



SCWA Legislative & Regulatory Update

August 28, 2023



Update on OSHA's Small Business Advocacy Review Panel on Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings

Occupational Heat Exposure

- Heat is the leading cause of death among all weather-related phenomena in the U.S.
- Excessive heat can cause heat stroke and even death if not treated properly.
- Workers in both outdoor and indoor work settings are at risk

Occupational Heat Injuries, Illnesses, & Fatalities

According to the Bureau of Labor Statistics (BLS):

- Exposure to environmental heat resulted in 999 fatalities of U.S. workers from 1992-2021, an average of 33 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 for several reasons, including:

- The varying nature of heat-related symptoms, including their impact on decision-making abilities
- The definition of heat-related illnesses often varies by jurisdiction, leading to inconsistent reporting by medical professionals
- Datasets heavily rely on self-reported outcomes from employers and employees

Heat Rulemaking Background

- 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 is 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/docket/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

-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.

-Recommendations are available at www.regulations.gov (Document No. [OSHA-2023-0003-0012](#))

-The next step in the rulemaking process will be to convene a Small Business Advocacy Review (SBAR) Panel, in accordance with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA), to hear comments from small entity representatives on the impacts of a heat-specific standard

SBAR Panel

-The SBAR Panel will be 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 will listen to small entity representatives (SERs) who would potentially be affected by the standard and issue a report following the Panel

-Each SER will be sent information on potential options OSHA has identified for various elements of a heat-specific standard, and then be asked to participate in a small-group videoconference with the SBAR Panel to discuss any concerns or other input on how these measures might affect the operations of their workplace

-OSHA will host several small-group SBAR Panel videoconferences with SERs; these videoconferences will be open for the public to listen to but not participate

Potential Scope: All Sectors

| Sector | Description |
|--------|--|
| 11 | Agriculture, Forestry, Fishing, and Hunting |
| 21 | Mining, Quarrying, and Oil and Gas Extraction |
| 22 | Utilities |
| 23 | Construction |
| 31-33 | Manufacturing |
| 42 | Wholesale Trade (e.g., lumber wholesalers, construction materials wholesalers) |
| 44-45 | Retail Trade (e.g., building material suppliers) |
| 48-49 | Transportation and Warehousing |
| 51 | Information (e.g., wired and wireless telecommunications carriers) |
| 52 | Finance and Insurance (e.g., insurance appraisal services) |
| 53 | Real Estate and Rental and Leasing (e.g., commercial and industrial machinery and equipment rental and leasing) |
| 54 | Professional, Scientific, and Technical Services (e.g., surveying and mapping services) |
| 56 | Administrative and Support (e.g., landscaping) and Waste Management and Remediation Services |
| 61 | Educational Services (e.g., culinary schools, welding schools) |
| 62 | Health Care and Social Assistance (e.g., disaster and emergency relief services, field clinics) |
| 71 | Arts, Entertainment, and Recreation (e.g., amusement and recreation) |
| 72 | Accommodation and Food Services (e.g., commercial kitchens) |
| 81 | Other Services (e.g., automotive repair and maintenance, drycleaning and laundry services) |
| 92 | Public Administration (e.g., fire protection) |

Materials for SERs

SERs will receive the following materials for review:

- Regulatory framework with potential options for various elements of a heat-specific standard
- Background document containing a technical summary of the regulatory framework, industry profile, and estimate of unit costs
- Open-ended questions to consider

These materials will be made available for public viewing on the OSHA Heat Injury and Illness SBREFA web page (www.osha.gov/heat/sbrefa) and at www.regulations.gov (Docket No. [OSHA-2021-0009](https://www.regulations.gov/docket/OSHA-2021-0009))

Regulatory Framework Overview

-OSHA envisions a programmatic standard that could require employers to create a plan to evaluate and control heat hazards in their workplace

-The standard could also include elements that set specifications related to heat exposure levels

-The regulatory framework will provide an outline of potential options for various elements of a heat standard, including:

- Scope and Application
- Heat Injury and Illness Prevention Program
- Hazard Identification and Assessment
- Hazard Prevention and Control Measures
- Medical Treatment and Heat-Related Emergency Response
- Worker Training
- Recordkeeping

Who Qualifies a SER?

-Small businesses

(Private entities must meet the SBA definition of a small entity. The size standards vary by industry sector but are usually based on either number of employees or revenue. Check the [SBA Table of Size Standards](#) to see if you qualify or contact OSHA or SBA Advocacy for assistance.)

-Small local government entities

-Non-profit entities

How to Participate

-To participate in the SBAR Panel as a SER, please contact Bruce Lundegren from SBA Advocacy, Bruce.Lundegren@sba.gov, (202) 205-6144, or OSHA at OSHAEvents_DSG@dol.gov

-To listen in to the SBAR Panel videoconferences but not participate as a SER, the schedule and links will be posted on the OSHA Heat Injury and Illness SBREFA web page, available at www.osha.gov/heat/sbrefa

-Updates on the rulemaking process will be provided on OSHA's heat rulemaking web page, available at www.osha.gov/heat-exposure/rulemaking

