



# Nevada Adopts New Workplace Heat Safety Rule: The 10 Steps You Can Take to Protect Your Workforce

Insights

12.10.24

Nevada workplace safety officials recently adopted a new rule that requires employers to implement measures to protect employees that could be exposed to various forms of heat-related illness, such as heat exhaustion and heat stroke. The Nevada Occupational Safety and Health Administration (Nevada OSHA) new heat rule took effect on November 20, meaning you should take immediate action to get into compliance. This Insight will review the rule's details and provide 10 steps every Nevada employer should take to comply and prepare for the inevitable visit from a safety inspector.

## Why Did Nevada Implement This New Heat Rule?

The rule stems from the rising number of heat-related complaints reported to Nevada OSHA over the past few years. Through September 2024, Nevada OSHA has received 467 heat-related complaints, after receiving 300 in 2023, and 210 in 2022. The adoption of this new rule also follows federal OSHA launching a National Emphasis Program (NEP) for Outdoor and Indoor Heat-Related Hazards in 2022. Nevada OSHA adopted the Heat NEP in a modified form in May 2022.

## Who's Covered By the New Heat Rule?

The new heat safety rule applies to private businesses and both state and local government employers whose employees are exposed to indoor and outdoor working conditions "that may cause occupational exposure to heat illness." However, the rule does not apply to employees:

- performing household domestic services;
- working in motor vehicles operating on public highways; or
- those regulated by the Federal Mine Safety and Health Act, the Federal Safety Appliance Act, or the Federal Railroad Safety Act.

The rule defines "occupational exposure" as "any working condition that creates the reasonable likelihood that heat illness could occur." This includes but is not limited to:

- air temperature;
- relative humidity;
- radiant heat from the sun and other sources:

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- conductive heat from the ground and other sources;
- the movement of air;
- the severity and duration of workloads; and
- protective clothing and personal protective equipment worn by an employee.

“Heat illness” is defined as “a medical condition resulting from the body’s inability to cope with a particular heat load and includes, without limitation, heat cramps, heat rash, heat exhaustion, fainting and heat stroke.”

## **Exceptions for Small Employers and Climate-Controlled Environments**

Employers with 10 or fewer employees do not have to comply with the rule’s more onerous provisions concerning written job-hazard analyses, safety programs, and training programs. Employers of any size whose employees work indoors in a climate-controlled environment, including vehicles with properly functioning air conditioners, are also exempted from the written safety, training, and job-hazard analysis requirements discussed below. But employers are required to make good faith efforts to repair and replace nonoperational air conditioners and to implement measures to address potential hazards that could cause heat illness for employees until the air conditioning becomes operational.

## **What Does the New Rule Require?**

The new heat safety rule contains several measures designed to protect workers from excessive heat hazards in both indoor and outdoor worksites. These measures aim to identify, monitor, prevent, and respond to working conditions that may cause heat illness. Here’s a breakdown of the proposed rule’s most significant requirements.

### ***Hazard Analysis***

Employers that are required to have a written safety program under state law – i.e., employers with 11 or more employees – must make a one-time documented job hazard analysis (JHA) to assess working conditions that may cause occupational exposure to heat illness.

The JHA must be completed before a job task is first performed or materially changes, and without regard to employee access to water, rest, or shade. It must include:

- a list of all job classifications in which the majority of employees in those job classifications have occupational exposure for more than 30 minutes of any 60-minute period, not including breaks; and
- a list of all tasks and procedures or groups of closely related tasks and procedures in which occupational exposure may occur and that are performed by employees in the aforementioned job classifications.

## ***“Designated Individual” and Heat Safety Program***

If the JHA determines employees may be exposed to hazardous working conditions that may cause heat illness, employers must:

- Identify a “Designated Individual” to monitor conditions that could cause heat illness; monitor the employee to determine whether medical attention is necessary; contact emergency medical services when needed; and, in an emergency, ensure that emergency medical services are contacted and that all necessary information, including employee contact information, is provided to allow employees to be transported where responders can reach them.
- Amend the written safety program required by state law to address potential hazards that may cause heat illness, and implement the program in a manner that reasonably mitigates the risk of heat illness to affected employees.
- The amended written safety program must require:
  - An adequate supply of potable drinking water in all places of employment;
  - Rest periods for employees who are exhibiting signs of heat illness;
  - Means of cooling;
  - Training;
  - Identification and mitigation of work process which may generate additional heat or humidity;
  - Procedures for responding to an emergency; and
  - To the extent practicable, monitoring by a Designated Individual of working conditions that could cause heat illness. But monitoring is not required while an employee loads or unloads a vehicle.

## ***Training Program***

For those employees identified in the JHA, employers must provide a training program that enables each employee to recognize and mitigate the risk of heat illness. Employers also must provide training to each employee on the procedures to be followed to minimize the risk of heat-related illnesses.

## **What’s Next?**

The new heat rule went into effect on November 20. However, Nevada OSHA announced that it will publish additional guidance for employers on its website. Enforcement of the rule will begin 90-days *after* Nevada OSHA publishes this additional guidance. Additionally, Nevada OSHA’s Safety Consultation and Training Section (SCATS) announced that it will be developing and posting training courses for the new heat safety rules on its website in the months to come.

## 10 Steps Employers Should Take to Protect Workers and to Comply with the New Heat Rule

To prepare for the enforcement of the new heat safety rule, here are 10 steps you can take to protect your workers from heat-related injuries and illnesses:

1. **Plan ahead.** Draft a prevention program to mitigate the risk of heat-related injuries and illnesses. Conduct a hazard analysis of all your positions that may involve exposure to extreme heat, including an analysis of outdoor and indoor workspaces.
2. **Train your workers.** Provide training to all of your workers on how to prevent heat illnesses, and make sure managers know to take the lead when it comes to spotting potential problems and ensuring compliance.
3. **Don't take risks.** Provide medical screening for all workers who will work in high-heat settings.
4. **Keep an eye out.** Designate someone at each worksite to monitor worker health and conditions on days of extreme heat. You may also consider requiring a buddy system on hot days and enforcing a procedure for employees to report heat stress symptoms.
5. **Let them rest.** Provide unscheduled rest breaks and require work/rest periods. It's difficult to quantify specific breaks for specific scenarios in states covered by federal OSHA, so a best practice is requiring rest breaks of up to five minutes in shade every hour, or 10 minutes every two hours, when temperatures are above 87.8°F.
6. **Provide water.** Provide unlimited, easy access to cool water. OSHA recommends that employees should drink 4 to 6 ounces every 15 to 20 minutes, but no more than 1 quart/hour and 12 quarts/24 hours.
7. **Offer cover.** Provide access to shaded areas and cooling fans. Provide hats for outdoor workers in the sun.
8. **Be flexible.** Consider changing start times and days during a project to avoid high-heat hours. Or consider rotating crews of workers to minimize work during the hottest hours.
9. **Get your workers ready.** Require an acclimatization period for workers not used to working in the heat. This not only includes new employees but existing workers returning to heat exposure or those working during seasonal changes as the weather gets warmer. OSHA provides a full list of detailed recommendations that you should implement for a one-to-two-week period, including guidance on work periods, rest breaks, job tasks, and more.
10. **Be prepared for the worst-case scenario.** Ensure access to first aid and prompt medical attention for symptomatic employees.

### Conclusion

If you have any questions, contact your Fisher Phillips attorney, the authors of this insight, any member of our Workplace Safety and Catastrophe Management Practice Group, or any attorney in

our [Las Vegas office](#) for guidance. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information on workplace safety issues.

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