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Oregon OSHA's Wildfire Smoke & Heat Illness Prevention Rules: Important Reminders & New Changes

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On May 10, the Oregon Occupational Safety and Health Administration (“OR-OSHA”) announced permanent rules regarding workplace hazards posed by excessive heat and wildfire smoke. This E-Alert provides only a summary of employers’ basic obligations under both the heat and smoke rules. Employers should review the rules and be prepared for their effective dates this summer: June 15, 2022 for the heat illness prevention rules and July 1, 2022 for wildfire smoke rules.

Heat Illness Prevention

Employers must provide protection to employees who perform work activities, whether indoors or outdoors, when the heat index equals or exceeds 80 degrees, with additional requirements when the heat index is over 90 degrees.

Access to Shade

Employers must maintain at least one “shade area” that does not expose employees to unsafe or unhealthy conditions or discourage them from utilizing the shade area. If providing a shade area is not safe or practical, an employer must implement alternative cooling measures of equivalent protection.

Drinking Water

Employers must ensure a sufficient supply of “cool” or “cooled” drinking water that is immediately and readily available to exposed employees at all times and at no cost when the heat index in the work area equals or exceeds 80 degrees. The new rule allows for employers to supply electrolyte-replenishing beverages (such as sports drinks) so long as the drinks do not contain caffeine and do not completely replace required water supplies.

High Heat Practices

When the heat index exceeds 90 degrees, employers must ensure effective communication at all times, observe employees for alertness, signs and symptoms of heat illness, and monitor affected employees to determine whether medical attention is necessary. Employers must ensure each employee takes a minimum 10-minute rest period in the shade every two hours regardless of the shift length. The new rule notes that employers should consider the effect of exposure to direct sunlight when developing employer-specific heat illness prevention and rest break schedules.

Emergency Medical Plan

Employers must create and implement an emergency medical plan addressing the identification and response to possible heat illness and contacting and communicating with emergency medical responders.

Training

Employers must train *all* employees on heat-illness prevention on an annual basis – this includes employees working from home! Employers must maintain a record of the training that contains the name or identification of each employee trained, and the name of the person who conducted the training.

Notable workplaces and operations that are exempt from heat illness prevention include buildings or structures that have a mechanical ventilation system that keeps the heat index below 80 degrees, incidental employee exposure to heat where the employee is not required to perform work activities for more than 15 minutes in any 60-minute period, and exposures to heat generated from the workplace (such as bakeries).

Protection from Wildfire Smoke

The wildfire smoke rules apply to employers whose employees are or will be exposed to an air quality index (AQI), primarily generated by wildfire smoke, that is at or above 101.

Training

Important changes in the new rules include that wildfire smoke training must be delivered to all employees, including new employees and supervisors. In addition, employers are required to train employees on how to use and maintain their filtering facepiece respirators, and employers subject to the rule are required to provide the respirators to employees at no cost. Lastly, employers are required to document the fact that they gave the training to their employees and keep records of the training for at least one year.

Communication System

The wildfire smoke rules require employers to develop and implement a two-way communication system between supervisors and employees to communicate wildfire smoke hazards before exposure occurs. The rules require that employers inform employees of changes in the air quality at their work location that could necessitate an increase or decrease in the level of exposure controls.

Exposure Controls

Employers subject to the rule must implement certain exposure controls, including engineering and administrative controls (such as air filtering and ventilation in buildings and vehicles) and voluntary and mandatory use of respirators for employees depending on the AQI. The new rules expand on the exception to the exposure control requirement, stating the requirement does not apply if “the employer can demonstrate that such controls are functionally impossible, or would prevent the completion of work.”

The new rules also add that employers are required to implement a wildfire smoke assessment when employees are or are likely to be exposed to an AQI of 101 or above. Lastly, workplaces in enclosed buildings and structures in which the air is filtered by a mechanical ventilation system and employees working from home are exempt from the rule.

This E-Alert covers only the basics of these rules, which are dense and include many technical requirements for employers. As summer approaches, employers should ensure that their policies and practices are in compliance with both rules.

For questions regarding wildfire smoke and heat illness prevention rules, contact Bruce Garrett at 503-276-2175 or bgarrett@barran.com.