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# OSHA's Heat Illness National Emphasis Program and Its Impact on Employers

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**As summer weather is upon us, Federal OSHA is in the midst of an effort to promulgate a [heat illness regulation](#) while simultaneously starting a national emphasis program around heat illness.**

This article provides an overview of the new efforts and how they will affect employers.

## What's in the new program?

Federal OSHA already had a pre-existing heat illness prevention campaign in place. The [new regulation](#) effort started in October, 2021 with an [advanced notice of proposed rulemaking](#). The [directive](#) creating the national emphasis program was published on April 8, 2022.

These three elements tie together by allowing OSHA to immediately start enforcement of the National Emphasis Program (NEP) under the general duty clause, while skipping the required outreach period by stating that the ongoing campaign serves as the required 90-day outreach effort. The third leg of the stool will be the regulation, assuming it gets through the promulgation process.

The new regulation would allow Federal OSHA to enforce specific regulation elements rather than relying on the general duty clause as it will have to do initially. In what might be considered a foreshadowing comment, the NEP encourages duty officers to consider whether the heat illness prevention program at an employer is in writing or not. A written program is not required by a specific federal regulation at this time.

Of the three elements the most immediate challenge facing employers is the emphasis program itself. The focus of the program will be industries that OSHA believes are most likely to experience heat-related illness among workers. In states that already have their own regulations or emergency regulations such as [California](#), [Washington](#), [Minnesota](#), and [Oregon](#), the state regulation does not always address both indoor and outdoor heat. This NEP addresses both forms of heat exposure, which may cause these states to expand how they are inspecting workplaces. The proposed regulation does outline the plans in place in these states and what they do and do not cover. See [Table II, D.1](#).

Federal OSHA is not requiring state plan states to adopt the NEP, but it is strongly encouraging them to do so. Federal OSHA is, however requiring state plan states to respond with their intent to adopt or not adopt the NEP within 60 days.

## **What type of workplace is more likely to receive a visit under this NEP?**

While any employer could receive a visit if OSHA receives a complaint, a heat-related illness occurs a heat-related observation is brought to OSHA, or they are being visited for other OSHA enforcement processes, the NEP does outline employers by North American Industry Classification System (NAICS) codes that will be more likely to have heat-related visits than others.

The NEP directive outlines the methodology by which employers will be added to the visit list and includes variables such as employers who may already be scheduled for a follow-up visit or who have had past issues with heat illness, as

well as a grouping of NAICS codes from which a visit list will be randomly generated. This list below is outlined by NAICS codes from the 2017 code version.

The tables below outline general industry (table 1), construction (table 2), and potential regional group additions (table 3) which will be entered into the randomization process. It is important to remember that as inspectors are in the field and feel they observe heat illness concerns during visits focused on other issues, those employers may be added to the inspection listing regardless of NAICS code.

It is also important to remember that this NEP covers both indoor and outdoor exposures.

## Appendix A

<b>Table 1.</b>	<b>General Industry</b>
2017	4-Digit
1121	Cattle Ranching and Farming
1151	Support Activities for Crop Production
2131	Support Activities for Mining
3118	Bakeries and Tortilla Manufacturing
3211	Sawmills and Wood Preservation
3241	Petroleum and Coal Products Manufacturing
3251	Basic Chemical Manufacturing
3272	Glass and Glass Product Manufacturing

3311	Iron and Steel Mills and Ferroalloy Manufacturing
3314	Nonferrous Metal (except Aluminum) Production and Processing
3315	Foundries
3323	Architectural and Structural Metals Manufacturing
3329	Other Fabricated Metal Product Manufacturing
3361	Motor Vehicle Manufacturing
3362	Motor Vehicle Body and Trailer Manufacturing
3363	Motor Vehicle Parts Manufacturing
3364	Aerospace Product and Parts Manufacturing
3365	Railroad Rolling Stock Manufacturing
3366	Ship and Boat Building
3369	Other Transportation Equipment Manufacturing
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing
4239	Miscellaneous Durable Goods Merchant Wholesalers
4241	Paper and Paper Product Merchant Wholesalers
4242	Drugs and Druggists' Sundries Merchant Wholesalers
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers

4244	Grocery and Related Product Merchant Wholesalers
4245	Farm Product Raw Material Merchant Wholesalers
4246	Chemical and Allied Products Merchant Wholesalers
4247	Petroleum and Petroleum Products Merchant Wholesalers
4248	Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers
4249	Miscellaneous Nondurable Goods Merchant Wholesalers
4413	Automotive Parts, Accessories, and Tire Stores
4442	Lawn and Garden Equipment and Supplies Stores
4881	Support Activities for Air Transportation
4882	Support Activities for Rail Transportation
4883	Support Activities for Water Transportation
4884	Support Activities for Road Transportation
4889	Other Support Activities for Transportation
4921	Couriers and Express Delivery Services
4922	Local Messengers and Local Delivery
4931	Warehousing and Storage
5311	Lessors of Real Estate
5617	Services to Buildings and Dwellings (includes landscaping services,

	tree removal and tree trimming services)
5621	Waste Collection
5622	Waste Treatment and Disposal
5629	Remediation and Other Waste Management Services
6231	Nursing Care Facilities (Skilled Nursing Facilities)
7211	Traveler Accommodation
8111	Automotive Repair and Maintenance
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance

<b>Table 2.</b>	<b>Construction industries that are likely to have heat-related hazards.</b>
2017	4-Digit
2361	Residential Building Construction
2362	Nonresidential Building Construction
2371	Utility System Construction
2372	Land Subdivision
2373	Highway, Street, and Bridge Construction

2379	Other Heavy and Civil Engineering Construction
2381	Foundation, Structure, and Building Exterior Contractors
2382	Building Equipment Contractors
2383	Building Finishing Contractors
2389	Other Specialty Trade Contractors

**Table 3. NAICS codes not already listed in ListGen (OSHA's data system) but which could be added by the local OSHA offices.**

2017	4-Digit
1112	Vegetable and Melon Farming
1113	Fruit and Tree Nut Farming
2213	Water, Sewage and Other Systems (may be State or local jurisdiction)
4411	Automobile Dealers
4412	Other Motor Vehicle Dealers
4821	Rail Transportation (may be Federal jurisdiction)
4885	Freight Transportation Arrangement
4911	Postal Service
5611	Office Administrative Services
5612	Facilities Support Services

5613	Employment Services
5614	Business Support Services
5616	Investigation and Security Services
5619	Other Support Services
6117	Educational Support Services
7225	Restaurants and Other Eating Places
8112	Electronic and Precision Equipment Repair and Maintenance
9281	National Security and International Affairs (includes Customs and Border Patrol, and Transportation Security Administration)

## When should employers expect to get heat illness related visits?

Programmed visits based on the above NAICS codes will occur on days where the National Weather Service has announced a warning or advisory for heat. Here are the NEP's definitions for those terms:

- **Heat Advisory**—Take Action! A Heat Advisory is issued within 12 hours of the onset of extremely dangerous heat conditions. The general rule of thumb for this Advisory is that the maximum heat index temperature is expected to be 100°F or higher for at least 2 days, and nighttime air temperatures will not drop below 75°F.
- **Excessive Heat Warning**—Take Action! An Excessive Heat Warning is issued within 12 hours of the onset of extremely dangerous heat conditions. The general rule of thumb for this Warning is that the maximum heat index

temperature is expected to be 105°F or higher for at least 2 days and nighttime air temperatures will not drop below 75°F.

While it is not clear whether all programmed visits will occur during these warning and advisory days, we do know that some will occur then. The duty officer will observe your plan in action as well as interview your employees about any heat-related symptoms and whether the plan is put into action or not.

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“Furthermore, programmed inspections shall occur on any day that the NWS has announced a heat warning or advisory for the local area.” –the NEP

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Additionally, there are directives in the NEP document for visits based on observations in the field, referrals from the field, complaints, follow-ups to serious injury reporting, and 300 log entries associated with heat.

At least some of these visit types will have to do with what is observed at your location during hot days or complaints that occur during days that fall within the heat parameters set out in the [NEP appendix G](#).

The long and short of it is that your plan must be in place and in use during the hot weather and that you should expect the likelihood of an OSHA visit to increase during hot days and directly following a hot weather episode.

## **What might you expect during a visit?**

The NEP outlines activities expected of their duty officers specifically related to heat, but you should also expect those duty officers to ask questions around other topics or interact with you using the plain sight doctrine. If they see a hazard, they can address that hazard regardless of the topic involved.

As it relates to heat, the following is incorporated into the NEP in section XII(D) (2), as direction to those duty officers conducting the site visit.

1. Review OSHA 300 Logs and 301 Incident Reports for any entries indicating heat-related illness(es).
2. Review any records of heat-related emergency room visits and/or ambulance transport, even if hospitalizations did not occur, [this may require the use of a [Medical Access Order](#)].
3. Interview workers for symptoms of headache, dizziness, fainting, dehydration, or other conditions that may indicate heat-related illnesses, including both new employees and any employees who have recently returned to work.
4. Determine if the employer has a heat illness and injury program addressing heat exposure, and consider the following:
  - Is there a written program?
  - How did the employer monitor ambient temperature(s) and levels of work exertion at the worksite?
  - Was there unlimited cool water that was easily accessible to the employees?
  - Did the employer require additional breaks for hydration?
  - Were there scheduled rest breaks?
  - Was there access to a shaded area?
  - Did the employer provide time for acclimatization of new and returning workers?
  - Was a “buddy” system in place on hot days?
  - Were administrative controls used (earlier start times, and employee/job rotation) to limit heat exposures?

- Did the employer provide training on heat illness signs, how to report signs and symptoms, first aid, how to contact emergency personnel, prevention, and the importance of hydration?

5. Document conditions relevant to heat-related hazards, including:

- The heat index and additional weather data from that day, e.g., heat alerts from the NWS, data from the OSHA-NIOSH [Heat Safety Tool App](#), saving a screenshot on a mobile phone or tablet. Additional information may be needed for indoor heat investigations
- Observe and document current conditions and those at the time the incident occurred (for unprogrammed inspections), including:
  - Observed wind speed
  - Relative humidity
  - Dry bulb temperature at the workplace and in the shaded rest area
  - Wet-bulb globe temperature at the workplace (ensure the equipment has been properly calibrated prior to use)
  - Cloud cover (no clouds, 25%, 50%, 75%, 100%)
  - Existence of any heat advisories, warnings, or alerts the previous days.

6. Identify activities relevant to heat-related hazards. These can include, but are not limited to:

- Potential sources of heat-related illnesses (e.g., working in direct sunlight, a hot vehicle, or areas with hot air, near a gas engine, furnace, boiler, or steam lines)
- The use of heavy or bulky clothing or equipment, including personal protective equipment

- Estimate workload exertions by observing the types of job tasks performed by employees and whether those activities can be categorized as moderate, heavy, or very heavy work, considering both average workload and peak workload
- Duration of exposure during which a worker is continuously or repeatedly performing moderate to strenuous activities.

With three separate federal efforts occurring, several state initiatives, a current region VI emphasis program in place for [AR](#), [LA](#), [NM](#), [OK](#), [TX](#), and changes occurring at a rapid pace based on the NEP, this could be a confusing year for employers.

As the weather warms, you may wish to have your safety department work through your heat illness prevention program after reading the NEP and monitor the current regulation efforts to ensure you are in compliance. Most employers are taking care to make sure their employees are not exposed to injurious heat levels. Making sure you are on top of the latest information and that you are getting credit for what you are doing can be helpful if you are faced with a compliance visit.

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