

California Takes Initial Steps to Adopt Revised Heat Illness and Wildfire Smoke Standards

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On September 29, 2022, Governor Gavin Newsom signed into law [Assembly Bill \(AB\) No. 2243](#), an amendment to section 6721 of the California Labor Code that will ultimately lead to changes to the California Division of Occupational Safety and Health's (Cal/OSHA) heat illness and wildfire smoke standards (sections 3395 and 5141.1 of Title 8 of the California Code of Regulations).

The new law requires Cal/OSHA, before December 1, 2025, to submit rulemaking proposals to the California Occupational Safety and Health Standards Board regarding new requirements for the heat illness and wildfire smoke standards.

The new proposed regulations would require each employer to distribute a copy of its Heat Illness Prevention Plan (HIPP) to each new employee upon hire, and to existing employees upon training on heat illness-related topics, but no more than twice per year per employee. Additionally, the new proposed regulations would require employers to provide all employees copies of the HIPP "at least once on an annual basis," even for existing employees or those who do not undergo heat illness-related training.

The wildfire smoke standards will ultimately be altered to reduce the air quality index (AQI) threshold for particulate matter (PM) 2.5 "at which control by respiratory protective equipment becomes mandatory for farmworkers to, at a maximum, an AQI of 301 or more."

"The proposed threshold may be lower than 301 AQI or more, as determined by [Cal/OSHA]. For an AQI above 301, the employer [would not] need [to] implement fit testing and medical evaluations or otherwise implement requirements under Section 5144 of Title 8 of the California Code of Regulations," the respiratory protection provision.

The proposal to mandate usage of respiratory protective equipment when the AQI for PM2.5 is 301 or more represents a significant alteration of the current rule, which simply requires that respirators be provided by the employer for an AQI above 151 but does not require respirator use unless the AQI exceeds 500.

While these new requirements will present more of a challenge to employers, the new law is actually watered down from the [original bill](#), which would have created an ultrahigh heat standard for employees in outdoor places of employment for heat in excess of 105 degrees Fahrenheit. That standard would have required “additional mandatory work breaks every hour, accessible cool water, shade structures that include cooling features such as misters, and increased employer monitoring of employees for symptoms of heat-related illnesses.”

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