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Agenda

Beat the Heat: The Highs and Lows of OSHA's Proposed Temperature Rule

11:45 a.m. – 12 p.m.

Lunch and Registration

12 p.m. – 12:50 p.m.

Program Presentation

12:50 – 1 p.m.

Q&A from Participants



[News Releases](#) / US Department of Labor invites small business owners, local governments to share input on potential heat standard to protect indoor, outdoor workers



OSHA National News Release

U.S. Department of Labor

June 22, 2023

US Department of Labor invites small business owners, local governments to share input on potential heat standard to protect indoor, outdoor workers

Panels will assess impacts of possible regulatory changes on small businesses

WASHINGTON – The U.S. Department of Labor urges small business owners and representatives from local government entities to join the department's Occupational Safety and Health Administration and other government agencies for a series of upcoming discussions on the potential impacts of a workplace heat standard on small businesses.

With the U.S. commonly experiencing rising temperatures, hazards associated with exposure to high temperatures in the workplace are also increasing. While largely preventable and often underreported, workplace heat illness sickens thousands of people and, in some cases, is fatal for others.

Currently, OSHA is developing a potential standard for workplaces — in which the agency has jurisdiction — to prevent heat illness and injury in outdoor and indoor environments in general industry and in the construction, maritime and agriculture industries. As part of its process, OSHA is holding Small Business Advocacy Review Panel meetings in summer 2023 to gather views on the potential effects of a heat standard on small businesses.

The panel will be comprised of representatives from OSHA, the U.S. Small Business Administration's Office of Advocacy, and the Office of Management and Budget's Office of Information and Regulatory Affairs.

While the panel welcomes representatives from any industry, the group is interested particularly in collecting input from industries the agency expects would be most affected by a heat standard. These industries include agriculture, construction, landscaping, manufacturing, oil and gas, warehousing, waste management, utilities, and food service, specifically in restaurant kitchens.

The meetings will be held in teleconferences where small businesses can share concerns and discuss current practices for protecting their employees from heat-related illnesses and injuries. The panel is also seeking input on how new heat regulations might impact their workplace operations or local business communities. The discussions will be open to the public.

[Learn more about the panels and how small businesses can participate.](#)

In October 2021, OSHA published an Advance Notice of Proposed Rulemaking for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings in the Federal Register. Its publication initiated the rulemaking for OSHA to consider a heat-specific workplace standard. OSHA has also taken several actions apart from the rulemaking to protect workers from the dangers of excess heat in the workplace. These include the following:

- Development of [an enforcement initiative](#) on heat-related hazards.
- Launch of a [National Emphasis Program](#) on heat inspections.
- Creation of the [National Advisory Committee on Occupational Safety and Health's](#) Heat Injury and Illness Prevention Work Group to better understand challenges, and identify and share best practices to protect workers.
- Launch of a [Heat Illness Prevention campaign](#) to educate employers and workers on the dangers of working in the heat.

[Learn more about OSHA.](#)

Media Contact:

Victoria Godinez, 202-693-4667, godinez.victoria@dol.gov

Release Number: 23-958-NAT



FEDERAL GOVERNMENT

OCCUPATIONAL SAFETY & HEALTH

ABOUT THIS SITE



Courtney Warmington

Courtney K. Warmington joined Fuller, Tubb, Bickford, Warmington and Panach, PLLC in 2016, after practicing for more than seventeen years in the Labor and Employment Practice Group at the law firm of Crowe & Dunlevy.

Courtney represents and advises employers on all matters affecting the employment relationship, from recruiting and retention to discipline and termination issues. She conducts audits and investigations, as well as management and employee training, and frequently works with employers on drafting policies and procedures. Courtney also routinely handles wage and hour matters, on both the state and federal levels, drawing upon the experience she gained during a four-year term as an Administrative Law Judge for the Oklahoma Department of Labor.

Courtney has extensive experience assisting clients in matters before state and federal administrative agencies such as the Equal Employment Opportunity Commission and the Oklahoma Employment Security Commission. She also represents employers in litigation involving state and federal claims of wrongful discharge, workplace discrimination, harassment, retaliation, and failure-to-accommodate.

Courtney has been listed in the Top 25 Women Oklahoma Super Lawyers from 2014 to the present. She is listed in the Chambers USA Directory (2011-present) and Best Lawyers (2012-present).

EDUCATION

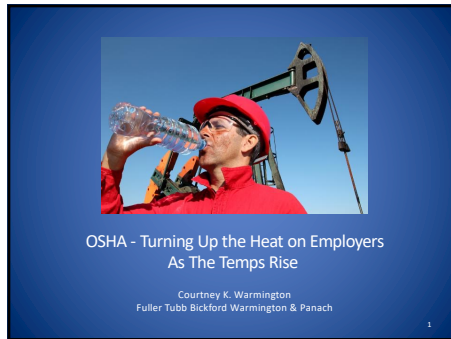
- J.D., Oklahoma City University School of Law, *magna cum laude*, 1999; Articles Editor of the Oklahoma City University Law Review; Recipient of the CALI award for Legal Research and Writing; Intramural Moot Court Competition Best Oralist; Merit Scholars Organization (President); Moot Court Honors Board; Phi Delta Phi; Order of the Barristers; OCU Alumni Association Outstanding Service Award.
- B.A., Oklahoma State University, 1995

COURT ADMISSIONS

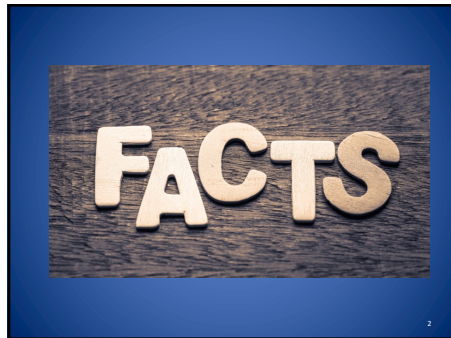
- Oklahoma, 1999
- U.S. District Courts for the Western, Northern, and Eastern Districts of Oklahoma
- U.S. Court of Appeals for the Tenth Circuit

PROFESSIONAL ORGANIZATIONS AND EXPERIENCE

- American Bar Association (Employment Law Section; Litigation Section)
- Oklahoma Bar Association (Employment Section)
- Past member of the Luther Bohannon Inn of Court
- Oklahoma City Human Resources Society (former General Counsel)
- Oklahoma Human Resource State Council (former General Counsel)
- Federal Bar Association




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Since 2011, more than 400 workers have died due to environmental heat exposure and thousands more are hospitalized each year

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Outdoor workers are 35 times more likely to die from heat exposure than the average American

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But employees in indoor settings risk exposure too – warehouses, factories, etc.

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Over 70% of heat-related deaths occur during a worker's first week

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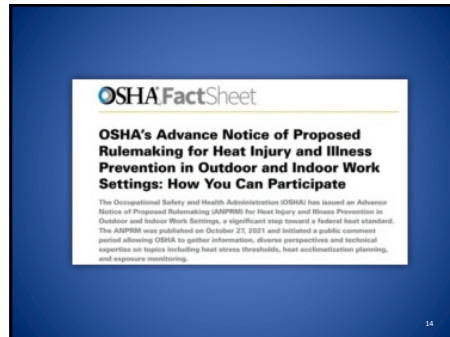
OSHA has never had a direct regulation on heat illness prevention

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General Duty Clause:

Employers Are Required to Provide Employees with a Place to Work that is Free From Recognized Hazards

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- Notice of Proposed Rulemaking – Oct. 27, 2021
- Comments Ended – Jan. 26, 2022
- Small business and gov't panels – Summer 2023

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What To Expect From OSHA's
Upcoming Heat Illness and Injury
Prevention Rules

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- **Illness Reporting** – More detailed reporting of conditions like heat stroke and heat exhaustion
- **Prevention and Training** – May see implementation of specific training requirements like CA and other states
- **Environmental Monitoring** – Wet Bulb Globe temperature (WBGT) devices to track workplace heat
- **Engineering and Administrative Controls** – likely industry specific
- **PPE** – Certain types may increase risk of overheating

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THREE THINGS OSHA IS ALREADY DOING NOW

- 1) Launched National Emphasis Program
- 2) Stepped Up Enforcement
- 3) Issued First-Ever Hazard Alert

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HAZARD ALERT

Employers are Responsible for Protecting Workers from Heat Illness

By law employers are responsible for providing workplaces free of known safety hazards, including extreme heat.

It is your responsibility to:

- Provide workers with water, rest and shade.
- Allow new or returning workers to gradually increase workloads and take more frequent breaks during the first week of work as they build a tolerance for working in the heat.
- Plan for emergencies and train workers on prevention.
- Monitor workers for signs of illness.

osha.gov/heat



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Assess Your Risks

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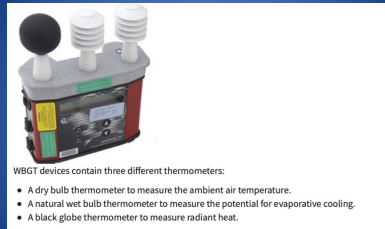
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Four* factors contribute to environmental heat stress in workers:

1. Air temperature.
2. Humidity. High relative humidity makes it difficult for the body to cool itself through sweating.
3. Radiant heat from sunlight or artificial heat sources such as furnaces.
4. Air movement. In most situations, wind helps workers cool off.

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- WBGT devices contain three different thermometers:
- A dry bulb thermometer to measure the ambient air temperature.
 - A natural wet bulb thermometer to measure the potential for evaporative cooling.
 - A black globe thermometer to measure radiant heat.

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Personal Risk Factors:

1. Body weight, especially obesity;
2. Diabetes, high blood pressure, and other chronic conditions;
3. General Physical Fitness Level;
4. Medications that impact hydration or sweating;
5. Overall alcohol intake;
6. Illicit drugs that affect the body's metabolism.

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Consider an OSHA On-Site Consultation



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OSHA On-Site Consultation

- Free
- Confidential
- No Citations or Fines Issued
- Will Have to Correct Anything Found
- But 1-Year Exemption on Inspections

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Create a Heat Illness Prevention Plan

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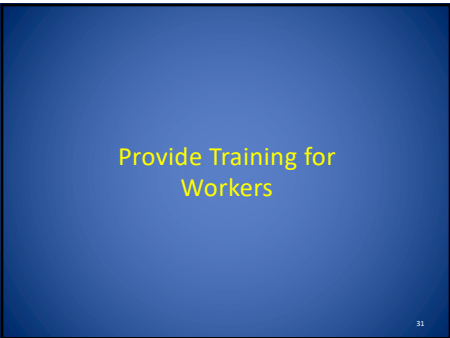
- 1) Hydration and Rest Breaks
 - 2) Engineering Controls
 - 3) Training
 - 4) New workers and acclimatization (20% rule)
 - 5) Work Practices
 - 6) PPE
- 28

1) **NIOSH Recommended Standard** -
<https://www.cdc.gov/niosh/docs/2016-106/pdfs/2016-106.pdf?id=10.26616/NIOSH-PUB2016106>

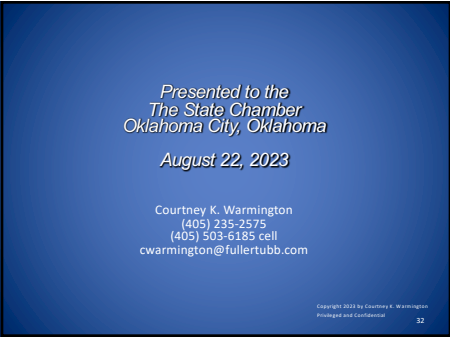
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2) **OSHA's Guidance on Protecting New Workers** –
<https://www.osha.gov/heat-exposure/protecting-new-workers>

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