



Employment Law Note

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Here Comes Summer – Washington Heat and Wildfire Rules Go Back into Effect



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Summer has finally arrived in the Pacific Northwest, and with it comes a new set of rules and reminders from the Washington Department of Labor & Industries (“L&I”). In the midst of the extreme heatwave of Summer 2021, L&I adopted emergency rules that added to the existing protections for outdoor workers from heat exposure and wildfire smoke. The same emergency rules are back in effect from June 15, 2022, through September 29, 2022. While these rules apply most directly to workers in the agriculture and construction industries, L&I has expanded its coverage to even include employees who spend only a small fraction of their time outdoors.

Outdoor Heat Exposure

Each summer L&I’s existing heat exposure rules require employers to create an Outdoor Heat Exposure Prevention Plan, increase the amount of water available to employees, and be prepared to respond to heat-related illnesses. The emergency rules impose the following additional requirements on employers with employees who perform work outdoors for more than 15 minutes in any 60-minute period throughout the day:

At all times:

- Provide cool water (L&I suggests water at 50-60 degrees)

- Provide adequate shade large enough to accommodate all employees to sit during meal and rest periods
- Encourage cooldown breaks

When the temperature is 89 degrees or higher:

- Mandate a paid cool-down rest period of ten minutes every two hours
- Implement a system by which employees can easily communicate with their supervisor
- Closely observe employees for signs of heat-related illness

Wildfire Smoke Rules

L&I’s emergency wildfire smoke rule requires employers to monitor air quality before workers’ shifts begin and “periodically thereafter, as needed.” Employers must maintain a wildfire smoke response plan tailored to their specific workplaces and train supervisors to implement these plans. Employers are then required to take specific action when the Air Quality Index (“AQI”) reaches certain thresholds:

AQI of 69 or higher for two hours:

- Inform employees of air quality
- Inform employees of strategies for limiting smoke exposure
- Encouraged to provide respirators to employees at no cost

AQI of 101 or higher:

- Inform employees of air quality
- Implement exposure controls such as providing an indoor area with filtered air, relocating work, changing work schedules, or reducing work intensity
- Required to provide respirators to employees at no cost

Looking Forward

Higher temperatures and increased wildfire smoke appear to be the new normal in Washington, and L&I

has responded by indicating that these emergency rules are likely to become permanent. Accordingly, employers who have not created outdoor heat exposure and wildfire smoke rules should do so as soon as possible. Willful violations of the emergency rules can carry fines of up to \$70,000.

Please contact us with questions about the Outdoor Heat Exposure or Wildfire Smoke Rule or if you need assistance drafting written policies that comply with the emergency rules.

For more information about this month's Employment Law Note
contact us at [425-454-4233](tel:425-454-4233)



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