






Marion Soil and Water Conservation District (MSWCD) Administrative Committee Meeting
Friday, July 19, 2024, 9:00 am to 11:00 am

HB2560 requires that all Oregon public meetings held by a governing body of a public body, excluding executive sessions, must provide to members of the public an opportunity to access and attend the meeting by telephone, video or other electronic or virtual means. This meeting will be held by video conference and by telephone.

 **Link to Video Conference:** [\(Zoom\) Meeting Link](#)
Meeting Call in Number: 1 (253) 215 - 8782
 **Meeting ID:** 861 6125 6285 | **Passcode:** 720019
 **Staff Contact:** Linda Lovett, linda.lovett@marionswcd.net

Agenda

Chair: Call Meeting to Order, Agenda Changes & Approval

Item #	Topic	Presenter	Purpose	Time
1	Public Comment	Chair	Feedback	5 min.
2	Review of June 14, 2024 Minutes	Chair	Procedure	5 min.
3	Board Update on Committee Recommendations	Sanchez	Discussion	10 min.
4	Amended Public Contracting Policy	Sanchez	Review	20 min.
5	USDA Policy	Sanchez	Review	10 min.
6	Public Records Disclosure Resolution	Sanchez	Review	20 min.
7	Heat Illness Prevention Policy	Lovett	Review	15 min.
8	Wildfire Smoke Policy	Lovett	Review	15 min.
	Meeting Adjournment	Chair		

Agenda Brief

Item #	Brief	Action
3	Board Update on Committee Recommendations – New standing agenda item to recap Board actions on committee recommendations	Discussion
4	Amended Public Contracting Policy – Incorporates changes in State law related to equity in public procurements	Recommend revised policy for Board approval
5	USDA Policy	Recommend policy for Archive

6	Public Records Disclosure Resolution	Review policy for potential updates
7	Heat Illness Prevention Policy – For compliance with Oregon OSHA’s rules on Heat Illness Prevention, enacted June 2022	Recommend policy for Board approval
8	Wildfire Smoke Policy – For compliance with Oregon OSHA’s rules on Protection from Wildfire Smoke, enacted July 2022	Recommend policy for Board approval



Marion Soil and Water Conservation District complies with the American with Disabilities Act (ADA) and does not discriminate based on race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. If special physical, language, or other accommodations are needed for this meeting, please advise the District Manager at 503-391-9927 as soon as possible, and at least 48 hours in advance of the meeting.

Meeting Minutes

Attendance

Committee Members	Present/Absent	Staff	Guests
Darin Olson Peggy Hart Angela Plowhead Brenda Sanchez Linda Lovett		Tom Wilson	

Item #	Minutes and Action/ Vote Count
1	Public Comment
2	Review of June Minutes
3	Board Update on Committee Recommendations
4	Amended Public Contracting Policy
5	USDA Policy
6	Public Records Disclosure Resolution
7	Heat Illness Prevention Policy
8	Wildfire Smoke Policy
Meeting adjourned	

Senate Bill 1047

Sponsored by Senator WAGNER (at the request of Governor Tina Kotek)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Raises contract price threshold under which contracting agency may apply certain solicitation and procurement methods for public contracts. Requires state contracting agency that awards public contract with contract price of \$10,000 or more to document in state contracting agency's procurement file actions that state contracting agency takes to provide notice of procurement to Governor's Policy Advisor for Economic and Business Equity and to invite or consider for participation in procurement businesses or enterprises that Certification Office for Business Inclusion and Diversity certifies.

Requires Oregon Department of Administrative Services to promote policy of diversity, equity and inclusion in public contracting by engaging in efforts to increase public contracting opportunities for businesses and enterprises that Certification Office for Business Inclusion and Diversity has certified. Requires department to review and evaluate results of disparity study, to develop plan to implement and implement priority recommendations of study and to report periodically to Governor's Policy Advisor for Economic and Business Equity concerning progress of department's plan and implementation.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to equity in public procurements; creating new provisions; amending ORS 279B.065,
3 279B.070 and 279C.335; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 279B.065 is amended to read:

6 279B.065. (1) A contracting agency may award a [*procurement of*] **public contract for** goods or
7 services that does not exceed [*\$10,000*] **a contract price of \$25,000** in any manner the contracting
8 agency deems practical or convenient, including by direct selection or award. A contract awarded
9 under this section may be amended to exceed [*\$10,000*] **\$25,000** only in accordance with rules
10 adopted under ORS 279A.065.

11 **(2) A state contracting agency that awards a public contract with a contract price of**
12 **\$10,000 or more using a method permitted under this section shall document in the state**
13 **contracting agency's procurement file the actions the state contracting agency takes to:**

14 **(a) Comply with ORS 200.035; and**

15 **(b) Consider for the procurement businesses or enterprises that the Certification Office**
16 **for Business Inclusion and Diversity certifies under ORS 200.055.**

17 [(2)] **(3) A contracting agency may not artificially divide or fragment a procurement so as to**
18 **constitute a small procurement under this section.**

19 **SECTION 2.** ORS 279B.070 is amended to read:

20 279B.070. (1) A contracting agency may award a [*procurement of*] **public contract for** goods or
21 services that exceeds [*\$10,000*] **a contract price of \$25,000**, but does not exceed [*\$150,000*] **a con-**
22 **tract price of \$250,000, [in accordance with intermediate procurement procedures] as provided in**
23 **subsection (4) of this section.** A contract awarded under this section may be amended to exceed
24 [*\$150,000*] **\$250,000** only in accordance with rules adopted under ORS 279A.065.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **(2) A state contracting agency that awards a public contract with a contract price of**
 2 **\$10,000 or more using a method permitted under this section shall document in the state**
 3 **contracting agency’s procurement file the actions the state contracting agency takes to:**

4 **(a) Comply with ORS 200.035; and**

5 **(b) Invite to participate in the procurement qualified businesses or enterprises that the**
 6 **Certification Office for Business Inclusion and Diversity certifies under ORS 200.055.**

7 [(2)] **(3)** A contracting agency may not artificially divide or fragment a procurement so as to
 8 constitute an intermediate procurement under this section.

9 [(3)] **(4)** When conducting an intermediate procurement, a contracting agency shall seek at least
 10 three informally solicited competitive price quotes or competitive proposals from prospective con-
 11 tractors. The contracting agency shall keep a written record of the sources of the quotes or pro-
 12 posals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the
 13 contracting agency shall make a written record of the effort the contracting agency makes to obtain
 14 the quotes or proposals.

15 [(4)] **(5)** If a contracting agency awards a **public** contract, the contracting agency shall award
 16 the **public** contract to the offeror whose quote or proposal will best serve the interests of the con-
 17 tracting agency, taking into account price as well as considerations including, but not limited to,
 18 experience, expertise, product functionality, suitability for a particular purpose and contractor re-
 19 sponsibility under ORS 279B.110.

20 **SECTION 3.** ORS 279C.335 is amended to read:

21 279C.335. (1) A contracting agency may award a public improvement contract only in response
 22 to competitive bids, except for:

23 (a) A public improvement contract with a qualified nonprofit agency that provides employment
 24 opportunities for individuals with disabilities under ORS 279.835 to 279.855.

25 (b) A public improvement contract that is exempt under subsection (2) of this section.

26 (c) A public improvement contract with a value of less than [~~\$10,000~~] **\$25,000. A state con-**
 27 **tracting agency that awards a public improvement contract with a contract price of \$10,000**
 28 **or more under this paragraph shall document in the state contracting agency’s procurement**
 29 **file the actions the state contracting agency takes to:**

30 **(A) Comply with ORS 200.035; and**

31 **(B) Invite to participate in the procurement qualified businesses or enterprises that the**
 32 **Certification Office for Business Inclusion and Diversity certifies under ORS 200.055.**

33 (d) A public improvement contract with a contract price that does not exceed \$100,000 made
 34 under procedures for competitive quotes in ORS 279C.412 and 279C.414.

35 (e) A contract to repair, maintain, improve or protect property the Department of Veterans’
 36 Affairs obtains under ORS 407.135 and 407.145 (1).

37 (f) An energy savings performance contract that a contracting agency enters into in accordance
 38 with rules of procedure adopted under ORS 279A.065.

39 (g) A public improvement contract with an estimated contract price of \$250,000 or less that a
 40 contracting agency awards to an emerging small business certified under ORS 200.055 and funds
 41 with moneys from the Emerging Small Business Account established under ORS 200.180. A con-
 42 tracting agency that awards a public contract exempted from competitive bidding under this para-
 43 graph shall solicit competitive quotes as provided in ORS 279C.414 before making the award.

44 (2) Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department
 45 of Administrative Services, a local contract review board or, for contracts described in ORS

1 279A.050 (3)(b), the Director of Transportation may exempt a public improvement contract or a class
2 of public improvement contracts from the competitive bidding requirement of subsection (1) of this
3 section after the Director of the Oregon Department of Administrative Services, the Director of
4 Transportation or the local contract review board approves the following findings that the con-
5 tracting agency submits or, if a state agency is not the contracting agency, that the state agency
6 that is seeking the exemption submits:

7 (a) The exemption is unlikely to encourage favoritism in awarding public improvement contracts
8 or substantially diminish competition for public improvement contracts.

9 (b) Awarding a public improvement contract under the exemption will likely result in substantial
10 cost savings and other substantial benefits to the contracting agency or the state agency that seeks
11 the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to
12 the contracting agency or the public. In approving a finding under this paragraph, the Director of
13 the Oregon Department of Administrative Services, the Director of Transportation or the local
14 contract review board shall consider the type, cost and amount of the contract and, to the extent
15 applicable to the particular public improvement contract or class of public improvement contracts,
16 the following:

17 (A) How many persons are available to bid;

18 (B) The construction budget and the projected operating costs for the completed public im-
19 provement;

20 (C) Public benefits that may result from granting the exemption;

21 (D) Whether value engineering techniques may decrease the cost of the public improvement;

22 (E) The cost and availability of specialized expertise that is necessary for the public improve-
23 ment;

24 (F) Any likely increases in public safety;

25 (G) Whether granting the exemption may reduce risks to the contracting agency, the state
26 agency or the public that are related to the public improvement;

27 (H) Whether granting the exemption will affect the sources of funding for the public improve-
28 ment;

29 (I) Whether granting the exemption will better enable the contracting agency to control the
30 impact that market conditions may have on the cost of and time necessary to complete the public
31 improvement;

32 (J) Whether granting the exemption will better enable the contracting agency to address the size
33 and technical complexity of the public improvement;

34 (K) Whether the public improvement involves new construction or renovates or remodels an
35 existing structure;

36 (L) Whether the public improvement will be occupied or unoccupied during construction;

37 (M) Whether the public improvement will require a single phase of construction work or multi-
38 ple phases of construction work to address specific project conditions; and

39 (N) Whether the contracting agency or state agency has, or has retained under contract, and
40 will use contracting agency or state agency personnel, consultants and legal counsel that have
41 necessary expertise and substantial experience in alternative contracting methods to assist in de-
42 veloping the alternative contracting method that the contracting agency or state agency will use to
43 award the public improvement contract and to help negotiate, administer and enforce the terms of
44 the public improvement contract.

45 (c) As an alternative to the finding described in paragraph (b) of this subsection, if a contracting

1 agency or state agency seeks an exemption that would allow the contracting agency or state agency
2 to use an alternative contracting method that the contracting agency or state agency has not pre-
3 viously used, the contracting agency or state agency may make a finding that identifies the project
4 as a pilot project for which the contracting agency or state agency intends to determine whether
5 using the alternative contracting method actually results in substantial cost savings to the con-
6 tracting agency, to the state agency or, if the contract is for a public improvement described in ORS
7 279A.050 (3)(b), to the contracting agency or the public. The contracting agency or state agency
8 shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation re-
9 quired under ORS 279C.355.

10 (3) In making findings to support an exemption for a class of public improvement contracts, the
11 contracting agency or state agency shall clearly identify the class using the class's defining char-
12 acteristics. The characteristics must include a combination of project descriptions or locations, time
13 periods, contract values, methods of procurement or other factors that distinguish the limited and
14 related class of public improvement contracts from the agency's overall construction program. The
15 agency may not identify a class solely by funding source, such as a particular bond fund, or by the
16 method of procurement, but shall identify the class using characteristics that reasonably relate to
17 the exemption criteria set forth in subsection (2) of this section.

18 (4) In granting exemptions under subsection (2) of this section, the Director of the Oregon De-
19 partment of Administrative Services, the Director of Transportation or the local contract review
20 board shall:

21 (a) If appropriate, direct the use of alternative contracting methods that take account of market
22 realities and modern practices and are consistent with the public policy of encouraging competition.

23 (b) Require and approve or disapprove written findings by the contracting agency or state
24 agency that support awarding a particular public improvement contract or a class of public im-
25 provement contracts, without the competitive bidding requirement of subsection (1) of this section.
26 The findings must show that the exemption of a contract or class of contracts complies with the
27 requirements of subsection (2) of this section.

28 (c) Require a contracting agency or state agency that procures construction manager/general
29 contractor services to conduct the procurement in accordance with model rules the Attorney Gen-
30 eral adopts under ORS 279A.065 (3).

31 (5)(a) A contracting agency or state agency may hold a public hearing before approving the
32 findings required by subsection (2) of this section and before the Director of the Oregon Department
33 of Administrative Services, the Director of Transportation or the local contract review board grants
34 an exemption from the competitive bidding requirement for a public improvement contract or a class
35 of public improvement contracts.

36 (b) Notification of a proposed exemption under subsection (2) of this section must be published
37 in at least one trade newspaper of general statewide circulation a minimum of 14 days before the
38 date on which the contracting agency intends to take action to approve or disapprove the ex-
39 emption.

40 (c) The notice must state that in response to a written request, the contracting agency or state
41 agency will hold a public hearing for the purpose of taking comments on the draft findings for an
42 exemption from the competitive bidding requirement.

43 (d) If the contracting agency or state agency conducts a public hearing, the contracting agency
44 or state agency shall offer an opportunity for any interested party to appear and comment.

45 (e) If a contracting agency or state agency must act promptly because of circumstances beyond

1 the agency's control that do not constitute an emergency, notification of the proposed exemption
2 may be published simultaneously with the agency's solicitation of contractors for the alternative
3 public contracting method, as long as responses to the solicitation are due at least five days after
4 the agency intends to take action to approve or disapprove the proposed exemption.

5 (6) The purpose of an exemption is to exempt one or more public improvement contracts from
6 competitive bidding requirements. The representations in and the accuracy of the findings, including
7 any general description of the resulting public improvement contract, are the bases for approving
8 the findings and granting the exemption. The findings may describe anticipated features of the re-
9 sulting public improvement contract, but the final parameters of the contract are those character-
10 istics or specifics announced in the solicitation document.

11 (7) A public improvement contract awarded under the competitive bidding requirement of sub-
12 section (1) of this section may be amended only in accordance with rules adopted under ORS
13 279A.065.

14 (8) A public improvement contract that is excepted from the competitive bidding requirement
15 under subsection (1)(a), (c), (d), (e), (f) or (g) of this section is not subject to the exemption require-
16 ments of subsection (2) of this section.

17 **SECTION 4. The Oregon Department of Administrative Services shall promote and apply**
18 **a policy of diversity, equity and inclusion in public contracting by engaging in efforts to in-**
19 **crease public contracting opportunities for businesses and enterprises that the Certification**
20 **Office for Business Inclusion and Diversity has certified under ORS 200.055. The department**
21 **shall undertake the following actions:**

22 (1) Review and evaluate the recommendations of a statewide study of disparities in
23 awarding public contracts;

24 (2) Develop a plan to implement the priority recommendations set forth in the study de-
25 scribed in subsection (1) of this section;

26 (3) Implement the priority recommendations set forth in the study described in sub-
27 section (1) of this section; and

28 (4) Report to the Governor's Policy Advisor for Economic and Business Equity concern-
29 ing the department's plan and implementation every six months until the earlier of the date
30 on which the department has fully implemented the priority recommendations or June 30,
31 2025. The department shall submit the first report not later than 90 days after the com-
32 pletion of the study described in subsection (1) of this section.

33 **SECTION 5. Section 4 of this 2023 Act and the amendments to ORS 279B.065, 279B.070**
34 **and 279C.335 by sections 1 to 3 of this 2023 Act apply to procurements that a contracting**
35 **agency advertises or otherwise solicits or, if the contracting agency does not advertise or**
36 **otherwise solicit the procurement, to public contracts into which the contracting agency**
37 **enters on or after the operative date specified in section 6 of this 2023 Act.**

38 **SECTION 6. (1) The amendments to ORS 279B.065, 279B.070 and 279C.335 by sections 1 to**
39 **3 of this 2023 Act become operative on January 1, 2024.**

40 (2) A contracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt
41 rules and take any other action before the operative date specified in subsection (1) of this
42 section that is necessary for the contracting agency to undertake and exercise all of the
43 duties, functions and powers conferred on the contracting agency by the amendments to ORS
44 279B.065, 279B.070 and 279C.335 by sections 1 to 3 of this 2023 Act.

45 **SECTION 7. This 2023 Act takes effect on the 91st day after the date on which the 2023**

1 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

2

Marion SWCD

24-0410 Public Contracting Attachment A

Relating to:

- Creating new provisions for equity in public procurements;
- Amending ORS 279B.065, 279B.070 and 279C.335

~~Strikethrough is for language that has been changed.~~

BOLD is for language that has been added

Summary of Changes:

Raises contract price threshold under which contracting agency may apply certain solicitation and procurement methods for public contracts. Requires state contracting agency that awards public contract with contract price of \$10,000 or more to document in state contracting agency's procurement file actions that state contracting agency takes to provide notice of procurement to Governor's Policy Advisor for Economic and Business Equity and to invite or consider for participation in procurement businesses or enterprises that Certification Office for Business Inclusion and Diversity certifies.

Requires Oregon Department of Administrative Services to promote policy of diversity, equity and inclusion in public contracting by engaging in efforts to increase public contracting opportunities for businesses and enterprises that Certification Office for Business Inclusion and Diversity has certified. Requires department to review and evaluate results of disparity study, to develop plan to implement and implement priority recommendations of study and to report periodically to Governor's Policy Advisor for Economic and Business Equity concerning progress of department's plan and implementation.

SECTION 1

1. A contracting agency may award a ~~procurement of~~ **public contract for** goods or services that does not exceed ~~[\$10,000]~~ **a contract price of \$25,000** in any manner the contracting agency deems practical or convenient, including by direct selection or award. A contract awarded under this section may be amended to exceed ~~[\$10,000]~~ **\$25,000** only in accordance with rules adopted under ORS 279A.065.

2. **A state contracting agency that awards a public contract with a contract price of \$10,000 or more using a method permitted under this section shall document in the state contracting agency's procurement file the actions the state contracting agency takes to:**

a. **Comply with ORS 200.035; and**

b. **Consider for the procurement businesses or enterprises that the Certification Office for Business Inclusion and Diversity certifies under ORS 200.055.**

3. A contracting agency may not artificially divide or fragment a procurement so as to constitute a small procurement under this section.

SECTION 2

1. A contracting agency may award a ~~procurement of~~ **public contract for** goods or services that exceeds ~~[\$10,000]~~ **a contract price of \$25,000** but does not exceed ~~[\$150,000]~~ **a contract price of \$250,000**, ~~[in accordance with intermediate procurement procedures]~~ **as provided in subsection (4) of this section**. A contract awarded under this section may be amended to exceed ~~[\$150,000]~~ **\$250,000** only in accordance with rules adopted under ORS 279A.065.

2. A state contracting agency that awards a public contract with a contract price of **\$10,000** or more using a method permitted under this section shall document in the state contracting agency's procurement file the actions the state contracting agency takes to:

- a. Comply with ORS 200.035; and
- b. Invite to participate in the procurement qualified businesses or enterprises that the Certification Office for Business Inclusion and Diversity certifies under ORS 200.055.

3. A contracting agency may not artificially divide or fragment a procurement so as to constitute an intermediate procurement under this section.

4. When conducting an intermediate procurement, a contracting agency shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The contracting agency shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the contracting agency shall make a written record of the effort the contracting agency makes to obtain the quotes or proposals.

5. If a contracting agency awards a **public** contract, the contracting agency shall award the **public** contract to the offeror whose quote or proposal will best serve the interests of the contracting agency, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility under ORS 279B.110.

SECTION 3.

1. A contracting agency may award a public improvement contract only in response to competitive bids, except for:

a. A public improvement contract with a qualified nonprofit agency that provides employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

b. A public improvement contract that is exempt under subsection (2) of this section.

c. A public improvement contract with a value of less than **[\$10,000]** **\$25,000. A state contracting agency that awards a public improvement contract with a contract price of \$10,000 or more under this paragraph shall document in the state contracting agency's procurement file the actions the state contracting agency takes to:**

A. Comply with ORS 200.035; and

B. Invite to participate in the procurement qualified businesses or enterprises that the Certification Office for Business Inclusion and Diversity certifies under ORS 200.055.

d. A public improvement contract with a contract price that does not exceed \$100,000 made under procedures for competitive quotes in ORS 279C.412 and 279C.414.

e. A contract to repair, maintain, improve or protect property the Department of Veterans' Affairs obtains under ORS 407.135 and 407.145 (1).

f. An energy savings performance contract that a contracting agency enters into in accordance with rules of procedure adopted under ORS 279A.065.

Commented [TW1]: There are no changes after this, only the addition of sections 4,5,6

g. A public improvement contract with an estimated contract price of \$250,000 or less that a contracting agency awards to an emerging small business certified under ORS 200.055 and funds with moneys from the Emerging Small Business Account established under ORS 200.180. A contracting agency that awards a public contract exempted from competitive bidding under this paragraph shall solicit competitive quotes as provided in ORS 279C.414 before making the award.

2. Subject to subsection (4)(b) and (c) of this section, the Director of the Oregon Department of Administrative Services, a local contract review board or, for contracts described in ORS 279A.050 (3)(b), the Director of Transportation may exempt a public improvement contract or a class of public improvement contracts from the competitive bidding requirement of subsection (1) of this section after the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board approves the following findings that the contracting agency submits or, if a state agency is not the contracting agency, that the state agency that is seeking the exemption submits:

a. The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts.

b. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the contracting agency or the state agency that seeks the exemption or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. In approving a finding under this paragraph, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall consider the type, cost and amount of the contract and, to the

extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

- A. How many persons are available to bid;
- B. The construction budget and the projected operating costs for the completed public improvement;
- C. Public benefits that may result from granting the exemption;
- D. Whether value engineering techniques may decrease the cost of the public improvement;
- E. The cost and availability of specialized expertise that is necessary for the public improvement;
- F. Any likely increases in public safety;
- G. Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
- H. Whether granting the exemption will affect the sources of funding for the public improvement;
- I. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

J. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

K. Whether the public improvement involves new construction or renovates or remodels an existing structure;

L. Whether the public improvement will be occupied or unoccupied during construction;

M. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and

N. Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

c. As an alternative to the finding described in paragraph (b) of this subsection, if a contracting agency or state agency seeks an exemption that would allow the contracting agency or state agency to use an alternative contracting method that the contracting agency or state agency has not previously used, the contracting agency or state agency may make a finding that identifies the project as a pilot project for which the contracting agency or state agency intends to determine whether using the alternative contracting method actually results in substantial cost savings to the

contracting agency, to the state agency or, if the contract is for a public improvement described in ORS 279A.050 (3)(b), to the contracting agency or the public. The contracting agency or state agency shall include an analysis and conclusion regarding actual cost savings, if any, in the evaluation required under ORS 279C.355.

3. In making findings to support an exemption for a class of public improvement contracts, the contracting agency or state agency shall clearly identify the class using the class's defining characteristics. The characteristics must include a combination of project descriptions or locations, time periods, contract values, methods of procurement or other factors that distinguish the limited and related class of public improvement contracts from the agency's overall construction program. The agency may not identify a class solely by funding source, such as a particular bond fund, or by the method of procurement, but shall identify the class using characteristics that reasonably relate to the exemption criteria set forth in subsection (2) of this section.
4. In granting exemptions under subsection (2) of this section, the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board shall:
 - a. If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition.
 - b. Require and approve or disapprove written findings by the contracting agency or state agency that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirement of subsection (1) of this section. The findings must show that the exemption of a contract or class

of contracts complies with the requirements of subsection (2) of this section.

c. Require a contracting agency or state agency that procures construction manager/general contractor services to conduct the procurement in accordance with model rules the Attorney General adopts under ORS 279A.065 (3).

5.

a. A contracting agency or state agency may hold a public hearing before approving the findings required by subsection (2) of this section and before the Director of the Oregon Department of Administrative Services, the Director of Transportation or the local contract review board grants an exemption from the competitive bidding requirement for a public improvement contract or a class of public improvement contracts.

b. Notification of a proposed exemption under subsection (2) of this section must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the date on which the contracting agency intends to take action to approve or disapprove the exemption.

c. The notice must state that in response to a written request, the contracting agency or state agency will hold a public hearing for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement.

d. If the contracting agency or state agency conducts a public hearing, the contracting agency or state agency shall offer an opportunity for any interested party to appear and comment.

e. If a contracting agency or state agency must act promptly because of circumstances beyond the agency's control that do not constitute an emergency, notification of the proposed exemption may be published simultaneously with the agency's solicitation of contractors for the alternative public contracting method, as long as responses to the solicitation are due at least five days after the agency intends to take action to approve or disapprove the proposed exemption.

6. The purpose of an exemption is to exempt one or more public improvement contracts from competitive bidding requirements. The representations in and the accuracy of the findings, including any general description of the resulting public improvement contract, are the bases for approving the findings and granting the exemption. The findings may describe anticipated features of the resulting public improvement contract, but the final parameters of the contract are those characteristics or specifics announced in the solicitation document.

7. A public improvement contract awarded under the competitive bidding requirement of subsection (1) of this section may be amended only in accordance with rules adopted under ORS 279A.065.

8. A public improvement contract that is excepted from the competitive bidding requirement under subsection (1)(a), (c), (d), (e), (f) or (g) of this section is not subject to the exemption requirements of subsection (2) of this section.

SECTION 4

The Oregon Department of Administrative Services shall promote and apply a policy of diversity, equity and inclusion in public contracting by engaging in efforts to increase public contracting opportunities for businesses and enterprises that the Certification Office for Business Inclusion and Diversity has

certified under ORS 200.055. The department shall undertake the following actions:

1. Review and evaluate the recommendations of a statewide study of disparities in awarding public contracts;
2. Develop a plan to implement the priority recommendations set forth in the study described in subsection (1) of this section;
3. Implement the priority recommendations set forth in the study described in subsection (1) of this section; and
4. Report to the Governor's Policy Advisor for Economic and Business Equity concerning the department's plan and implementation every six months until the earlier of the date on which the department has fully implemented the priority recommendations or June 30, 2025. The department shall submit the first report not later than 90 days after the completion of the study described in subsection (1) of this section.

SECTION 5

Section 4 of this 2023 Act and the amendments to ORS 279B.065, 279B.070 and 279C.335 by sections 1 to 3 of this 2023 Act apply to procurements that a contracting agency advertises or otherwise solicits or, if the contracting agency does not advertise or otherwise solicit the procurement, to public contracts into which the contracting agency enters on or after the operative date specified in section 6 of this 2023 Act.

SECTION 6

1. The amendments to ORS 279B.065, 279B.070 and 279C.335 by sections 1 to 3 of this 2023 Act become operative on January 1, 2024.

2. A contracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary for the contracting agency to undertake and exercise all of the duties, functions and powers conferred on the contracting agency by the amendments to ORS 279B.065, 279B.070 and 279C.335 by sections 1 to 3 of this 2023 Act.

DRAFT



Resolution 24-0410

Public Contracting Rules And Procedures Amending 2021-11-03 (adopting updated and revised Attachment A)

WHEREAS, Marion Soil and Water Conservation District (District) is an Oregon special district which is subject to Oregon's public contracting laws [ORS chapters 279A, 279B, and 279C]; and

WHEREAS, ORS 279A.065 and 279A.070 authorize public contracting agencies to adopt local rules for public contracting; and

WHEREAS, on March 2, 2005, the District's Board of Directors adopted Resolution No. **030205C**, Adopting Public Contracting Rules and Prescribing Procedural Rules for Public Contracting ("Contracting Rules"); and amended such Contracting Rules on February 20, 2014, and November 11, 2021; and

Commented [TW1]: My addition

WHEREAS, the District's Board of Directors desires to update and revise the Contracting Rules to address changes in the law and to clarify certain procedures;

NOW, THEREFORE, BE IT RESOLVED, that the District's Board of Directors, acting both as the governing body of the District and as the Local Contract Review Board (LCRB), adopts the Contracting Rules as shown in Attachment A to this Resolution.

The Contracting Rules shown in Attachment A shall supersede and replace all prior local contracting rules adopted by the District.

ADOPTED

Month, Day, Year by a ___ to ___ vote of the Marion SWCD Board of Directors.

Board of Directors Chair Signature

Marion Soil and Water Conservation District USDA Conservation Plan Review Policy

Purpose: Oregon's Soil and Water Conservation Districts are invited to provide input and take board action on conservation plans provided by the Natural Resources Conservation Service (NRCS).

The Marion Soil and Water Conservation District (SWCD) shall use the following procedures and criteria to evaluate conservation plans for USDA Programs including but not limited to:

- Conservation Reserve Program (CRP) General and Continuous
- Conservation Reserve Enhancement Program (CREP)
- Environmental Quality Incentive Program (EQIP)
- Grassland Reserve Program (GRP)
- Wetland Reserve Program (WRP)
- Wildlife Habitat Incentives Program (WHIP)

The Directors shall follow the procedures and criteria as listed below.

- 1) Conservation plans shall be reviewed and acted upon according to procedures in 2 (a) and 2 (b) below at a sanctioned SWCD board meeting. When necessary the board may also choose to use procedure 2 (c).
- 2) The conservation plan will be reviewed in one of three ways:
 - a) **Open Session.** This method is strongly preferred by the Directors based on public review for public funds expended. In order to review a plan in open session, an individual must provide written permission stating that he or she has given the Directors authorization to review and discuss certain details of their plan. An individual is encouraged to attend the open session but is not required to do so.
 - b) **Closed Executive Session.** An Executive Session may be held to discuss aspects of the plan that an individual did not give his or her permission to discuss in open session. The Directors may find it necessary to review and discuss this information in order to help them make a decision regarding the plan in open session. The Directors shall determine who will be permitted to attend the executive session. All others will be asked to leave temporarily until the board resumes the open session. Once the board reconvenes the open session, the Directors must have written permission from the individual to state at the least the name used on the conservation plan in order for the board to take any official action. Official action by the board may include either approving, not approving, recommending or not recommending to write a letter of support based on what USDA program the plan falls under.
 - c) **No Written Permission.** If an individual does not give the board written permission to disclose any information about his or her plan in open session, then the board may delegate the authority to a director or directors to review and sign the plan on behalf of the board.
- 3) A Conservation Plan shall be evaluated on the following criteria:
 - a) The plan meets the individual's conservation, environmental and economic objectives.
 - b) The plan meets one or more of the District's resource concerns as stated its Business Plan.
 - c) The practices are necessary and will treat the identified problem(s).
 - d) The practices are feasible.
 - e) All necessary permits, land rights, water rights, and other assurances are expected to be obtained with minimal difficulty or already have been obtained.
 - f) The project does not have any direct off-site negative impacts to neighboring properties.
 - g) Other special districts, i.e. a water control district, in the project area has been contacted and proof of contact has been submitted to the Marion Soil and Water Conservation District prior to the board reviewing the plan.
- 4) The District Chair shall be authorized to sign conservation plan revisions, if the District Manager and the Chair in consultation with NRCS determines that the revisions are minor and limited in scope.
- 5) This policy can be amended at any time at a regularly sanctioned District meeting.

This policy was adopted unanimously by the Board of Directors at its regularly scheduled meeting on September 3, 2003.

Adopted: September 3, 2003
Approved: September 3, 2003

Marion Soil & Water Conservation District



Ralph Fisher, Chair

Marion Soil and Water Conservation District USDA Conservation Plan Review Procedures

Purpose: Oregon's Soil and Water Conservation Districts are invited to provide input and take board action on conservation plans provided by the Natural Resources Conservation Service (NRCS).

The Marion Soil and Water Conservation District (SWCD) shall use the following procedures to review and approve conservation plans for USDA Programs including but not limited to:

- Conservation Reserve Program (CRP) General and Continuous
- Conservation Reserve Enhancement Program (CREP)
- Environmental Quality Incentive Program (EQIP)
- Grassland Reserve Program (GRP)
- Wetland Reserve Program (WRP)
- Wildlife Habitat Incentives Program (WHIP)

The Marion SWCD and NRCS Staff shall follow the procedures listed below when preparing to mail conservation plan information for review by the elected board members prior to any board meeting.

- 1) Give general background information and list the practices and activities that the plan covers.
- 2) Prepare and include a conservation plan map showing area or location of property.
- 3) List what information the landowner or individual has given permission to release.
 - a) If information is limited, then state that further discussion of their plan beyond permitted information shall require an executive session
 - b) Or state that permission has been given that any information may be discussed in open session.
- 4) Clearly state funding status by:
 - a) No funding being requested at this time.
 - b) There is a potential for future funding.
 - c) There is a request for funds and list what program or financial source being sought.
- 5) When preparing the information for mailing, assemble together all the plans that require an executive session and then assemble together those plans that can be discussed in open session. This is to help avoid any confusion about what plans can or cannot be discussed in open session.
- 6) For quick reference, list on a separate piece of paper and preferably in alphabetical order, all the conservation plans with each planner's name and phone number along side it.
- 7) When mailing plan information it shall be placed in a separate envelope and marked confidential.
- 8) No conservation plans, unless requested during an executive session, shall be brought into the meeting room. The staff shall have available only the signature page for signing once a plan has been approved.
- 9) Prior to the board meeting staff shall compile a list of all conservation plans to be approved during the meeting. Staff shall then separate out those plans with limited permission that would require an executive session from those that can be freely discussed in an open meeting. This list will be distributed during the board meeting and shall only contain the information that the landowner or individual has granted permission to release and nothing else.

The Marion SWCD Board Members shall follow the procedures listed below when reviewing conservation plan information prior to any board meeting.

- 1) Each board member shall review each plan prior to the board meeting and call the person who wrote the plan if there are questions or for further clarification.
- 2) After reviewing a plan's information, each board member shall come to the board meeting prepared to make a decision to either approve or not approve a plan.
- 3) Board members are not to discuss with others any information about an individual's conservation plan unless they have written permission from the individual.
- 4) Board members **shall not** bring into the meeting room any plan information that was mailed to them prior to the meeting. If necessary, board members may bring their own notes to use as a reference when making a decision on a particular plan.
- 5) These procedures can be amended at any time at a regularly sanctioned District meeting.

**Marion Soil and Water Conservation District
USDA Conservation Plan Review Procedures Continued:**


The Marion SWCD Board Chair shall follow the procedures listed below during a board meeting.

- 1) The chair and all the board members shall be given a list of all conservation plans that need to be approved during the meeting. The list shall have the plans separated by the ones with limited permission that would require an executive session from those that can be freely discussed in an open meeting.
- 2) The chair shall ask the board members if there is a need to call an executive session for the purpose of discussing any of the plans from the list of those that have only granted a limited release of information.
- 3) Should there be a request for an executive session then the chair shall call one in accordance with **ORS 192.660 (1) (f) "To consider records that are exempt by law from public inspection."** The chair will state the start and ending time of the executive session and announce only those persons who will be allowed to remain during the executive session. All others will be excused from the room until the open session resumes.
- 4) The chair shall resume the open session at the appropriate time and ask those that have stepped out of the room to return.
- 5) Should there be no request for an executive session to discuss any of the plans, then the chair shall go down the list and ask for board motions to approve the said conservation plans according to the what information can be released

These procedures were adopted unanimously by the Board of Directors at its regularly scheduled meeting on January 20, 2004.

**Adopted: January 20, 2004
Approved: January 20, 2004**

Marion Soil & Water Conservation District



Ralph Fisher, Chair



Public Records Disclosure
Resolution #2005-02-03

All requests for information made under the Public Records Law must be in Writing, using the Request for Information Form (see attachment A) and approved by the appropriate District Manager or the Board of Directors.

If a person requesting information chooses to remain anonymous, they must pay a deposit in the amount detailed on the Request for Information form upon making the request.

When a request is received, it shall be in-dated and forwarded to the District Manager or Board of Directors. The District Manager or Board of Directors shall make a determination of whether the information is releasable under the provisions of the Public Records Law.

When necessary, legal counsel will be sought to interpret Public Records Law relative to the given request. If the information release is approved, the District Manager, or other designee, shall contact, in writing, the person making the request to inform them of the copying cost for said information, and the time frame in which the request can be completed.

Upon written notification by the person making the request that they are willing to incur the cost of copying, the District shall begin making said copies for release. NRCS records and data shall only be released by NRCS staff in accordance with their policies.

This policy was adopted by a unanimous vote of the Board of Directors at its regularly scheduled meeting on February 3, 2005.

Signed by Douglas A. Krahmer, Chair

[Record Request Form](#) (Brenda creating this?)



Heat Illness Prevention Policy

2024-XX-XX

Oregon OSHA's Rules to Address Employee Exposure to High Ambient Temperatures

Adopted: XX XX, 2024

Background

Oregon OSHA's rules on Heat Illness Prevention (OAR 437-004-1151 and 437-002-0156), effective June 15, 2022, apply to any workplace where extreme heat can expose workers to heat-related illnesses. These include any medical conditions resulting from the body's inability to cope with a particular heat load. OAR 437-004-1151 applies to agricultural workplaces and 437-002-0156 applies to all other workplaces.

The [key requirements](#) are based on a set of numbers called the heat index – sometimes called the apparent temperature – published by the National Oceanic and Atmospheric Administration's National Weather Service. The heat index indicates what the temperature feels like to the human body when relative humidity and the air temperature are combined.

The OSHA rules apply to workplaces whenever an employee is working and the heat index equals or exceeds 80 degrees Fahrenheit. More requirements apply when the heat index exceeds 90 degrees Fahrenheit. The rule will remain in effect unless amended or repealed by Oregon OSHA.

The full text of the rules can be found here: <https://osha.oregon.gov/OSHARules/div2/div2J.pdf>

Purpose

To comply with the requirements of the OSHA rule, all Marion Soil and Water Conservation District staff are required to complete Heat Illness Prevention online training and to review this memo for additional information specific to MSWCD. The training covers five of the seven topics that MSWCD staff must review to comply with the rule and this policy covers the remaining two.

OSHA's Heat Rule Requirements

The following information and requirements apply to all MSWCD employees.

1. Complete online training from either [OSHA](#) or [VectorSolutions](#) and provide proof of completion to the District Manager.
2. Review the information below and then sign and return the acknowledgement form to the District Manager.
3. Questions about the OSHA rule, the online training, or the information in this document should be directed to the District Manager.

General Scope of the Rule:

- This rule applies to anyone working either indoors or outdoors when the heat index reaches 80 degrees Fahrenheit.
- If exposure to the heat is less than 15 minutes in an hour, then the rule does not apply.
- The rule also does not apply when in transit via vehicles.
- Employees are encouraged to download the [OSHA-NIOSH Heat Safety Tool App](#) so they can check the heat index for their work location.
- Employees are encouraged to report any concerns and ask any questions related to this topic without fear of retaliation.

Access to Shade

- If working outdoors when the heat index is above 80 degrees, ensure that there is nearby shade that accommodates all the employees on recovery, rest, or meal periods.
- An air conditioned personal or work vehicle meets the definition of shade under this rule.

Drinking Water

- MSWCD will provide cool (77 degrees or colder) or cold water so employees can drink at least 32 ounces of water per hour any time they are working in an area where the heat index is above 80 degrees.
- MSWCD encourages the use of an insulated container, such as a Thermos or Igloo water bottle or jug, so that employees have access to water. MSWCD will purchase a container if an employee requests one.
- MSWCD also encourages employees to fill containers with ice and water at the office or at home before starting work. If this is not feasible or not desired by the employee, employees may purchase water and/or ice at MSWCD expense so that they have access to cool water when working where the heat index exceeds 80 degrees.

Training

OR-OSHA has developed online training that covers five of the seven topics that MSWCD staff must review to comply with the rule (<https://osha.oregon.gov/edu/courses/Pages/heat-illness-prevention-online-course.aspx>). Training that meets the requirements is also available through [VectorSolutions](#).

- All MSWCD staff are required to complete the online training **annually**.
- Certificates of completion for the training and the signature page of this policy should be submitted to the District Manager for tracking purposes.

High Heat Practices

- MSWCD encourages employees who work remotely and do not have air conditioning to work in the office on days when the heat index is expected to reach 90 degrees.
- Employees may flex their schedules when working in the office so that they do not have to commute during peak temperatures.

- Employees who are working in an environment with a heat index of 90 degrees or higher should:
 - Monitor for signs and symptoms of heat illness by observation or electronic means. This includes being mindful of others and whether they are showing signs of heat illness.
 - Take a paid 10-minute cool-down rest period in the shade or in a vehicle with the air conditioning running every two hours.
 - Check in with the District Manager or another staff member at regular intervals via phone, text, or email to confirm that they have no signs or symptoms of heat illness.

Emergency Medical Plan

- The nature of MSWCD work requires some employees to work remotely at sites without coworkers or supervisors present. Regardless of work location and who is present, an employee who experiences signs and symptoms of heat illness should:
 - Remove oneself from the hot environment and cool down,
 - Report to the District Manager by any means possible as soon as possible,
 - Call emergency medical services (911) immediately if the signs or symptoms indicate severe heat illness (such as, but not limited to, decreased level of consciousness, staggering, vomiting, disorientation, irrational behavior, or convulsions).

I acknowledge I have reviewed and understand the requirements of the OSHA heat rule, have completed all required training, and have had any related questions I had answered.

(Name – printed)

(Signature)

(Date)



Protection from Wildfire Smoke Policy

2024-XX-XX

OSHA Permanent Rules to Address Employee Exposure to Wildfire Smoke

Adopted: XX XX, 2024

BACKGROUND

Oregon OSHA's rule on **Protection from Wildfire Smoke**, effective July 1, 2022, addresses employee exposure to hazardous levels of fine particulate matter (PM_{2.5}), which is the primary air contaminant of concern in wildfire smoke. While significant exposures to wildfire smoke can be unhealthy for anyone, workers with pre-existing health conditions such as asthma, chronic obstructive pulmonary disease (COPD), or heart disease are at increased risk of serious or fatal health effects when exposed to high levels of PM_{2.5}.

A summary and the rule in its entirety can be found here: [Final Language for Permanent Rule on Protection from Wildfire Smoke \(oregon.gov\)](#).

Workplaces Exempt from the Rule

The following workplaces applicable to MSWCD operations are exempt from the OSHA rule:

- Enclosed buildings and structures in which the air is filtered by a mechanical ventilation system and the employer ensures that windows, doors, bays, and other exterior openings are kept closed, except when it is necessary to briefly open doors to enter or exit;
- Enclosed vehicles in which the air is filtered by a properly maintained cabin air filter system, and when the windows, doors, and other exterior openings are kept closed, except when it is necessary to briefly open doors to enter or exit. Buses, light rails, and other enclosed vehicles used for public transit systems where doors are frequently opened to board and deboard passengers are not included under this exemption;
- Employees working at home.

The following workplaces and operations are subject only to subsections (4)(a) through (4)(g) "information and training," and subsection (7)(b) "voluntary use of filtering facepiece respirators" under this standard:

- Work activities involving only intermittent employee exposure of less than 15 minutes in an hour to an ambient air concentration for PM_{2.5} at or above 35.5 µg/m³ (AQI 101) for a total exposure of less than one hour in a single 24-hour period.

REQUIREMENTS

According to the Department of Environmental Quality, Oregon's wildfire season has historically started in July and continued into early October. Therefore, MSWCD will monitor the AQI every weekday from July 1 through October 1 unless the fire season is atypical and requires monitoring to start earlier and/or end later.

1. Air Quality Monitoring

During wildfire season, all staff should check the AQI for the geographical area in which they are or will be working by using the following websites or apps:

- Oregon DEQ website: <https://aqi.oregon.gov/>
- OregonAir (DEQ) app: Search for "OregonAir" in a mobile app store
- U.S. EPA AirNow Fire and Smoke Map website: <https://fire.airnow.gov/>
- U.S. EPA AirNow app: Search for "EPA AirNow" in a mobile app store

2. Employee Training

OR-OSHA has developed online training that covers five of the ten topics that MSWCD staff must review to comply with the rule ([Oregon Occupational Safety and Health : Wildfire Smoke online course : Online courses : State of Oregon](#)). This policy covers the five remaining topics.

- All MSWCD staff are required to complete the online training **annually** and to review and sign this policy.
- Certificates of completion for the training and the signature page of this policy should be submitted to the District Manager for tracking purposes.
- Questions about the OSHA rule, the online training, or the information in this document should be directed to the District Manager.

3. Communication of Wildfire Smoke Hazards

Beginning July 1, an MSWCD staff member will monitor the AQI at the Stayton office daily and notify all staff if it exceeds 101. This notification will typically be emailed, but the information could also be communicated via text messages or phone calls depending on the circumstances. It is imperative that employees check such communication regularly to ensure that they receive the information.

- Employees must report to the District Manager if the AQI where they are working changes into or out of any of the three AQI action levels of 101, 251 or 501.
- Employees should immediately inform the District Manager if they experience symptoms of wildfire smoke exposure. They should remove themselves from the environment by going into a building or vehicle (for example) with a filtration system and use respirators as outlined below.
- Employees exhibiting symptoms of severe smoke exposure should immediately summon emergency medical services by calling 911.
- The District Manager must follow MSWCD's emergency response procedures if an employee exhibits severe symptoms of wildfire smoke exposure.

4. Methods to Protect Employees

When the Air Quality Index (AQI) is above 101, MSWCD staff should refrain from working outside. If possible, cancel or reschedule site visits and other activities for a time when conditions have improved. However, there may be circumstances when employees are required to work or find themselves unintentionally in an environment that falls outside of this parameter.

- **If exposure reaches or exceeds AQI 501, MSWCD requires employees to suspend all outdoor operations and work in a ventilated and air-filtered environment.**

MSWCD will use engineering and administrative controls to keep employee exposure to less than AQI 101 whenever feasible.

- Engineering controls include providing enclosed buildings, structures, or vehicles where the air is adequately filtered.

- Administrative controls include relocating work to an outdoor location where the ambient air concentration is less than AQI 101 or changing work schedules to a time when ambient air concentration is less than AQI 101.

Voluntary Use of Respirators (AQI is at or above 101)

- MSWCD encourages voluntary use of respirators when the AQI is at or above 101. MSWCD will maintain a sufficient number and sizes of NIOSH-approved respirators that effectively protect wearers from wildfire smoke. These respirators will be provided at no cost to employees and will be readily available in the office and in all MSWCD vehicles in case employees encounter changing conditions.
- Employees traveling away from the office that have the potential to encounter wildfire smoke should retrieve and retain enough respirators to use for the duration of the travel.

Required Use of Respirators (AQI is at or above 251)

- If exposure is at or above AQI 251 even after the application of engineering and administrative controls, MSWCD will require employees to wear NIOSH-approved respirators. These respirators include N95 respirators or higher protection.
- For respirators used exclusively to protect employees from wildfire smoke, employees must follow the Wildfire Smoke Respiratory Protection Program described below in the Appendix.

I acknowledge I have reviewed and understand the requirements of the OSHA heat rule, have completed all required training, and have had any related questions I had answered.

(Name - printed)

(Signature)

(Date)

**Appendix A: OAR 437-002-1081: Protection from Wildfire Smoke
Mandatory Workplace Guidance for
THE USE OF FILTERING FACEPIECE RESPIRATORS TO ADDRESS WILDFIRE SMOKE**

This appendix applies only to employers covered by this standard that require NIOSH-approved filtering facepiece respirators, including N95, P95, R95, N99, P99, N100 and P100, to be used by their employees strictly for wildfire smoke exposures when the work location ambient air concentrations of PM_{2.5} is at or above 200.9 µg/m³ (AQI 251) and below 500.4 µg/m³ (AQI 501).

Note: Employer supplies of NIOSH-approved filtering facepiece respirators for required use under this standard should include an adequate size selection for exposed employees.

Filtering facepiece respirators are disposable, negative-pressure, air purifying respirators where an integral part of the facepiece or the entire facepiece is made of air contaminant filtering material. This appendix does not apply to other types of respirators, including but not limited to elastomeric tight-fitting respirators, nor does it apply to situations where workers use filtering facepiece respirators for protection against air contaminants other than PM_{2.5} from wildfire smoke.

Employers whose workers are required to wear filtering facepiece respirators to protect against wildfire smoke exposures when workplace ambient air concentrations of PM_{2.5} is at or above 200.9 µg/m³ (AQI 251) must either develop and implement a respiratory protection program in accordance with the Respiratory Protection Standard (29 CFR 1910.134), or a Wildfire Smoke Respiratory Protection Program in accordance with the following requirements when workplace ambient air concentration of PM_{2.5} is under 500.4 µg/m³ (AQI 501):

(A) Employee training. Employers must ensure that employees wearing filtering facepiece respirators are trained in the proper use of the respirators, including putting them on and removing them, any limitations on their use, how to care for the respirator, and the ability to demonstrate a seal check as described in section (B).

(B) Filtering facepiece respirator user seal check. Each employee who uses a filtering facepiece respirator must perform a user seal check to ensure a sufficient face fit to maximize effectiveness each time the respirator is put on. Either the positive or negative pressure checks listed in this appendix, or the respirator manufacturer's recommended user seal check method must be used.

1. Instructions for positive pressure user seal check. Once you have properly donned the respirator, place your hands over the facepiece, covering as much surface area as possible. Exhale gently into the facepiece. The face fit is considered sufficient if a slight positive pressure is being built up inside the facepiece without feeling air passing between your face and the facepiece. If the particulate respirator has an exhalation valve, then performing a positive pressure check may not be possible. In such cases, a negative pressure check must be performed.
2. Instructions for negative pressure user seal check. Negative pressure seal checks are typically conducted on particulate respirators that have exhalation valves. Once you have properly donned the respirator, cover the filter surface with your hands as much as possible and then inhale gently. The face fit is considered sufficient if the facepiece slightly collapses towards your face without feeling air passing between your face and the facepiece.
3. Correcting problems discovered during the seal check. In the case of either type of seal check (positive or negative), if air leaks around the nose, use both hands to readjust the nosepiece by placing your fingertips at the top of the metal nose clip. Slide your fingertips down both sides of the metal strip to more efficiently mold the nose area to the shape of your nose. Readjust the straps along the sides of your head until a proper seal is achieved.

(C) Filtering facepiece respirator storage and replacement. Store, maintain, and replace so that they do not present a health hazard to the user.