# BlueGreen Alliance

Comments from the BlueGreen Alliance

The BlueGreen Alliance (BGA) commends the New Mexico Environment Department's Occupational Health and Safety Bureau for proposing a Heat Illness and Injury Prevention Rule. BGA is a national coalition of labor unions and environmental organizations united in the effort to fight climate change, protect the health of people and the environment, stand against economic and racial inequality and create and maintain good paying, union jobs in communities across the country. We believe that the swift adoption of New Mexico's proposed rule will make the state's workers safer and healthier and address inequality while preserving and improving the quality of jobs.

The proposed rule includes many important provisions:

The inclusion of both indoor and outdoor workers that may be exposed to heat
Requiring a heat stress hazard analysis to identify all potentially vulnerable work and workers
Factoring in heavy exertion and required clothing and PPE
Setting the conditions for conducting a heat risk assessment
Training all employees in a covered workplace
Acclimatizing new and returning workers.

There are also several ways in which the rule could be strengthened:

First, while we understand that the intent of the proposal is to cover all heat stressed New Mexico workers, the actual language of the scope of the rule could be misinterpreted and challenged. We suggest inserting four clarifying words:

11.5.7.2 SCOPE:
All employment and places of employment, including but not limited to indoor and outdoor places of employment covered by the standards for General Industry, Construction Industry, Agriculture, and Convenience Stores, subject to the provisions of the Occupational Health and Safety Act.

Second, "buildings, structures, motor vehicles, and motorized equipment that have a mechanical ventilation system that keeps the heat index below 80 degrees Fahrenheit for all working areas" are exempted from the rule. We suggest that you add language to the section on heat stress analysis to ensure that employers plan for the times when mechanical ventilation systems fail. Employees should not have to rely on personal vehicles for shade or cooling.

Third, 11.5.7.8 Heat Illness and Injury Prevention Plan (HIIPP) should include a requirement that non-managerial employees and their representatives are actively involved in its drafting. The requirements for a HIIPP should also include provisions for input from all employees during all stages of heat stress planning and response, and a mechanism for sharing complaints about heat stress with all employees and their representatives.

The stated requirement to maintain a HIIPP should be expanded so it is reviewed and updated annually or whenever heat-related injury or illness occurs that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness. In addition, the plan should require a hierarchy of controls approach with ventilation and other engineering controls implemented first, administrative controls utilized next, personal protective equipment provided if the aforementioned controls are insufficient for cooling work areas.

We would also recommend that the rule include more detailed emergency response procedures that follow a "cool first, transport second" approach and a requirement that an identified trained person conduct the heat risk assessment.

We understand that New Mexico employers have raised concerns about the cost of implementing this rule. These concerns have also been raised nationally and in other states. The attached document was prepared by NRDC and the BlueGreen Alliance to address these employer concerns.

Again, the BlueGreen Alliance deeply appreciates the work that the New Mexico Environment Department's Occupational Health and Safety Bureau has put into this proposed Heat Illness and Injury Prevention Rule. Please let us know if you have any questions about these comments or if we can help in any other way. Our complete list of recommended provisions for a model heat rule is also attached.

BLUEGREEN ALLIANCE

# CHECKLIST FOR A MODEL HEAT ILLNESS PREVENTION RULE

## Who is protected?

- ❑ Includes all indoor and outdoor workers who are exposed to heat.
- ❑ No exemptions for sedentary workers, contractors, consultants, etc.
- ❑ Includes emergency responders when they're not in the middle of a fire or other emergency.

## What are the triggers for protection?

- ❑ Identified science-based protective heat and high heat thresholds that utilize wet bulb globe temperature (WBGT).
  - Factor in heavy exertion and type of clothing/personal protective equipment (PPE) required.
  - Factor in air quality monitoring since air pollution makes heat stress worse.

## What should be included in a heat stress prevention plan and who should do the planning?

- ❑ Non-managerial employees and their representatives are actively involved and provide input for all stages of heat stress planning and response. Problems with the plan and complaints about heat stress should be shared with these employees and their representatives.
- ❑ Written Heat Injury and Illness Prevention Plan (HIIPP) reviewed and updated annually or whenever a heat-related injury or illness occurs that results in death, days away from work, medical treatment beyond first aid, or loss of consciousness.
- ❑ Ventilation and other engineering controls implemented first, administrative controls utilized next, PPE provided if the aforementioned controls are insufficient for cooling work areas.
- ❑ Detailed emergency response procedures that follow a "cool first, transport second" approach.
- ❑ Identify all tasks and workers vulnerable to heat stress with a Heat Stress Task Hazard Analysis.
- ❑ High Heat Planning and Training.
  - On site environmental monitoring including job sites with mechanical cooling or ventilation.
  - Assessment should be done daily if temperatures are anticipated to be above trigger levels.
  - Assessment should be performed by a trained person. On a construction site this should be done by a trained person working for each contractor.

- ❑ Training of all workers (rather than just those who are more likely to experience high heat).
  - Include definitions of heat exhaustion and heat stroke.
    - ❑ List symptom recognition and response for each.
  - Include training on unique heat risks during pregnancy.
- ❑ Make training available in all primary languages of employees and ensure comprehension by giving time for questions and answers.
- ❑ Trained heat safety coordinators present on all shifts.
- ❑ Paid cool down breaks in close proximity to the work area and that are structured to not impact pay or piece rate.
- ❑ Prevention against retaliation including for reporting a hazard.
- ❑ Acclimatization protocols for new or returning workers.

## High Heat Accommodations:

- Heat Risk Assessment to determine the need for accommodations.
- Cool, free, potable and accessible water and electrolyte drinks provided by employer.
- Accessible, cool shade—less than 82 degrees Fahrenheit WBGT—nearby large enough to protect all workers provided by the employer.
- Buddy system or another functioning communications system so help is always accessible to every worker.
- Postponement of non-essential tasks.
  - » Scheduling for cooler times. Work should be scheduled for the coolest time of day and stopped at the hottest.
- Any personal protective equipment needed such as hats, long sleeves, cooling vests etc. provided by the employer at no cost.

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# ECONOMIC BENEFITS OF WORKPLACE HEAT SAFEGUARDS

Talking points to convince decision makers to protect workers from extreme heat.

Employers in the United States have a legal and moral imperative to protect the lives and well-being of their workers by providing safe and healthy working conditions. Commonsense protections such as water, rest, shade, training, and first aid procedures are crucial for meeting this central obligation to heat-exposed workers.

Heat protections aren't just the right thing to do, they're the financially smart thing to do. Establishing heat-safe workplaces and practices can improve employee productivity and morale and reduce preventable costs to employers. Ultimately, the benefits of workplace heat protections outweigh the costs of implementation.

## TOPLINE MESSAGES

- Employers and the economy win when heat safeguards help employees achieve their full potential over their working lifetime.
- Well-rested and hydrated workers are more productive and make fewer mistakes than overheated ones.
- Heat-related harms to workers impose preventable financial, time, and reputational costs on employers.

## GO DEEPER

### STRENGTHENING THE ECONOMY

- The tragedy of a worker being killed or debilitated by heat is compounded when that person is a household's primary wage earner. Significant losses in household income can lead to ripple effects in communities and the **overall economy**.
- The U.S. Occupational Safety and Health Administration (OSHA) estimates that complying with its proposed workplace heat standard could cost covered establishments a total of about **$7.8 billion per year**, or about **0.04 percent** of average annual revenue. This cost estimate is probably on the high side because OSHA didn't consider one-time investments such as air conditioning that could reduce other future compliance costs. On the other hand, avoiding heat-related deaths and illnesses could result in nearly **$9.2 billion in benefits** per year. This benefit estimate is **on the low side** because it doesn't include benefits such as avoiding health conditions that are indirectly related to heat (e.g., injuries), or **reducing employee turnover**.

## INCREASING PRODUCTIVITY

- Heat-related illnesses and injuries can keep workers away from work for hours to weeks at a time. For example:
  - From 2011 to 2022, heat-related illnesses forced **3,740 U.S. workers** to miss 11 days or more of work each. 1,500 of those workers missed a month or more each.
  - A study of more than 480,000 workplace accidents in the Italian manufacturing, agriculture, and service sectors suggests that a 3.6 °F increase in daily average temperatures (from 2014 levels) would result in nearly **232,000 lost work days** because of work-related injuries.

- Preventing even mild heat stress can improve the **physical and mental capacity** of workers, not to mention their motivation to maintain a high level of effort. For example:
  - A multi-national study of 376 experienced manual workers found that during shifts without planned breaks, the amount of work time lost increased with every 1.8 °F (1 °C) above 64 °F. In very hot conditions (104 °F), workers **lost an average of 3.4 hours** of an 8-hour shift.
  - Multiple studies have shown that workers will work less efficiently when they're too hot. OSHA estimates that its proposed break schedule for high heat conditions (heat index of >90 °F) will reduce pacing-related losses of productivity by an **average of 32 minutes** over an 8-hour shift at establishments that currently do not provide any breaks.
- Providing workers with adequate rest, water, and shade can increase their productivity and reduce their likelihood of **costly mistakes**, even if they end up working fewer hours overall. For example, a rest-shade-hydration protocol at a large Nicaraguan sugarcane mill increased the productivity of burned cane cutters by **nine percent** from 2017 to 2022, even though those workers went from an average of 8-hour workdays to 4.7-hour workdays.
- Heat-related labor disruptions are becoming more common. In just the past two years, scorching temperatures across the country have pushed workers from a wide range of industries—including fast food, retail, agriculture, and logistics—**to walk off the job**.

## AVOIDING PREVENTABLE COSTS

- Keeping workers safe from heat can reduce workers' compensation costs. For example:
  - According to an analysis of workers compensation data from 24 U.S. states, most of which don't have heat standards, claims for injuries from any cause **increased up to six percent** on days with a high temperature of 75 °F or more, compared to days that hit 65 to 70 °F.
  - An Australian study using 35 years of workers' compensation data found the number of claims **increased by 0.24 percent** for every 1.8 °F increase in daytime high temperatures.
  - Studies of municipal workers in Texas found a **reduction in heat-related claims** after multi-pronged safeguards such as acclimatization of workers and first aid protocols were put in place.
- Anecdotal evidence suggests that workers in some industries and labor markets are more likely to leave uncomfortably or dangerously hot jobs, resulting in **high turnover costs** for employers. For example:
  - In 2024, a migrant farmworker **left his employer** in North Carolina after being sickened by the heat and then being berated by his crew supervisor for taking a break, even though his resignation forced him to return to his home country of Mexico and threatened his chances of securing future farmwork in the United States.
  - According to *The New York Times*, 10 percent more workers than usual **quit their jobs** at a meatpacking plant in Kansas during the brutally hot summer of 2023.
  - An Oregon-based worker talked to *The Washington Post* about leaving his warehousing job after regularly being exposed to temperatures of 100 °F and what he called "really gross '**survival of the fittest**'" conditions year after year.