



The Heat Is On: White House Initiative Aims to Protect Workers from Extreme Heat

Insights

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The Occupational Safety and Health Administration, in conjunction with the Biden administration's initiative to combat climate change, announced yesterday that it will be taking enhanced and expanded efforts to address heat-related illness in the workplace. Recognizing that heat is the nation's leading weather-related killer, the White House announced on September 20 that these mitigation efforts will include an enforcement initiative on heat-related hazards, a National Emphasis Program (NEP) on heat inspections, and a rulemaking process to develop a workplace heat standard. Although OSHA's compliance efforts have not yet been finalized, employers can begin preparing now.

Background

Currently, there is no heat-related or heat stress standard in place. Instead, federal OSHA has traditionally enforced heat-related hazards through its General Duty Clause, which requires employers to provide a work environment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. Some states with state OSHA-approved plans, including California and Washington, have already implemented heat illness prevention standards or to address heat related illness.

Workplace safety and labor advocates have long called upon OSHA to address heat-related workplace injuries and deaths. In 2011, safety advocates petitioned OSHA to implement an Emergency Temporary Standard (ETS) to address heat-related hazards in the workplace, but the petition was denied and was instead addressed by a voluntary awareness campaign on how workers can protect themselves from heat-related illness. Earlier this summer, the danger of heat-related illness on agricultural workers was highlighted in the national media.

Last month, NPR published the results of an investigation it conducted with Columbia Journalism Investigations, which included federal data from the Bureau of Labor Statistics demonstrating a three-fold increase in heat related deaths the last three years compared to the 1990s. In response to NPR's investigation, OSHA Acting Director Jim Frederick told NPR that implementing a heat standard was a priority for the Biden administration.

According to a [Department of Labor press release](#) announcing the plan, 43 workers died from heat-related illness in 2019, and at least 2,410 suffered serious injury and illness. The economic loss from heat hazards is estimated to be at least \$100 billion annually, which is expected to double by 2030.

What to Expect

In its announcement, OSHA outlined four steps it is taking to protect workers from heat exposure, beginning as early as next month. These steps related to workplace safety include:

- **Developing a Workplace Heat Standard** – OSHA announced the issuance of an Advance Notice of Proposed Rulemaking (ANPRM) on heat illness prevention in outdoor and indoor work settings, including agricultural, construction, delivery workers, warehouses, factories and kitchens. The ANPRM will be published next month in the Federal Register, followed by the traditional comment period that occurs before a permanent standard is implemented.
- **Heat-Related Enforcement Initiative** – In conjunction in developing a heat-specific standard, OSHA will launch a new enforcement initiative, prioritizing heat-related interventions and workplace inspections on days when the heat index exceeds 80°F. Additional OSHA resources will be dedicated toward responding to heat-related complaints and heat-related workplace hazards.
- **National Emphasis Program** – OSHA is also finalizing a heat hazard NEP, which will target high-risk industries, set to take effect before next year's heat season. There is currently a [Regional Emphasis Program for Heat Illness in Region VI](#), which includes Arkansas, Louisiana, New Mexico, Oklahoma, and Texas – states hit hard by seasonal heat. OSHA plans to build upon this existing program when developing the national program that will apply in all states under Federal OSHA jurisdiction.
- **Heat Illness Prevention Group** – OSHA is also forming a Heat Illness Prevention Group “to provide better understanding of challenges and best practices in protecting workers from heat hazards.” The group will include three members of OSHA's National Advisory Committee on Occupational Safety and Health and other members from a range of sectors and industries. The group will periodically meet to address workplace heat hazards, response plans, training and engagement.

How to Prepare

Employers can begin taking steps to prepare its workplace for OSHA's anticipated heat standard and enforcement programs. [OSHA's current guidance on preventing heat-related illness and injury](#) provides several suggestions for keeping the workplace safe. You can begin reviewing your safety policies and procedures to address heat-related workplace hazards, including:

- Providing workers with sufficient water, rest, and shade.
- Because the majority of heat-related workplace injuries occur within the first few days of working in warm environments, you should implement a ramp-up period for workers to build their tolerance to warm working environments, also called heat acclimatization.
- Providing ongoing training to employees and supervisors to recognize the warning signs of heat-related illness.
- Avoid clothing that may contribute to excess body heat.
- Implement an Emergency Response Plan for addressing heat-related illness.

Fisher Phillips will continue to monitor these developments and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Workplace Safety Practice Group](#).

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