AFS OSHA Alert – July 2, 2024

OSHA Proposes Nationwide Indoor and Outdoor Heat Rule

On July 2, the Occupational Safety and Health Administration (OSHA) formally released its long-awaited proposed rule on "Heat Illness Prevention in Outdoor and Indoor Work Settings." The proposal covers an estimated 36 million workers, including metalcasters. OSHA has been developing a standard for how workplaces deal with heat since 2021. There are currently no federal heat regulations, though some states and municipalities have implemented their own requirements.

The text of the rule is available **here**. OSHA has also provided additional materials on its website on the rulemaking.

Key highlights of OSHA's proposed heat illness rule include:

- OSHA would adopt two heat index thresholds that would apply nationally and would factor in humidity as well as temperature.
  - One, at 80 degrees Fahrenheit heat index, would require employers to provide drinking water and break areas that workers can use as needed. Employers would also need to have a plan for new and returning workers to gradually increase their workload, so their bodies adjust to the heat. [Note: OSHA was considering an initial temperature trigger using a forecast set at 76 degrees Fahrenheit heat index.]
  - **At 90 degrees**, employers would be responsible for monitoring for signs of heat illness and must implement **mandatory 15-minute rest breaks every two hours**. Employers would be required to check on people working alone every few hours and issue a hazard alert, reminding their workers of the importance of staying hydrated.

- **Heat Triggers** - To determine when employees are exposed to heat at or above the initial and high heat triggers for indoor or outdoor work, the employer must include a monitoring plan and measure one of the following at or as close as possible to the work area:
  - Heat index, or ambient temperature and humidity measured separately to calculate heat index; or
  - Wet Bulb Globe Temperature (WBGT) – this tool incorporates temperature, humidity, wind and other factors to assess potential heat stress. Minnesota uses the tool as part of safety standards for indoor workers, and several states use heat index to protect those working outside.

- **Heat Injury and Illness Prevention Plan** will be required in writing for workplaces with more than 10 employees.
  - The plan will include a comprehensive list of the types of work activities covered, along with detailed policies and procedures necessary to comply with the requirements of this standard.
  - The plan must be regularly updated.
  - Employers will have to designate a heat safety coordinator.

- **Acclimatization**
  - **For new employees**, the employer must implement one of the following acclimatization protocols for each employee during their first week on the job:

        - A plan that, at minimum, incorporates the monitoring plan whenever the heat index is at or above the initial heat trigger during the employee's first week of work; or
        - Gradual acclimatization to heat in which the employee's exposure to heat is restricted to no more than: 20% of a normal work shift exposure duration on the first day of work, 40% on the second day of work, 60% of the third day of work, and 80% on the fourth day of work.
    - **Returning employees** - The employer must implement one of the following acclimatization protocols for each employee who has been away, such as on vacation or sick leave, for more than 14 days during their first week back on the job:
        - A plan that, at minimum, incorporates the monitoring plan whenever the heat index is at or above the initial heat trigger during the employee's first week upon returning to work; or
        - Gradual acclimatization to heat in which employee exposure to heat is restricted to no more than: 50% of a normal work shift exposure duration on the first day of work, 60% on the second day of work, and 80% of the third day of work.
        - The requirements do not apply if the employer can demonstrate the employee consistently worked under the same or similar conditions as the employer's working conditions within the prior 14 days.

Next Steps:
OSHA's proposed rule will be open for a **120-day public comment period** after it is officially published in the Federal Register shortly.

AFS will be submitting comprehensive written comments on the rule. **In the meantime, the AFS Safety Committee will be holding a webinar in July to review the key elements of the NPRM. We will be sending out the date and notice shortly.**

The agency continues to conduct heat-related inspections under its National Emphasis Program – Outdoor and Indoor Heat-Related Hazards, launched in 2022. The program inspects workplaces with the highest exposures to heat-related hazards. Since the launch, OSHA has conducted more than 5,000 federal heat-related inspections, including some foundries.

AFS Action:
Since 2022, AFS has provided numerous updates, webinars, and sessions at industry meetings on OSHA's heat illness rulemaking. In addition, AFS developed a heat illness prevention plan for foundries to customize.

During the first phase of the heat illness rulemaking, AFS submitted detailed comments in January of 2022 on an Advanced Notice of Proposed Rulemaking. During the second phase, in fall of 2023, we participated actively in OSHA's Small Business Regulatory Enforcement Fairness Act (SBREFA) stage of the rulemaking. We put forward a Small Entity Representative, which allowed the association to get a first look at proposed draft regulatory text, and make formal comments at a SBREFA panel session, and to provide input into the Small Business Advocacy Review Panel Report. The report contained recommendations for OSHA of possible approaches to regulatory action that may minimize impacts on small entities.

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