

Background

Effective July 13, 2021, L&I updated requirements already in place to protect employees working outdoors in extreme heat. The temporary emergency heat rules can be found at www.Lni.wa.gov/rulemaking-activity/AO21-25/2125CR103EAdoption.pdf.

General

Who is required to follow the requirements?

Updated requirements apply to the same employers covered previously by outdoor heat rules (i.e., agricultural, construction, and other employers with employees performing work outdoors for more than 15 minutes in a 60-minute period).

Outdoor Heat Exposure rules are in effect each year from May 1 through September 30.

To read outdoor heat rules and find resources for planning, training, etc., visit www.Lni.wa.gov/HeatSmart.

Are employers required to keep temperature records?

There is no requirement to maintain temperature records.

Shade

When is shade required?

Shade, or another sufficient means for cooling down, must be provided at all times when temperatures reach 100 degrees and is also required at 89 degrees (or other outdoor temperature action levels specified in the rule¹) for employees when necessary to prevent or recover from heat illness.

What kind of shade is acceptable?

Acceptable shade blocks direct sunlight to the degree that shadows aren't cast under it and it must allow

the body to cool off. Shade may be provided by natural or artificial means (e.g., dense tree canopies or tent-like canopies).

In addition, shade must be provided in a way that does not expose employees using it to unsafe or unhealthy conditions or deter or discourage access or use.

How much shade do worksites need?

Employers must provide shade at 89 degrees (or other outdoor temperature action levels in the rule¹) for employees to access when they need to take preventative cool-down rest time or to cool down after showing signs or symptoms of heat related illness. No specific amount of shade is required, but employers should take into account the crew size and work conditions at each jobsite when determining how much shade to provide.

When temperatures reach 100 degrees, shade must be located as close as feasible to work areas and spacious enough to accommodate the number of employees who are on a break at any point in time. That doesn't necessarily mean it must fit all employees working on a given shift at the same time. If breaks are rotated, then the shade area would be proportionally reduced.

Employers should consider whether they should have additional structures available on an "as needed" basis.

Can employees use a vehicle for shade?

Shade isn't acceptable when heat in the area of shade defeats the purpose of shade — to allow the body to cool.

1. See Outdoor Temperature Action Levels in Table 1 of WAC 296-62-09510 (www.Lni.wa.gov/safety-health/safety-rules/chapter-pdfs/WAC296-62.pdf#WAC_296_62_095) and, for agriculture, WAC 296-307-09710 (www.Lni.wa.gov/safety-health/safety-rules/chapter-pdfs/WAC296-307.pdf#WAC_296_307_097)



For example, a car sitting in the sun may block direct sunlight for occupants inside, but would not provide acceptable shade unless it is running with the air-conditioning on.

Are there alternatives to providing shade?

Yes. Employers may provide misting stations, air-conditioned trailers (or other temperature-controlled environment) or other means that allow the body to cool off to prevent or recover from overheating or heat illness.

Water

What's changed?

Employers have always been required to provide drinking water no matter the outdoor temperature.

When the temperature reaches 89 degrees (or other outdoor temperature action level specified in the rule), employers must provide and make readily accessible a sufficient amount of "suitably cool" drinking water to allow each worker to drink at least one quart each hour.

No particular water temperature is required, but 50–60 degrees is recommended.

Cool-Down Rest Periods

How often are these required?

Employers must ensure employees take preventative cool-down rest periods of at least 10 minutes every two hours when temperatures reach 100 degrees.

When temperatures are between 100 and 89 degrees (or other outdoor temperature action levels specified in the rule), employees must be encouraged and allowed to take a preventative cool-down rest period when they feel the need to protect themselves from overheating.

Does a lunch break count?

Yes. Any meal or rest period already required by labor standards in WAC 296-126-092/WAC 296-131-020² can double as a cool-down rest period.

Are employers required to pay employees during these periods?

Yes, except when taken during a meal period.

Agricultural employees paid on a piece-rate basis must be separately compensated for rest breaks and piece-rate down time.

Can cool-down rest periods take place outside of shade?

Yes, but the employer must ensure the employees have sufficient means (e.g., air-conditioned areas, misting stations) to reduce body temperature during cool-down rest periods.

Training

What's changed?

While prior requirements for employee and supervisor training haven't changed, the updated rule requires additional training on heat procedures, cool-down rest breaks, and ways to cool down.

Resources

Where can I go if I have further questions?

You can find online answers to frequently asked questions about outdoor heat exposure requirements at www.Lni.wa.gov/safety-health/safety-training-materials/workshops-events/beheatsmart#questions-and-answers

Your local L&I consultant can also help. Go to www.Lni.wa.gov/SafetyConsultants for contact information or call 1-800-423-7233 or visit a local L&I office and ask for the Consultation Manager.

2. See <https://app.leg.wa.gov/wac/default.aspx?cite=296-126-092> and <https://app.leg.wa.gov/wac/default.aspx?cite=296-131-020>