My name is Ellie Barbarash. I am a Senior Health and Safety Advocate at AFSCME, the American Federation of State, County, and Municipal Employees, representing 1.4 million public and private workers, members who provide the vital services that make America happen.  AFSCME strongly supports OSHA’s Heat Illness and Injury Prevention proposal and urges OSHA to issue a final standard, which is long overdue.

**Our comments are dedicated to the memory of AFSCME Maryland Council 3-Local 44 member Ronald Silver II, a Baltimore Department of Public Works / DPW employee who died due to work-related heat exposure on August 2, 2024.**  His crew had been reporting unsafe heat conditions since June, working numerous 105°F Extreme Heat Trigger days in a row throughout July.

* Baltimore DPW was not required to develop a Heat Illness and Injury Prevention Program (HIIPP). Neither Silver, coworkers nor supervisors were trained to recognize or respond to heat stress or emergency.  The day Silver died, working a standard ten-hour shift in a municipal garbage truck, the heat index neared 108°F. While collecting garbage, exhaust fumes behind the truck made the temperature even hotter.
* The heat had already gotten Silver and his coworkers sick that week of July 29.  On August 2, after a delayed start at 7 am, Silver finished all his water by early afternoon.  There was no access to additional hydration or first aid on his truck.
* By 3:50 pm, Silver collapsed in an alleyway collecting trash. He was disoriented, needed help getting back into the truck, and complained of cramps and blurry vision. A coworker drove him to his car a little after 4:00 pm. Silver stopped and requested water from a random homeowner. When she went inside to get it, he collapsed again by her front door. She returned to find him seizing with convulsions on her porch.  She called 911 and administered chest compressions herself, but he did not revive. **Paramedics pronounced Silver dead by 5:05 pm.  Our AFSCME brother, 36 years old, suffered an unnecessary, preventable, agonizing death, leaving behind traumatized homeowners, coworkers and his family: a grieving fiancée and five young fatherless children.**
* Silver’s colleagues could not respond appropriately to his heat stress as it occurred in real-time. They did not know how. At DPW, supervisors knew how hot it was on the streets of Baltimore that week, but it did not matter.   Even with his life at risk, Silver lacked the legal right to exercise ‘Stop Work Authority’ without risking his job. The heat killed him.
* *The State of Maryland proposed an occupational heat illness prevention standard in 2020, but the rule was not formalized or enforceable until September 2024, a month after Silver’s death.*

I want to discuss a report by the Center for Labor & A Just Economy at Harvard Law School which examined the effectiveness of workplace heat regulations in saving lives.  “**The Effect of Heat Standards Related to Outdoor Work,”** by Adam Dean and Jamie McCallum, examines two decades of data from California, Arizona, Oregon and Nevada to explore whether heat illness prevention regulations are effective or not.  Authors researched climate and heat death rates in California connected to outside work before and after implementation of CAL/OSHA heat illness prevention rules. They compared fatality rates in CA to rates in neighboring states over the same period. While weather extremes were comparable, there were no heat illness prevention rules in place in Arizona, Nevada and Oregon during the time examined.

Some report highlights:

* A brutal heat wave in 2005 led to multiple farmworker deaths in CA, spurring the first US heat regulation by CAL/OSHA in 2006.
* But the 2006 standard lacked enforcement and implementation detail, leading to loopholes that prevented effective implementation. Heat conditions got so bad that the United Farm Workers union sued CAL/OSHA in 2012, alleging that the 2006 standard was not being enforced. UFW members faced unrelenting harm from heat illness in the fields and packinghouses of CA.
* **In 2015/2016, CAL/OSHA revised their heat standard.** They strengthened worker heat protections by mandating  specific requirements from employers — worker **rest breaks** in shaded areas, without risk of retaliation; free, clean, accessible, cool drinking **water**;  effective **training** for workers and supervisors alike to recognize and respond to signs of heat illness;  **monitoring** of environmental conditions and personal health;  reliable **communication for** first aid and **emergency response;** and **formal,** **written heat illness protection plans**.  The 2015/16 CAL/OSHA rule included **enforcement capacity** in addition to specific employer requirements — leading to improved outcomes and decreased worker fatalities in CA.
* Dean and McCallum measured outdoor work deaths connected to heat exposure by analyzing publicly available information from the National Center for Health Statistics Mortality Data on the CDC WONDER database.
* They compared mortality trends in California before and after the heat standards were enforced, comparing trends from data gathered over the same period from neighboring states of Oregon, Nevada and Arizona, states chosen to reflect comparable geographic and climactic conditions.
* Their trend studies focused on county-level deaths caused by exposure to heat and sunlight, as well as by vehicle accidents connected to agriculture, construction, and transportation.
* As the weather grew hotter each year, all four states increased workplace heat deaths.  **But fatality rates in California averaged 43% lower than fatality rates in Nevada, Arizona and Oregon at the same time.**  Authors concluded that the revised standard was responsible for decreased deaths in counties in CA compared to counties in the other three states without a heat standard. Data indicated that roughly **52 California lives were saved each year** due to standard implementation.  *Given the chronic underreporting of workplace heat illnesses, injury and death, 52 lives saved per year is most likely an extreme undercount.*

**Why? Why did the 2015/2016 CA heat standard lower fatality rates when the 2006 CA standard did not? The 2016 standard established specific employer requirements for implementation of worker heat protections. It included enforcement capacity and penalties to ensure implementation was carried out. It worked.**

We strongly support OSHA’s Heat Illness and Injury Prevention proposal and wish to share 5 recommendations to strengthen the standard further.

1. Guarantee workers the right to exercise ‘Stop Work Authority’ when they experience symptoms of heat stress.
2. Widen OSHA’s definition of impacted workers.  AFSCME represents the most cultural workers in the nation and our members who work jobs considered “inside and sedentary" also suffer from unrelenting heat illness and heat stress. Remove the sedentary worker exclusion so sedentary inside workers are equally protected from heat illness when temperatures rise above thresholds set in the standard.
3. Strengthen protections for workers to initiate rest breaks when the heat index rises above 80°F. The current proposal only requires mandatory rest breaks at 90°F. Workers experience pressure to push through their jobs and they will not rest unless breaks are required.  Enforce the right of workers to take a break when the heat index rises above 80°.
4. Require employers to document all worker adverse heat events in a Heat Incident and Illness Log and keep logs for three years. This documents jobs, times and locations with known hazardous exposures and it can support better planning to prevent future heat injury.  Make this Log available upon request to workers and their representatives.
5. Lastly, OSHA must require employers prioritize the Hierarchy of Controls in their heat illness prevention plans. Prioritize engineering controls and then administrative controls like alternate scheduling and Stop Work Authority. **If Ronald Silver and his coworkers had received training on heat stress or recognizing dangerous signs of heat illness,  if his employer had been required to provide enough water for the day, or to allow workers to rest when they felt sick, if Silver had received any health monitoring during a clear heat emergency, if first aid had been timely and available  --  Silver might still be here today supporting his coworkers and caring for his beloved family.**

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