

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



Jack Fearing, CPEA
New Jersey ASSP Chapter

Today's Presenter



Jack Fearing, CPEA

Managing Partner

Fearing International Group LLC

jack@fearing-international.com

(908) 303-8359



Presentation Overview

- Current Environment
- National Enforcement Initiative
- National Emphasis Program
- Best Practices
- OSHA Inspections & Assistance
- Q/A

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:
 - Training
 - PPE
 - Sanitation
 - Medical Service & First Aid
 - Recordkeeping

Classify the case											
CHECK ONLY ONE box for each case based on the most serious outcome for that case:				Enter the number of days the injured or ill worker was:		Check the "injury" column or choose one type of illness:					
Death	Days away from work	Remained at work		Away From Work (days)	On job transfer or restriction (days)	(M)	Skin Disorder	Respiratory Condition	Poisoning	Hearing Loss	All other illnesses
		Job transfer or restriction	Other recordable cases			Injury					



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.	If symptoms. 2 hrs. at 90 F	If symptoms or 100 F
Acclimatization Plan	Required	Not required	Required	Note required

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.

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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.

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 (2023 v2)
COVID-19 (2021)
Falls (2023)
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)

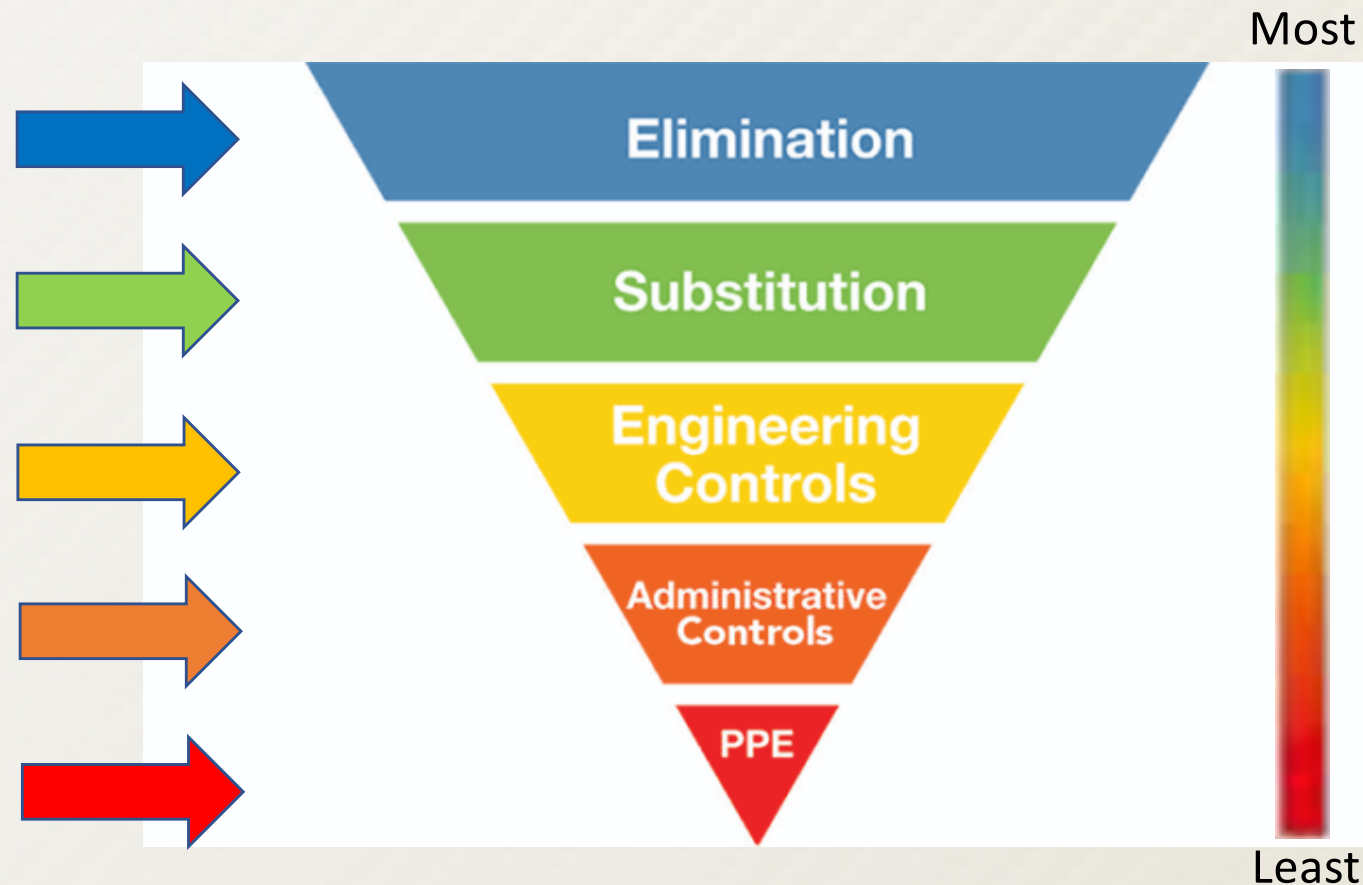
Anticipated Standard

ANPRM Basic (October 27, 2021):

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



Heat-Related Hierarchy of Controls



Best Practices

Developing means for monitoring heat index, implementing procedures and minimizing 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 and emergency procedures
- Implement acclimatization periods for new employees
- Train employees on heat-related illness response



OSHA Inspection Process

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



OSHA Inspection Process

- 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
- Discuss training and engagement methods with employees

Current OSHA Citations & Penalties

TYPE OF VIOLATION	MINIMUM PENALTY	MAXIMUM PENALTY
OTHER THAN SERIOUS SERIOUS POSTING REQUIREMENTS	OTS - \$0. per violation Serious - >\$1000. per violation Posting - \$0. per violation	\$15,625. max. per violation
WILLFUL & REPEAT	>\$10,000. per violation	\$156,259. max. per violation
FAILURE TO ABATE	N/A	\$15,625. per day beyond the abatement date.

Bipartisan Budget Act of 2015 – Aug 2016 (Effective Jan 2023)

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 Whistleblower Program

OSHA® FactSheet

OSHA's Whistleblower Protection Program

OSHA's Whistleblower Protection Program enforces the provisions of more than 20 federal laws protecting employees from retaliation for, among other things, raising or reporting concerns about hazards or violations of various workplace safety and health, aviation safety, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportation agency, railroad, maritime, and securities laws. Employees who believe that they have experienced retaliation in violation of one of these laws may file a complaint with OSHA.

Whistleblower Laws Enforced by OSHA

Following is a list of statutes over which OSHA has jurisdiction. Each statute has a different time frame in which a complaint can be filed.

- *Asbestos Hazard Emergency Response Act (90 days)*
- *Clean Air Act (30 days)*
- *Comprehensive Environmental Response, Compensation and Liability Act (30 days)*
- *Consumer Financial Protection Act of 2010 (180 days)*
- *Consumer Product Safety Improvement Act (180 days)*
- *Energy Reorganization Act (180 days)*
- *Federal Railroad Safety Act (180 days)*
- *Federal Water Pollution Control Act (30 days)*
- *International Safe Container Act (60 days)*
- *Moving Ahead for Progress in the 21st Century Act (motor vehicle safety) (180 days)*
- *National Transit Systems Security Act (180 days)*
- *Occupational Safety and Health Act (OSH Act) (30 days)*
- *Pipeline Safety Improvement Act (180 days)*
- *Safe Drinking Water Act (30 days)*
- *Sarbanes-Oxley Act (180 days)*
- *Seaman's Protection Act (180 days)*
- *Section 402 of the FDA Food Safety Modernization Act (180 days)*
- *Section 1558 of the Affordable Care Act (180 days)*
- *Solid Waste Disposal Act (30 days)*
- *Surface Transportation Assistance Act (180 days)*
- *Toxic Substances Control Act (30 days)*
- *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (90 days)*

What Is Retaliation?

Retaliation is an adverse action against an employee because of activity protected by one of these whistleblower laws. Retaliation can include several types of actions, such as:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Reassignment affecting promotion prospects
- Reducing pay or hours
- Making threats

Filing a Complaint

Employees who believe that their employers retaliated against them because they engaged in protected activity should contact OSHA as soon as possible because they must file any complaint within the legal time limits.

An employee can file a complaint with OSHA by visiting or calling his or her local OSHA office, sending a written complaint to the closest OSHA office, or filing a complaint on a particular form is required and complaint must be submitted in any language.

Written complaints may be filed by fax, electronic communication, hand delivery during business hours, U.S. mail (courier services recommended), or other third-party commercial carrier.



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.



Beat the Heat National Contest

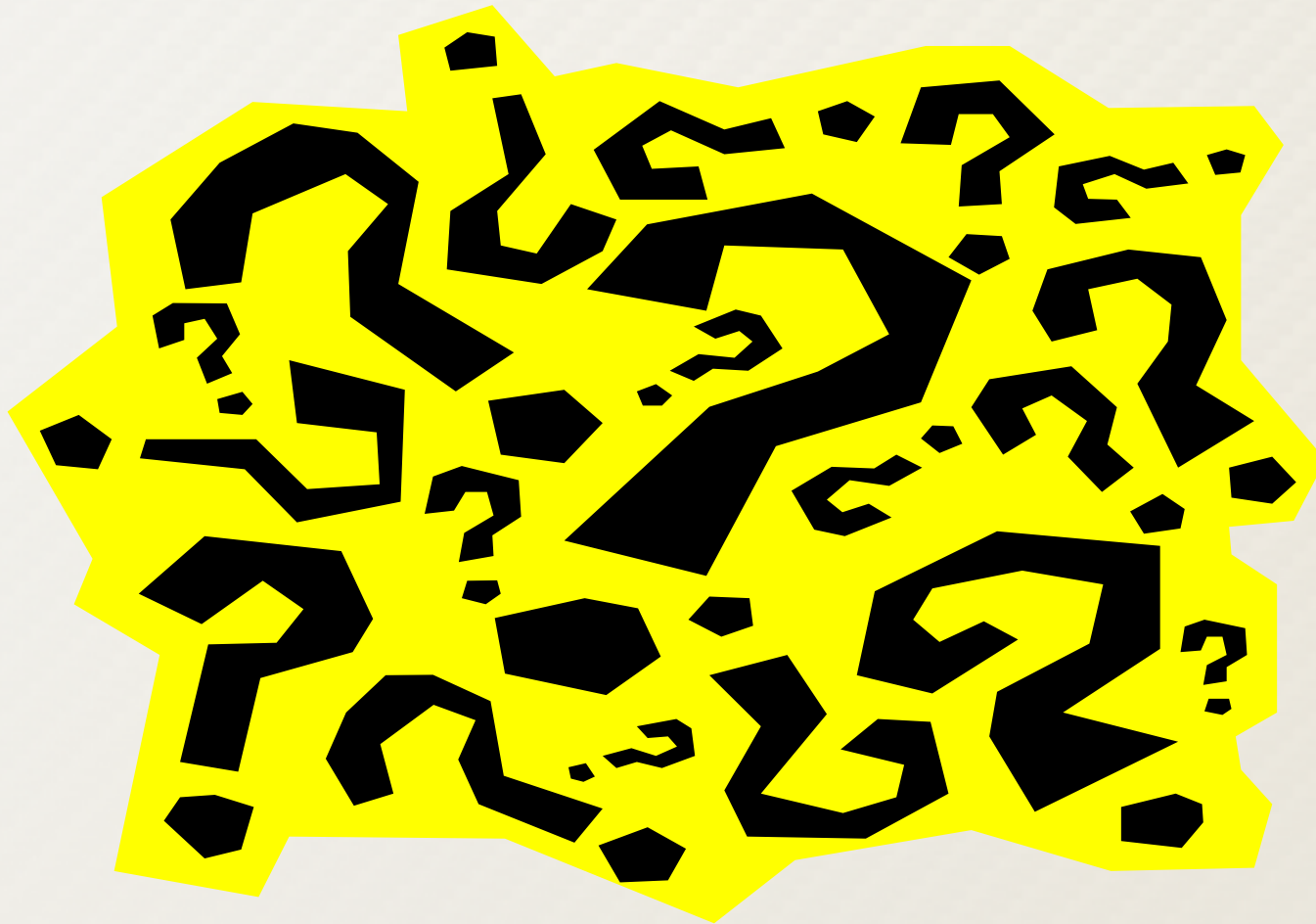


Raise Awareness of Heat Risk at Work!

Enter OSHA's Beat the Heat Contest

To participate, enter the submission on this [webform located here](#). Submissions can also be emailed to heatcampaign@dol.gov. The deadline to submit is June 9th. The winners will be announced by mid-July.

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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