

United States Senate

WASHINGTON, DC 20510

March 11, 2026

VIA ELECTRONIC TRANSMISSION

The Honorable Lori Chavez-DeRemer
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretary Chavez-DeRemer,

Nothing is more critical than our shared goal of protecting workers from workplace hazards, including heat, so they can return home from work safely.

The Department's continued prioritization of heat-related hazards through the Occupational Safety and Health Administration (OSHA) National Emphasis Program (NEP) has spurred more than 7,000 Heat NEP Federal inspections resulting in more than 1,300 Hazard Alert Letters and 60 General Duty Clause citations under the General Duty Clause.¹ This enforcement is possible because OSHA recognizes heat as a hazard. Currently, if OSHA finds that an employer has violated their duty to protect workers from heat-related workplace hazards, it can issue a citation under the General Duty Clause of the Occupational Safety and Health (OSH) Act. This allows OSHA to evaluate the circumstances of each individual workplace safety incident and use its discretion.

In 2024, the Biden administration issued a one-size-fits-all proposed rule, *Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings*, mandating that all businesses, no matter their safety record, size, location, or industry, comply with proposed requirements that include heat triggers, new mandatory safety staffing requirements, safety plans, rigid acclimatization schedules, and burdensome record-keeping requirements, among other mandates.² Businesses already comply with several workplace safety requirements relating to water, medical care and first aid for specialized industries, such as construction.

We represent the states of Louisiana, Idaho, Alabama, North Carolina, Mississippi, Oklahoma, Indiana, Iowa, Wisconsin, Missouri, Texas, and Montana which have experience with high temperatures and whose workplaces have already developed strategies for protecting workers. Protecting workers from a common and easily understandable workplace hazard does not require

¹ Douglas L. Parker, Assistant Secretary, U.S. Dep't of Labor, Directive CPL 03-01-024, Extension of Directive CPL 03-01-024, National Emphasis Program – Outdoor and Indoor Heat-Related Hazards (Jan. 16, 2025), <https://www.osha.gov/sites/default/files/enforcement/directives/CPL-03-01-024.pdf>

² Press Release, U.S. Dep't of Labor, Biden-Harris Administration Announces Proposed Rule to Protect Indoor, Outdoor Workers from Extreme Heat (July 2, 2024) <https://www.dol.gov/newsroom/releases/osha/osha20240702>

a prescriptive rule that will cause confusion and, in several circumstances, may even undermine worker safety. Workers and businesses thrive when there are clear standards that are flexible, understandable, and pragmatic.

The Biden administration's proposed rule fails to meet these criteria. As rulemaking continues, we ask the Department to consider the below concerns with the Biden administration proposed rule regarding issues that would negatively impact our constituents.

Heat Triggers

The proposed rule's heat triggers at 80 and 90 degrees create two different levels of compliance for workers, mandating a 15-minute rest break every two hours and active monitoring of employees once the temperature hits 90 degrees. Its practical effects could force workers to make choices that endanger them, violate the law, or increase their workload.

The proposed rule's mandatory break at 90 degrees can create dangerous hazards for some workers. For example, forcing roofers to climb down from roofs at two-hour intervals may create a heightened fall risk. In localities with noise ordinances prohibiting work before daylight hours, businesses that work in outdoor settings, such as construction and landscape contractors, may find it difficult to shift their work to accommodate both the proposed rule and local noise ordinances and potentially limiting work hours to impractical levels.

Employees who are part of a mobile workforce, such as delivery drivers, could face challenges finding where to park, locating a break area, and cooling off in addition to where and how to store suitably cool water. Time-sensitive work that is easily ruined, such as pouring concrete, may have to stop based on temperature fluctuations. This may then force workers to work longer hours in the heat or result in quality issues. The proposed rule also fails to take into consideration the restoration of critical infrastructure, such as the delivery of electricity, rebuilding roadways and highways, and other utilities, resulting from natural disasters.

Businesses are also required to follow different monitoring schemes for indoor or outdoor work settings, although, as written, it is unclear when a work setting – such as an equipment shed or house under construction – becomes indoor or outdoor.

Heat Safety Coordinator

The proposed rule also mandates that businesses designate staff members to oversee the regulation's numerous requirements without providing sufficient guidance as to who can fill that role, where the heat safety coordinator's duties end, and what happens if a heat safety coordinator is unavailable. Each business must install a heat safety coordinator charged with keeping employees free of heat-related illness or injury. The proposed rule states some of the duties of a heat safety coordinator include overseeing the implementation of the heat injury and illness prevention plan (HIIPP) compliance, heat hazard mitigation, and other examples – but, as written, the proposed rule does not indicate where the heat safety coordinator's duties end. As currently

written, the proposed rule also dictates the number of heat safety coordinators that an employers must designate given the current proposed cap of twenty employees per coordinator.

Although a heat safety coordinator can be an employee with the requisite training, this broad grant of responsibility may force businesses to create a position or multiple positions solely to comply with this requirement, potentially forcing small businesses to raise prices due to increased costs or hamstringing companies that could otherwise grow by creating roles that increase productivity.

Acclimatization Rules

The proposed rule requires acclimatization procedures for new employees or re-acclimatization for employees who have been away from work for more than 14 days to exposure to heat they experience on the jobsite over the course of three or four days. These proposed acclimatization procedures do not account for workers who are naturally acclimatized and accustomed to performing the same type of work. This disadvantages workers who are already acclimatized to the area and the type of work but have been out of work for 15 days or longer from getting jobs. It may also encourage some businesses to forgo creating a new job. For some types of businesses, like metal casting, implementing this proposed rule may make it impossible to hire people who are not already fully acclimatized.

The proposed rule's uniform acclimatization standard may also make it difficult for workers to continue schedules and flexibility on which they rely. For example, it would hamper any deviation in the common energy sector practice of “14 on, 14 off,” in which workers work for two weeks and take the following two weeks off, creating challenges if workers were required to acclimatize every time they returned to work.

Written Safety Plan

The proposed rule requires that businesses with more than ten employees to create a HIIPP with highly detailed and site-specific information, including how to transport a worker to a location where they can be picked up and directions to a worksite, among other details. This level of complexity can cause well-meaning businesses, especially smaller businesses with frequently changing jobsites like construction sites, to violate this rule due to the specificity required in the HIIPP. The proposed rule also imposes superfluous requirements, like requiring businesses to spend additional time revisiting HIIPPs even when a plan addressed a problem before it could become more severe.

Many businesses already have plans that are tailored to their workplace's needs. Forcing them to conform to an OSHA-specific rubric would impose additional costs while potentially losing key details in a current, business-developed plan. The proposed rule also requires that a HIIPP be available at worksites in a language each employee understands. This requirement could discourage businesses from hiring workers who speak a less common language.

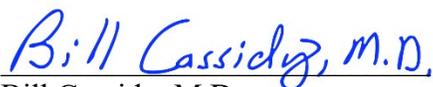
Other Requirements

The proposed heat rule also augments the current legal parameters around training and recordkeeping processes, requires hazard alerts, and dictates how and when businesses must provide water. Its training requirements would require businesses, including small businesses, to explain medical concepts and symptoms to their workforce frequently. The proposed rule includes additional requirements related to temperature monitoring but lacks clarity around when some areas – like boat manufacturing facilities exposed to open air – become indoor or outdoor settings and imposes new monitoring and data storage costs on businesses.

The proposed rule also requires businesses to issue hazard alerts to employees prior to work shifts or when employees are exposed to high-heat above the heat trigger, a more than daily occurrence in some parts of the country. In consistently hot climates, these hazard alerts may need to be issued frequently causing them to become “background noise” or to crowd out messages about other safety hazards that could cause employees greater harm. The proposed heat rule requires that businesses provide one quart of suitably cool water per employee per hour. While well-intentioned, the prescriptive nature of the mandate presents challenges for unique worksites and may inadvertently expose well-meaning businesses to multiple citations based on a formula.

We urge you to consider these challenges our constituents have raised with the proposed rule as you engage in further rulemaking and consider how to center worker safety in the ongoing discussion regarding pragmatic solutions for preventing heat-related hazards in the workplaces.

Sincerely,



Bill Cassidy, M.D.
Chairman
U.S. Senate Committee on Health,
Education, Labor, and Pensions



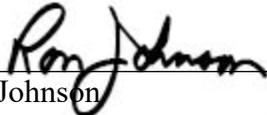
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United States Senator



Mike Crapo
United States Senator



Tommy Tuberville
United States Senator



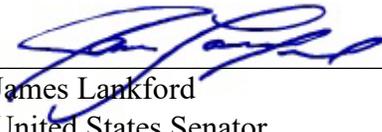
Ron Johnson
United States Senator



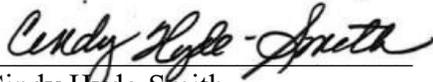
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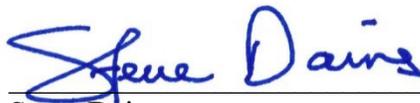
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United States Senator



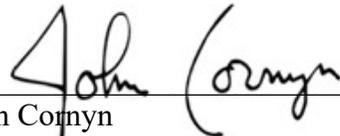
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