government Code Section 11347.1, notice is also given of the opportunity to submit comments concerning the addition to the rulemaking file of the following document relied upon by the Standards Board:

ADDITIONAL DOCUMENT RELIED UPON

- State of California Employment Development Department, "Industry Employment & Labor Force – by Annual Average," dated March 27, 2020, available at [https://www.labormarketinfo.edd.ca.gov/file/indhist/cal\\$haw.xls](https://www.labormarketinfo.edd.ca.gov/file/indhist/cal$haw.xls) (Historical Annual Average Data, Not Seasonally Adjusted, California 1990-2019)

Any written comments on these modifications or document relied upon must be received by 5:00 p.m. on *September 25, 2020* at the Occupational Safety and Health Standards Board, 1017 L Street, PMB #254, Sacramento, California 95814-3805 or submitted by fax to (916) 274-5743 or e-mailed to oshsb@dir.ca.gov. Please confine your comments to the modification of the text and

the additional document. This proposal will be scheduled for adoption at a future business meeting of the Standards Board.

The Standards Board's rulemaking files on the proposed action are open to public inspection BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsb@dir.ca.gov or by calling (916) 274-5721.

Inquiries concerning the proposed changes may be directed to the Executive Officer, Christina Shupe, at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD



Christina Shupe, Executive Officer

Date: *September 10, 2020*



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PROPOSED MODIFICATIONS

**(Deleted regulatory language is shown in bold double strikethrough
and new regulatory language is shown in bold double underline.)**

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**STANDARDS PRESENTATION
TO
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TITLE 8, DIVISION 1, CHAPTER 4

Subchapter 7. General Industry Safety Orders
Group 16. Control of Hazardous Substances
Article 107. Dusts, Fumes, Mists, Vapors and Gases

Add new Section 5141.1 to read:

§5141.1. Protection from Wildfire Smoke.

(a) Scope.

(1) This section applies to workplaces where:

- (A) The current Air Quality Index (current AQI) for PM_{2.5} is 151 or greater, regardless of the AQI for other pollutants; and
- (B) The employer should reasonably anticipate that employees may be exposed to wildfire smoke.

(2) The following workplaces and operations are exempt from this section:

- (A) Enclosed buildings or structures in which the air is filtered by a mechanical ventilation system and the employer ensures that windows, doors, bays, and other openings are kept closed, except when it is necessary to open doors to enter or exit.
- (B) Enclosed vehicles in which the air is filtered by a cabin air filter and the employer ensures that windows, doors, and other openings are kept closed, except when it is necessary to open doors to enter or exit the vehicle.
- (C) The employer demonstrates that the concentration of PM_{2.5} in the air does not exceed a concentration that corresponds to a current AQI of 151 or greater by measuring PM_{2.5} levels at the worksite in accordance with Appendix A.
- (D) Employees exposed to a current AQI for PM_{2.5} of 151 or greater for a total of one hour or less during a shift.
- (E) Firefighters engaged in wildland firefighting.

(3) For workplaces covered by this section, an employer that complies with this section will be considered compliant with sections 5141 and 5155 for the limited purpose of exposures to a current AQI for PM_{2.5} of 151 or greater from wildfire smoke.

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(b) Definitions.

Current Air Quality Index (Current AQI). The method used by the U.S. Environmental Protection Agency (U.S. EPA) to report air quality on a real-time basis. Current AQI is also referred to as the “NowCast,” and represents data collected over time periods of varying length in order to reflect present conditions as accurately as possible.

The current AQI is divided into six categories as shown in the table below, adapted from Table 2 of Title 40 Code of Federal Regulations, Part 58, Appendix G.

<u>Air Quality Index (AQI) Categories for PM2.5</u>	<u>Levels of Health Concern</u>
<u>0 to 50</u>	<u>Good</u>
<u>51 to 100</u>	<u>Moderate</u>
<u>101 to 150</u>	<u>Unhealthy for Sensitive Groups</u>
<u>151 to 200</u>	<u>Unhealthy</u>
<u>201 to 300</u>	<u>Very Unhealthy</u>
<u>301 to 500</u>	<u>Hazardous</u>

NIOSH. The National Institute for Occupational Safety and Health of the U.S. Centers for Disease Control and Prevention. NIOSH tests and approves respirators for use in the workplace.

PM2.5. Solid particles and liquid droplets suspended in air, known as particulate matter, with an aerodynamic diameter of 2.5 micrometers or smaller.

Wildfire Smoke. Emissions from fires in “wildlands,” as defined in Title 8, section 3402, or in adjacent developed areas.

(c) Identification of harmful exposures. The employer shall determine employee exposure to PM2.5 for worksites covered by this section at the start of each shift and periodically thereafter, as needed to protect the health of employees, by any of the following methods:

(1) Check AQI forecasts and the current AQI for PM2.5 from any of the following websites: U.S. EPA AirNow, the Interagency Wildland Fire Air Quality Response Program, the U.S. Forest Service, the California Air Resources Board, the local air pollution control district, or the local air quality management district; or

(2) Obtain AQI forecasts and the current AQI for PM2.5 directly from the U.S. EPA, the Interagency Wildland Fire Air Quality Response Program, the U.S. Forest Service, the California Air Resources Board, the local air pollution control district, or the local air quality management district by telephone, email, text, or other effective method; or

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(3) Measure PM_{2.5} levels at the worksite and convert the PM_{2.5} levels to the corresponding AQI in accordance with Appendix A.

EXCEPTION: Subsection (c) does not apply if:

1. The employer assumes the current AQI for PM_{2.5} is greater than 500 and complies with subsection (f) using that assumption; or
2. In an emergency subject to subsection (f)(4), the employer assumes the current AQI for PM_{2.5} is 151 or greater and complies with subsection (f)(3)(A) using that assumption.

(d) Communication. As required by section 3203, the employer shall establish and implement a system for communicating wildfire smoke hazards in a language and manner readily understandable by employees, including provisions designed to encourage employees to inform the employer of wildfire smoke hazards at the worksite without fear of reprisal. The system shall include effective procedures for:

(1) Informing employees of:

- (A) The current AQI for PM_{2.5} as identified in subsection (c); and
- (B) Protective measures available to employees to reduce their wildfire smoke exposures.

(2) Encouraging employees to inform the employer if any of the following occurs:

- (A) Worsening air quality.
- (B) Adverse symptoms that may be the result of wildfire smoke exposure such as asthma attacks, difficulty breathing, and chest pain.

(e) Training and instruction. As required by section 3203, the employer shall provide employees with effective training and instruction in a language and manner readily understandable by employees. At a minimum, this shall contain the information in Appendix B.

(f) Control of harmful exposures to employees.

(1) Engineering Controls. The employer shall reduce employee exposure to PM_{2.5} to less than a current AQI of 151 by engineering controls whenever feasible, for instance by providing enclosed buildings, structures, or vehicles where the air is filtered. If engineering controls are not sufficient to reduce exposure to PM_{2.5} to less than a current AQI of 151, then the employer shall reduce employee exposures to the extent feasible.

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(2) Administrative Controls. Whenever engineering controls are not feasible or do not reduce employee exposures to PM_{2.5} to less than a current AQI of 151, the employer shall implement administrative controls, if practicable, such as relocating work to a location where the current AQI for PM_{2.5} is lower, changing work schedules, reducing work intensity, or providing additional rest periods.

(3) Control by Respiratory Protective Equipment.

(A) Where the current AQI for PM_{2.5} is equal to or greater than 151, but does not exceed 500, the employer shall provide a sufficient number of respirators to all employees for voluntary use in accordance with section 5144 and encourage employees to use respirators. Respirators shall be NIOSH-approved devices that effectively protect the wearers from inhalation of PM_{2.5}, such as N95 filtering facepiece respirators. Respirators shall be cleaned or replaced as appropriate, stored, and maintained, so that they do not present a health hazard to users. Employers shall use Appendix B to this section in lieu of Appendix D to section 5144 for training regarding voluntary use of respirators.

NOTE: For those employees whose only use of respirators involves the voluntary use of filtering facepieces, such as N95 respirators, fit testing and medical evaluations are not required by section 5144.

(B) Where the current AQI for PM_{2.5} exceeds 500, respirator use is required. Respirators shall be used in accordance with section 5144. The employer shall provide respirators with an assigned protection factor, as listed in section 5144, such that the PM_{2.5} levels inside the respirator correspond to an AQI less than 151.

(4) Emergencies. The following applies to emergency operations, including rescue and evacuation. The following also applies to utilities, communications, and medical operations that are directly aiding emergency operations or firefighting operations.

(A) The employer shall comply with subsection (f)(3)(A) **for all AQI levels equal to or greater than 151.**

(B) Subsections (f)(1), (f)(2), and (f)(3)(B) do not apply.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

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Add new Appendix A to new Section 5141.1 to read:

**Appendix A to Section 5141.1. Protection from Wildfire Smoke
Measuring PM2.5 Levels at the Worksite
(Mandatory if an Employer Monitors with a Direct Reading Instrument)**

- (a) An employer may use a direct-reading particulate monitor to determine PM2.5 levels for section 5141.1, if the employer can demonstrate that it has complied with this appendix and selected a monitor that:
- (1) Does not underestimate employee exposures to wildfire smoke; or
 - (2) May underestimate wildfire smoke exposures, but the employer has obtained information on the possible error of the monitor from the manufacturer and has accounted for the error of the monitor when determining exposures to PM2.5 to ensure that employee exposure levels are not underestimated.
- (b) The monitor shall be designed and manufactured to measure the concentration of airborne particle sizes ranging from an aerodynamic diameter of 0.3 micrometers or less up to and including 2.5 micrometers ($\leq 0.3\mu\text{m}$ to $2.5\mu\text{m}$).
- (c) The employer shall ensure that the monitor and all necessary monitor accessories are calibrated, maintained, and used, in accordance with the manufacturer's instructions for accurately measuring particles with an aerodynamic diameter of 0.3 micrometers or less up to and including 2.5 micrometers ($\leq 0.3\mu\text{m}$ to $2.5\mu\text{m}$). The employer may use an air monitor that measures particles less than 0.3 micrometers to greater than 2.5 micrometers ($< 0.3\mu\text{m}$ to $> 2.5\mu\text{m}$) if the employer treats the result as the PM2.5 level.
- (d) The employer shall use the following table to convert the PM2.5 concentration to the AQI for PM2.5.

<u>PM2.5 in Micrograms per Cubic Meter ($\mu\text{g}/\text{m}^3$)</u>	<u>Air Quality Index (AQI) Categories for PM2.5</u>
<u>0 to 12.0</u>	<u>0 to 50</u>
<u>12.1 to 35.4</u>	<u>51 to 100</u>
<u>35.5 to 55.4</u>	<u>101 to 150</u>
<u>55.5 to 150.4</u>	<u>151 to 200</u>
<u>150.5 to 250.4</u>	<u>201 to 300</u>
<u>250.5 to 500.4</u>	<u>301 to 500</u>

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- (e) The person supervising, directing, or evaluating workplace monitoring for PM2.5 shall have the training or experience necessary to apply this section and to ensure the correct use of the monitor and the interpretation of the results, so that exposures are not underestimated.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.



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Add new Appendix B to new Section 5141.1 to read:

**Appendix B to Section 5141.1. Protection from Wildfire Smoke
Information to Be Provided to Employees (Mandatory)**

(a) The health effects of wildfire smoke.

Although there are many hazardous chemicals in wildfire smoke, the main harmful pollutant for people who are not very close to the fire is “particulate matter,” the tiny particles suspended in the air.

Particulate matter can irritate the lungs and cause persistent coughing, phlegm, wheezing, or difficulty breathing. Particulate matter can also cause more serious problems, such as reduced lung function, bronchitis, worsening of asthma, heart failure, and early death.

People over 65 and people who already have heart and lung problems are the most likely to suffer from serious health effects.

The smallest—and usually the most harmful—particulate matter is called PM2.5 because it has a diameter of 2.5 micrometers or smaller.

(b) The right to obtain medical treatment without fear of reprisal.

Employers shall allow employees who show signs of injury or illness due to wildfire smoke exposure to seek medical treatment, and may not punish affected employees for seeking such treatment. Employers shall also have effective provisions made in advance for prompt medical treatment of employees in the event of serious injury or illness caused by wildfire smoke exposure.

(c) How employees can obtain the current Air Quality Index (AQI) for PM2.5.

Various government agencies monitor the air at locations throughout California and report the current AQI for those places. The AQI is a measurement of how polluted the air is. An AQI over 100 is unhealthy for sensitive people and an AQI over 150 is unhealthy for everyone.

Although there are AQIs for several pollutants, Title 8, section 5141.1 only uses the AQI for PM2.5.

The easiest way to find the current and forecasted AQI for PM2.5 is to go to AirNow.gov and enter the zip code, town, or city where you will be working. The current AQI is also available at fire.AirNow.gov, an interactive map which also provides information about some fires and smoke plumes. You can also visit the website of your local air district. Employees who do not have access to the

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internet can contact their employer for the current AQI. The EPA website enviroflash.info can transmit daily and forecasted AQIs by text or email for particular cities or zip codes.

(d) The requirements of Title 8, section 5141.1.

If employees may be exposed to wildfire smoke, then the employer is required to find out the current AQI applicable to the worksite. If the current AQI for PM2.5 is 151 or more, the employer is required to:

- (1) Check the current AQI at the start of each shift and periodically thereafter.
- (2) Provide training to employees.
- (3) Lower employee exposures.
- (4) Provide respirators and encourage their use.

(e) The employer's two-way communication system.

Employers shall alert employees when the air quality is harmful and what protective measures are available to employees.

Employers shall encourage employees to inform their employers if they notice the air quality is getting worse, or if they are suffering from any symptoms due to the air quality, without fear of reprisal.

The employer's communication system is:

(f) The employer's methods to protect employees from wildfire smoke.

Employers shall take action to protect employees from PM2.5 when the current AQI for PM2.5 is 151 or greater. Examples of protective methods include:

- (1) Locating work in enclosed structures or vehicles where the air is filtered.
- (2) Changing procedures such as moving workers to a place with a lower current AQI for PM2.5.
- (3) Reducing work time in areas with unfiltered air.
- (4) Increasing rest time and frequency, and providing a rest area with filtered air.
- (5) Reducing the physical intensity of the work to help lower the breathing and heart rates.

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The employer's control system at this worksite is:

(g) The importance, limitations, and benefits of using a respirator when exposed to wildfire smoke.

Respirators can be an effective way to protect employee health by reducing exposure to wildfire smoke, when they are properly selected and worn. Respirator use can be beneficial even when the AQI for PM2.5 is less than 151, to provide additional protection.

When the current AQI for PM2.5 is 151 or greater, employers shall provide their workers with proper respirators for voluntary use. If the current AQI is greater than 500, respirator use is required, except in emergencies.

A respirator should be used properly and kept clean.

The following precautions shall be taken:

(1) Employers shall select respirators certified for protection against the specific air contaminants at the workplace. Respirators must be certified by NIOSH, the National Institute for Occupational Safety and Health of the U.S. Center for Disease Control and Prevention. A label or statement of certification should appear on the respirator or respirator packaging. It will list what the respirator is designed for (particulates, for example).

Surgical masks or items worn over the nose and mouth such as scarves, T-shirts, and bandannas will not provide protection against wildfire smoke. An N95 filtering facepiece respirator, shown in the image below, is the minimum level of protection for wildfire smoke.

(2) Read and understand the manufacturer's instructions on the respirator's use, care, and replacement, along with any warnings regarding the respirator's limitations. If the respirator is reusable, read and understand the instructions for cleaning and maintenance. The manufacturer's instructions must be followed except for medical evaluations, fit testing, and shaving of facial hair, which are recommended but not required for voluntary use of filtering facepiece respirators.

(3) Do not wear respirators in areas where the air contains contaminants for which the respirator is not designed. A respirator designed to filter particles will not protect employees against gases or vapors, and it will not supply oxygen.

(4) Employees should keep track of their respirator so that they do not mistakenly use someone else's respirator.

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(5) Employees who have a heart or lung problem should ask their health care provider before using a respirator.

(h) How to properly put on and use the respirators provided by the employer.

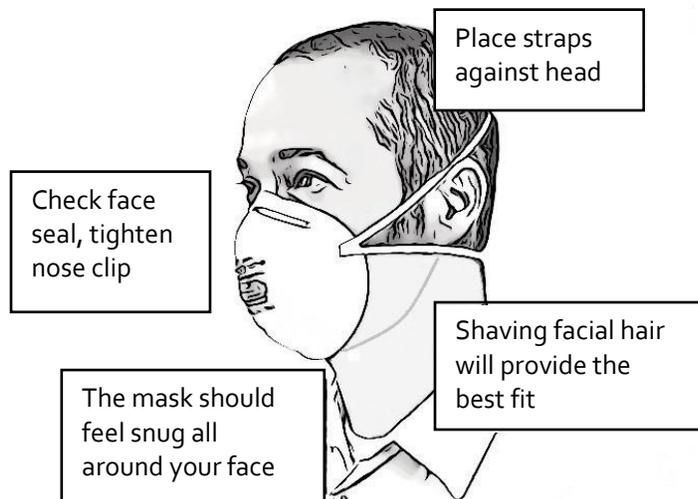
To get the most protection from a respirator, there must be a tight seal around the face. A respirator will provide much less protection if facial hair interferes with the seal. Loose-fitting powered air purifying respirators may be worn by people with facial hair since they do not have seals that are affected by facial hair.

The proper way to put on a respirator depends on the type and model of the respirator.

For those who use an N95 or other filtering facepiece respirator mask that is made of filter material:

(1) Place the mask over the nose and under the chin, with one strap placed below the ears and one strap above.

(2) Pinch the metal part (if there is one) of the respirator over the top of the nose so it fits securely.



*Drawing Showing Proper Fitting of a Filtering Facepiece Respirator
(shaving is not required for voluntary respirator use)*

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For a respirator that relies on a tight seal to the face, check how well it seals to the face by following the manufacturer's instructions for user seal checks. Adjust the respirator if air leaks between the seal and the face. The more air leaks under the seal, the less protection the user receives.

Respirator filters should be replaced if they get damaged, deformed, dirty, or difficult to breathe through. Filtering facepiece respirators are disposable respirators that cannot be cleaned or disinfected. A best practice is to replace filtering facepiece respirators at the beginning of each shift.

If you have symptoms such as difficulty breathing, dizziness, or nausea, get medical help immediately.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.



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