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Nevada Joins California, Oregon, and Washington in Regulating Employee Exposure to Poor Air Quality Caused by Wildfire Smoke

By Hema Steele

On June 10, 2025, Nevada Governor Joe Lombardo signed into law Senate Bill 260, which seeks to keep employees who are working outdoors safe from the hazards associated with exposure to wildfire smoke. The law directs the Administrator of Nevada's Division of Industrial Relations to adopt regulations to reduce employee exposure to poor air quality caused by wildfire smoke. Exposure to high Air Quality Index (AQI) levels irritates the lungs and respiratory system and may cause a range of symptoms from coughing and chest tightness to aggravating asthma and other chronic lung diseases, or even permanently damaging lungs. *See* EPA Brochure *Air Quality Index: A Guide to Air Quality and Your Health* (February 2014).

Through SB 260, the Legislature directs the Administrator to issue regulations requiring employers to reduce employee exposure to these hazards when the EPA AQI is 150-200 and where it is 200 or more. For perspective, the EPA classifies an AQI in the 150-200 range as "unhealthy," whereby some individuals may experience adverse health effects, while 201-300 is "very unhealthy," and above 301 is "hazardous." *See EPA's Air Quality Index Basics*. The Administrator must also specify an AQI level at which employers will be prohibited from having employees perform critical tasks outdoors.

In addition to reducing or eliminating exposure to wildfire smoke, the law directs employers to train employees on the:

- Hazards associated with wildfire smoke and the attendant AQI levels;
- Available protective controls and the risks associated with not using them; and
- Symptoms associated with exposure to wildfire smoke.

The law only applies to outdoor work environments, i.e., where employees regularly perform job duties in conditions directly affected by the elements. The law does not apply to enclosed or climate-controlled work environments. It also exempts four classes of employers:

- Mine operators;

- Employers of commercial truck drivers;
- Providers of emergency services; and
- Employers with 10 or fewer employees.

Lastly, SB 260 specifies that the Administrator's regulations must not impose additional insurance liabilities on employers as they relate to industrial insurance or occupational diseases insurance.

SB 260 is thin on detail, which the Administrator will address once they promulgate regulations. But prior statements from the Division of Industrial Relations may be instructive. Prior to passage of SB 260, Nevada had recommended employers keep their employees safe from high AQI levels by:

- Monitoring the EPA AQI map at least once daily if employees are working in an area exposed to wildfire smoke;
- Training employees on the hazards and health effects of high AQI and encouraging them to report worsening air quality;
- Determining when and what respiratory protection to use;
- Increasing employee break times in an indoor environment with ventilation and air filtration;
- Identifying conditions when work stoppage is appropriate due to exceedingly high AQI levels; and
- Implementing a plan for responding to employees suffering symptoms of wildfire smoke exposure.

See Division of Industrial Relations' *Wildfire Health Guidance for Nevada Businesses* (May 3, 2022). These recommendations were issued by the state only three years ago. It's therefore likely that the forthcoming regulations from the Administrator will be similar.

California, Oregon, and Washington also have their own, state-specific regulations related to wildfire smoke hazards. Each state's requirements are slightly different. It is therefore critical for employers to understand the nuances across the three (soon to be four) sets of regulations. Meanwhile, federal OSHA has no regulations specifically addressing the hazards associated with wildfire smoke and may instead rely on its General Duty Clause to remedy the hazards. Indeed, this new legislation from Nevada continues the recent trend of individual state legislatures enacting employee health and safety measures to fill in the gaps in federal OSHA's standards.

If you have questions about federal OSHA or state-level efforts to regulate occupational exposure to poor air quality caused by wildfire smoke, please contact any of the OSHA-focused attorneys in Conn Maciel Carey's national OSHA & Workplace Safety Practice.