

**DRAFT REGULATION OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. RXXX-25

DRAFT FOR DISCUSSION PURPOSES: 09-~~1909~~-2025

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§ 1-10, NRS 618.295, 618.315, 618.383, and Senate Bill No. 260, chapter 499, Statutes of Nevada 2025.

A REGULATION relating to occupational safety and health; imposing certain duties on - employers of employees who could be exposed to ~~poor air~~poor outdoor air quality from wildfire smoke.

Legislative Counsel’s Digest:

Existing law requires the Division of Industrial Relations of the Department of Business and Industry to adopt such regulations as are necessary to provide safe and healthful employment in those employments within its jurisdiction. (NRS 618.295) Under existing law, employers with more than 10 employees and employers, other than employers in the mining industry, who have employees engaged in the manufacture of explosives are required to establish a written safety program. (NRS 618.383) Senate Bill No. 260, chapter 499, Statutes of Nevada 2025 requires the Division of Industrial Relations to adopt regulations to impose certain duties on employers of employees who could be exposed to ~~poor air~~poor outdoor air quality from wildfire smoke

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 1~~10~~, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4, and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Wildfire Smoke” has the meaning ascribed to it in paragraph (c) of subsection 7 of section 1 of Senate Bill No. 260, chapter 499, Statutes of Nevada 2025, at page xxx.*

Sec. 4. “Occupational Exposure to Poor Outdoor Air Quality from Wildfire Smoke” means any outdoor working condition that occurs when the Air Quality Index is 150 or above due to wildfire smoke.

Sec. 5. “Commercial truck driver” means a person licensed to drive a “commercial motor vehicle” as defined in NAC 483.7992 for intrastate commerce or 49 CFR 390.5 for interstate commerce, who drives a commercial motor vehicle as part of their job duties for their employer.

Sec. 6. “PM_{2.5}” means any particulate matter in the atmosphere with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

Sec. ~~6~~7. 1. An employer who is required to establish a written safety program pursuant to NRS 618.383 shall perform and prepare a one-time, written job hazard analysis to assess working conditions that may cause occupational exposure to poor outdoor air quality from wildfire smoke. Such a job hazard analysis must be performed:

(a) Before a task for a job is undertaken for the first time by an employee of the employer; and

(b) Whenever a task for a job performed by an employee of the employer materially changes.

2. A written job hazard analysis performed pursuant to subsection 1 must include, without limitation:

(a) A list of all job classifications of the employer in which employees in those classifications may have occupational exposure to poor outdoor air quality from wildfire smoke;

(b) A list of all tasks and procedures, or groups of closely related tasks and procedures, performed by employees of the employer:

(1) In which occupational exposure to poor outdoor air quality from wildfire smoke may occur; and

(2) Which are performed by employees in job classifications that are included in the list required by paragraph (a); and

(c) A list of critical tasks performed outdoors.

Sec. ~~87~~. 1. If, based on the job hazard analysis performed pursuant to section 6 of this regulation, an employer determines that an employee of the employer may have occupational exposure to poor outdoor air quality from wildfire smoke, the employer shall include in the written safety program required by NRS 618.383 provisions that address potentially hazardous working conditions.

2. A written safety program that addresses potential occupational exposure to poor outdoor air quality from wildfire smoke must include, without limitation:

(a) Measures that the employer must take to monitor air quality from wildfire smoke at the location where the employee is working through:~~one or more sources such as, the Environmental Protection Agency Fire and Smoke Map, the Interagency Wildland Fire Air Quality Response Program, news media stories, or the flyer called "Visibility Range as a Tool for Estimating Air Quality" from the Nevada Division of Environmental Protection Bureau of Air Quality Planning.~~

- (1) Websites or tools providing either quantitative or qualitative ways to estimate current air quality index for PM_{2.5} as provided by local air quality agencies, the Nevada Division of Environmental Protection, or the United States Environmental Protection Agency, or*
- (2) Measuring PM_{2.5} concentrations at the worksite using air sensors that are accepted by the United State Environmental Protection Agency's Fire and Smoke Map to*

report air quality index for $PM_{2.5}$. Air quality index for $PM_{2.5}$ values calculated from the air sensors must be obtained from the Fire and Smoke Map or from other sources that provide the same values as the Fire and Smoke Map. The employer shall ensure that the sensors and all necessary accessories are maintained, and used in accordance with the manufacturer's instructions, or

(3) Measuring $PM_{2.5}$ concentrations at the worksite using air sensors that are not accepted by the United State Environmental Protection Agency's Fire and Smoke Map and converting the $PM_{2.5}$ -concentrations to the equivalent air quality index for $PM_{2.5}$.

a) The employer must demonstrate that the sensors used to measure $PM_{2.5}$ do not underestimated concentrations of $PM_{2.5}$. If the sensors underestimate $PM_{2.5}$ concentrations, the employer has obtained information on the possible error of the sensor from the manufacturer and has accounted for the error when determining $PM_{2.5}$ concentrations and air quality index for $PM_{2.5}$ values.

b) The employer shall ensure that the sensors and all necessary accessories are calibrated, maintained, and used in accordance with the manufacturer's instructions.

c) The employer may use sensors that measure particles less than 0.3 micrometers to greater than 2.5 micrometers if the employer treats the result as the $PM_{2.5}$ level.

d) The employer shall convert the $PM_{2.5}$ concentration to the air quality index for $PM_{2.5}$ using tables and methods published on the website of the Nevada Division of Environmental Protection

~~a)e)~~ The person supervising, directing or using the sensors shall have the

training or experience necessary to apply the requirements in (3) and to ensure the correct use of the sensors and correct calculation of air quality index for PM_{2.5}

(b) Measures that the employer must take to reduce the exposure of employees to ~~poor~~ poor outdoor air quality from wildfire smoke when the air quality index is 150 or more but less than 200, and when the air quality index is 200 or more. An employer must:

- (1) Analyze potential engineering controls, administrative controls, and personal protective equipment needs and implement appropriate controls; and
- (2) At a minimum, provide filtering facepiece respirators (N95 masks) to employees for voluntary use, following the requirements in 29 CFR 1910.134(c)(2) and 29 CFR 1910.134 Appendix D.

(c) Provisions to not allow an employee to perform critical tasks outdoors when the air quality index is 300 or more.

- (1) An employer may establish a time period to end critical tasks outdoors, provided that it implements controls that are sufficient to mitigate the hazard during this time period.
- (2) An employer will establish a method to reassess conditions to determine if the air quality index is less than 300 in order to restart critical tasks outdoors.

(d) Provisions for a communication system that:

- (1) Informs an employee, in a manner that is understandable to the employee, when the employee is being exposed to air quality where the air quality index is 150 or more during the employee's shift and of the protective controls that are available to the employee to reduce exposure to the air quality.
- (2) Allows any employee to inform the employer when the employee is being exposed to

air quality where the air quality index is 150 or more in the employee's workplace and if the employee is experiencing any symptom related to such exposure, including, without limitation, asthmatic attacks, difficulty breathing or chest pain.

(e) Training of employees of the employer as necessary to reasonably mitigate occupational exposure to ~~poor air~~poor outdoor air quality from wildfire smoke.

Sec. 98. *1. An employer shall provide a training program for each employee who is employed in a job classification identified in paragraph (a) of subsection 2 of section 6 of this regulation and their direct supervisors.*

2. A training program provided pursuant to subsection 1 must:

(a) Be provided in a manner that is understandable to the employee;

(b) Describe the requirements imposed on employers pursuant to this section;

and

(c) Describe the risks of not using personal protection equipment while working outdoors and being exposed to ~~poor air~~poor outdoor air quality from wildfire smoke.

Sec. 109. *Any measure which an employer implements pursuant to section 6, 7 or 8 of this regulation must, at a minimum, reasonably mitigate the risk of occupational exposure to ~~poor air~~poor outdoor air quality from wildfire smoke.*

Sec. 110. *The following types of employers are exempt from this section but may implement measures at least as effective as requirements in this section:*

1. An operator of a mine;

2. An employer of commercial truck drivers:

3. A provider of emergency services: or

4. An employer with 10 or fewer employees.