

United States Senate

August 3, 2021

The Honorable Martin Walsh
Secretary
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Walsh,

We write today to bring your attention to the increasing danger faced by workers exposed to excessive heat in the workplace, both in indoor settings as well as outdoor ones. With the increasing prevalence of extreme weather conditions as well as employers who neglect to invest in their workplaces, the risk this danger poses for our workers, communities, and the economy is at a pressure point. We request that the Occupational Safety and Health Administration (OSHA) quickly develop and adopt a federal heat standard to protect workers, whether they are laboring in an outdoor setting or working inside an establishment.

First, this issue is already fatal for many. According to Bureau of Labor Statistics data, from 1992 to 2017, exposure to excessive environmental heat killed 815 U.S. workers and seriously injured almost 70,000. Extreme heat often causes more deaths in a year than all other weather-related disasters, and the General Duty Clause that OSHA currently relies on does not sufficiently detect and stop heat-related illness for workers. Recent research analyzing data from 2001-2018 in California found that hotter temperatures caused approximately 20,000 injuries per year and \$1 billion in economic damages for the state. A rough extrapolation to the nation would suggest that we experience 170,000 heat-related injuries nationwide per year for a total cost of \$6 billion per year.

Second, climate change is compounding the problem. Last month was the hottest June on record for the U.S. Record-breaking heat waves in the West and Pacific Northwest are affecting workers across the country. According to the U.S. Environmental Protection Agency (EPA), “unusually hot summer temperatures have become more common across the contiguous 48 states in recent decades, extreme heat events (heat waves) have become more frequent and intense, and these trends are expected to continue.” For workers who labor outdoors, the threat is acute. Farmworkers – of which one-fifth are women of color – are roughly 20 times more likely to die of heat-related causes than workers in all other civilian occupations. Just weeks ago, in St. Paul, Oregon, a farm crew moving irrigation lines in 104-degree weather found one of their coworkers, Sebastian Francisco Perez, unconscious and unresponsive. Mr. Perez, who was only 38 years old, died before reaching the hospital. Oregon OSHA’s database lists the death as heat-related.

Third, heat is a threat to workers in a wide range of indoor and outdoor workplaces, including farms, highways and construction sites, warehouses, laundries, steel mills, meat-packing plants, and vehicles. This issue is a particular problem in indoor warehouses like those managed by Amazon all over the country. At an Amazon warehouse in Kent, Washington, the Seattle Times reported workers facing 90-degree heat during “power hours,” in which workers

are asked to work at maximum speed. In 2019, Amazon workers in Chicago had to publicly ask the company to provide air conditioning at the facility. During the most recent union drive in Bessemer, Alabama, Amazon workers noted that management had refused requests for fans in the facility to address overbearing heat. An Amazon worker at this facility had a heart attack and collapsed. Months later, another worker collapsed and died. In warehouses in California, cooks are reported to be working without air conditioners in 115-degree temperatures and workers are paying out of pocket for fans.

Fourth, inaction exacerbates the risks to our economy. Workers and businesses will suffer the loss of wages and productivity. According to a 2015 EPA report, the United States will lose 1.8 billion labor hours across the workforce in the year 2100 due to extreme temperatures under a business-as-usual climate change scenario. That adds up to \$170 billion in lost wages. The 2018 National Climate Assessment estimated that the costs of lower labor productivity under rising temperatures is estimated to reach up to \$160 billion in lost wages per year in the United States by 2090. What's more, investors will take on additional risk when they invest in companies with ad hoc approaches to worker safety without a requirement to disclose workforce investments. Creating an OSHA heat standard would provide stability to the economy and reduce risks to investors by requiring employers to adhere to the same heat stress standard.

Finally, underlying societal conditions contribute to the intensification of heat illness issues in the work place. For example, when a worker is infected with COVID-19, they have increased susceptibility to heat exhaustion and heat stroke. Or, when a worker is undocumented, as 49 percent of agricultural workers are estimated to be, they justifiably fear employer retaliation for speaking out against hazardous working conditions. Many of these workers are paid by their rate of productivity; if they stop work to drink water or take a break in the shade, that choice can reduce their earnings. Research suggests that health and occupational risks related to heat are greatest for low-income workers, especially younger men without bachelor's degrees. The jobs at the highest risk of heat stress illness and death are disproportionately held by workers of color.

Several states are already enacting their own state-level heat standards for the workplace. California, Washington, Minnesota, and Oregon, have issued standards to protect workers from heat stress, and two states recently issued emergency standards to address "extreme" heat. Earlier this month, Governor Kate Brown issued an executive order charging Oregon OSHA with promulgating an emergency temporary standard to prevent heat illness. That same week, the Washington State Department of Labor and Industries published an emergency rule to improve protections for workers exposed to outdoor heat. A federal OSHA standard would be an opportunity to fill in the gap for workers outside of these states..

In light of the danger of increasing heat waves and rising temperatures due to climate change, we request that you begin work on a permanent standard covering *both* outdoor and indoor workers, modeled after the provisions in S.1068, the Asunción Valdivia Heat Illness and Fatalities Prevention Act. This bill directs OSHA to establish an enforceable federal standard to ensure workers and employers can recognize and respond to the signs of heat stress. This bill is named in honor of Asunción Valdivia, a 53-year-old California farmworker who died in 2004 of heat stroke, after picking grapes for 10 straight hours in 105-degree temperatures. When Mr.

Valdivia became unconscious, his employer told Mr. Valdivia's son to drive his father home, instead of calling an ambulance. Mr. Valdivia's death was completely preventable, and his story is not unique.

We concur with a separate letter on this issue from the U.S. House of Representatives suggesting that the federal standard should require employers to provide the following:

- 1) adequate hydration,
- 2) rest breaks,
- 3) areas for rest breaks that are shaded (in the case of outdoor work) or air-conditioned (in the case of indoor work),
- 4) medical services and training to address signs and symptoms of heat-related illness, and
- 5) a plan for acclimatization to high-heat work conditions.

As the climate continues to warm, workers around the country will face ever-increasing risks as they provide for their families and communities. We ask that you move quickly to protect their health and safety.

Sincerely,



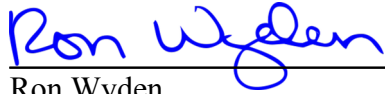
Alex Padilla
United States Senator



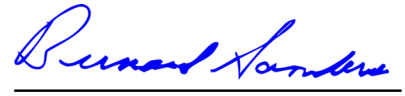
Sherrod Brown
United States Senator



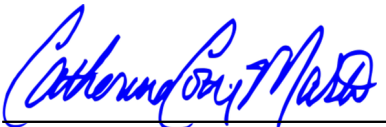
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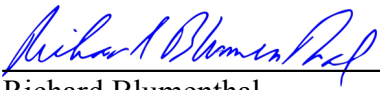
Catherine Cortez Masto
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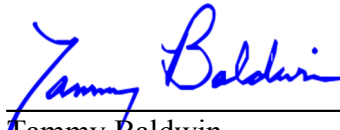
Kirsten Gillibrand
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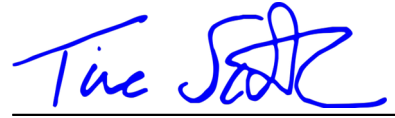
Dianne Feinstein
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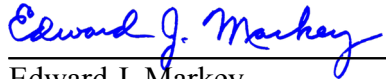
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