

ACCSH Meeting
Request for a Recommendation on
Coverage of Construction in a Heat Injury and Illness Prevention Proposed Rule
April 24, 2024

Why is OSHA regulating heat?

- Heat is the leading cause of death among all weather-related phenomena in the U.S.
- Excessive heat can cause a number of adverse health effects, including heat stroke and even death, if not treated properly.
- Workers in both outdoor and indoor work settings are at risk.
- According to the Bureau of Labor Statistics (BLS):
 - Exposure to environmental heat resulted in 479 fatalities of U.S. workers from 2011-2022, an average of 40 fatalities per year in that time period.
 - There have been 33,890 estimated work-related heat injuries and illnesses involving days away from work from 2011-2020, an average of 3,389 per year in that time period.
 - Statistics for occupational heat-related illnesses, injuries, and fatalities are likely vast underestimates.
- OSHA has preliminarily determined that occupational exposure to heat poses a significant risk to workers and that workplace controls are necessary to ensure workers' safety.

How has OSHA engaged stakeholders?

- On October 27th, 2021, OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings
 - The ANPRM announced that OSHA was initiating the rulemaking process to consider a heat-specific workplace standard.
 - A standard specific to heat-related injury and illness prevention would more clearly set forth employer obligations and the measures necessary to effectively protect employees from hazardous heat.
 - OSHA received 965 unique comments, available for viewing at www.regulations.gov (Docket No. [OSHA-2021-0009](https://www.regulations.gov/document/OSHA-2021-0009)).
- On May 3, 2022, OSHA held a virtual public stakeholder meeting on the Agency's initiatives to protect workers from heat-related hazards. [Heat Forum Public Stakeholder Meeting | Occupational Safety and Health Administration \(osha.gov\)](https://www.osha-slc.gov/heat-forum-public-stakeholder-meeting)
- OSHA established a Heat Injury and Illness Prevention Work Group of the National Advisory Committee on Occupational Safety and Health (NACOSH) to help NACOSH provide recommendations on guidance materials and potential elements of a heat injury and illness prevention standard.
 - On May 31, 2023, the Work Group presented its recommendations on potential elements of a proposed heat injury and illness prevention standard for consideration by the full NACOSH committee. After deliberations, NACOSH submitted its recommendations to OSHA (www.regulations.gov, Document No. [OSHA-2023-0003-0012](https://www.regulations.gov/document/OSHA-2023-0003-0012)).
- In August 2023, OSHA convened a Small Business Advocacy Review (SBAR) Panel, in accordance with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA), to hear

comments directly from small entity representatives (SERs) on the potential impacts of a heat-specific standard.

- The SBAR Panel was comprised of members from the Small Business Administration (SBA) Office of Advocacy, OSHA, and the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA).
- The SBAR Panel listened to SERs who would potentially be affected by a heat-specific standard. The SBAR Panel's final report is available at [Heat Injury and Illness SBREFA | Occupational Safety and Health Administration \(osha.gov\)](#).

Basic Structure of a Heat Injury and Illness Proposed Rule:

- Programmatic standard that requires employers to create a heat injury and illness prevention plan (HIIPP) to evaluate and control heat hazards in their workplace.
- Specifications at two “triggers”:
 - **Initial heat trigger:** a heat index of 80°F or a wet bulb globe temperature (WBGT) equal to the NIOSH Recommended Alert Limit (RAL)
 - **High heat trigger:** a heat index of 90°F or a WBGT equal to the NIOSH Recommended Exposure Limit (REL)
- *Scope and Application* – Outdoor and indoor work in any/all General Industry, Construction, Maritime, and Agriculture sectors where OSHA has jurisdiction. Exclusions considered for: short duration exposures; emergency response; indoor sites kept below 80°F; telework; and indoor sedentary activities.
- *Heat Injury and Illness Prevention Plan (HIIPP)* – Includes all policies and procedures necessary to comply with the standard, and requirements for designated heat safety coordinators, employee input, and review and evaluation.
- *Identifying Heat Hazards*
 - *Outdoor Work* – Monitoring heat conditions by tracking local heat index forecasts or measuring heat index or wet bulb globe temperature (WBGT).
 - *Indoor Work* – Identifying work areas with hazardous heat exposure; developing and implementing monitoring plan and seeking employee input.
- *Requirements at or above the Initial Heat Trigger*
 - *Drinking water* – Providing access to drinking water that is placed in locations readily accessible to the employee, suitably cool, and of sufficient quantity (1 quart per employee per hour).
 - *Break area(s) at outdoor work sites* – Specifying outdoor break area(s) that can accommodate the number of employees on break; is readily accessible to the work area(s); and has shade or is enclosed with air conditioning.
 - *Break area(s) at indoor work sites* – Specifying indoor break area(s) that can accommodate the number of employees on break; is readily accessible to the work area(s); and is air-conditioned or has increased air movement (e.g. fans) and, if appropriate, de-humidification.
 - *Indoor work area controls* – Specifying combination of increased air movement (e.g. fans) and, if appropriate, de-humidification; or air-conditioned work area; or other measures for radiant heat.

- *Acclimatization* – Specifying protocols for new and returning unacclimatized employees that either, at a minimum, incorporate the high heat requirements at the initial heat trigger or follow a gradual acclimatization schedule.
 - *Rest breaks if needed* – Allowing paid rest breaks if needed to prevent overheating.
 - *Effective communication* – Establishing regular and effective, two-way communication.
 - *Personal Protective Equipment (PPE)* - Specifying that if the employer provides PPE intended to provide cooling, the cooling properties of the PPE must be maintained at all times during use.
- *Requirements at or above the High Heat Trigger*
 - *Rest breaks* – Specifying 15-minute paid rest breaks at least every two hours; unpaid meal breaks may count as a rest break.
 - *Observation for signs and symptoms* – Specifying observation by a buddy system, supervisor, or heat safety coordinator. For lone workers, maintain effective and frequent two-way communication.
 - *Hazard alert* – Specifying reminders to workers of key parts of the HIIPP.
 - *Excessively high heat areas* – Specifying warning signs at indoor work areas with ambient temperatures that regularly exceed 120°F.
- *Heat Illness and Emergency Response and Planning* – Establishing steps for an employer to take if an employee is experiencing signs and symptoms of heat-related illness, as well as a heat emergency response plan with specified details to efficiently respond in a heat emergency.
- *Training* – Providing initial and annual refresher training for supervisors, heat safety coordinators, and employees. Specifying supplemental training required after changes in exposure to heat hazards, policy and procedure changes, or occurrence of heat injury or illness at the work site.
- *Recordkeeping* – Specifying data retention policies for monitoring.
- *Requirements implemented at no cost to employees* – Specifying that no cost is passed on to workers.

Provision	All Covered Employers (See Scope)	At or Above Initial Heat Trigger	At or Above High Heat Trigger
Identifying heat hazards	●	●	●
Heat illness and emergency response procedures	●	●	●
Training for employees and supervisors	●	●	●
Heat injury and illness prevention plan (HIIPP)	●	●	●
Recordkeeping	●	●	●
Drinking water		●	●
Break area		●	●
Indoor work area controls		●	●
Acclimatization plan for new or returning workers		●	●
Rest breaks (if needed)		●	●
Effective communication means with employees		●	●
Rest breaks (minimum 15 min every 2 hours)			●
Supervisor or buddy system to observe for signs and symptoms			●
Hazard alert			●

What will happen next?

- OSHA is preparing a Notice of Proposed Rulemaking (NPRM) that will be published in the *Federal Register*. The NPRM will include the full regulatory text, a summary and explanation of requirements, and all supporting evidence and analysis.
- There are several additional opportunities for public input on the NPRM, including:
 - A written comment period on questions and issues raised in the NPRM;
 - A public hearing with an Administrative Law Judge where anyone can request time to speak;
 - A post-hearing written comment period open to anyone who signed up to speak at the hearing; and.
 - The opportunity to file post-hearing legal briefs.

Request for an ACCSH Recommendation:

OSHA requests that ACCSH provide a recommendation on how the agency should proceed with respect to construction work if it publishes a notice of proposed rulemaking on heat injury and illness prevention.