

Electronic Alert

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Summer Is Here: Important Reminders for Employers About Oregon’s Heat Illness Prevention Rules

By Bruce Garrett & Hannah LaChance

With hot summer days upon us, employers should ensure they are in compliance with the Oregon Occupational Safety and Health Administration (“OR-OSHA”) heat illness prevention rules. The rules—which took effect last year and withstood legal challenges in the courts—apply when the heat index, also referred to as “apparent temperature,” is at or above 80 degrees, with additional requirements setting in when the heat index is at or above 90 degrees. (The heat index factors in both the air temperature and relative humidity. The National Institute for Occupational Safety and Health has developed a [mobile application](#) that calculates the heat index in real time.)

Below is a summary of the basic requirements for non-agricultural employers:

Requirements When the Heat Index Is Between 80 & 89 Degrees:

Access to Shade: Employers must provide at least one “shade area.” This area cannot expose employees to unsafe or unhealthy conditions or discourage them from using the shade area. The shade area must be able to accommodate at least the number of employees on recovery, rest, or meal periods so they have room to sit. If providing a shade area is not practical or safe (such as setting up a shade structure in high winds), the employer must identify and provide other cooling measures that provide the same level of protection as shade would.

Drinking Water: Employers must always provide access to cool or cold drinking water. There must be enough drinking water provided that each employee can consume 32 ounces of water per hour. The rule allows 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.

Heat Illness Prevention Plan: There are certain requirements for what the plan must contain, including the employer’s plan for training employees on the hazards of heat exposure and preventing heat illness. The employer must also provide explanations of other specific ways the employer will prevent heat illness, including how the employer will provide enough cool, potable water in work areas and how they will implement heat acclimatization procedures.

Emergency Medical Plan: Employers must create and implement an emergency medical plan addressing the identification and response to possible heat illness as well as contacting and communicating with emergency medical responders.

Acclimatization: Employers must either develop their own plan for allowing employees to gradually adapt to the heat at the worksite or follow the [National Institute for Occupational Safety and Health \(NIOSH\) guidance](#), but OR-OSHA notes that the acclimatization plan is not one-size-fits-all, and that

employers must consider employee fitness as well as the effects of direct exposure to sunlight when determining whether the employee has been properly acclimatized.

Training. All employees must be trained annually in heat illness risk factors, how to adapt to working in a hot environment, and the procedures for complying with the requirements of this standard before they can begin work at a worksite where the heat index will be 80 degrees or higher. 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.

Requirements When the Heat Index Is Above 90 Degrees (“High Heat Practices”):

In addition to the above requirements, employers must implement the following when the heat index exceeds 90 degrees:

Effective Communication & Monitoring: Employers must have a voice, observation, or electronic communication system in place so that employees can contact a supervisor when necessary. This can occur via cell phone or text only if reception in the location is reliable. Employers must have a system to monitor employees for signs of heat illness. This can include regular communication with employees working alone, a mandatory buddy system, or another equally effective method. Employers must assign at least one employee and equip them with the ability to call for emergency medical services. Employers must allow other employees to take on this role when the designated employee is not available.

Heat Illness Prevention Rest Breaks: The required work and rest schedules for employees depend on the adjusted temperature (which factors in the amount of sunlight and relative humidity) and the level of physical exertion required. The requirements can be complicated and employers should reference OSHA’s [administrative rules table](#) when creating their rules. Generally, employers must ensure that each employee takes a minimum 10-minute rest period in the shade every two hours regardless of the length of the shift. Employers should consider the effect of exposure to direct sunlight when developing their own heat illness prevention and rest break schedules. If the heat index is 100 degrees or greater, 15-minute cool-down breaks must be provided every hour.

Exemptions:

Employers are fully exempt from the rules when:

- Employees are exposed to heat generated from the work process—for example, bakeries. (But note, in these situations, employers are still required to take measures to control the conditions or control the effect on the employee pursuant to separate OR-OSHA regulations).
- Employees work in buildings or structures that have mechanical ventilation systems, such as central air conditioning, which keeps the heat index below 80 degrees.
- Employees that have incidental heat exposure for no more than 15 minutes in any 60-minute period.
- Employees are engaged in emergency operations that are directly involved in the protection of life or property or restoration of essential services, such as rescue, medical, firefighting, law enforcement, and utilities, when employees are engaged in those operations.

Employers are partially exempt from the rules when:

- Employees perform “rest” or “light” workloads (such as sitting, thinking, writing, driving, or standing watch), and the heat index is below 90 degrees.
- Employees work from home (but these employees are not exempt from the training requirements discussed below).
- Employees are engaged in associated support activities for wildland firefighters, such as fire camp services and fire management (but these employees are exempt only from the acclimatization plan described below).

OR-OSHA’s heat illness prevention rules are dense, technical, and ambiguous in places. The implementation of training and monitoring employee compliance can be tricky. Employers who have employees exposed to high heat should consult with a Barran Liebman attorney to ensure that they are in full compliance with the rules.

For questions, Bruce Garrett can be contacted at 503-276-2175 or bgarrett@barran.com.