

117TH CONGRESS  
2D SESSION

# H. R. 8818

To direct the Occupational Safety and Health Administration to issue an occupational safety and health standard to protect workers from wind-related injuries.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2022

Ms. BUSH (for herself, Mr. GREEN of Texas, Ms. NORTON, Ms. CLARKE of New York, Mr. BOWMAN, Mr. CARSON, Mr. GRIJALVA, Ms. LEE of California, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To direct the Occupational Safety and Health Administration to issue an occupational safety and health standard to protect workers from wind-related injuries.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wind Safety Standard  
5       Act of 2022”.

1 **SEC. 2. OSHA SAFETY STANDARD FOR PROTECTION FROM**  
2 **HIGH WINDS.**

3 (a) PROPOSED STANDARD.—Not later than 2 years  
4 after the date of enactment of this Act, the Secretary of  
5 Labor shall, pursuant to section 6(b) of the Occupational  
6 Safety and Health Act of 1970 (29 U.S.C. 655(b)), pro-  
7 mulgate a proposed standard on prevention of workplace  
8 injury from high winds.

9 (b) FINAL STANDARD.—Not later than 42 months  
10 after the date of enactment of this Act, the Secretary shall  
11 promulgate a final standard on prevention of workplace  
12 injury from high winds that shall—

13 (1) provide no less protection than the most  
14 protective wind protection standard adopted by a  
15 State plan that has been approved by the Secretary  
16 under section 18 of the Occupational Safety and  
17 Health Act of 1970 (29 U.S.C. 667) and, at a min-  
18 imum, include the requirements described in section  
19 4; and

20 (2) be effective and enforceable in the same  
21 manner and to the same extent as any standard pro-  
22 mulgated under section 6(b) of the Occupational  
23 Safety and Health Act of 1970 (29 U.S.C. 655(b)).

24 (c) INTERIM FINAL STANDARD.—

25 (1) IN GENERAL.—If the proposed standard de-  
26 scribed in subsection (a) is not promulgated not

1 later than 2 years after the date of enactment of  
2 this Act, the Secretary of Labor shall promulgate an  
3 interim final standard on prevention of workplace in-  
4 jury from high winds not later than 2 years and 60  
5 days after such date of enactment—

6 (A) to require covered employers to develop  
7 and implement a comprehensive workplace wind  
8 protection plan to protect covered employees  
9 from excessive winds that may lead to wind-re-  
10 lated workplace injuries; and

11 (B) that shall, at a minimum—

12 (i) provide no less protection than the  
13 most protective wind protection standard  
14 adopted by a State plan that has been ap-  
15 proved by the Secretary under section 18  
16 of the Occupational Safety and Health Act  
17 of 1970 (29 U.S.C. 667); and

18 (ii) include a requirement to protect  
19 employees from discrimination or retalia-  
20 tion for exercising the rights of the em-  
21 ployees under the interim final standard.

22 (2) APPLICABILITY OF OTHER STATUTORY RE-  
23 QUIREMENTS.—The following shall not apply to the  
24 promulgation of the interim final standard under  
25 this subsection:

1           (A) The requirements applicable to occupa-  
2           tional safety and health standards under section  
3           6(b) of the Occupational Safety and Health Act  
4           of 1970 (29 U.S.C. 655(b)).

5           (B) The requirements of section 553(e) of  
6           chapter 5 and chapter 6 of title 5, United  
7           States Code.

8           (C) The requirements of the National En-  
9           vironmental Policy Act of 1969 (42 U.S.C.  
10          4321 et seq.).

11          (3) EFFECTIVE DATE OF INTERIM STAND-  
12          ARD.—The interim final standard shall—

13               (A) take effect on a date that is not later  
14               than 30 days after the promulgation of such  
15               standard, except that such interim final stand-  
16               ard may include a reasonable phase-in period  
17               for the implementation of required engineering  
18               controls that take effect after such date;

19               (B) be enforced in the same manner and  
20               to the same extent as any standard promul-  
21               gated under section 6(b) of the Occupational  
22               Safety and Health Act of 1970 (29 U.S.C.  
23               655(b)); and

1 (C) be in effect until the final standard de-  
2 scribed in subsection (b) becomes effective and  
3 enforceable.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) COVERED EMPLOYEE.—The term “covered  
7 employee” includes an individual employed by a cov-  
8 ered employer.

9 (2) COVERED EMPLOYER.—The term “covered  
10 employer”—

11 (A) means an employer that employs an  
12 individual to work at a covered workplace; and

13 (B) includes a contractor, subcontractor, a  
14 temporary service firm, or an employee leasing  
15 entity.

16 (3) COVERED WORKPLACE.—The term “covered  
17 workplace” includes a workplace with occupational  
18 exposure to high winds, including—

19 (A) any workplace in which covered em-  
20 ployees perform services for a covered employer  
21 outdoors during high winds; and

22 (B) any workplace in which covered em-  
23 ployees perform services for a covered employer  
24 indoors in any case in which such covered em-

1            ployees may be at risk during an extreme  
2            weather event involving high winds.

3            (4) EMPLOYER.—The term “employer” has the  
4            meaning given the term in section 3 of the Occupa-  
5            tional Safety and Health Act of 1970 (29 U.S.C.  
6            652).

7            (5) HIGH WINDS.—The term “high winds”  
8            means winds of such velocity that one or more of the  
9            following hazards would be present:

10            (A) The winds could blow an employee  
11            from an elevated location.

12            (B) The winds could cause an employee or  
13            equipment handling material to lose control of  
14            the material.

15            (C) The winds would expose an employee  
16            to other hazards not controlled by the standard  
17            involved.

18            Winds exceeding 64.4 kilometers per hour (40 miles  
19            per hour), or 48.3 kilometers per hour (30 miles per  
20            hour) if the work involves material handling, shall be  
21            presumed to be of such velocity unless the employer  
22            takes precautions to protect employees from the haz-  
23            ardous effects of the winds.

24            (6) SECRETARY.—The term “Secretary” means  
25            the Secretary of Labor.

1 **SEC. 4. REQUIREMENTS FOR FINAL STANDARD ON PRE-**  
2 **VENTION OF OCCUPATIONAL EXPOSURE TO**  
3 **HIGH WINDS.**

4 (a) IN GENERAL.—The final standard promulgated  
5 under section 2(b) shall, at a minimum, include the re-  
6 quirements described in subsection (b) with respect to cov-  
7 ered employers.

8 (b) REQUIREMENTS.—The final standard promul-  
9 gated under section 2(b) shall, with respect to covered em-  
10 ployers, include the following:

11 (1) MONITORING OF WIND CONDITIONS.—A  
12 covered employer shall monitor wind conditions  
13 using data from the National Weather Service.

14 (2) EMPLOYEES WORKING OUTDOORS DURING  
15 HIGH WINDS.—With respect to each covered em-  
16 ployee who performs services for a covered employer  
17 outdoors during high winds—

18 (A) such employee shall receive training in  
19 work with high winds, including training relat-  
20 ing to—

21 (i) the impact on work at heights;

22 (ii) the impact of wind on certain  
23 equipment such as lifts, cranes, scaf-  
24 folding, ladders, and mobile elevated work  
25 platforms;

1 (iii) the risk of foreign object debris;

2 and

3 (iv) the impact of wind on exposed

4 skin and the risk of wind burn;

5 (B) such employee shall not be required to

6 work in high winds without a safety harness

7 system, tie-off restraints, or other appropriate

8 safety equipment;

9 (C) such employee shall not be required to

10 use any equipment that is not rated for the

11 level of high winds in which the employee is re-

12 quested to work;

13 (D)(i) such employee shall have the right

14 to refuse to work in high winds and be assigned

15 alternate work without penalty in any case in

16 which the employee determines that high wind

17 safety procedures are inadequate to mitigate

18 the risk of such work; and

19 (ii) in any such case, the employer shall

20 conduct a hazard assessment and immediately

21 investigate and correct any identified hazards

22 and implement any control measures as nec-

23 essary to adequately mitigate such risks;

24 (E) such employee—



1 (i) shall be instructed on how to prop-  
2 erly secure all tools and any other object  
3 that could act as foreign object debris;

4 (ii) may not be required to work in  
5 high winds if all such objects cannot be se-  
6 cured; and

7 (iii) shall be provided with proper per-  
8 sonal protective equipment including eye  
9 protection while working in high winds;  
10 and

11 (F) such employee—

12 (i) shall receive training on wind burn  
13 prevention, identification, and treatment;  
14 and

15 (ii) shall be provided by the employer  
16 with personal protective equipment at no  
17 cost to the employee to prevent wind burn,  
18 except to the extent such equipment would  
19 result in a net increase of hazards to the  
20 employee.

21 (3) EMPLOYEES WORKING INDOORS AND OUT-  
22 DOORS DURING EXTREME WEATHER EVENTS IN-  
23 VOLVING HIGH WINDS.—With respect to each cov-  
24 ered employee who performs services for a covered  
25 employer indoors or outdoors in any case in which

1 such covered employee may be at risk during an ex-  
2 treme weather event involving high winds, the cov-  
3 ered employer shall—

4 (A) develop, implement, and maintain a  
5 wind emergency plan for each such employee,  
6 similar to an emergency action plan described  
7 under section 1910.38 of title 29, Code of Fed-  
8 eral Regulations, which shall include—

9 (i) an evacuation plan which details  
10 employer and employee responsibilities;

11 (ii) a shelter in place plan, including  
12 a plan for mobile workforce and employees  
13 at remote or satellite locations;

14 (iii) specific plans for extreme weather  
15 events such as tornadoes and hurricanes  
16 that include a trigger to activate such  
17 plans and appropriate training and drills;

18 (iv) specific plans for high-risk build-  
19 ings and mobile worksites (such as vehicles  
20 or trailers), to be updated as needed upon  
21 remodeling; and

22 (v) job protections for employees who  
23 evacuate due to unsafe conditions;

24 (B) conduct a hazard assessment to iden-  
25 tify unsafe working conditions or hazardous

1 equipment that can be impacted when extreme  
2 weather advisories are issued; and

3 (C) ensure that emergency shelters are de-  
4 signed and built to industry best practices for  
5 performance criteria like Safe Rooms for Tor-  
6 nadoes and Hurricanes (FEMA P-361) or ICC/  
7 NSSA Standard for the Design and Construc-  
8 tion of Storm Shelters (ICC-500).

9 (4) TRAINING AND EDUCATION.—

10 (A) EMPLOYEE TRAINING.—A covered em-  
11 ployer shall provide annual training and edu-  
12 cation to covered employees who may be ex-  
13 posed to high winds, which shall cover the fol-  
14 lowing topics:

15 (i) Personal factors that may increase  
16 susceptibility to high winds.

17 (ii) Signs and symptoms of wind-re-  
18 lated injury.

19 (iii) Engineering control measures.

20 (iv) Administrative control measures.

21 (v) Emergency response procedures.

22 (vi) Employee rights.

23 (B) SUPERVISOR TRAINING.—In addition  
24 to the training and education required in sub-  
25 paragraph (A), training and education shall be

1 provided annually to covered employees who are  
2 supervisors that shall cover the following topics:

3 (i) The procedures a supervisor is re-  
4 quired to follow under this Act.

5 (ii) How to recognize high-risk situa-  
6 tions, including how to monitor weather re-  
7 ports and weather advisories, and not as-  
8 signing an employee to situations that pre-  
9 dictably compromise the safety of the em-  
10 ployee.

11 (C) GENERAL TRAINING REQUIRE-  
12 MENTS.—The education and training provided  
13 under this paragraph to covered employees shall  
14 meet the following:

15 (i) In the case of such an employee  
16 whose job circumstances have changed,  
17 within a reasonable timeframe after such  
18 change of job circumstances, education and  
19 training shall be provided that shall be—

20 (I) in addition to the education  
21 and training provided under clause  
22 (ii), subparagraph (A), and, if applica-  
23 ble to such employee, subparagraph  
24 (B); and

1 (II) applicable to such change of  
2 job circumstances.

3 (ii) Applicable education and training  
4 shall be provided for each new covered em-  
5 ployee prior to the employee's job assign-  
6 ment.

7 (iii) The education and training shall  
8 provide such employees opportunities to  
9 ask questions, give feedback, and request  
10 additional instruction, clarification, or  
11 other follow-up.

12 (iv) The education and training shall  
13 be provided by an individual with knowl-  
14 edge of wind injury prevention and of the  
15 plan of the employer under this section.

16 (v) The education and training shall  
17 be appropriate in content and vocabulary  
18 to the language, educational level, and lit-  
19 eracy of such covered employees.

20 (5) RECORDKEEPING.—Each covered employer  
21 shall—

22 (A) comply with all requirements under the  
23 Occupational Safety and Health Act of 1970 re-  
24 lating to the reporting of wind-related injuries;

25 (B) maintain at all times—

1 (i) records related to each plan of the  
2 employer under paragraph (1), including  
3 high wind risk and hazard assessments,  
4 and identification, evaluation, correction,  
5 and training procedures;

6 (ii) data on all wind-related injuries  
7 and deaths; and

8 (iii) data on environmental and phys-  
9 iological measurements related to high  
10 winds; and

11 (C) make such records and data available,  
12 upon request, to covered employees and their  
13 representatives for examination and copying in  
14 accordance with section 1910.1020 of title 29,  
15 Code of Federal Regulations (as such section is  
16 in effect on the date of enactment of this Act).

17 (6) WHISTLEBLOWER PROTECTIONS.—

18 (A) POLICY.—Each covered employer shall  
19 adopt a policy prohibiting any person (including  
20 an agent of the employer) from discriminating  
21 or retaliating against any employee for—

22 (i) exercising the rights of the em-  
23 ployee under this Act; or

1                   (ii) reporting violations of the stand-  
2                   ard to any local, State, or Federal govern-  
3                   ment.

4                   (B) PROHIBITION.—No covered employer  
5                   shall discriminate or retaliate against any em-  
6                   ployee for—

7                   (i) reporting a high wind-related con-  
8                   cern to, or seeking assistance or interven-  
9                   tion with respect to high wind-related  
10                  health symptoms from, the employer, local  
11                  emergency services, or a local, State, or  
12                  Federal government; or

13                  (ii) exercising any other rights of the  
14                  employee under this Act.

15                  (C) ENFORCEMENT.—This paragraph shall  
16                  be enforced in the same manner and to the  
17                  same extent as any standard promulgated  
18                  under section 6(b) of the Occupational Safety  
19                  and Health Act of 1970 (29 U.S.C. 655(b)).

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