

United States Senate

WASHINGTON, DC 20510

November 18, 2019

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Ave NW
Washington, D.C. 20210

Dear Secretary Scalia:

We write to urge you to initiate a rulemaking to establish new workplace safety standards for workers who are affected by heat at work, including due to severe weather as a result of climate change. The 2018 National Climate Assessment concluded that climate change has led to “more frequent and intense extreme weather and climate-related events.”¹ Just this year, the National Oceanic and Atmospheric Administration declared July of 2019 the hottest month on earth on record², and global temperatures are expected to continue to rise in the coming years.³ Currently, however, there are no federal standards that specifically require employers to address risks to workers due to severe weather. We request that you act swiftly to ensure workers who are or will be affected by heat stress at work have the protections they need.

According to the Centers for Disease Control (CDC), climate change “can amplify existing health and safety issues and could lead to new unanticipated hazards” for workers in a variety of sectors, including but not limited to emergency responders, fire fighters, utility workers, farm workers, construction workers, landscaping workers, and delivery and transportation workers,⁴ many of which are disproportionately represented by workers of color.⁵ Climate-connected occupational hazards include: occupational exposure to heat and hot environments, air pollution, extreme weather, and biological hazards, to name a few. According to the Department you lead, thousands of workers become sick due to occupational heat exposure each year. Between 1992 and 2016, exposure to excessive heat killed 783 workers and seriously injured 69,374.⁶ The number of workers at risk of heat illness and threatened by extreme weather events will continue to grow as result of climate change.

In 1972, the Occupational Safety and Health Administration’s (OSHA) Standards Advisory Committee on Heat Stress recommended OSHA issue a rule implementing a standard to protect

¹ USGCRP, 2018: *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment*, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, D.C., USA. Retrieved from: <https://nca2018.globalchange.gov/>

² NOAA National Centers for Environmental Information, “State of the Climate Report for July 2019,” published online August 2019. Retrieved from: <https://www.noaa.gov/news/july-2019-was-hottest-month-on-record-for-planet>

³ NASA, “The Effects of Climate Change,” retrieved November 2019 from: <https://climate.nasa.gov/effects/>

⁴ Centers for Disease Control and Prevention, *Impact of Climate on Workers*, retrieved November 2019 from <https://www.cdc.gov/niosh/topics/climate/how.html>

⁵ Bureau of Labor Statistics, “Labor force characteristics by race and ethnicity, 2017.” Report 1076. August 2018. Retrieved from: <https://www.bls.gov/opub/reports/race-and-ethnicity/2017/home.htm>

⁶ BLS data as analyzed by Public Citizen. Public Citizen, Petition to OSHA for a Heat Standard, July 17, 2018. Retrieved from: https://citizenvox.org/wp-content/uploads/2018/07/180717_Petition-to-OSHA-on-Heat-Stress-Signed_FINAL.pdf

workers from heat exposure, but, more than 45 years later, no such rule has been issued. Although OSHA has issued guidance for employers to address extreme heat exposure and prevent cold stress, there is no specific standard to protect workers from heat, cold or other types of extreme weather. In fact, OSHA admits that its guidance in both instances is only advisory in nature and is not a legal obligation for employers. Instead, OSHA points to Section 5 of the Occupational Safety and Health Act, under which employers are required to provide workers “employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm.”

That general duty standard is insufficient to ensure employers are proactively protecting their workers from the growing threats of climate change. According to analysis by Public Citizen, between 2013 and 2017 enforcement in California, which has a state law requiring employers to protect workers from extreme heat, was 50 times greater than enforcement of OSHA’s general duty clause.⁷ Binding OSHA standards are necessary to ensure workers are protected from extreme weather events and businesses across the country are competing on a fair, level playing field. Public Citizen petitioned OSHA to initiate a rulemaking on heat stress protections on July 17, 2018.⁸ To date, your agency has not responded to the petition other than to acknowledge receipt of it. We urge you to immediately act on the petition and begin a Notice of Proposed Rulemaking process.


Similar to standards adopted in California and Washington State, any heat stress proposal at a minimum must include explicit requirements for rest, water, acclimatization, and shade or a climate-controlled environment. In addition, the rule must include training requirements for workers and managers to ensure the worker protections are implemented as intended. The National Institute for Occupational Safety and Health (NIOSH) recently updated its criteria for a recommended standard for occupational exposure to hot environments. Any proposal should take into account NIOSH’s work. As part of this undertaking, we urge you to consult with worker advocacy organizations and with workers directly who experience firsthand the growing occupational risks due to climate change.

Climate change presents significant risks to workers, and, as global temperatures continue to rise and extreme weather conditions become more common, the risks will only get worse. We urge you to initiate a rulemaking that requires employers to protect workers from these threats.

Sincerely,



Sherrod Brown
United States Senator



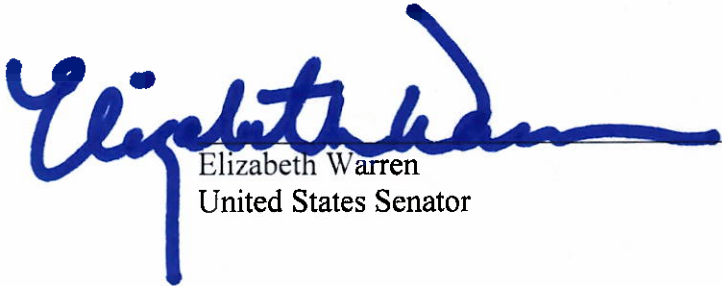
Tammy Baldwin
United States Senator


⁷ Id, page 17.


⁸ Id.


Patty Murray
United States Senator



Sheldon Whitehouse
United States Senator

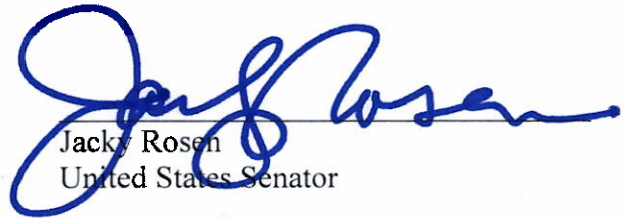

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