

Biden Administration to Announce First National Heat Protections for Workers

The proposed regulation comes as a punishing heat wave descends on California and Oregon.

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By Lisa Friedman, Noah Weiland and Coral Davenport

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The Biden administration on Tuesday will propose first-of-their-kind regulations to protect farm and construction workers, kitchen cooks and millions of other Americans exposed to dangerous heat on the job.

President Biden is expected to discuss those worker protections when he visits the District of Columbia's emergency operations center, where he will also receive a briefing from federal scientists about extreme temperatures forecast for this summer.

The proposed regulation comes as a heat wave settles over California this week and triple-digit heat is also expected to scorch Portland over the July 4 weekend. That follows an early heat wave last month that had much of the country sweltering.

Last year, the hottest in recorded history, brought 2,300 heat-related fatalities in the United States, most likely an undercount, while emergency room visits for heat illnesses surged.

The proposed regulation from the Occupational Safety and Health Administration would for the first time require employers to monitor workers and provide rest areas and water when the heat index reaches 80 degrees or higher. Employers would also be required to establish heat safety plans. The rule could apply to about 35 million Americans who work

both indoors and outdoors, senior administration officials said in a call with reporters on Monday.

The heat index is a combination of air temperature and humidity.

Mr. Biden will also announce nearly \$1 billion from the bipartisan infrastructure law to help communities build resilience to weather-related disasters.

It will be Mr. Biden's first policy event since the presidential debate on Thursday, where his shaky performance raised questions about his advanced age. The 81-year-old president and his campaign have been working to reassure donors that he can beat former President Donald J. Trump, the presumed Republican nominee, and serve another four years in the White House.

Douglas Brinkley, a presidential historian at Rice University who focuses on environmental policy, said by combining climate change and protections for workers, Mr. Biden is going to his "comfort place" for an easy political win.

"He likes being 'lunchbox Joe' and being on the side of labor and the working class," Mr. Brinkley said. "It's a good issue for Joe Biden. It reminds environmentalists that he's an ally, and rings the climate bell, but also shows he has the back of and the health of the labor movement."

The presidential election this year will have significant consequences for the implementation of the workplace rule, which could be discarded if Mr. Trump were to win the White House in November. The Supreme Court also unleashed a wave of decisions over the past week that combine to drastically diminish the authority of federal agencies to regulate industries and the workplace. The decisions are expected to make it easier for businesses and industries to get federal regulations overturned.

The proposed heat rule is already facing opposition from industry groups that say it would drive up costs and would be cumbersome to administer. Opponents have indicated they intend to challenge the legality of the rule as soon as it is implemented, possibly late this year.

Jonathan Berry, who served as a senior Labor Department official under Mr. Trump, said the combined Supreme Court decisions "are clearly expressive of a judicial mood that would be very hostile to this rule making."

Marc Freedman, a vice president at the U.S. Chamber of Commerce, the country's largest business lobbying group, wrote that such a rule would present huge challenges for employers and that "it is extraordinarily difficult for them to determine when heat

presents a hazard because each employee experiences heat differently.”

Gov. Ron DeSantis of Florida and Gov. Greg Abbott of Texas, both Republicans, have signed legislation to prevent local governments from requiring heat protections for outdoor workers.

Workers’ rights groups support the proposed federal regulation.

“This regulation will save lives,” said Sean McGarvey, president of North America’s Building Trades Unions. “The families of people who lose their lives to heat illness don’t see this as an overly burdensome regulation.”

David Michaels, an epidemiologist at George Washington University who led OSHA during the Obama administration, said the proposed rule might prompt some employers to begin planning and enacting worker protections ahead of a final version.

“There’s a long history that OSHA proposed standards have an impact before they go into effect,” he said.

Heat waves last longer now than they did decades ago, according to an Environmental Protection Agency report also expected to be released on Tuesday. In recent years heat waves in major U.S. urban areas have lasted, on average, about four days, a full day longer than the average in the 1960s, it found.

The proposed workplace rule incorporates two so-called heat triggers, with each threshold requiring employers to implement different protections for workers. An initial trigger would be set at a heat index of 80 degrees Fahrenheit and would require that employers offer access to drinking water, break areas where workers can cool off and rest breaks when needed.

Workers would also be entitled to so-called acclimatization plans, which would allow newer employers who are not as adjusted to extreme heat to gradually increase their hours as they adapt to conditions.

A second trigger, set at a heat index of 90 degrees Fahrenheit, would require rest breaks of 15 minutes every two hours and would mandate that employers monitor their workers for symptoms of heat illness.

Employers who fail to meet the new standards could face fines of more than \$16,000 depending on the violation.

One recent study found that the probability of work-related accidents increases by 5 percent to 6 percent when the maximum daily temperature rises above 90 degrees

Fahrenheit and that the effect is stronger in the South and for construction workers.

In addition to the impact on health, heat takes an economic toll. The California state insurance commissioner released a report this week finding that heat waves had cost Californians at least \$7.7 billion over the last decade and had killed nearly 460 people. In 2021, more than 2.5 billion hours of labor in the U.S. agriculture, construction, manufacturing and service sectors were lost to heat exposure, according to data compiled by The Lancet. Another report found that in 2020, the loss of labor as a result of heat exposure cost the economy about \$100 billion, a figure projected to grow to \$500 billion annually by 2050.

Lisa Friedman is a Times reporter who writes about how governments are addressing climate change and the effects of those policies on communities. [More about Lisa Friedman](#)

Noah Weiland writes about health care for The Times. [More about Noah Weiland](#)

Coral Davenport covers energy and environment policy, with a focus on climate change, for The Times. [More about Coral Davenport](#)