

OSHA's Proposed Heat Related Standard: *How Employers Should Prepare Now*



Jack Fearing, CPEA
New Jersey ASSP Chapter

Meet Today's Presenter

- More than 35 years of experience in General Industry Compliance
- OSHA 10/30 authorized instructor
- Professional member of the NJASSP Chapter - 2019 SPY
- B.S., University of Massachusetts, M.Ed., Boston University
- Retired US Army LTC, Senior Army Aviator & Aviation Safety Officer



Jack Fearing, CPEA
Managing Partner
Fearing International Group LLC

Presentation Overview

- The Current Environment
- The National Enforcement Initiative
- The National Emphasis Program
- Related Best Practices
- Inspection Citations and Penalties
- OSHA Cooperative Programs
- Q/A



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Current Environment

No federal OSHA heat-related standard

- OSHA relies on the “General Duty Clause” (5.a.1.) to cite employers for heat-related hazards.

“Each employer shall furnish to each of their employee’s employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees”.

General Duty Clause (5.a.1.)

Citations for violation of the General Duty Clause are issued to employers when the four components of this provision are present, and when no specific OSHA standard has been promulgated to address the recognized hazard.

The four components are:

- (1) The employer failed to keep its workplace free of a "hazard;"
- (2) The hazard was "recognized" either by the cited employer individually or by the employer's industry generally;
- (3) The recognized hazard was causing or was likely to cause death or serious physical harm; and
- (4) There was a feasible means available that would eliminate or materially reduce the hazard.

Note: *An employer's liability will be complete only when all four elements are present.*

Current Environment

- Other OSHA relevant heat-related standards:
 - Sanitation
 - Recordkeeping
 - Training
- Current State Plan heat-related standards

State Plan Heat Hazard Standards

Requirements	California	Minnesota	Oregon*	Washington
Location	Outdoor	Indoor	Indoor/Outdoor	Outdoor
Temp Threshold	80 degrees F	77-86 degrees F	80 degrees F	80 degrees F
Water/Hydration	1qt./hr./worker	No rules	1qt./hr./worker	1qt./hr./worker
Shade	Shade required	No shade rules	Shade required	Shade required
Breaks	If symptoms	At 2 hrs. at TT	If symptoms. 2 hrs. at 90 F	If symptoms or 100 F
Acclimatization Plan	Required	Not required	Required	Note required

*Emergency Rule

National Enforcement Initiative

Announced on September 1, 2021:

- Prioritizes heat-related interventions & inspections on days when the heat index exceeds 80 degrees F.
- Applies to indoor and outdoor worksites with potential heat-related hazards (but certain industries prioritized).
- Encourages regions to develop emphasis programs and states without heat-related programs to adopt this initiative.

National Enforcement Initiative

Inspection Procedures:

- Review OSHA 300 Logs for heat-related illness(es)
- Review injury & illness records of ER visits and/or ambulance transport, even without hospitalization
- Interview employees about heat-related illness symptoms
- Review employer's plans to address heat-related hazards and exposures
- Identify conditions & activities relevant to heat-related hazards

National Enforcement Initiative

Inspection Process:

- Compliance Officer Verification
- Opening Conference
- Inspection Tour
- Closing Conference



National Emphasis Program



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 03-00-024

EFFECTIVE DATE: April 8, 2022

SUBJECT: National Emphasis Program – Outdoor and Indoor Heat-Related Hazards

ABSTRACT

Purpose:

This Instruction describes policies and procedures for implementing a National Emphasis Program (NEP) to protect employees from heat-related hazards and resulting injuries and illnesses in outdoor and indoor workplaces. This NEP expands on the agency's ongoing heat-related illness prevention initiative and campaign by setting forth a targeted enforcement component and reiterating its compliance assistance and outreach efforts. This approach is intended to encourage early interventions by employers to prevent illnesses and deaths among workers during high heat conditions, such as working outdoors in a local area experiencing a heat wave, as announced by the National Weather Service. Early interventions include, but are not limited to, implementing water, rest, shade, training, and acclimatization procedures for new or returning employees.

- Published and Effective on April 8, 2022. **Expiration date is April, 2025:**
 - Modeled after Region VI program
 - Employee training & engagement
 - Hydration, first aid, shade/climate-control areas available
 - Acclimatization plan and provisions for prompt medical attention and/or emergency evacuation

National Emphasis Programs

Current Active Programs
Amputations (2019)
Combustible Dust (2008)
COVID-19 (2021)
Federal Agencies (2008)
Hazardous Machinery (2015)
Hexavalent Chromium (2010)
Lead (2008)
Outdoor & Indoor Heat-Related Hazards (2022)
Primary Metal Industries (2014)
Process Safety Management (2017)
Shipbreaking (2016)
Silica (2008)
Trenching & Excavation (1985)

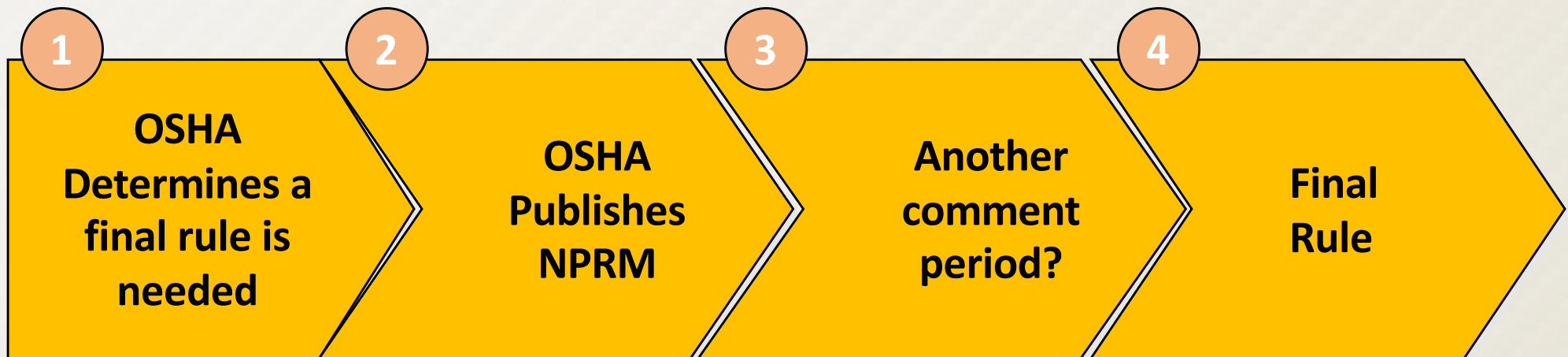
Anticipated Standard

- ANPRM Basics
- Scope
 - Industries
 - Job tasks
 - Business size
 - Geographic regions
 - Exposure outcomes
- Key Issues
 - Heat exposure types
 - Contributors to heat stress
 - Heat-related illness prevention programs
 - Administrative controls
 - Emergency response
 - Training & engagement

Anticipated Standard

Expected Timeline

- Comment period closed on January 26, 2022
- Next Steps:



This process could take years!

Best Practices

Develop means for monitoring heat index and employee exposure:

WBGT-Wet Bulb Global Temperature

- The most accurate method of temperature measurement to determine heat stress conditions



Mobile Phone App

Best Practices



- Ensure policies address heat-related hazards
- Implement acclimatization periods for new employees
- Train employees & contractors on heat-related illness and emergency response

Industry Sectors on High Alert

Outdoor Industry Sectors/NAICS	Indoor Industry Sectors/NAICS
Agriculture - 1151	Bakeries, Kitchens, Laundry - 3118
Construction – 2362	Foundries - 3315
Mail & Package Delivery - 4911	Warehousing - 4931
Landscaping – 5311	Chemical Man. - 3251
Oil & Gas Well Operations 2131	Restaurants – 7225
Ship Building - 3366	Nursing Care Facilities - 6231
Waste Collection - 5623	Motor Vehicle Man. – 3361
Freight Transportation - 4885	Security Services - 5616

Note: The North American Industry Classification System (NAICS) is a classification of business establishments by type of economic activity. It is used by government and business in Canada, Mexico, and the United States of America.

Current OSHA Citations & Penalties

TYPE OF VIOLATION	MINIMUM PENALTY	MAXIMUM PENALTY
OTHER THAN SERIOUS SERIOUS POSTING REQUIREMENTS	OTS - \$0. per violation Serious - \$946. per violation Posting - \$0. per violation	\$14,502. max. per violation
WILLFUL & REPEAT	\$9,639. per violation	\$145,027. max. per violation
FAILURE TO ABATE	N/A	\$14,502. per day beyond the abatement date.

Bipartisan Budget Act of 2015 – Aug 2016 (Effective Jan 2022)

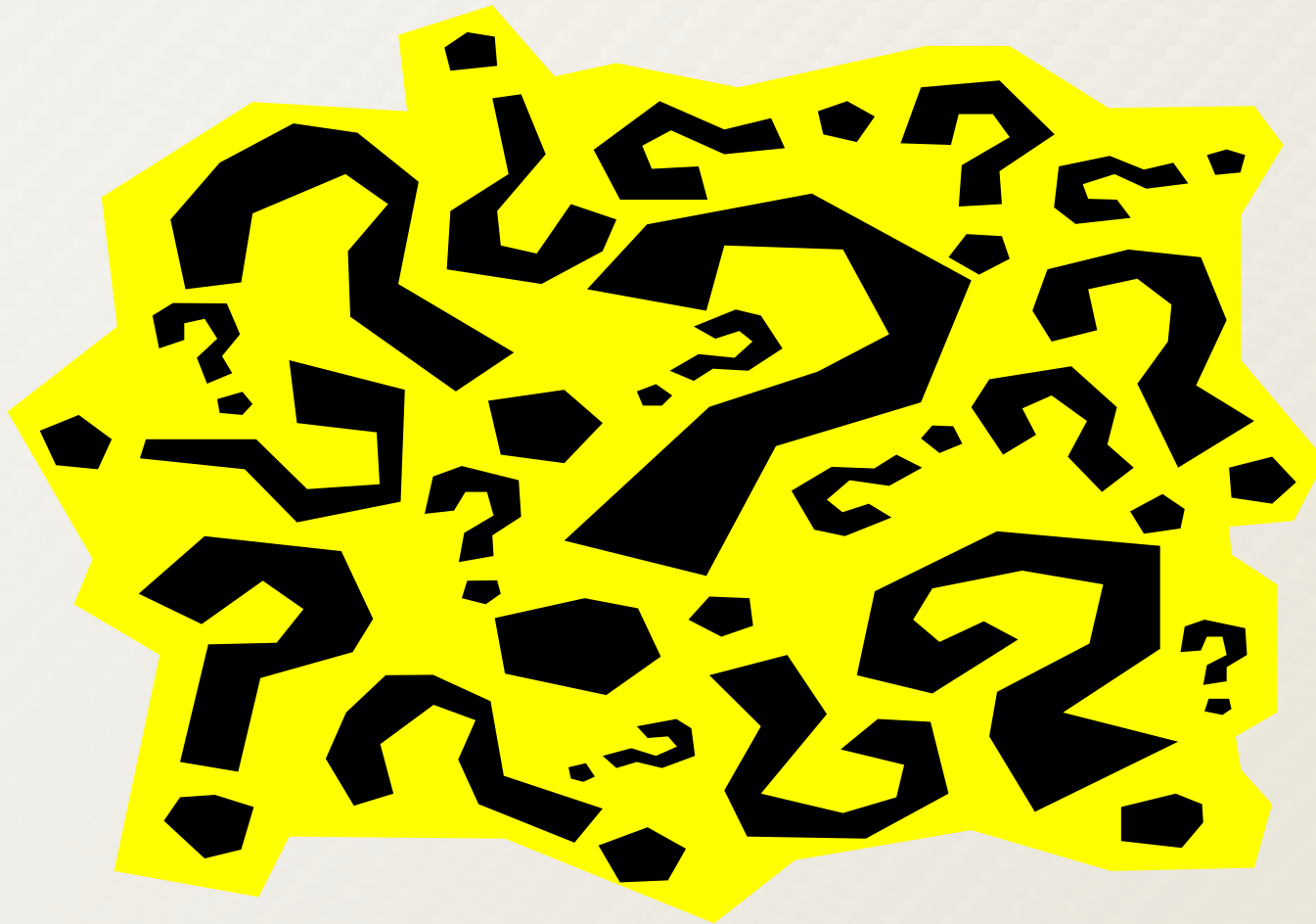
Note: State Plan states that operate their own OSHA Plans are required to adopt maximum penalty levels that are at least as much as federal OSHA.

OSHA's Cooperative Programs

OSHA offers the following cooperative programs under which businesses, labor groups, and other organizations can work cooperatively with the Agency to help prevent fatalities, injuries, and illnesses in the workplace, including heat-related illnesses. If your organization is located in a State with OSHA-approved State Plan, please contact your state agency for information about cooperative programs.



Questions



Thank You for Your Participation

Jack Fearing, CPEA

(908) 303-8359 / jack@fearing-international.com



**For more information or additional questions, please email
mmyers@successfuel.com**

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