

# FP SNAPSHOT ON AGRICULTURE: HOW FEDERAL OSHA'S PROPOSED HEAT SAFETY RULE IMPACTS YOUR INDUSTRY

Insights  
Sep 18, 2024

Welcome to FP Snapshot on Agriculture, where we take a quick look at a recent significant workplace law development with an emphasis on how it impacts employers in the agricultural industry. This edition focuses on the first-ever national heat stress rule aimed at protecting workers from heat-related illnesses and fatalities. These proposed regulations from the federal Occupational Safety and Health Administration (OSHA) will have a particularly big impact on agricultural employers, so read on to find out what you need to know.

## Snapshot Look at Federal OSHA's Proposed Heat Safety Rule

Earlier this year, federal OSHA announced a new heat safety standard and [published the proposed rule](#) in the Federal Register on August 30. This move follows the agency's launch of a [National Emphasis Program \(NEP\) for Outdoor and Indoor Heat-Related Hazards](#) in 2022.

The new standard would apply to all employers conducting outdoor and indoor work, including employers in agricultural sectors where federal OSHA has jurisdiction. If the proposed rule becomes final, you would need to comply with significant new mandates. For example, you would be required to:

- conduct regular heat risk assessments;
- monitor workplace temperatures;

## Related People



**J. Micah Dickie**

Partner

[404.260.3419](tel:404.260.3419)



**Rebecca Hause-Schultz**

Partner

[916.210.0391](tel:916.210.0391)

- take preventive measures;
- provide heat safety training;
- offer acclimatization programs;
- maintain a written Heat Injury and Illness Prevention Plan; and
- perform regular worksite audits.

For a deeper dive into the requirements of the proposed heat rule and what employers should do to prepare, you can read [our full Insight here](#).

### Additional Impact on Agricultural Employers

The preamble to the proposed rule provides some industry-specific information, including that OSHA:

- **generally does not expect the cost of compliance to exceed 1% of revenues** “when all cost offsets (e.g., current practices to address heat hazards, productivity gains outside of rest breaks) are considered, based on available empirical evidence;”
- **is “unlikely” to enforce the proposed standard in the Sheep and Goat Farming (NAICS 1124) and Other Animal Production (NAICS 1129) industries**, because “a longstanding appropriations rider generally prevents OSHA from enforcing its standards against most small farm operations with 10 or fewer employees;” and
- **would require agricultural employers**, which commonly have work sites where employees move to various locations throughout the day, to **“ensure that shade structures are relocated near the work area as needed or that natural sources of shade (e.g., from trees) are readily available at each work location”** – but permit them to use large vehicles (such as trucks or vans that transport employees to the work site) as shade as long as the vehicle is not running and is not used in actual work processes.

As the proposed rule moves through the required regulatory process, [OSHA has promised](#) to:

- **use its existing tools to hold employers responsible** for failing to protect workers from known heat hazards; and

## Service Focus

### Workplace Safety

---

## Industry Focus

### Agriculture

- **prioritize programmed inspections in agricultural industries** that employ temporary, nonimmigrant H-2A workers for seasonal labor.

## Heat Safety Developments at the State Level

This summer both California and Nevada unveiled new efforts to combat heat injuries and illnesses, which will affect agricultural employers in the coming year. We previously covered these developments in depth:

- [California Bill Would Give Farmworkers Extra Heat Relief: What Agricultural Employers Need to Know About the Crackdown on Heat Safety](#)
- [Heat of the Moment: What Employers Need to Know About Nevada OSHA's Latest Proposed Heat Safety Rule and 10 Steps You Can Take to Protect Your Workers](#)

Stay tuned for updates as these state developments unfold.

## Want More?

We will continue monitoring workplace law developments as they apply to agriculture, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to have the most up-to-date information sent directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on [our Agriculture Team](#).