

**PROPOSED REGULATION OF THE ADMINISTRATOR OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R070-26

May 1, 2026

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

AUTHORITY: §§ 1-10, NRS 618.297.

A REGULATION relating to occupational safety; requiring certain employers to take certain actions to assess and address working conditions that may cause occupational exposure to poor outdoor air quality attributable to wildfire smoke; requiring certain employers to provide certain training relating to occupational exposure to poor outdoor air quality attributable to wildfire smoke; exempting certain employers from requirements relating to occupational exposure to poor outdoor air quality attributable to wildfire smoke; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to establish by regulation: (1) measures that an employer is required to take to monitor air quality and reduce the exposure of an employee to poor air quality from wildfire smoke at certain specified levels of the air quality index; and (2) an air quality index level caused by wildfire smoke at which an employer is prohibited from allowing an employee to perform critical tasks outdoors. Existing law also requires each employer to establish a communications system that: (1) informs an employee when the employee is being exposed to poor air quality and of the protective controls that are available to the employee to reduce exposure to the air quality; and (2) allows any employee to inform the employer when the employee is being exposed to poor air quality and if the employee is experiencing any symptom related to such exposure. Existing law further requires the Administrator to adopt regulations that prescribe: (1) requirements for the implementation of a communications system which is required to be established by employers; and (2) standards for an employer to train employees who work outdoors and may be exposed to poor air quality from wildfire smoke. (NRS 618.297)

Section 6 of this regulation requires an employer who is required to establish a written safety program to perform and prepare a written analysis of job hazards to assess working conditions that may result in occupational exposure to poor outdoor air quality attributable to wildfire smoke: (1) before a task for a job is undertaken for the first time by an employee of the employer; and (2) whenever a task for a job to be performed by an employee of the employer

materially changes. **Section 6** sets forth certain lists of information that must be included in the written analysis of job hazards.

Section 7 of this regulation requires an employer who determines, based on the written analysis performed and prepared pursuant to **section 6**, that an employee of the employer is exposed to working conditions that may cause occupational exposure to poor outdoor air quality attributable to wildfire smoke to include provisions in the written safety program of the employer that address such working conditions, including without limitation, certain specified provisions.

Section 8 of this regulation requires an employer to provide a training program for: (1) each employee who is employed in a job classification in which occupational exposure to poor outdoor air quality attributable to wildfire smoke may occur; and (2) the direct supervisor of each such employee. **Section 8** requires such a training program to: (1) be provided in a manner that is understandable to the employee; (2) describe the requirements imposed on employers pursuant to the provisions of this regulation; and (3) describe the risks of not using personal protection equipment while working outdoors and being exposed to poor outdoor air quality attributable to wildfire smoke.

Section 9 of this regulation requires any measure which an employer implements pursuant to the provisions of this regulation to, at a minimum, reasonably mitigate the risk of occupational exposure to poor outdoor air quality attributable to wildfire smoke.

Under existing law, the provisions requiring the Administrator to adopt regulations concerning air quality do not apply to certain specified employers, including, among others, an employer who employs commercial truck drivers. (NRS 618.297) **Section 5** of this regulation interprets the term “commercial truck driver” as used in those provisions of existing law to mean a person who is licensed to drive a commercial vehicle. **Section 10** of this regulation provides that: (1) the provisions of **sections 2-10** of this regulation also do not apply to an employer to which those provisions of existing law do not apply; and (2) nothing prohibits such an employer from implementing measures to reasonably mitigate the risk of occupational exposure to poor air quality attributable to wildfire smoke that are as effective as or more effective than the requirements of **sections 2-10**.

Sections 3 and 4 define certain terms for the purposes of **sections 2-10**.

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 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 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Occupational exposure to poor outdoor air quality attributable to wildfire smoke” means any outdoor working condition that occurs when the air quality index is 150 or more attributable to wildfire smoke.*

Sec. 4. *“PM_{2.5}” means any particulate matter in the atmosphere attributable to wildfire smoke with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.*

Sec. 5. 1. *As used in paragraph (b) of subsection 6 of NRS 618.297, the Administrator will interpret the term “commercial truck driver” to mean a person who is licensed to drive a commercial motor vehicle.*

2. *As used in this section, “commercial motor vehicle” means:*

(a) *A motor vehicle that satisfies the definition of commercial motor vehicle in NAC 483.7992 that is used in intrastate commerce.*

(b) *A motor vehicle that satisfies the definition of commercial motor vehicle in 49 C.F.R. § 390.5 that is used in interstate commerce.*

Sec. 6. 1. *An employer who is required to establish a written safety program pursuant to NRS 618.383 shall perform and prepare a written analysis of job hazards to assess working conditions that may result in occupational exposure to poor outdoor air quality attributable to wildfire smoke:*

(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 to be performed by an employee of the employer materially changes.*

2. *A written analysis of job hazards performed and prepared pursuant to subsection 1 must include, without limitation:*

(a) *A list of all job classifications of the employer in which employees in such job classifications may have occupational exposure to poor outdoor air quality attributable to 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 attributable to 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 which are performed outdoors by employees of the employer.

Sec. 7. 1. If, based on the written analysis of job hazards performed and prepared pursuant to section 6 of this regulation, an employer determines that an employee of the employer is exposed to working conditions that may cause occupational exposure to poor outdoor air quality attributable to wildfire smoke, the employer shall include in the written safety program required by NRS 618.383 provisions that address such working conditions that may cause occupational exposure to poor outdoor air quality attributable to wildfire smoke, including, without limitation, provisions that:

(a) Provide for the monitoring by the employer of air quality attributable to wildfire smoke at the location where the employee is working through the use of one or more of the following measures:

(1) The use of one or more Internet websites or tools that provide quantitative or qualitative ways to estimate the current air quality index for PM_{2.5} provided by a local air quality agency, the Division of Environmental Protection of the State Department of Conservation and Natural Resources or the United States Environmental Protection Agency.

(2) The measurement of PM_{2.5} concentrations at the location where the employee is working using a make and model of air sensor whose data is included in the Fire and Smoke

Map to report air quality index for PM_{2.5}. In conducting measurements pursuant to this subparagraph, the employer shall:

(I) Use the appropriate calculations and correction values developed by the United States Environmental Protection Agency which, when applied to PM_{2.5} concentrations measured by the air sensor, result in values of air quality index for PM_{2.5} that are comparable to values of the air quality index obtained from the Fire and Smoke Map.

(II) Ensure that the air sensor and all necessary accessories are maintained and used in accordance with the instructions of the manufacturer.

(3) The measurement of PM_{2.5} concentrations at the location where the employee is working using a make and model of air sensor whose data is not included in the Fire and Smoke Map and the conversion of the measured PM_{2.5} concentrations to the equivalent air quality index for PM_{2.5} in accordance with subsection 2.

(b) Set forth measures that the employer is required to take to reduce the exposure of employees to poor outdoor air quality attributable to wildfire smoke when the air quality index for PM_{2.5} at the location where the employee is working is 150 or more, including, without limitation:

(1) The analysis of potential engineering controls, administrative controls and requirements for personal protective equipment and the implementation of appropriate controls; and

(2) The provision of filtering facepiece respirators that are labeled N95 to employees for voluntary use in accordance with the requirements of 29 C.F.R. § 1910.134(c)(2) and 29 C.F.R. § 1910.134 Appendix D.

(c) Except as otherwise provided in this paragraph, prohibit an employee from performing any critical task identified pursuant to paragraph (c) of subsection 2 of section 6 of this regulation outdoors when the air quality index for PM_{2.5} at the location where the employee is working is 500 or more. Such provisions:

(1) May allow the employer to establish a time by which all critical tasks outdoors must be concluded and allow an employee to perform a critical task outdoors until that time so long as the employer has implemented sufficient controls to mitigate the hazards of poor outdoor air quality attributable to wildfire smoke for the employee during that period in which the employee is performing the critical task outdoors.

(2) Shall establish a method for the employer to reassess conditions to determine whether the air quality index for PM_{2.5} is less than 500 to restart the performance of critical tasks outdoors.

(d) Provide for the establishment of a communication system that satisfies the requirements of paragraphs (a) and (b) of subsection 2 of NRS 618.297.

(e) Provide for the training of employees of the employer as necessary to reasonably mitigate occupational exposure to poor outdoor air quality attributable to wildfire smoke in accordance with section 9 of this regulation.

2. If an employer measures PM_{2.5} concentrations in accordance with subparagraph (3) of paragraph (a) of subsection 1:

(a) Except as otherwise provided in this paragraph, the employer shall demonstrate that the air sensor used to measure PM_{2.5} does not understate concentrations of PM_{2.5}. If the air sensor understates PM_{2.5} concentrations, the employer shall:

(1) Obtain information on the possible error of the air sensor from the manufacturer of the air sensor; and

(2) Account for the error when determining PM_{2.5} concentrations and values of the air quality index for PM_{2.5}.

(b) The employer shall ensure that each air sensor and all necessary accessories are calibrated, maintained and used in accordance with the instructions of the manufacturer of the air sensor or accessory, as applicable.

(c) The employer may use an air sensor that, in addition to measuring PM_{2.5} concentrations, measures concentrations of particles that are:

(1) Smaller than 0.3 micrometers; or

(2) Larger than 2.5 micrometers,

↳ if the employer treats the value of the combined resulting measurement as the value of PM_{2.5} concentration.

(d) The employer shall convert the PM_{2.5} concentration to the air quality index for PM_{2.5} using resources published on the Internet website of the Division of Environmental Protection.

(e) The person who uses an air sensor or supervises or directs the use of an air sensor must have the training or experience necessary to:

(1) Apply the requirements of this subsection and subparagraph (3) of paragraph (a) of subsection 1; and

(2) Ensure the correct use of the air sensor and the correct calculation of the air quality index for PM_{2.5}.

3. *Nothing in the provisions of this section requires an employer to use a method to monitor air quality other than that which is set forth in the written safety program of the employer pursuant to subsection 1.*

4. *As used in this section, “Fire and Smoke Map” means the AirNow Fire and Smoke Map created by the United States Environmental Protection Agency and the Interagency Wildland Fire Air Quality Response Program within the United States Forest Service.*

Sec. 8. 1. *An employer shall provide a training program for:*

(a) Each employee who is employed in a job classification identified in paragraph (a) of subsection 2 of section 6 of this regulation; and

(b) The direct supervisor of each employee described in paragraph (a).

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 sections 2 to 10, inclusive, of this regulation; and

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

Sec. 9. *Any measure which an employer implements pursuant to the provisions of sections 2 to 10, inclusive, of this regulation must, at a minimum, reasonably mitigate the risk of occupational exposure to poor outdoor air quality attributable to wildfire smoke.*

Sec. 10. *The provisions of sections 2 to 10, inclusive, of this regulation do not apply to an employer specified in subsection 6 of NRS 618.297. Nothing in the provisions of NRS 618.297 or sections 2 to 10, inclusive, of this regulation prohibits such an employer from implementing measures to reasonably mitigate the risk of occupational exposure to poor outdoor air quality*

attributable to wildfire smoke that are as effective as or more effective than the requirements of sections 2 to 10, inclusive, of this regulation.