**DATE:** May 27, 2022

**TO:** PRR, OSH Forum

**FROM:** Helen Cleary

**RE:** FedOSHA Heat Illness Prevention Stakeholder Meeting - Meeting Highlights

On May 3, 2022, the U.S. Department of Labor (DOL) Occupational Safety and Health Administration (OSHA) held a Stakeholder Meeting on OSHA Initiatives to Protect Workers from Heat-Related Hazards which included four Public Comment Sessions. Nearly 3,000 people registered to attend this meeting, over 500 people requested to speak, and 60 stakeholders provided three minutes of public comment. A link to the six-hour meeting can be found [here.](https://www.youtube.com/watch?v=Ud29WsnsOw8)

PRR participated and provided public comment that was in line with written comments PRR submitted in January 2022: Comments can be found [here.](https://phylmar.sharefile.com/d-s4bfab0471e064d9a850f2c274445a47c)

#### Opening Remarks by Doug Parker, Assistant Secretary of Labor

Mr. Parker stated that while 80% of heat related illnesses happen in outdoor environments, more than 60% occur in indoor environments. Since 2018, OSHA has conducted inspections in over 230 different industries in both indoor and outdoor environments. Mr. Parker stated that heat illness is a worker protection issue as well as a racial equity issue. Due to climate change, heat illnesses are getting pervasively worse.

#### Overview of Heat Illness Prevention Campaign

OSHA’s Heat Illness prevention campaign was modeled after Cal/OSHA’s heat campaign and was launched in 2011. The campaign was designed to reduce fatalities and educate employers and workers on the dangers of working in the heat and how employers can protect their workers. In 2021, OSHA completed a revamp of older materials to reflect both outdoor and indoor heat exposure and incorporated prevention information. Materials are available in both English and Spanish.

Plans for the 2022 Heat season include:

* Improve website
* Co-programming with the Safe + Sound campaign
* Targeted material for employer responsibility and acclimatization
* Evaluation of dated resources
* Facebook Live
* Heat e-newsletter

# Compliance Assistance Activities

OSHA currently has three compliance Assistance Resources available:

# Compliance Assistance Specialists (CASs) ([www.osha.gov/complianceassistance/cas](http://www.osha.gov/complianceassistance/cas)):

* Based in OSHA’s Regional and Area Offices
* Promote workplace safety and health through stakeholder outreach on:
* OSHA standards and enforcement
* Employer responsibilities and workers’ rights
* Agency initiatives including the Heat Illness Prevention Campaign
* Implement OSHA’s cooperative programs

Labor Liaisons ([www.osha.gov/workers/liaisons](http://www.osha.gov/workers/liaisons)):

* Based in OSHA’s Regional Offices
* Serve as liaisons to workers and their representatives

On-Site Consultation Program ([www.osha.gov/consultation](http://www.osha.gov/consultation))

* Available in all 50 states
* Separate from OSHA enforcement
* Run by State agencies or universities
* Offers no-cost, confidential occupational safety and health services to small- and medium-sized businesses upon request
* *Upon request*, this program can help identify workplace hazards, provide advice for compliance with OSHA standards, and assist in establishing and improving safety and health programs
* Program visits have:
* Alerted employers and workers to workplace heat hazards and best practices for preventing heat illness
* Help employers develop heat illness prevention plans
* Additional links:

[www.osha.gov/employers](http://www.osha.gov/employers); [www.osha.gov/workers](http://www.osha.gov/workers)

##### Questions

Q1: You mentioned that Compliance Assistance Specialists are located in Federal OSHA regional and area offices. As an employer in a state with a State Plan, who should you call to help?

A1: State Plans also have CAS staff. Contact your local state office to be routed to your CAS. Please visit [www.osha.gov/stateplans](http://www.osha.gov/stateplans).

Q2: What is the best way to keep up with OSHA rulemakings, enforcement activities, and outreach?

A2: You should subscribe to OSHA’s newsletter called QuickTakes. It comes out twice monthly. It is an excellent way to keep up with what is going on at OSHA. Twitter has an OSHA/DOL account – the handle is OSHA\_DOL and you don’t need a Twitter account to see the feed.

Q3: Where can I get information on safety and health training?

A3: If you are looking for information on training resources, you can visit [www.OSHA.gov/training](http://www.OSHA.gov/training) - it is a launch point for information on OSHA outreach training program and find information on training institute training centers.

###### Overview of OSHA’s Heat National Emphasis Program ([NEP](https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-024.pdf))

Purpose of NEP:

* Designed to protect employees in high-hazard industries
* Adds an enforcement component to target workplaces in specific high-hazard industries
* Focuses on vulnerable workers in both indoor and outdoor environments by coordinating efforts of the DOL Wage and Hour Division
* CPL 03-00-024 Effective Date of April 8, 2022, operative for 3-years

Scope of NEP:

* Incorporates and expands on the 9/1/21 heat initiative memo
* Provides procedures for planned/programmed and follow-up inspections in targeted workplaces
* Prioritizes on-site response for complaints and hospitalizations related to heat hazards

Goals:

* Reduce or eliminate worker exposures
* To target industries and worksites where employees are exposed to heat-related hazards
* Proactive vs. reactive
* Use of enforcement, outreach to employers and compliance assistance
* Increase heat inspections by 100% above the baseline of the average of fiscal years 2017- 2021

Inspection Procedures:

* On heat priority days, CSHO should inquire about heat prevention programs and provide compliance assistance
* May expand inspection scope if heat hazards are present
* On any day that the NWS has announced a heat advisory or warning ([www.weather.gov/safety/heat-ww](http://www.weather.gov/safety/heat-ww))
* Inspection Procedures include observations, records review, interview, heat program and weather conditions

Citation Guidance:

* General Duty Clause or Hazard Alert Letter
* Examples of other standards that may apply: Recordkeeping, PPE, Sanitation, Medical Services and First Aid Safety and Health Programs

##### Questions

Q1: Are any businesses exempt from the Heat NEP?

A1: Yes, employers with 10 or fewer employees.

Q2: Do State Plans have to adopt the Heat NEP?

A2: State Plans are strongly encouraged but not required to adopt the NEP. If a State Plan adopts the NEP, it must be implemented in an as-effective manner.

Q3: What are OSHA’s penalties for non-compliance?

A3: Penalties will be assessed like any other OSHA citation. They will be based on a case-by-case basis, and we will be factoring in employer size, good faith, history, and injury to determine the penalty and the gravity of the penalty. A serious violation penalty could range from $1,036 to $14,502.

OSHA’s Rulemaking Process and Ways to Participate

OSHA must meet certain legal and evidentiary requirements to promulgate health and safety standards. These stages include:

1. Conducting Preliminary Rulemaking Activities
2. Developing the Proposed Rule
3. Publishing the Proposed Rule
4. Developing and Analyzing the Rulemaking Record
5. Developing the Final Rule
6. Publishing the Final Rule
7. Post-Promulgation Activities

Legal and Regulatory Concerns of a Standard:

* Must be necessary or appropriate, and substantially reduce significant risk of a material impairment of health
* Must be technologically and economically feasible
* Must be cost-effective
* Must better effectuate the purposes of the Act than an applicable consensus standard
* Must be supported by substantial evidence in the record

Heat Rulemaking Update:

On October 27, 2021, OSHA published an Advance Notice of Proposed Rulemaking ([ANPRM](https://www.federalregister.gov/documents/2021/10/27/2021-23250/heat-injury-and-illness-prevention-in-outdoor-and-indoor-work-settings)) for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings, announcing that OSHA is initiating the rulemaking process to consider a heat-specific standard. This standard would more clearly set forth employer obligations and measures necessary.

The ANPRM asked over 100 questions on the scope; existing efforts by OSHA, states, and other entities; determinants of heat exposure; strategies to reduce heat injury and illnesses; and costs, economic impacts and benefits. OSHA received 1,078 public comments from various stakeholders. Comments can be found at [www.regulations.gov](http://www.regulations.gov) (Docket No. OSHA-2021-0009). OSHA will review and analyze these comments and determine next steps.

OSHA established a NACOSH work group to help provide recommendations on the Agency’s heat injury and illness prevention guidance and rulemaking. The first meeting was held February 25, 2022; future meetings will be held quarterly.

For additional information, visit <https://www.osha.gov/heat-exposure/rulemaking>.

##### Questions

Q1: When will the proposed rule be issued?

A1: OSHA has not made any decision on what the heat standard might look like. We are currently reviewing and analyzing the comments which will be used for a proposed rule. There is no time estimate to publish a proposed rule.

Q2: Is OSHA considering adopting an existing state standard on heat?

A2: There are several states that currently have standards on heat, which cover a variety of work settings. OSHA is looking at various metrics and information to determine how to proceed.

Q3: How will stakeholders be involved in the process to develop the proposed rule?

A3: OSHA welcomes the opportunity to engage with all stakeholders. Stakeholders are always welcome to submit public comments.