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Transcript of Day 11

Tuesday, July 1, 2025

OSHA Heat Injury and Illness Prevention Hearing

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5 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

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9 OSHA'S INFORMAL RULEMAKING HEARING

10 FOR HEAT INJURY AND ILLNESS PREVENTION IN OUTDOOR AND

11 INDOOR WORK SETTINGS

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13 Day 11 of 12

14 Tuesday, July 1, 2025

15 9:30 a.m.

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PARTICIPANTS

PRESIDING:

ANGELA DONALDSON, Administrative Law Judge,
Office of Administrative Law Judges, United States
Department of Labor

OSHA PANEL:

TIFFANY DEFOE
BRENDA FINTER
AMY WANGDAHL
ZOE PETROPOULOS
RYAN TREMAIN
JOO-HYUNG SHIN

OFFICE OF THE SOLICITOR OF LABOR:

LINDA WILES
JENNIFER LEVIN

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7 ALSO PRESENT:

8 MARIAM CARLON, ABT Global

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P R O C E E D I N G S

JUDGE DONALDSON: We are on the record now. The hearing that we're here for today will come to order. This is an informal public hearing on the Occupational Safety and Health Administration's proposed rule for Heat Illness and Injury Prevention in Outdoor and Indoor Work Settings. The Notice of Proposed Rulemaking was published to the Federal Register on August 30th, 2024, that's in volume 89 of the Federal Register beginning at 70,698. I'm going to take a few minutes to go over a little bit more of the procedure today, what you can expect, and some rules and guidelines that will apply.

Again, my name is Angela Donaldson, and I'm an administrative law judge for the US Department of Labor. I'll be presiding over the hearing today. And the purpose of the hearing is to receive, from the interested parties, oral testimony, as well as other information that's pertinent to the proposed rule. So after this hearing and the post-hearing comment period have closed, OSHA will review the information and the entire record to determine the final -- the content of

1 the final rule.

2 So my role as the presiding judge will be limited
3 to conducting this hearing today to ensure that a
4 complete and accurate record is made, and that all the
5 interested parties have had -- have received a fair
6 hearing and have an opportunity to submit their
7 information. The hearing schedule and OSHA's
8 procedures governing the hearing are available on the
9 website for the hearing at [https://www.osha.gov/heat-](https://www.osha.gov/heat-exposure/rulemaking)
10 [exposure/rulemaking](https://www.osha.gov/heat-exposure/rulemaking). These documents were sent to
11 people and organizations who filed a timely notice of
12 intention to appear at this hearing.

13 A few more words here about the nature of the
14 hearing. Despite the informal nature of the hearing,
15 it is governed by rules, both OSHA's rules that govern
16 hearings at 29 CFR part 1911, and hearing procedures
17 specific to this rulemaking. The rules are meant to
18 assure that everyone has a fair opportunity to speak
19 and express an opinion about the proposed rule. To
20 that end, they also allow me to hold witnesses to their
21 allotted times, limit undue repetition or excessive
22 argument, and generally just keep the hearing on

1 schedule.

2 Any written comments that you've already submitted
3 to the docket are already a part of the record of the
4 rulemaking. So in rare cases where witnesses wish to
5 provide any other documents, not already entered onto
6 the docket, they may provide them by email to the
7 following address. OSHAEvents -- no punctuation, just
8 OSHAEvents_, D as in delta, S, sierra, G, golf --
9 @dol.gov. So OSHAEvents_DSG@dol.gov. They may do so
10 before the witness gives testimony and that can be
11 entered as an exhibit in the record.

12 Because all the pre-submitted documents are
13 already a part of the record, your oral testimony today
14 should focus and concentrate on presenting the
15 highlights of any written comments already submitted,
16 or clarify that written submission. Hearing
17 participants may also submit additional evidence or
18 statements for a period of 90 days from the end of the
19 hearing. That means -- that will be by September 30th,
20 2025. At that point, the record for the rulemaking
21 will close.

22 So today, after each speaker or panel of speakers

1 completes giving oral testimony, OSHA representatives
2 will have an opportunity to ask questions of that
3 speaker or panel. And when OSHA has finished asking
4 questions, there will be an opportunity, as time
5 permits, for persons who filed a notice of intent to
6 appear to also ask questions of the witness or that
7 panel. Participants may only direct questions to
8 witnesses with whom they do not have an organizational
9 affiliation.

10 The process I intend to follow is that after OSHA
11 has finished asking questions of a witness or a panel,
12 I will ask participants who wish to ask questions of
13 that witness to identify themselves by raising the hand
14 button in Webex, or by pressing star three on their
15 phones, for those who've called in. So again, if you
16 wish to ask a question after OSHA has asked their
17 questions, please press the raise hand button in Webex
18 or star three on your phones, for those who've called
19 in.

20 Based on the hearing schedule and the number of
21 participants who wish to ask questions, I'll determine
22 the order in which participants will ask those

1 questions and any time restrictions on the questioning.
2 If there are more questions than we have time for
3 today, it may be possible to ask additional questions
4 after the conclusion of the final witness's testimony
5 this afternoon. So further, if witnesses are unable to
6 answer a question -- so if a witness that you're asking
7 a question of cannot answer it during today's hearing,
8 or would like to expand on an answer provided, they're
9 welcome to use the post-hearing comment period to
10 submit that information.

11 I'd also like to remind you that the proceeding is
12 being recorded and transcribed by a court reporter. To
13 ensure that the reporter is able to provide an accurate
14 record of all the testimony and the questions and
15 responses, please try to remember to give verbal
16 responses to all the questions. The court reporter may
17 have a hard time seeing if you're nodding or shaking
18 your head only in response to a question. I will do my
19 best to remind everyone to verbalize as well. So -- so
20 we will have that option as well.

21 So please remember to identify yourself before
22 beginning your testimony and before asking a question

1 or answering a question. And don't worry, since this
2 is not something we all do every day and you're not
3 accustomed perhaps to doing such things, I'm here to
4 remind you as we go along. The transcript of the
5 hearing will be uploaded to the hearing docket at
6 regulations.gov, about two weeks following the hearing.

7 So unless there are further announcements or other
8 housekeeping matters, I believe we can proceed with
9 receiving the public testimony. The expected speaking
10 order will be displayed on the Webex screen, and our
11 contractor, who opened the hearing off record today,
12 will introduce each speaker in turn and promote them to
13 be panelists. When you are called to testify, remember
14 please state your name and your affiliation for the
15 record and speak slowly and clearly so our court
16 reporter can accurately record these proceedings. So
17 I'll turn now to our contractor to move forward with
18 the schedule of testifiers.

19 MS. CARLON: Thank you, Judge. The first speaker
20 is Aiswarya Murali. Please state your name and
21 affiliation for the record.

22 MS. MURALI: Aiswarya Murali in -- on behalf of

1 Southern Coalition for Social Justice.

2 JUDGE DONALDSON: Good morning to you. Thank you
3 very -- you can proceed with your comments today.
4 Thank you.

5 MS. MURALI: Thank you, Your Honor. Good morning
6 to all. Thank you for the opportunity to testify
7 today. My name is Aiswarya Murali and I am an
8 environmental justice attorney with the Southern
9 Coalition for Social Justice. SCSJ is a community
10 lawyering organization that advocates for low wealth
11 and rural communities and communities of color
12 throughout the American South. We work to ensure that
13 their voices are centered in decisions affecting their
14 health, safety, and wellbeing. We applaud OSHA for
15 proposing this comprehensive and transformational heat
16 injury and illness prevention standard. This is a
17 critical step forward in safeguarding millions of
18 American workers who face increasing and deadly heat
19 exposure in their workplaces.

20 However, it is essential to recognize and address
21 that the impacts of extreme heat are not felt equally.
22 Workers of color, day laborers, including migrant

1 workers, and low wage earners, disproportionately bear
2 the burden of heat-related illnesses and fatalities.
3 Across the South, agricultural workers, construction
4 laborers, warehouse employees, and day laborers, most
5 of whom are low-income, black, Latinx, or immigrants,
6 face conditions that place them at greater risk due to
7 systemic inequities, limited access to health care,
8 language barriers, and economic vulnerabilities.

9 While OSHA's proposed standard is a step in the
10 right direction, and we acknowledge the equity
11 assessment undertaken by OSHA, I wish to highlight some
12 critical gaps that are apparent to us as we examine the
13 proposed rule through an environmental justice lens.
14 We hope that these recommendations will be taken into
15 consideration by the panel, as they will ensure
16 equitable protection for all workers, particularly
17 marginalized and vulnerable populations.

18 First, OSHA's proposal adopts a single uniform
19 initial heat trigger of 80 degree Fahrenheit heat index
20 for all workers. This trigger temperature in certain
21 cases is too high to protect medically vulnerable
22 individuals, persons with disabilities, pregnant

1 workers, or new and returning employees who are
2 unacclimatized. Extreme heat is an environmental
3 justice crisis, and a single threshold overlooks the
4 realities faced by those most at risk. We urge OSHA to
5 establish a secondary, lower tier trigger specifically
6 tailored for these vulnerable groups by creating a
7 multi-tiered trigger system. The proposed rules would
8 also align with the Americans with Disabilities Act in
9 its requirement for reasonable accommodations for
10 workers whose health conditions place them at greater
11 risk from heat exposure.

12 Second, the sedentary indoor exemption should
13 explicitly require periodic verification of
14 temperatures below OSHA defined safe thresholds, as
15 many workplaces in marginalized communities lack
16 reliable HVAC systems. OSHA must also consider clearly
17 defining the temperature of drinking water, shaded
18 areas, and varying acclimatization periods for
19 different vulnerable people to remove any ambiguity in
20 the implementation.

21 Third, there is insufficient emphasis on
22 culturally competent and linguistically accessible

1 training and outreach. Workers cannot effectively
2 exercise their rights or recognize symptoms without
3 clearly understanding heat hazards and safety measures.
4 Farmworkers often face significant barriers to
5 accessing relevant information due to limited literacy
6 levels or a lack of English proficiency. OSHA should
7 mandate training materials and communication in all
8 relevant languages and accessible literacy formats.
9 It's crucial to partner with trusted community
10 organizations to deliver outreach and training to build
11 trust and facilitate genuine compliance.

12 Furthermore, worker participation must be
13 genuinely meaningful and protected. OSHA's proposal
14 should explicitly define who is an employee
15 representative, clarifying that the workers themselves
16 shall choose representatives. Anti-retaliation
17 protections must be robust and explicitly extended to
18 contingent workers, ensuring that no worker fears
19 reprisal for advocating for their safety.

20 Finally, targeted enforcement and transparent
21 reporting are critical. OSHA must prioritize
22 inspections and outreach in historically marginalized

1 communities, particularly during peak heat months.
2 Establishing a publicly accessible heat illness
3 registry, disaggregated by demographics, industry, and
4 location will ensure accountability and informed,
5 targeted interventions.

6 To conclude, OSHA's proposed standard is a
7 necessary and welcome development. Yet addressing
8 these outlined gaps is essential for equity and
9 effectiveness. SCSJ urges OSHA to adopt these
10 recommendations, ensuring robust protections that
11 prioritize health, dignity, and justice for all
12 workers, leaving no community behind. Thank you for
13 your time and consideration, and I'm happy to answer
14 any questions in detail in the post-hearing comments.

15 JUDGE DONALDSON: All right. Thank you so much
16 for your testimony. Do we have any questions from
17 members of the OSHA panel?

18 MR. TREMAIN: Good morning, Your Honor. This is
19 Ryan Tremain with OSHA Standards and Guidance. And
20 OSHA does not have any additional questions at this
21 time, but we certainly thank Ms. Murali and the
22 Southern Coalition for your testimony this morning.

1 JUDGE DONALDSON: Thank you. Is there any comment
2 or question from the Solicitor's Office?

3 MS. LEVIN: Your Honor, this is Jennifer Levin
4 from the Office of the Solicitor. I do not have any
5 questions for the witness, but thank her very much for
6 her time and testimony today.

7 JUDGE DONALDSON: Okay. Turning next to any other
8 persons present from the public, any other witnesses
9 who may have a question from Ms. Murali?

10 MS. CARLON: There are none, Your Honor.

11 JUDGE DONALDSON: Okay. Thank you so much again,
12 Ms. Murali. I hope you have a pleasant rest of your
13 day.

14 MS. MURALI: Thank you, Your Honor and OSHA
15 panelists.

16 MS. CARLON: The next speaker is Jill Rosenthal.
17 Please state your name and affiliation for the record.

18 MS. ROSENTHAL: Hi. Can you hear me?

19 JUDGE DONALDSON: I can hear you. You may present
20 your video if you wish. Currently, it's not activated.

21 MS. ROSENTHAL: Okay.

22 JUDGE DONALDSON: There it is. Thank you.

1 MS. ROSENTHAL: Great, thank you. Thank you.

2 JUDGE DONALDSON: You may proceed.

3 MS. ROSENTHAL: Great, thank you. My name is Jill
4 Rosenthal, and I'm the Public Health Policy Director at
5 the Center for American Progress, or CAP. CAP is an
6 independent, nonpartisan policy institute committed to
7 improving the lives of all Americans by developing bold
8 ideas for policy makers that lead to real change. Our
9 policy teams have expertise across a variety of
10 disciplines and major issue areas.

11 We commend OSHA's efforts to protect the rising
12 number of workers who are exposed to extreme heat
13 conditions across the United States. As the proposed
14 standard notes, heat-related illness has been
15 recognized as an occupational hazard for decades. In
16 addition to significant risks for workers from heat-
17 related illness, the economic impacts are also well
18 documented, including lost worker productivity,
19 increased health care costs, worker compensation
20 claims, and threats to workers financial stability.
21 It's well documented that extreme heat is the leading
22 cause of weather-related deaths in the United States.

1 In 2023, CAP worked with researchers at Virginia
2 Commonwealth University to better understand the health
3 impacts of extreme heat, which led to a report that
4 derived estimates of increased healthcare utilization
5 and healthcare costs associated with extreme heat.
6 According to our research, heat event days are
7 responsible for almost 235,000 emergency department
8 visits and more than 56,000 hospital admissions for
9 heat-related or heat-adjacent illness each summer,
10 adding about \$1 billion in healthcare costs.

11 In 2024, CAP released a series of reports
12 elevating policy proposals to protect populations at
13 greatest risk from high heat exposures, including
14 indoor and outdoor workers. Informed by conversations
15 with heat scientists, labor advocates, and people
16 experiencing extreme heat on the job, we included a
17 federal heat standard among those recommendations.
18 With the increasing frequency of extreme heat
19 conditions and greater exposure of workers to unsafe
20 conditions, the standard is now more critical than
21 ever.

22 CAP recently issued a report urging states to

1 protect workers from extreme heat in the absence of a
2 heat specific federal standard. And yet we recognize
3 that state action is not sufficient. The proposed rule
4 would provide a strong, uniform standard. We recommend
5 the following modifications to the proposed standard to
6 ensure it offers appropriate protection for workers.

7 First, written heat injury and illness prevention
8 plan should be required for all employers, including
9 those with fewer than 20 employees. In construction,
10 which is one of the core industries with high exposure
11 to heat-related hazards, the majority of enterprises
12 have fewer than five employees. Excluding smaller
13 workplaces disproportionately impacts workers in low
14 wage jobs, who are frequently employed in settings with
15 extreme heat risks and already face limited workplace
16 protections.

17 Second, CAP recommends the proposed heat triggers
18 be linked to the National Weather Service wet bulb
19 globe temperature, and that triggers for employer
20 responses to rising temperatures be based on on-site
21 actual heat measurement, as opposed to estimates or
22 forecasts.

1 Third, CAP supports OSHA proposal to provide paid
2 breaks for workers under high heat conditions and urges
3 the agency to extend the protection to all employees,
4 including non-union and piece rate workers, who are
5 currently most vulnerable to extreme heat health
6 hazards. A paid break standard would ensure consistent
7 protection, address existing gaps, and safeguard worker
8 health. It aligns with fair labor standards that
9 require compensation for safety procedures critical to
10 core job duties, such as putting on and taking off
11 protective gear.

12 We recommend that OSHA require breaks at lower
13 temperature thresholds and longer rest breaks -- rest
14 breaks as heat conditions increase in line with NIOSH
15 recommendations. In addition, heat safety plans and
16 worker training materials should clearly emphasize that
17 workers have the right to take breaks and that
18 employers must support them in taking those breaks.

19 And last, while the proposed rule requires
20 immediate action to reduce body temperature in the case
21 of an emergency, the language should be clarified to
22 require the use of effective, whole-body cooling

1 equipment, and should specify that employers need to
2 provide this equipment. This is particularly important
3 in rural areas where it may take more than 30 minutes
4 for emergency services to arrive. CAP greatly
5 appreciates the opportunity to comment on the proposed
6 rule and strongly supports its implementation. Thank
7 you.

8 JUDGE DONALDSON: Thank you as well. Are there
9 any questions from OSHA?

10 MR. TREMAIN: Yes, Your Honor, this is Ryan
11 Tremain with OSHA Standards and Guidance, and we do
12 have a few additional questions. I can start things
13 off with a question regarding training. And in your
14 written comment, you had discussed the importance of
15 language accessibility and training materials,
16 particularly among indigenous workers. And the
17 question would be, are there changes that OSHA can make
18 to the training requirements that would better improve
19 the accessibility of training materials?

20 MS. ROSENTHAL: Thank you for that question, and
21 I'd be happy to follow up on that during the post-
22 hearing period.

1 MR. TREMAIN: Okay. That would be great. Thanks
2 so much. And also, if you might be able to add whether
3 there are any translation tools that your organization
4 would recommend that employers could use for accurate
5 translations?

6 MS. ROSENTHAL: Great. Happy to do so.

7 MR. TREMAIN: And next, I wanted to kick things
8 over to Tiffany DeFoe who is joining us virtually.

9 MS. DEFOE: Hi. For the record, this is Tiffany
10 DeFoe with the Directorate of Standards and Guidance,
11 OSHA. I wanted to ask a couple of questions pertaining
12 to rest breaks. And in terms of the comments that
13 you've made, that's -- that's been a concern that's
14 been raised by other commenters in -- in the hearing
15 process as well. We've also heard testimony from folks
16 who are raising concerns about the difficulties with
17 applying a mandated scheduled break system. And so I'd
18 like to ask first, in terms of -- of the mandated
19 scheduled breaks that you're recommending be extended
20 to the initial heat trigger, if your organization has
21 any thoughts that they can share on ways that those
22 breaks could be the -- the flexibility of how they're

1 scheduled and used could be increased without -- you
2 know, without -- while still protecting workers.

3 And in addition, there have been some specific
4 concerns raised about work sites such as communication
5 towers, highway and bridge construction, where remote
6 locations or long distances from vehicles and tents can
7 make access to shade or cool down space very difficult.
8 And we'd also be interested in any recommendations that
9 you can share about how situations like that could be
10 addressed.

11 MS. ROSENTHAL: Great. Thank you for that
12 question. I'm also happy to follow up with that, with
13 an opportunity to consult with my colleagues and we'll
14 provide written comments.

15 MS. DEFOE: Thank you very much. And I'm sorry,
16 I'm just realizing that there was -- the last question,
17 there was a specific request for practical means of
18 scheduling and designing rest breaks. Anything along
19 those lines would be great. Thank you. That's all I
20 have.

21 MR. TREMAIN: And next we have Zoe Petropoulos,
22 who is also joining us virtually.

1 MS. PETROPOULOS: Hi. This is Zoe Petropoulos for
2 the Directorate of Standards and Guidance. So in your
3 written comment on the NPRM and in your testimony as
4 well, you said that you recommended the use of on-site
5 measurements of wet bulb globe temperature. And my
6 question is, are you aware of any employers who are
7 already successfully using wet bulb globe temperature
8 measurements at their work site to assess heat stress?

9 MS. ROSENTHAL: Again, I'd be happy to follow up
10 on that. Thank you.

11 MS. PETROPOULOS: Got it. And I'll just say -- if
12 you are aware, if you could share any examples or any
13 data you have on which employers currently use these
14 methods. We're particularly interested in any examples
15 from small businesses and or businesses without an
16 industrial hygienist on staff.

17 MS. ROSENTHAL: Thank you.

18 MS. PETROPOULOS: Thank you. That's it for me,
19 Ryan.

20 MR. TREMAIN: This is Ryan Tremain with OSHA. And
21 I believe that concludes OSHA's questions. But a big
22 thank you to Ms. Rosenthal and CAP for your testimony

1 today.

2 MS. ROSENTHAL: Thank you.

3 JUDGE DONALDSON: All right. Thank you, everyone.

4 Any questions from the Office of the Solicitor?

5 MS. LEVIN: Your Honor, this is Jennifer Levin
6 from the Office of the Solicitor. I do not have any
7 questions for Ms. Rosenthal. Thank you very much for
8 your time and testimony today.

9 JUDGE DONALDSON: And Ms. Carlon, do we have any
10 members of the public who have indicated an interest in
11 asking a question?

12 MS. CARLON: We do not, Your Honor.

13 JUDGE DONALDSON: Okay. All right. We'll be able
14 to excuse you, Ms. Rosenthal. Thank you for appearing
15 and participating.

16 MS. ROSENTHAL: Thank you.

17 MS. CARLON: The next speaker is Bill McGinley.
18 Unfortunately, we do not see your name in the attendee
19 list. So if you have joined under a different name,
20 please use the raise hand button to indicate your
21 presence. And if you have dialed in, please use star
22 three to raise your hand. Please state your name and

1 affiliation for the record.

2 MR. MCGINLEY: Chamber of Commerce.

3 JUDGE DONALDSON: Can you state that again?

4 MR. MCGINLEY: Thank you for the opportunity.

5 JUDGE DONALDSON: Can you back up just a --

6 MR. MCGINLEY: Sure, this is Bill McGinley.

7 JUDGE DONALDSON: Thank you. Thank you, Mr.
8 McGinley. Go ahead.

9 MR. MCGINLEY: Yes. Apologies. I'm having
10 technical difficulties, so I dialed in today.

11 JUDGE DONALDSON: Understood. Thank you.

12 MR. MCGINLEY: So this is -- yes, this is William
13 McGinley, and I'm testifying on behalf of the American
14 Free Enterprise Chamber of Commerce. And I want to
15 thank you for the opportunity to provide testimony
16 today. As stated before, I represent the Free
17 Enterprise Chamber of Commerce or AMFree, an
18 association dedicated to advancing free enterprise,
19 limited government and the interests of small and
20 medium-sized American businesses. Our Center for Legal
21 Action focuses on fighting administrative overreach at
22 the federal and state levels.

1 American workers should be treated with dignity
2 and protected from serious harm, but American workers
3 have to be protected from extreme regulatory policies
4 as well. OSHA's proposed rule is such an extreme
5 policy. The proposal is vastly disproportionate to the
6 risk it aims to address and not reasonably necessary or
7 appropriate as the Occupational Safety and Health Act
8 requires. OSHA intentionally designed the proposal to
9 insulate even the least vulnerable workers from heat-
10 related risk, regardless of the cost.

11 The scope of OSHA proposal is breathtaking. The
12 rule would apply a uniform set of commands, including
13 mandatory paid rest breaks on -- on demand whenever
14 it's warm outside to 36 million outdoor workers,
15 ranging from workers lifting heavy loads of steel
16 foundries to workers in daycare centers. The result is
17 a regulatory overreach and red tape nightmare. The
18 proposed rule would impose billions of dollars in
19 incremental annual compliance costs. It would expand
20 jobs for quote, "compliance", end quote professionals,
21 while further shrinking the productive sectors of the
22 US economy, including in sectors such as agriculture,

1 manufacturing, construction, and energy.

2 The rule would also lower wages for workers, raise
3 product prices, and kill American jobs out of
4 proportion to any modest safety benefit. There is no
5 need for an intrusive federal regime regulating heat
6 exposure at work. According to BLS, less than 1
7 percent of all occupational deaths are heat-related,
8 and less than 0.1 percent of serious injuries at work
9 are heat-related. These deaths and injuries are also
10 easily preventable through education and addressed at
11 the State and local level, without intrusive red tape,
12 OSHA would impose on states as diverse as Florida and
13 Washington state.

14 The proposed rule would also be unenforceable as a
15 practical matter. The proposed rule would govern an
16 estimated millions of small businesses, including
17 hundreds of thousands of landscapers, contractors that
18 are judgment proof and that pose a veritable nightmare
19 for OSHA's inspectors during the summer season. The
20 resources needed to effectively monitor compliance
21 would be staggering. OSHA doesn't have those
22 resources.

1 Given the small risk and OSHA's inadequate
2 resources to police the rule, the question becomes why
3 did OSHA prioritize this rule, this proposal during the
4 prior administration? The proposal was a publicity
5 stunt and many -- that many people believe, including
6 in the business community, in the Biden
7 administration's whole of government effort to
8 fearmonger about climate crisis, all to justify
9 handouts to special interests and the Inflation
10 Reduction Act. OSHA should abandon this effort.
11 OSHA's job is to protect safety and not become a
12 publicist for the green energy lobby.

13 OSHA's heat rule would also conflict with
14 President Trump's plan to cut red tape and restore
15 sound science, including the president's executive
16 orders on unleashing prosperity through deregulation
17 and restoring gold standard science. The question
18 becomes, then, what ten rules would OSHA repeal to make
19 room for the heat rule? And how would the billions in
20 annual costs be offset in OSHA's regulatory budget?
21 And how would OSHA reconcile the president's
22 instruction to avoid worst case scenarios with OSHA's

1 pronounced bias? The White House will want answers to
2 these questions.

3 But the proposed heat rule is not just wrong, it
4 also is legally vulnerable. First, the proposed rule
5 exceeds OSHA's authority under the major questions
6 doctrine. The proposed rule is economically and
7 politically significant, and OSHA is asserting
8 transformative authority to mandate paid rest breaks
9 across American workforce. OSHA points to no clear
10 authority. OSHA should not invite another defeat from
11 the Supreme Court.

12 Second, OSHA misreads the Occupational Safety and
13 Health Act. The proposed rule is a safety standard,
14 not a health standard, so showing that the rule will
15 not bankrupt industry is not enough. OSHA must also
16 show that the safety benefits will exceed the cost.
17 OSHA fails to make that showing. OSHA can only pretend
18 the rule does not -- does more good than harm by
19 imagining fictional safety and productivity benefits
20 and deflating costs at every turn.

21 Third, OSHA's heat index triggers are arbitrarily
22 low. OSHA myopically focused on setting highly

1 sensitive triggers that insulate even the most at-risk
2 workers, while ignoring the need for high specificity
3 i.e., those -- a trigger that excludes healthy workers
4 that face no real risk. That biased approach is
5 unreasonable.

6 In sum, the rule is a regulatory overreach,
7 conflicts with President Trump's deregulatory
8 priorities, wouldn't survive judicial review, and
9 cannot be enforced with the agency's available
10 resources and should never be promulgated. It's too
11 late to consider reasonable alternatives now in this
12 rulemaking. The rule should not be issued and should
13 be withdrawn. That concludes my testimony. Thank you
14 for the opportunity to speak to you today.

15 JUDGE DONALDSON: Thank you. Mr. McGinley. Would
16 you hold for -- to see if we have any questions for you
17 from OSHA?

18 MR. TREMAIN: This is Ryan Tremain with OSHA
19 Standards and Guidance, and we do not have any
20 additional questions, Your Honor.

21 JUDGE DONALDSON: All right. Thank you. And from
22 the Solicitor's Office, any questions?

1 MS. LEVIN: Jennifer Levin from the Solicitor's
2 Office. I do not have any questions for the witness,
3 but thank him for his time and testimony today.

4 JUDGE DONALDSON: Okay. And how about from anyone
5 else joining us from the public? Other testifiers?
6 Anyone?

7 MS. CARLON: There are none, Your Honor.

8 JUDGE DONALDSON: Okay. I'm not sure if you're
9 still with us, Mr. McGinley, but thank you for
10 participating. And for your testimony, and we will
11 excuse you at this time.

12 MR. MCGINLEY: Thank you.

13 MS. CARLON: The next speaker is Catalina
14 Gonzalez. Please state your name and affiliation for
15 the record.

16 MS. GONZALEZ: Hello. Catalina Gonzalez, Senior
17 Policy Analyst at the Center for Progressive Reform.

18 JUDGE DONALDSON: Thank you, Ms. Gonzalez. If you
19 could speak up just a little bit. I heard you fine,
20 but I think a little bit more volume would help us.
21 And you can proceed with your comment.

22 MS. GONZALEZ: Good morning. My name is Catalina

1 Gonzalez. I'm a Senior Policy Analyst at the Center
2 for Progressive Reform. The Center is a nonprofit
3 research and advocacy organization that is guided by a
4 national network of legal scholars and professional
5 staff with expertise in governance and regulation. We
6 appreciate the opportunity to comment on the proposed
7 rule and express our support for a strong federal
8 standard for extreme heat protections for outdoor and
9 indoor workers.

10 Work-related heat illness, and injury is
11 associated with heat spikes -- is now associated with
12 more heat spikes in more states, increasingly over the
13 past few years, which have become more acute.

14 Businesses and places of work have to close if their
15 cooling systems failed. This is associated with heat
16 exhaustion, dizziness, illness and more serious injury
17 like heat stroke and organ shutdown, and -- and is
18 responsible for tens of thousands of illness and injury
19 events across the country every year, as well as
20 thousands of fatalities.

21 Heat illness and injury also accounts for at least
22 2.5 billion lost work hours annually, and it is

1 estimated that \$100 billion in lost labor is also an
2 unintended outcome that affects workers, employers, and
3 has human costs. Extreme heat also has more -- more
4 costs associated with health -- with more serious
5 health impacts. A record -- this includes 967 heat-
6 related illness emergency room visits, and 24 deaths
7 that were reported in the State of Maryland in 2024.

8 Across many industries, many indoor and outdoor
9 workers are temporary and seasonal. To account for
10 this, we would like to recommend additions to
11 strengthen this proposed rule to account for vulnerable
12 groups. We would like -- we would like to ensure that
13 the -- that the rule ensures protections for worker --
14 protections against retaliations for workers so that
15 they can safely participate in their -- in their job
16 without fear of job loss, deportation, or retaliation.

17 We would also ask that the rule accommodates for
18 culturally and language accessible training, which --
19 and requires the employer to provide heat safety
20 training in languages spoken by the workforce,
21 including Spanish and indigenous languages. We would
22 also ask that the rule provides adequate medical and

1 economic support and ensure paid leave and health care
2 access for workers suffering heat-related illnesses,
3 regardless of immigration status. And finally, we
4 would ask that the -- we would ask that the rule adds
5 definitions to specifically identify vulnerable groups
6 and explicitly include protections for temporary and
7 seasonal workers.

8 In addition, I would like -- also like -- urge
9 that the rule add definitions for terms that are used
10 more than two times or repeatedly in the text. We
11 believe these additions will strengthen the rule and
12 account for vulnerable populations that represent a
13 large percentage -- large percentages of outdoor and
14 indoor workers across the United States. We believe
15 our country is still lacking a federal heat standard
16 for workers, And we believe that this was -- that this
17 should be -- that this rule should be completed and
18 finalized in its strongest version without delay, which
19 has which has been in development since the 1970s with
20 extensive community input and extensive review. Thank
21 you very much.

22 JUDGE DONALDSON: Great. Thank you. Does OSHA

1 have any questions for this witness?

2 MR. TREMAIN: This is Ryan Tremain with OSHA
3 Standards and Guidance. Thank you, Ms. Gonzalez. Your
4 Honor, OSHA does not have additional questions at this
5 time.

6 JUDGE DONALDSON: All right. And so does the
7 Solicitor's Office have any questions?

8 MS. LEVIN: Your Honor, Jennifer Levin for the
9 Office of the Solicitor. I do not have any questions
10 for this witness, but thank her for her time and
11 testimony today.

12 JUDGE DONALDSON: Right. I'll pause here to see
13 if there are any other questions.

14 MS. CARLON: There are none, Your Honor.

15 JUDGE DONALDSON: As everyone has said. Thank
16 you, Ms. Gonzalez. I appreciate your participation,
17 and you can be excused.

18 MS. GONZALEZ: Okay.

19 MS. CARLON: The next speaker is Margaret Poydock.
20 Please state your name and affiliation for the record.

21 MS. POYDOCK: Can you hear me?

22 JUDGE DONALDSON: Yes, but if you could speak up,

1 that would be helpful.

2 MS. POYDOCK: Okay. Is this better?

3 JUDGE DONALDSON: Yes.

4 MS. POYDOCK: And apologies. I am having issues
5 trying to turn on my camera. Is that okay?

6 JUDGE DONALDSON: If you cannot, that's fine,
7 because we're hearing you well.

8 MS. POYDOCK: Okay, great. So this is Margaret
9 Poydock from the Economic Policy Institute.

10 JUDGE DONALDSON: Thank you. You can proceed with
11 your testimony.

12 MS. POYDOCK: Good morning, OSHA panel. My name
13 is Margaret Poydock, and I'm a Senior Policy Analyst at
14 the Economic Policy Institute, or EPI. EPI is a
15 nonprofit, nonpartisan think tank founded in 1986 to
16 research the economic status of working America and
17 propose public policies that protect and improve
18 conditions for low and middle wage workers.

19 Today, I'm testifying in support of OSHA's
20 proposed rule on heat injury and illness prevention in
21 outdoor and indoor work settings. In my testimony, I
22 will discuss the economic benefits of implementing a

1 heat standard, the economic harms of the United States
2 lacking a federal heat standard, and the importance of
3 implementing a strong heat standard on the federal
4 level.

5 First, I would like to briefly discuss the
6 economic benefits of the federal heat standard. By
7 OSHA's own estimates, the proposed rule would provide
8 36 million workers with protections against extreme
9 heat. The proposed rule would help with worker
10 productivity by establishing protections which help
11 prevent heat-related illnesses and injuries. By
12 mitigating these risks, the proposed rule would reduce
13 workers need to take additional days off to recover
14 from the effects of heat exposure, which in turn helps
15 limit disruptions in worker productivity. The proposed
16 rule would also help foster innovation in the workplace
17 by requiring certain employers to implement HIIPPs,
18 which encourage employers to become innovative in ways
19 they can protect workers against heat-related stress.

20 Moreover, not implementing a federal heat standard
21 is costly -- financially costly for workers, employers,
22 and the economy. While extreme heat can impact all

1 workers, it more adversely impacts outdoor occupations,
2 which are disproportionately held by workers of color.
3 One study by the Union of Concerned Scientists on the
4 impacts of extreme heat on outdoor workers found that
5 black workers lose up to 7.5 billion, and Latino
6 workers lose up to 16.1 billion each year in pay due to
7 cuts in hours and injuries.

8 Low wage workers also shoulder much of the harms
9 associated with heat exposure. Research by the
10 Washington Center for Equitable Growth found that low
11 wage workers are more likely to live in places -- to live,
12 in places with greater heat exposure, and experience
13 heat-related injuries at higher rates.

14 There are also significant health care costs for
15 workers exposed to extreme heat. A study by the Center
16 for American Progress found that extreme heat costs the
17 United States more than 1 billion in excess health care
18 costs each year. Employers could experience increased
19 costs in worker compensation premiums as workers -- as
20 more workers experience heat-related injuries and
21 illnesses and are out of work. Employers are likely to
22 see a reduction in productivity due to worker

1 absenteeism and turnover caused by heat injuries,
2 illnesses, and even fatalities.

3 The loss in productivity also impacts the U.S.
4 economy as a whole. Researchers at both Public Citizen
5 and the Atlantic Council have estimated that the lack
6 of federal heat protections cost the U.S. economy
7 nearly 100 billion each year, and the Atlantic Council
8 estimates that those losses could double to 200 billion
9 by 2030 if no meaningful action to mitigate against
10 extreme heat is taken.

11 Finally, I would like to emphasize the importance
12 of enacting a strong heat standard. While states have
13 the ability to implement their own standards, very few
14 have done so and they vary widely in strength and
15 coverage. As of this hearing, there are only seven
16 states with some version of a state-level heat
17 standard. This means there are 43 states with no such
18 standards, and further, Texas and Florida, arguably the
19 two of the hottest states of the United States, and
20 Iowa have preempted their own cities and localities
21 from implementing heat standards. Without a federal
22 heat standard, workers across the United States will

1 continue to experience a piecemeal approach at
2 protections from extreme heat.

3 In closing, I strongly encourage OSHA to finalize
4 rulemaking and establish a federal heat standard.
5 Research shows that the lack of federal heat standard
6 poses substantial cost to workers, employers, and the
7 economy, and this includes the US economy losing 100
8 billion each year due to disruption in worker
9 productivity caused by extreme heat. Implementing a
10 strong heat standard, such as the one outlined in the
11 proposal, would not only protect millions of workers
12 from extreme heat, but also increase productivity and
13 spur innovation at the workplace. Thank you for the
14 opportunity to testify and I'm happy to answer any
15 questions.

16 JUDGE DONALDSON: Thank you. Let's see. Are
17 there any questions from OSHA?

18 MR. TREMAIN: This is Ryan with OSHA Standards and
19 Guidance. And OSHA does not have additional questions
20 at this time. But certainly thanks, Ms. Poydock and
21 the Economic Policy Institute for this testimony.

22 JUDGE DONALDSON: All right. Any questions from

1 the Office of the Solicitor?

2 MS. LEVIN: This is Jennifer Levin from the Office
3 of the Solicitor. I do not have any questions for the
4 witness. Thank her for her time and testimony.

5 JUDGE DONALDSON: All right. Any other questions
6 for Ms. Poydock?

7 MS. CARLON: Yes, we have one from Ms. Arberry.
8 Please state your name for the record.

9 MS. ARBERRY: Hi. Chenay Arberry with the AFL-
10 CIO. Thank you, Margaret, for your testimony on behalf
11 of EPI. I just have two questions. I'm curious why it
12 is imperative to have consistent federal coverage
13 across divergent industries instead of relying on the
14 state by state approach.

15 MS. POYDOCK: Yeah, so extreme heat is experienced
16 by -- experienced all over -- across the United States,
17 and workers should be protected from it. As I noted in
18 my testimony, and we did note in our comments, some of
19 the hottest states in the nation haven't taken action
20 on protecting workers from extreme heat. And even
21 further, some states have preempted cities and
22 localities from establishing heat standards, while at

1 the same time not promoting anything on the state
2 level. So those are some reasons why it's important
3 for OSHA to implement a heat standard and provide a
4 baseline protection for workers.

5 MS. ARBERRY: Thank you. This is Chenay Arberry
6 with the AFL-CIO again. And then lastly, in taking a
7 look at your written comments -- or EPI's written
8 comments you speak about how, through a proposed rule,
9 business entities could prevent heat illness and spur
10 innovation through HIIPPs. So how do you see the
11 requirement for HIIPPs helping employers innovate to
12 protect workers?

13 MS. POYDOCK: Yeah. So in regards to
14 innovation -- in our comments, we note that employers
15 should solicit input from workers, which that in turn
16 can help foster innovation or at least provide -- or
17 create more effective HIIPPs, because then they can
18 tailor the plans requirements to the specific work site
19 or company based off of that input.

20 MS. ARBERRY: That's it for me, Your Honor. Thank
21 you, Margaret.

22 JUDGE DONALDSON: Thank you. Are there any other

1 questions?

2 MS. CARLON: There are none, Your Honor.

3 JUDGE DONALDSON: All right. Ms. Poydock, thank
4 you again for your participation. We'll go ahead and
5 excuse you at this time.

6 MS. CARLON: The next speaker is Alexis Tsoukalas.
7 Please state your name and affiliation for the record.

8 DR. TSOUKALAS: Yes. Hello, Dr. Alexis Tsoukalas,
9 Senior Policy Analyst at Florida Policy Institute. And
10 I'm a - we are a nonprofit, nonpartisan research
11 organization focused on state policy. So I focus on
12 immigrant and worker justice issues. And I'm here
13 today for two reasons. Thank you for having us.
14 First, to briefly reiterate the need for uniform heat
15 illness protections, which some people touched on, and
16 that's bolstered by our analysis of the issue here in
17 Florida, one of the hottest states that Margaret did
18 mention. And two, to speak in favor of this proposed
19 rule, albeit with some recommended changes.

20 So last year we started assessing the scope of
21 heat-related illness, or HRI, in Florida and how it's
22 impacting the state. So obviously Florida is just one

1 state, but it's notable on this issue. And we found
2 that Florida leads the nation in heat-related illness
3 with the highest number. So over 31,000 of ER visits
4 and hospitalizations between 2018 and 2022 alone.
5 We're in the process of updating that data, but that
6 was, as of last year, the latest data available.

7 Now, these estimates are likely conservative. And
8 it's especially among working people who fear
9 retaliation or lack of meaningful follow through if
10 they report HRI to their supervisors. We know this to
11 be true of immigrants and temporary workers. But once
12 someone experiences HRI, once we know their body's
13 ability to tolerate heat is often significantly
14 reduced. And so that makes repeated HRI more likely.
15 So this is not only an issue for employers, but it's an
16 issue for hospitals and nearby health facilities as
17 well. And ultimately, those costs end up falling on
18 taxpayers if people cannot afford to pay for their own
19 care out of pocket.

20 So we also found that 5.8 million residents, just
21 here in Florida, are highly vulnerable to extreme heat.
22 And the reason for that is they have three or more

1 components of social vulnerability. That's based on
2 the Census Bureau's community resilience estimates for
3 heat. So some examples of social vulnerability
4 components would be having an income to poverty ratio
5 of less than 130 percent, being in a limited English
6 speaking household, or having a significant disability,
7 which impacts your activities of daily life. Now, in
8 20 of Florida's 67 counties, more than a third of
9 residents are highly vulnerable to extreme heat. So
10 that's significant.

11 Now drilling down to the population we're talking
12 about here, of course, that OSHA is concerned with
13 working people. Looking at U.S. Bureau of Labor
14 Statistics data, we found that over 610,000 Floridians
15 work in outdoor heavy occupations, meaning more than 55
16 plus some as high as 95 percent of the time is working
17 outside. And those industries are mostly construction,
18 amusement and recreation, and landscaping. Now, two of
19 those top outdoor jobs are key drivers of the state
20 economy, construction and amusement and recreation.
21 And that's true just generally in larger parts of the
22 US as well, given that we are a very service-heavy

1 economy.

2 Now because of HRI, Florida loses an estimated \$11
3 billion annually, just here in the state, in
4 productivity. And because we are a large exporter of
5 agriculture, that has profound impacts on the rest of
6 the economy, too. Yet as Margaret touched on, Florida
7 has no local or state regulation protecting working
8 people from heat-related illness.

9 So there's a couple of reasons for that. The
10 Florida legislature has failed to pass legislation that
11 would be proactively educating employers on the perils
12 of heat-related illness, and that's been true for
13 several years now. Worse, the state last year passed
14 HB 43 - 433, which actually blocks local governments,
15 or preempts in legal terms, from requiring their local
16 subcontractors to address the issue. And finally,
17 Florida doesn't have an OSHA approved state plan so
18 there's already a gap in workers coverage. So the
19 federal rule would bridge a critical gap in protections
20 for myriad working Americans, not just Floridians, but
21 Americans in general.

22 And I just want to finish on touching on some of

1 the ways that OSHA's proposed rule could be improved
2 slightly. Now this is an important first step and we
3 appreciate that -- so with some minor adjustments. For
4 one, I would like to see OSHA have the option for
5 anonymized input from workers, including in multiple
6 languages, so that immigrants don't have to fear being
7 targeted by raids or other retaliation. Similarly,
8 making these rules available in languages other than
9 English and having designated interpreters on-site for
10 non-English speakers.

11 For indoor workspaces -- and we're talking a lot
12 about outdoor workspaces, but I'm happy to see the rule
13 does not neglect indoor workers -- there should be
14 checks done at least hourly. And there -- we would
15 like to see a trigger requirement at a certain
16 temperature. For example, in California that
17 temperature is 82 degrees Fahrenheit. When -- when it
18 reaches that trigger, then these policies would go into
19 effect and these protective measures.

20 Also, we'd like to see water available within 0.25
21 miles of the work location. Colorado does this, for
22 example. That's for indoor and outdoor workers,

1 because research shows if it's more than a three minute
2 walk away, either a restroom or water workers are less
3 likely to access it and take the time. And I know I'm
4 over time. So the last thing I'll say is we would like
5 to see employers follow OSHA's HRI and first aid
6 measures to reduce an employee's body temperature
7 before emergency medical services arrive. We would
8 like to see that in the rule. So thank you for your
9 consideration of Florida Policy Institute's testimony
10 today.

11 JUDGE DONALDSON: Thank you to you as well. Let's
12 see if there are any questions for you from OSHA.

13 MR. TREMAIN: Yes. Thank you, Dr. Tsoukalas.
14 Your Honor, this is Ryan Tremain with OSHA, and we do
15 not have additional questions at this time.

16 JUDGE DONALDSON: All right. Any questions from
17 the Office of the Solicitor?

18 MS. LEVIN: Jennifer Levin from the Office of the
19 Solicitor. I do not have any questions for this
20 witness, but thank you very much for your time and
21 testimony today.

22 JUDGE DONALDSON: All right. Just let's make sure

1 there aren't any questions from members of the public.

2 MS. CARLON: There are not, Your Honor.

3 JUDGE DONALDSON: No questions pending. Okay.

4 Well, thank you Dr. Tsoukalas. Thank you very much.

5 And we'll let you be excused at this point.

6 MS. CARLON: The next speaker is Kameron Dawson.

7 Please state your name and affiliation for the record.

8 MS. DAWSON: Good morning. My name is Kameron

9 Dawson, and I'm the Legal Director of the Southern

10 Office for A Better Balance.

11 JUDGE DONALDSON: Good morning to you. You can go

12 ahead with your testimony.

13 MS. DAWSON: Thank you, Your Honor. And I

14 appreciate this panel's opportunity to allow me to

15 speak in strong support of the proposed rule for indoor

16 and outdoor settings. Like I said earlier, I'm the

17 Legal Director of A Better Balance's southern office.

18 A Better Balance is a national legal advocacy

19 organization that uses the power of the law to advance

20 justice for workers so that they can care for their

21 health and their loved one's health without risking

22 their economic security. We do this through a variety

1 of strategies, including policy advocacy, as well as
2 having a free legal helpline for workers who have
3 questions about their rights regarding accommodations
4 in the workplace, as well as paid family leave and paid
5 sick time.

6 And A Better Balance, encourages OSHA to promptly
7 issue a robust, uniform federal rule regarding heat
8 injury and illness prevention that will protect all
9 workers from extreme heat, as we have seen in recent
10 weeks and years, that temperatures across the country,
11 whether you're in the Midwest, the North or the South,
12 have faced devastating temperatures. And this has led
13 to devastating health impacts for workers across the
14 country. And so I testified today to recommend that
15 OSHA continue with the strong comprehensive rule that
16 they have set out.

17 These protections are not, you know, just going to
18 provide flexibility for businesses and protect workers,
19 but it's also going to improve productivity and ensure
20 that workers can return home safely to their workers
21 and continue providing for them financially. This
22 clear, enforceable heat standard will also have a large

1 impact on many pregnant workers and workers who have
2 vulnerable health conditions.

3 As some of my colleagues have stated earlier, we
4 know that some pregnant people who are working may
5 experience high-risk conditions if they are impacted by
6 extreme heat for too long. This can include things
7 like preterm birth, the possibility of miscarriage, as
8 well as hypertension and other long and devastating
9 effects that may impact themselves and their infants.
10 And when it comes to individuals with vulnerable
11 heat -- with vulnerable health conditions, we've also
12 seen the risk of heat stroke and heat-related death be
13 one of the -- the number one factors when it comes to
14 the workplace.

15 Now, I want to say that just last week we saw that
16 15 million people were under extreme heat warnings or
17 advisories across eastern California, Nevada, Arizona
18 and also in Texas. And what we've seen, especially in
19 the South, is that workers who are in low income
20 earning positions, in rural and urban areas alike,
21 really are working in workplaces that do not have heat
22 trainings available to them, let alone access to paid

1 rest breaks. And so this standard that OSHA is
2 currently proposing can help fill a gap for those
3 employees to ensure that they can talk to their
4 employer about their health needs when they need to
5 take a break, and also ensure that they are not risking
6 their health while working and providing for our
7 country.

8 Now, our organization recommends that OSHA include
9 a paid rest breaks, not just at the 90 degree
10 threshold, but also at the initial heat trigger of 80
11 degrees, as we know that in some conditions, especially
12 indoor work like kitchens, retail areas, and
13 manufacturing, 80 degrees can be just as devastating as
14 90 degrees. So that is one recommendation we'd like to
15 make.

16 And then again, I'd also say that it is imperative
17 that in the rule, it includes the importance of worker
18 participation in every stage of making the workplace
19 safe. It can include creative solutions like worker
20 task forces or a worker representative, that also can
21 communicate with employers about some unknown factors
22 that they -- that management may not be aware of. And

1 this kind of input is critical for really building that
2 culture of safety and trust, so workers feel confident
3 and encouraged to report health hazards in the
4 workplace.

5 And lastly, I'll say that we have worked with a
6 number of organizations over the years in trying to
7 train workers on heat illness and stress. But what
8 we've seen is a federal rule is necessary to ensure
9 that workers across the country have this access to
10 this necessary and critical protection. And we
11 advocate for this training to be culturally competent
12 and in languages that are accessible to workers, but
13 also that there is a flexible standard to make sure
14 that gaps in that knowledge can be addressed through
15 the work -- the OSHA rule.

16 And lastly, I'll just say that, you know, OSHA
17 really should ensure that all covered employers,
18 regardless of their size, include a basic heat safety
19 plan to their employees in writing. This is something
20 that is not just going to protect workers, but it's
21 going to ensure productivity for those workplaces. And
22 we thank you again for this time to testify in -- in

1 support of the strong OSHA rule. Thank you.

2 JUDGE DONALDSON: All right. Let's see. Does
3 OSHA have any questions for Ms. Dawson?

4 MR. TREMAIN: This is Ryan Tremain with OSHA. We
5 want to thank Ms. Dawson and A Better Balance for your
6 testimony today, but do not have additional questions.

7 JUDGE DONALDSON: Office of the Solicitor, any
8 questions?

9 MS. LEVIN: Jennifer Levin from the Office of the
10 Solicitor. No questions for me. Thank you very much
11 to the witness for her time and testimony today.

12 JUDGE DONALDSON: Let's see if there are any
13 questions from members of the public?

14 MS. CARLON: There are none, Your Honor.

15 JUDGE DONALDSON: Ms. Dawson, thank you as well
16 for your testimony. Much appreciated.

17 MS. DAWSON: Thank you.

18 MS. CARLON: The next speaker is Grace Wickerson.
19 Please state your name and affiliation for the record.

20 MS. WICKERSON: Hi, everyone. Grace Wickerson,
21 Federation of American Scientists.

22 JUDGE DONALDSON: Welcome and you can go ahead

1 with your testimony.

2 MS. WICKERSON: Great. Thank you all so much for
3 the time to speak with you today. The Federation of
4 American Scientists, we are a recognized thought leader
5 and relationship builder on heat policy, preparedness,
6 and resilience. And through our trusted hub of heat
7 policy efforts, we have a contingent of 350 individuals
8 and a hundred organizations that are tackling heat from
9 different angles.

10 In January of 2025, we rallied a group of
11 organizations to sign on to the 2025 Heat Policy
12 Agenda, which is a strategy for government to prepare,
13 manage, and respond to extreme heat. Our signatories,
14 70 in total, support the promulgation of a strong
15 federal heat standard to protect workers that
16 guarantees paid rest, cold water and shade, as well as
17 acclimatization protocols. We agree with the concerns
18 here raised -- that have been raised by industry, that
19 a patchwork of state rules and laws does layer
20 burdensome and conflicting requirements onto national
21 employers.

22 Similarly, OSHA cannot promulgate a rule that

1 varies from employer to employer to the point that
2 workers will face a patchwork of inconsistent layers of
3 protection. That's why it is critical that we
4 promulgate in this proactive approach and secure a
5 national rule.

6 The conversation here is how do we design the
7 floor that will protect workers from the impacts of
8 high heat and is feasible for employers to implement.
9 From the scientific evidence, rest, cold water, and
10 shade are some of the most effective strategies for
11 preventing heat-related illness on the job.

12 Acclimatization is also a critical practice that
13 ensures that new employees are ready for the conditions
14 of the workplace. And it's critical because 73 percent
15 of heat-related fatalities happen in the first week on
16 the job.

17 OSHA's feasibility standards determine whether an
18 industry can reasonably implement and afford the
19 controls necessary to protect workers from hazards.
20 That is, technological and economic feasibility.
21 Protections from extreme heat are simple technologies
22 that are cost effective -- rest, cold water, and shade.

1 These can be successfully integrated into business
2 workflows with careful planning and in a way that can
3 be cost saving.

4 It is essential that workers have these
5 protections guaranteed when it's hot outside. The
6 frequency of heat-related illness starts increasing
7 significantly at a heat index of 80 degrees Fahrenheit,
8 which is the lower trigger threshold proposed in the
9 standard. The requirements of the lower trigger are
10 simple -- again, rest, water and shade. And there's
11 ample flexibility to tailor a program that works best
12 for the job site. Businesses on this hearing have
13 already acknowledged that these protections are the
14 minimum for protecting workers from extreme heat.

15 A purely performance-based standard, that has been
16 discussed throughout this hearing, and is the one that
17 is currently promulgated in Nevada, is only as good as
18 the commitment of employers to implement it. It would
19 not be effective in reducing deaths and injuries, as we
20 have heard from the experiences of regulators in other
21 states. And as Mr. Schneider noted yesterday, it would
22 not provide the minimum protections legally required in

1 an OSHA standard.

2 And I just want to say we understand that
3 businesses, especially the small and medium enterprises
4 that form the economic backbone of America, are
5 concerned about the cost of compliance with such a
6 rule. However, we emphasize that the discussion
7 shouldn't be about the cost of the rule in a vacuum.
8 It must be about the cost of the rule versus the cost
9 of doing nothing. The Atlantic Council, which is a
10 widely cited study, estimates that every year the US
11 businesses are facing \$100 billion in lost labor
12 productivity due to extreme heat.

13 And more broadly, there are economic impacts that
14 are not being considered that should be integrated as
15 we think about the cost of this rule. Low wage workers
16 are more likely to be insured or -- uninsured or
17 publicly insured. This means that the cost of these
18 workers heat-related illnesses and deaths is a growing
19 burden on the health care system and our public coffers
20 that are paying the costs of the business sector's
21 inaction.

22 The broader insurance sector is also exposed to

1 the risks of a lack of action and is taking note. A
2 major reinsurer, Swiss Re, recently said that extreme
3 heat was one of their emerging threats in 2025, one of
4 the only extreme weather threats they acknowledged on
5 this list.

6 If an effective floor is not established now, we
7 can expect it to be promulgated by the private sector
8 to mitigate the increasing risks to their bottom lines,
9 to the financial detriment of vulnerable businesses
10 that might see their health insurance policies, life
11 insurance policies, workers' compensation policies
12 increase due to this risk. When there is 9 billion a
13 year to be saved by reducing heat-related injuries,
14 illnesses and deaths, that will be saved in some
15 manner. And it would be better to be proactive by
16 establishing this strong rule.

17 In closing, if the challenge is the technical
18 assistance necessary for effective implementation, that
19 can be addressed after rule promulgation, with industry
20 guidance and consultation, targeting the businesses
21 that need it most. That current knowledge gap can be
22 solved and should not stand in the way of implementing

1 commonsense, evidence-based protections. Thank you so
2 much for your time.

3 JUDGE DONALDSON: All right. Thank you. OSHA, do
4 you have any questions?

5 MR. TREMAIN: This is Ryan from OSHA. And yes,
6 OSHA does. For that question, I'd like to turn it over
7 to Tiffany DeFoe.

8 MS. DEFOE: Hi, this is Tiffany DeFoe with the
9 Directorate of Standards and Guidance, OSHA. So in the
10 written comments that you submitted, you had a
11 statement that the rule can and should incorporate
12 thoughtful provisions to minimize the cost of
13 compliance while still ensuring strong protections for
14 workers. For instance, OSHA should develop clear
15 guidelines and compliance tools to help employers
16 adhere to new standards and ensure widespread adoption.
17 And in that text, you hyperlinked to a paper entitled
18 "Exploring the state of health and safety management
19 system performance measurement in mining
20 organizations", published in Safety Science in 2016.

21 And I'm just -- I'd just like to ask whether, now
22 or in post-hearing comments or both, I wonder if you

1 could provide some further discussion about what
2 aspects of that paper you wanted to draw our attention
3 to if the agency moves forward to finalize a heat rule?
4 And furthermore, if there is further literature on
5 health and safety management systems and the assessment
6 of their performance that you'd like for us to be aware
7 of?

8 MS. WICKERSON: That's a great question. I would
9 be happy to do a deeper dive in the post-hearing
10 comments to fully address and answer that question that
11 you have. I think our -- our focus here is on -- you
12 know, once this rule is promulgated in the strong
13 manner that we are recommending, that we can design a
14 full suite of tools and systems to make it as easy as
15 possible for businesses to comply and adhere. So I
16 would be happy to -- to do a review of that literature
17 and broader literature that we've collected from our
18 experts and give you a full -- full debrief in a -- in
19 a comment there.

20 MS. DEFOE: Look forward to it. Thank you.
21 That's all I have.

22 JUDGE DONALDSON: All right. Any other questions

1 from a member of the OSHA panel?

2 MR. TREMAIN: No, Your Honor. This is Ryan with
3 OSHA Standards and Guidance and that concludes OSHA's
4 questions.

5 JUDGE DONALDSON: All right. Office of the
6 Solicitor. Do you have any questions?

7 MS. LEVIN: Jennifer Levin from the Office of the
8 Solicitor. No questions for the witness. Thank you
9 very much for your participation today.

10 JUDGE DONALDSON: Let's make sure. Were there any
11 members of the public have a question for Ms.
12 Wickerson?

13 MS. CARLON: There are not, Your Honor.

14 JUDGE DONALDSON: Okay. Ms. Wickerson, thank you
15 very much for your testimony.

16 MS. CARLON: The next speaker is Gloria E.
17 Barrera. Unfortunately, we do not see your name in the
18 attendee list. So if you've joined under a different
19 name, please use the raise hand button to indicate your
20 presence and if you have called in, please use star
21 three to raise your hand.

22 Our next speaker is Carol Lindsey. Please state

1 your name and affiliation for the record.

2 MS. LINDSEY: Yes, good morning. I'm having
3 trouble getting the camera on, so I'll just speak. My
4 name is Carol Lindsey. I'm a family nurse
5 practitioner; I live in Florida. And I'm also a member
6 and ambassador affiliated with the Florida Clinicians
7 for Climate Action. I will be representing today --
8 them today -- talking for them. The Florida Clinicians
9 for Climate Action is an organization involved in many
10 activities, including educating health care workers,
11 patients, and the community on heat illness and its
12 prevention and treatment.

13 First, Florida Clinicians for Climate Action wants
14 to thank you all for this opportunity to speak today
15 about the proposed rule on heat injury and illness
16 prevention in outdoor and indoor work settings. We
17 recommend that this be implemented as a rule and not
18 just a guideline or an unenforced regulation. My
19 testimony will be focusing on workers in an outdoor
20 setting, and will illustrate why this proposed rule
21 regarding heat injury and illness prevention needs to
22 be a federal rule and not voluntary.

1 On January 1st, 2023, a 28-year-old worker from
2 Mexico with a work visa started his new job at C.W.
3 Hendricks Farm in Parkland, Florida. The newly arrived
4 worker was placing wooden stakes in the ground to
5 support bell pepper plants. Struggling to keep pace
6 with more experienced farmworkers, he complained of
7 fatigue and leg pain as the area's heat index neared 90
8 degrees. Sometime later, coworkers found him
9 unresponsive in a shallow drainage ditch. The worker
10 eventually died. The Labor Department said, in a news
11 release, and I quote, "like several coworkers, he
12 experienced symptoms related to heat illness".

13 Also, according to an investigation by the
14 Department of Labor's Occupational Safety and Health
15 Administration, they concluded that the death was
16 preventable. So this 28 year old's death was
17 preventable. He died on his first day of work. Maybe
18 if he'd had the opportunity to acclimate to the heat,
19 like working a few hours a day for the first few days,
20 resting, and then gradually working up to a full
21 workday in the heat, or acclimating, he might still be
22 alive.

1 Another example. Around midday on July 6th, 29
2 year old Efrain Lopez Garcia told his coworkers that he
3 didn't feel well. The workers weren't sure what to do.
4 Their bosses, they said, had never trained them on how
5 to recognize the signs of heat stroke or administer
6 first aid in an emergency. So they did what they could
7 do, and the coworkers moved him to a shady spot in the
8 grove where they had been picking fruit and sat him
9 down. They said they gave him water and they left him
10 there to rest, but it was too late. When his coworkers
11 came back to check on him, he wasn't even there.

12 Apparently, he had stood up, disoriented, and
13 wandered off. His coworkers found him a few minutes
14 later, several yards away, lying on his stomach, dead.
15 Efrain Lopez Garcia apparently had survived, before
16 this, eight sweltering summers as a farmworker in
17 Homestead, Florida. But on July 6th, 2023 -- at that
18 point, it was a hottest day on Earth since 1979 --
19 Lopez Garcia died on the job and was the second
20 farmworker known to die in South Florida in 2023.

21 Efrain had experienced fatigue and leg pain
22 cramps, both symptoms of heat illness and a change in

1 mental status, disorientation, a symptom of heat
2 stroke, the most serious of all the heat illnesses. He
3 was working outdoors on the hottest day of the year, at
4 that time, where the summer temperatures in Florida
5 were very high and so was the humidity, making the heat
6 index, or feels like temperature, hotter than the
7 actual temperature.

8 His coworkers perform some of the correct first
9 aid by taking him to a shady spot and giving him water,
10 since he was still conscious and he could drink. But
11 they also could have cooled him off with water and ice
12 and called 911, since a heat stroke can cause death or
13 permanent disability without proper treatment.

14 Additionally, his coworker and supervisor had --
15 if they had known and recognized that he was probably
16 experienced some of these signs of heat illness, he may
17 still be alive. His supervisors and coworkers could
18 have received mandated education on how to prevent heat
19 illness, recognize the signs and symptoms, and
20 administer first aid. And this 29 year old man might
21 still be alive today. Because heat illness is
22 preventable, but it requires heat illness education.

1 Heat and dehydration can also worsen chronic
2 diseases like others have mentioned, like heart
3 disease, hypertension, kidney disease, and diabetes.
4 It can cause the onset of new medical conditions like a
5 heart attack, and exacerbate underlying chronic
6 diseases like those I've mentioned. In addition, there
7 are some vulnerable populations, as other people have
8 mentioned also, such as elderly workers and pregnant
9 women that are working outdoors in the extreme heat.
10 Studies have shown that pregnant women working in
11 extreme heat can have preterm labor and low birth
12 weight babies, among other issues.

13 Extreme heat can not only affect someone's health,
14 but it may result in decreased productivity,
15 absenteeism, and reduced economic income for employers
16 and the communities. According to one report, quote,
17 "heat induced declines in labor productivity account
18 for a hundred billion annually in the United States on
19 average, and without action, productivity losses could
20 reach 200 billion by 2030 and 500 billion by 2050".

21 And it doesn't look like this extreme heat is
22 going away. According to a recent report by the World

1 Meteorological Organization, global climate prediction
2 show temperatures are expected to continue at or near
3 record levels in the next five years. Plus, as someone
4 also mentioned earlier heat is the leading weather-
5 related killer in the United States. So this is the
6 time for us to act. Heat illness is preventable.

7 As mentioned earlier, also by other speakers,
8 other states like California, Colorado, Minnesota, and
9 Nevada have established heat specific labor standards
10 to protect their workers and their states. I'm from
11 Florida, and as mentioned, our state does not have
12 protective heat standards or regulations. But as we
13 know, there is currently no federal standard specifying
14 the protections that employers must provide under
15 conditions of extreme heat.

16 OSHA can help save lives, the lives of outdoor
17 workers and indoor workers exposed to heat also --
18 extreme heat -- by providing a specific mandatory
19 federal standard like that one that is proposed to
20 prevent illnesses for outdoor workers. These
21 protections have to be mandatory. There already are
22 some employers that are providing these protections and

1 some states, as previously said, but a lot of them
2 aren't.

3 So if it was mandatory, this would cause them to
4 protect these extreme -- the workers from this extreme
5 heat. So thank you, Your Honor. And thank you to the
6 participants for giving me the opportunity to speak on
7 behalf of the Florida Clinicians for Climate action.

8 JUDGE DONALDSON: Thank you as well. OSHA, do you
9 have any questions for this testifier?

10 MR. TREMAIN: This is Ryan with OSHA. Thank you
11 very much, Ms. Lindsey. Your Honor, we do not have
12 additional questions at this time.

13 JUDGE DONALDSON: Anything from the Office of the
14 Solicitor.

15 MS. LEVIN: Jennifer Levin from the Office of the
16 Solicitor. I do not have any questions for Ms.
17 Lindsey. Thank you very much for your time and
18 testimony today.

19 JUDGE DONALDSON: All right. Let's check and see
20 if there are any other questions from another
21 participant.

22 MS. CARLON: There are none, Your Honor.

1 JUDGE DONALDSON: All right. That that would
2 conclude your testimony, Ms. Lindsey. Thank you very
3 much.

4 MS. LINDSEY: Thank you.

5 MS. CARLON: Next speaker is Michael Luther.
6 Please state, your name and affiliation for the record.

7 MR. LUTHER: Hi. Yes, I'm Michael Luther, and I
8 am CEO and co-founder of MX3 Diagnostics based here in
9 Austin, Texas.

10 JUDGE DONALDSON: Thank you for joining us. You
11 can go ahead with your testimony.

12 MR. LUTHER: Thank you, Your Honor. We do support
13 a federal heat standard and appreciate OSHA's efforts
14 to this end. And I really appreciate the opportunity
15 to -- to speak today.

16 As you can see from this cover slide, I wanted
17 to -- to discuss a concept that some may be familiar
18 with, some may not. And that's the very simple idea of
19 hydration testing, which is assessing individual
20 dehydration levels proactively, which can make a huge
21 difference in protecting employees on work sites around
22 the world. I think our previous speaker gave some

1 really unfortunate and -- situations that could have
2 been prevented by certain proactive steps. And we
3 believe hydration assessment is one of those steps that
4 could have played an important role in protecting these
5 unfortunate individuals. If you go -- go to the next
6 slide, please.

7 So we're all aware of the impact that dehydration
8 has on accelerating heat-related injuries. OSHA has
9 done a wonderful job in establishing concepts of water,
10 rest, and shade in protecting workers in lots of
11 different environments. We believe that an additional
12 concept to be explored is the idea of assessing
13 hydration, especially when we look at individuals that
14 are unacclimatized, like some of the individuals we
15 just discussed. And then any employee working above
16 the -- the heat trigger is especially vulnerable and is
17 a good candidate for -- for proactive assessment. If
18 you can move to the next slide.

19 Unfortunately, access to fluids doesn't ensure
20 worker hydration. We can't make people take certain
21 action. We can give them the opportunity, but that
22 doesn't mean that everybody's going to be proactive to

1 protect themselves. Sometimes it's a lack of
2 understanding and sometimes it's just a lack of
3 willingness. But we do know that roughly half of
4 industrial workers start their shifts dehydrated.
5 And -- and -- and as work begins and sweat losses
6 occur, it's very difficult to keep up with the losses
7 of sweat just from drinking on a consistent basis.

8 Dehydration and rehydration also differs for every
9 individual. Some people can maintain hydration levels
10 longer than others. We know that about a third of the
11 general population is chronically dehydrated. So these
12 kinds of things coming together really creates the risk
13 that we see in these work sites. If you can move to
14 the next slide.

15 So I wanted to just discuss today this -- the
16 impact that direct hydration can have on individuals.
17 And probably the next slide and we can leave it here.
18 This will be the last slide I need to show you all
19 today, which is the idea that at the beginning of a
20 shift or after a rest break, we look at a job site and
21 we see our workforce on the left.

22 And this means basically - this is how we see

1 workers today, and this is how we see people working
2 amongst us and ourselves on job sites. With proper
3 hydration assessment, we actually see people in a very
4 different way. And if - on the right, the way my
5 company color codes our results is you know, green,
6 yellow, orange and red, that's increasing levels of
7 dehydration.

8 And the only way to know how a work cohort is
9 currently -- their dehydration or hydration status
10 is -- it's very difficult to tell just from looking at
11 somebody from the outside, what's really going on
12 inside the body. And -- and so the limitations of
13 water, rest, shade is after a -- after a rest break,
14 you have people -- the time is up; it's time to get
15 back to work. But this group on the right, you can see
16 how some people are ready to get back to work and some
17 people are not. And being able to flag those
18 individuals that are most at-risk and take proactive
19 action, sit them down, make sure that they've taken
20 appropriate time to either rehydrate or rest --
21 extended time and rest, or even stop their day of work
22 can prevent those issues from accelerating on an

1 individual level at the work site.

2 And our company today is one of a handful of
3 companies really pioneering in this space, which is why
4 some of you may not be familiar with the concept of
5 proactive hydration testing, but it's being used around
6 the world -- not just us, but other companies. MX3 has
7 over 500 large enterprises using this this solution
8 around the world. We've run over seven million tests
9 so far. We have saved lives and we have significantly
10 reduced on-site workforce injuries and heat-related
11 issues over the last three years since we introduced
12 the product.

13 And this is just a really important element that
14 we think that the OSHA committee should be aware of,
15 and we're happy to support in any way we can -- better
16 education, understanding of these types of solutions
17 and how they can -- how they can impact positively the
18 workforce under these heat-related issues.

19 JUDGE DONALDSON: All right. Thank you. If that
20 concludes your statements you intended to give with the
21 slideshow presentation as well, let's turn to OSHA to
22 see if there are any questions for you.

1 MR. LUTHER: Great.

2 MR. TREMAIN: This is Ryan from OSHA. OSHA does
3 not have any further questions at this time, Your
4 Honor.

5 JUDGE DONALDSON: Okay. Any questions from the
6 Solicitor's Office?

7 MS. LEVIN: Your Honor, this is Jennifer Levin
8 from the Office of the Solicitor. I do not have
9 questions for the witness. However, I do request that
10 Your Honor, enter into the record the - the slides
11 presented by MX3 Diagnostics, Inc., Mr. Luther, and
12 I've marked them as Exhibit 15.

13 JUDGE DONALDSON: All right. Exhibit 15 is being
14 proffered, and that's submitted into the record of this
15 session.

16 MS. LEVIN: Thank you, Your Honor.

17 JUDGE DONALDSON: Thank you. All right. Let's
18 see if there are questions from others present today
19 for Mr. Luther?

20 MS. CARLON: There are none.

21 JUDGE DONALDSON: All right. All right. Thank
22 you, Mr. Luther, for your presentation.

1 MR. LUTHER: Thank you, Your Honor. Thank you
2 very much, committee.

3 JUDGE DONALDSON: All right. I'm checking with
4 our contractor to see if there's anyone that's been
5 added to this morning's agenda?

6 MS. CARLON: At this time, there is no one else
7 that has been added. I will recall one absent attendee
8 and see if they have joined. I'm going to call Gloria
9 E. Barrera. If you've joined under a different name,
10 please use the raise hand button to indicate your
11 presence. And if you have called in, please use star
12 three to raise your hand. And Your Honor, at this
13 time, it looks like she is still absent.

14 JUDGE DONALDSON: All right. So having -- with
15 everyone's preparation and efficient use of the time
16 this morning, it looks like we're at the end of the
17 schedule for the morning session, so we will adjourn.
18 Unless there's any order of business from OSHA or the
19 Solicitor's Office to handle before we adjourn till the
20 afternoon?

21 MS. LEVIN: I have nothing. Fine.

22 MR. TREMAIN: Us here too.

1 JUDGE DONALDSON: Okay. Does the contractor have
2 any guidelines or suggestions for those willing to --
3 or wanting to rejoin for the remainder of the sessions
4 this afternoon? I -- I don't hear anything. So we
5 will go ahead and adjourn. And I understand the
6 afternoon session will begin at 1:00 p.m. Eastern Time.
7 And if anyone's rejoining, they -- it's my
8 understanding they will use the same link provided for
9 the session that we've already used today.

10 MS. CARLON: That is correct, Your Honor.

11 JUDGE DONALDSON: All right. Well, that concludes
12 the morning. We'll go off the record.

13 (Lunch break.)

14 MS. CARLON: This is Mariam Carlon from ABT
15 Global, OSHA's contractor. It is 1 o'clock Eastern
16 Time, and we are now rejoining OSHA's informal
17 rulemaking hearing for Heat Injury and Illness
18 Prevention in Outdoor and Indoor Work Settings. Before
19 we begin, we'd like to go over some logistics for
20 today's public hearing.

21 As a reminder, all attendees are muted
22 automatically. All Webex attendees can access closed

1 captioning and translated captioning by clicking on the
2 CC icon in the lower left-hand corner of the
3 application. You can individually select your caption
4 language if translation is required. I will now share
5 the same slide in Spanish. All YouTube viewers will
6 have access to auto translation the day after the
7 hearing.

8 All Webex attendees delivering testimony will have
9 access to a countdown timer to ensure allotted time is
10 adhered to. We will launch the timer for you, and it
11 should be seen on the right-hand side of your screen.
12 If you do not see this app launched in your Webex
13 window, please follow the instructions on the screen to
14 manually launch this app.

15 If you are speaking today, you will receive a
16 notification on your screen that you are being promoted
17 to the panelist group a few minutes before it is your
18 time to provide testimony. Once promoted to the
19 panelist role, you will be able to unmute and turn on
20 your camera. We ask that you do not unmute or turn on
21 your camera until your name has been called, and you
22 have been asked to start your testimony. Speakers

1 connected by telephone should unmute their phones when
2 called to testify.

3 Dependent on timing, there may be opportunities to
4 ask questions of any other given speakers -- speakers
5 giving testimony. You may press the raise hand button
6 at the bottom of the Webex application to indicate that
7 you have a question. If there is time, you will be
8 called on by name and promoted to the panelist group to
9 unmute and ask your question.

10 If you are having any technical difficulties,
11 please send an email with your name and phone number to
12 public_hearing@abtassoc.com. Now we will continue with
13 our public testimony.

14 The expected speaking order is currently displayed
15 on screen. I will be introducing each speaker in turn.
16 Please speak slowly and clearly so our court reporter
17 can record these proceedings accurately. The first
18 speaking group will be Michigan Clinicians for Climate
19 Action, represented by Steven Ashmead, Elizabeth Del
20 Buono, and Larry Junck. Please state your name and
21 affiliation for the record as you all move throughout
22 your testimony.

1 DR. DEL BUONO: Hello. Can you guys hear me okay?

2 JUDGE DONALDSON: We can, yes.

3 DR. DEL BUONO: Okay. Great. And Dr. Junck, are
4 you going to go first or shall I? I'll go ahead. Hi.
5 Thank you for giving me time to testify today. My name
6 is Dr. Elizabeth Del Buono, and I'm a retired physician
7 who trained and practiced pathology for over 30 years
8 in Michigan. I'm also the founder and board chair of
9 Michigan Clinicians for Climate Action, or MiCCA, which
10 is a coalition of approximately 400 health
11 professionals from across the state of Michigan that
12 educates and advocates for climate solutions that are
13 also health solutions. Dr. Steve --

14 DR. JUNCK: Do you mind if I -- I'm now unmuted.
15 Would you mind if I proceed?

16 DR. DEL BUONO: No, I don't mind at all. Go
17 ahead.

18 DR. JUNCK: Thank you. So I am Dr. Larry Junck.
19 I'm a neurology physician who is mostly retired after a
20 long career of patient care, teaching and research.
21 I'm speaking in favor of strong rules to protect our
22 workers. Like Lisa, I'm with MiCCA, Michigan

1 Clinicians for Climate Action, a nonprofit whose
2 members share concerns about the effects of present and
3 future effects of climate change on human health. I
4 will be followed by Lisa and by Dr. Steven Ashmead,
5 also from MiCCA.

6 I'm sure everyone listening today knows that
7 climate change is causing our temperatures to rise with
8 no end in sight. 2023 was a year without precedent for
9 global heating, setting a new high temperature record
10 in each of its 12 months, the hottest January on
11 record, the hottest February on record, and so on. It
12 was the total hottest year on record by about a third
13 of a degree Centigrade, reaching 1.5 to 1.6 degrees
14 Celsius -- that's 2.7 to 2.9 degrees F above our
15 historical norms. Some people thought the heat of 2023
16 was a fluke, but lo and behold, 2024 was even hotter.

17 To put this in perspective, the 2015 Paris Climate
18 Agreement, to which the US was a party, established the
19 goal of limiting the global temperature increase to
20 well below 2 degrees Celsius, while pursuing efforts to
21 limit the increase to 1.5 degrees. Unfortunately, the
22 world continues to heat up. We've surpassed the 1.5

1 degree target, and we are now on track to meet the
2 limit of 2.0 degrees.

3 To say that our world is steadily heating is an
4 understatement, because the heating actually appears to
5 be accelerating. Unfortunately, this means that the
6 susceptibility of our good American workers to heat is
7 worsening over time.

8 Let me briefly consider some of the body's
9 physiologic responses to prolonged direct heat. One is
10 increased sweating. This is a good thing because the
11 evaporation of sweat helps to provide a cooling effect,
12 but it can lead to problems. The most obvious is
13 dehydration. It's imperative that people working in
14 hot conditions take extra fluids. Another is low
15 sodium in the blood, which can in turn lead to seizures
16 and mental confusion. This is a problem well known
17 among marathon runners and other athletes, partially
18 preventable by taking salt tablets.

19 Activation of the body's sympathetic nervous
20 system occurs during extreme heat with rapid heart
21 rate -- heartbeat as one of its best known indicators.
22 Rarely, this can lead to abnormal heart rhythms.

1 Prolonged application -- prolonged activation of the
2 sympathetic nervous system can lead to inflammation
3 throughout the body, which in turn can increase plaques
4 of atherosclerosis -- hardening of the arteries. And
5 rupture of these plaques can be the cause of heart
6 attacks and strokes.

7 Prolonged sympathetic activation also leads to
8 suppression of the immune system, leaving the body more
9 susceptible to abnormal infections. Some of these
10 problems could occur in amateur or professional
11 athletes when they practice or compete in hot weather,
12 but athletes have several advantages. They tend to be
13 young and fit, whereas workers are of a wide range of
14 ages. Also, athletes work out for, at most, a few
15 hours with breaks, while workers are typically on duty
16 for a full workday.

17 The more common health situations caused by
18 prolonged heat are heat exhaustion and heat stroke.
19 These can be prevented by limiting exposure to
20 prolonged heat, by taking breaks, and hydrating well.

21 As a neurologist, I'm especially aware of other
22 problems involving the nervous system associated with

1 high heat. One is stroke. There is strong evidence
2 that high heat exposure increases, temporarily, the
3 risk of stroke. Another is worsening of multiple
4 sclerosis, a fairly common neurological problem.

5 My specific recommendation is to enact reasonable
6 but stronger rules to ensure the health and safety of
7 our workers. Doing so is not only in the interest of
8 our workers, but also in the interest of their
9 employers, so that our workers can stay healthy and on
10 the job. And in the interest of our economy, so that
11 Americans are adequately fed and have the products and
12 services we know and enjoy. It's also in the interest
13 of our health systems, so that they do not become
14 overly burdened by the preventable problems caused by
15 heat complications in our workers. Thank you. And
16 back to you, Lisa.

17 DR. DEL BUONO: Terrific. Thank you so much,
18 Larry, for doing that. And I won't go back through my
19 introduction, but simply say, as has been stated --
20 just a second, I'm going to move the timer.

21 As has been stated in these hearings many times
22 now, heat-related illness is a leading cause of

1 weather-related deaths in the U.S. As conditions warm
2 and become more humid, deaths from heat will only
3 increase. Most of the deaths can be prevented, and as
4 such, we applaud OSHA's new heat injury and prevention
5 standards and have only a few suggestions for how they
6 can be strengthened.

7 Since education is a critical first step, we feel
8 that requiring all employers to enact heat illness and
9 injury prevention plans is essential. We think it
10 should be required that these plans be in writing and
11 translated to languages spoken by employees in a given
12 business. We encourage OSHA to provide assistance to
13 small businesses that may lack the capacity to draft
14 their own.

15 Now, as a retired pathologist who spent more than
16 three decades diagnosing disease, I'm going to review
17 some of the pathophysiology that Larry has already hit
18 on. Heat and humidity combined to make conditions
19 unsafe, and heat stress is a medical emergency which
20 can rapidly progress to lethal heat stroke unless
21 workers' bodies are rapidly cooled and adequately
22 hydrated. As body temperatures rise, sweating ensues.

1 Cooling occurs through a process of evaporating sweat,
2 as Larry mentioned, from the surface of the skin, but
3 under human condition -- humid conditions, which is
4 only becoming more prevalent as the climate warms, that
5 interferes with evaporation of sweat and makes it more
6 difficult for the body to cool.

7 In addition, when the core temperature rises,
8 blood vessels throughout the body dilate to bring blood
9 to the surface of the skin to aid in cooling. This
10 requires a large volume of blood to perform the same
11 function, and so adequate hydration is necessary to
12 maintain that blood volume and to ensure adequate
13 perfusion of vital organs. It's not surprising that
14 people with preexisting conditions like cardiovascular
15 disease, renal impairment from diabetes, and pregnant
16 women are at increased risk of acute and sudden
17 unexpected death in extreme conditions. But to be
18 clear, occupational heat-related illness is not only
19 acute - an acute phenomenon, but it can lead to an
20 acute on chronic situation, which results in impacts to
21 heart and kidneys over time. Research indicates a link
22 between occupational heat exposure and the development

1 of chronic kidney injury and cardiovascular disease as
2 well.

3 In addition, some medications become less
4 effective in warm temperatures, while other medications
5 can interfere with their protective mechanisms that the
6 body uses to regulate temperature. So under the new
7 OSHA proposed standards, the employers are required to
8 monitor for signs and symptoms of heat-related illness
9 only when the heat index reaches greater than or equal
10 to 90. Expert health professionals feel that threshold
11 is too high, and we strongly encourage monitoring for
12 signs and symptoms of heat illness at a lower
13 threshold -- a heat index of greater than or equal to
14 80. We encourage supervisor observation and/or buddy
15 system starting at 80 degrees, especially for new and
16 returning workers that may have not been acclimated to
17 heat.

18 So again, we're grateful to OSHA for proposing
19 these new standards. We encourage that you finalize
20 and implement them as soon as possible. We would
21 encourage that the triggers start at 80 degrees rather
22 than 90 degrees. And thank you for this time. I'll

1 pass it over to Steve.

2 JUDGE DONALDSON: Before you pass it to the next
3 speaker. Just repeat your name one more time for the
4 record, please.

5 DR. DEL BUONO: Sure. It's Dr. Elizabeth Del
6 Buono.

7 JUDGE DONALDSON: Okay. Thank you. Now we can
8 proceed to your next witness.

9 DR. ASHMEAD: Hi. My name is Dr. Steven Ashmead.
10 I am a family physician who has practiced family
11 medicine in west Michigan and am also a medical
12 educator for the past 30 years. As a result of this
13 experience, I have a broad understanding of the issues
14 we are discussing today. Occupational exposures, on
15 the job injuries, and most importantly, my expertise in
16 preventive medicine are central to this discussion.

17 After attending medical school in the hot, humid
18 environment of Houston, Texas, I initially assumed that
19 the temperate climate of the Upper Midwest -- that
20 heat-related illnesses would not be an issue. My
21 initial preconception was wrong. Since my arrival in
22 1980, the climate has changed. GLISA, the Great Lakes

1 Integrated Science and Assessment Center at the
2 University of Michigan, shows that since 1951, annual
3 average temperatures have increased by 2.9 degrees
4 Fahrenheit. Projections from GLISA shows that future
5 temperatures will continue to rise by 6 to 11 degrees
6 Fahrenheit throughout the region by 2100.

7 Using their extended heat index, which factors in
8 extreme heat and humidity, Lu and Romps in their 2022
9 article documented that most -- the most physiological
10 stressful heat waves in the contiguous United States
11 occur most often in the Midwest. Previously -- this
12 has been historically noted in the Great -- Great Lakes
13 areas in 1995 and 2011, with significant number of
14 deaths noticed.

15 As Dr. Junck and Dr. Del Buono and other speakers
16 have documented, exposure to extreme heat rapidly
17 results in significant pathological, physiological
18 changes on the body, including cognitive changes that
19 could potentially make it difficult for the workers to
20 recognize their deteriorating status. It is estimated
21 that the body takes up to two weeks to adapt to hotter
22 temperatures. The unpredictable - unpredictability and

1 intermittent nature of Midwestern heatwaves could make
2 it difficult for workers to adapt to these heatwaves,
3 especially workers who begin - begin their employment
4 during the heat wave.

5 OSHA heat mortality data since 2011 describes that
6 73 percent of fatalities were in workers that were
7 within three days of starting a new job. 71 percent of
8 total worker deaths occurred on the day that they had
9 their initial symptoms. Additionally, it is estimated
10 that 20 to 30 percent of Michigan households do not
11 have air-conditioning. This would make it difficult
12 to -- for workers to recover after work exposure to
13 excess heat.

14 Just as we in the Midwest and much of the United
15 States has experienced in the last week, heat waves
16 will only become more unpredictable, earlier in the
17 year, and more extreme with global warming. The rapid
18 cognitive decline that can occur with exposure makes it
19 critical that appropriate supervision is provided to
20 stop the heat deaths that are already occurring and
21 will only increase with increasing frequency of
22 dangerous heat waves.

1 It is critical that we change the workplace
2 environment to protect workers from excess heat due to
3 the rapidly changing climate. Appropriate
4 interventions are providing supervision, shade,
5 hydration, and rest, as indicated, have been proven to
6 prevent excess morbidity and mortality. Thank you very
7 much.

8 JUDGE DONALDSON: Thank you all. Do we have any
9 questions from OSHA to any of the three testifiers?

10 MS. WANGDAHL: Thank you, Your Honor. This is Amy
11 Wangdahl, OSHA's Directorate of Standards and Guidance.
12 I would like to thank Dr. Junck, Dr. Del Buono and Dr.
13 Ashmead for their participation today and testimony on
14 behalf of MiCCA. We do not have any questions for the
15 panel today. Thank you.

16 DR. DEL BUONO: Thank you.

17 MR. JUNCK: Thank you.

18 JUDGE DONALDSON: How about the Solicitor's
19 Office? Is there anyone present who has questions from
20 that office?

21 MS. WILES: Thank you, Your Honor. Linda Wiles
22 from the Solicitor's Office. I don't have any

1 questions, but I would like to thank the participants
2 for participating in OSHA's hearing today.

3 JUDGE DONALDSON: Is there anyone present, a
4 member of the public who's in this hearing, who has a
5 question for the individuals from Michigan Clinicians?

6 MS. CARLON: There are none, Your Honor.

7 JUDGE DONALDSON: Okay. Well, then I'll thank
8 them at this time. Thank you very much for your
9 participation. And we'll move on to the next
10 testifiers.

11 MS. CARLON: The next speaker is Khadijah Ameen.
12 Please state your name and affiliation for the record.

13 DR. AMEEN: Hi there, I'm Khadijah Ameen, speaking
14 on behalf of BLKHLTH.

15 JUDGE DONALDSON: Thank you and welcome. And you
16 can go right ahead with your comments.

17 DR. AMEEN: Great. Hi. My name is Dr. Khadijah
18 Ameen and I am a public health practitioner, health
19 disparities researcher and worker justice advocate
20 based in Atlanta, Georgia. I am also Director of
21 Policy and Research at BLKHLTH, a Georgia based
22 nonprofit focused on improving the community health

1 conditions in which diverse black populations live,
2 work, and age. I feel honored to speak on record about
3 why a federal standard for heat injury and illness
4 prevention in outdoor and indoor work settings is vital
5 for the communities I'm a member of and work with and
6 for.

7 There are various factors -- structural,
8 geographic, physiological -- leading to disparities in
9 heat-related injury and illness experienced by black
10 workers and other workers of color in our country.
11 Research shows that communities of color that live in
12 historically zoned areas are more likely to have higher
13 rates of asthma and various chronic conditions like
14 cardiovascular disease. Workers with one or more
15 chronic illnesses are at increased risk of detrimental
16 health outcomes associated with extreme heat.

17 Pregnant workers are also vulnerable to heat-
18 related injury and illness in the workplace, and lack
19 of workplace heat protections in particular -- is
20 particularly concerning for this population, given the
21 United States' maternal mortality crisis, a crisis that
22 disproportionately impacts black and indigenous women.

1 Women and black, indigenous, and people of color
2 communities, or BIPOC communities are also more likely
3 to be essential workers. Essential workers like
4 roofers, construction crews, agricultural workers, and
5 delivery and transit drivers bear the direct health and
6 safety consequences of extreme heat. Workers who
7 perform these vital job functions in our country are
8 often required to be in close proximity to extreme
9 weather conditions and hazards.

10 Geographically, more black workers live in the
11 southeast region of the United States than any other
12 region in the country. The southern United States has
13 experienced some of the greatest increases in the
14 number of heat wave days in the United States, which
15 has racial equity implications due to the number of
16 workers of color in these states.

17 Every summer is becoming more dangerous for
18 southern workers as average temperatures increase and
19 extreme heat events become more frequent, intense, and
20 lengthy. Millions of workers across the southeast,
21 many of who are workers of color, are exposed to
22 serious health hazards from rising temperatures. In my

1 own state of Georgia, over 1.7 million Georgia workers
2 work in high risk industries for heat-related harms.
3 Unfortunately, Georgia, like the rest of the entirety
4 of the southeast, does not have occupational heat
5 safety standards.

6 As extreme heat continues to worsen in my state
7 and across the country, strategies to mitigate exposure
8 and reduce health risks are increasingly important,
9 particularly for workers of color and other
10 disadvantaged populations, most at risk for heat
11 exposure and heat-related illness. The OSHA proposed
12 federal standard is vital for the well-being of workers
13 in states like mine that lack state-level heat
14 protections. Thank you for your time and
15 consideration.

16 JUDGE DONALDSON: All right. Thank you. Are
17 there any questions for Ms. Ameen?

18 MS. WANGDAHL: Thank you, Your Honor. This is Amy
19 Wangdahl with OSHA's Directorate of Standards and
20 Guidance. We do not have any questions today, but we
21 want to thank Dr. Ameen for her participation and
22 testimony on behalf of BLKHLTH today. Thank you.

1 JUDGE DONALDSON: And that means no questions from
2 the Office of the Solicitor as well?

3 MS. WILES: That's correct, Your Honor. Linda
4 Wiles for the Solicitor's Office. Thank you for your
5 participation today.

6 JUDGE DONALDSON: Let me inquire here to members
7 of the public, any -- if there are any questions for
8 Dr. Ameen?

9 MS. CARLON: There are none, Your Honor.

10 JUDGE DONALDSON: Thank you very much, Dr. Ameen.

11 MS. CARLON: Our next speaker is Shelley Mann-Lev.
12 Please state your name and affiliation for the record.

13 MS. MANN-LEV: Shelley Mann-Lev affiliated with
14 Healthy Climate New Mexico.

15 JUDGE DONALDSON: Apologize. Go right ahead. Is
16 it Ms. or Dr. Mann-Lev?

17 MS. MANN-LEV: It's Ms. Mann-Lev. Thank you.

18 JUDGE DONALDSON: Okay. You can proceed. Thank
19 you.

20 MS. MANN-LEV: Thank you so much. My name is
21 Shelley Mann-Lev, and I'm Executive Director of Healthy
22 Climate New Mexico, an organization of 300 healthcare

1 and public health professionals committed to advocating
2 for climate solutions to protect health and promote
3 equity. As a public health leader who's dealt with
4 many preventable public health problems, the gravest
5 one facing today -- that we're facing today is climate
6 change.

7 Preventable public health problems require
8 systemic, equitable solutions to protect all people. A
9 strong federal occupational heat standard is such a
10 solution. The science-based interventions outlined in
11 the proposed standard will help workers and families
12 avoid the terrible tragedies that can occur when
13 exposure to dangerous levels of heat cause injuries,
14 illness, and death.

15 New Mexico, where I live and work, is getting
16 hotter. In fact, we're one of the fastest growing
17 heat-affected states in the nation, and heat-related
18 illnesses and injuries are increasing in a wide range
19 of businesses and industries, both indoor and outdoor.
20 Here are a few of the 232 complaints of heat-related
21 workplace incidences reported by our state OSHA in
22 recent years.

1 Workers in a convenience store went without air-
2 conditioning for a month, including temperatures of 98
3 degrees, leaving them dizzy, nauseous and lightheaded.
4 Municipal waste workers working without personal
5 protective equipment or water were threatened with
6 retaliation if they reported issues to human resources.
7 Agricultural workers complained of being exposed to sun
8 and heat while doing their work. High school workers
9 of all kinds -- teachers, janitors, yard workers,
10 secretaries -- working in extreme heat conditions
11 without access to drinking water. Construction workers
12 using excavating machines and other heavy equipment
13 with broken air-conditioners, while management failed
14 to order parts to replace them.

15 No one should have to risk their health or their
16 life to earn a paycheck. Our federal OSHA has a
17 responsibility, and this rule would fulfill that
18 responsibility to protect the workers, those people who
19 do essential work, and all people from preventable
20 harms.

21 As New Mexico and the rest of the United States
22 gets hotter, the danger to our workers is accelerating.

1 Construction sites, chili fields, commercial kitchens,
2 classrooms -- workers across New Mexico are being
3 pushed beyond their physical limits, and we see the
4 consequences. It is estimated that in New Mexico state
5 of 2 million people, 250,000 workers are at risk of
6 heat stress and illness and injury.

7 We also see tremendous increases in emergency
8 department visits for heat-related illness. 2010 it
9 was 200 per year. Most recent year it was 900 per
10 year. These are doubling. It is an acceleration that
11 we can expect to see continue. Protections are needed
12 now before more people are hurt and die.

13 As our previous speaker said, the risks are not
14 borne equally. We need a strong, effective heat
15 standard to address an unfair truth. Latine and other
16 workers of color, as well as people who earn the lowest
17 wages, experience the greatest health risks from
18 extreme heat. Here in my state, the vast majority of
19 workers impacted by heat are Latine, making up more
20 than 80 percent of farmworkers, 64 percent of
21 construction workers, and a disproportionately high
22 representation in both landscaping and oil and gas

1 production.

2 These workers are three times as likely to die
3 from heat on the job compared to other workers. And in
4 terms of those who can least afford lost wages or
5 medical bills, those who are in the lowest 20 percent
6 of wage earners are five times more likely to suffer
7 from heat-related health problems than those in the top
8 20 percent.

9 Heat injury has devastating impacts, not only on
10 the workers themselves, but on their families and
11 communities. And these health impacts can be
12 cumulative and long lasting, with each exposure
13 increasing the risk of greater health harms, obviously
14 impacting health and economic well-being. The proposed
15 rule is not an extreme demand. It's about commonsense,
16 science-based protections for workers -- water, rest
17 breaks, shade, emergency response training, monitoring.
18 These are basic rights, and they're long overdue. I
19 urge you to act now to protect the health of New Mexico
20 workers and all of our workers. Thank you so much for
21 your time.

22 JUDGE DONALDSON: All right. Does anyone on the

1 OSHA panel have any questions for Ms. Mann-Lev?

2 MS. WANGDAHL: Thank you, Your Honor. This is Amy
3 Wangdahl with the Directorate of Standards and
4 Guidance. We do not have any questions, but we want to
5 thank Ms. Mann-Lev for her participation today. Thank
6 you.

7 JUDGE DONALDSON: Are there any questions from the
8 Office of the Solicitor?

9 MS. WILES: Thank you, Your Honor. Linda Wiles
10 from the Solicitor's Office. I don't have any
11 questions as well. Thank you so much.

12 JUDGE DONALDSON: All right. Are there any
13 questions from the public?

14 MS. CARLON: Yes, Your Honor, we have one from Ms.
15 Arberry. Please state your name for the record.

16 MS. ARBERRY: Hi. Chenay Arberry with the AFL-
17 CIO. Hi, Ms. Mann-Lev, thank you so much for your
18 testimony. I'm just curious - over the last few weeks,
19 we've heard a lot of industry representatives reference
20 Nevada's heat rule as the model for flexibility. And I
21 know that your home state of New Mexico has been
22 developing a rule similar to federal OSHA's. Would you

1 consider federal OSHA's rule flexible? And can you
2 describe how a standard without enforceable protections
3 still leave workers compromised to heat, such as the
4 Nevada standard?

5 MS. MANN-LEV: Thank you so much for your
6 question. And that -- the proposed New Mexico rule,
7 which has been worked on for the past three years --
8 and we are grateful for the federal OSHA work that was
9 done to lay the groundwork to have such an outstanding
10 recommendation to base this rule on -- includes
11 specific guidelines, enforceable guidelines. We need
12 to level the playing field so that all workplaces are
13 safe for workers.

14 Unfortunately, without enforceable protections, we
15 know that there are many businesses and industries that
16 continue to practice in the way that they have. And
17 that the role of OSHA and our worker protection
18 agencies, in fact, is to set those standards, those
19 basic public health guidelines and rules so that
20 everybody can do what's needed to protect worker
21 health. And so we, again, urge a strong -- to maintain
22 the strong federal standard. There's always ways to

1 improve things. But what -- the foundation that's been
2 laid nationally through this proposed recommendation
3 will indeed provide tremendous protection from a public
4 health perspective for all groups.

5 MS. ARBERRY: Great. Thank you, Ms. Mann-Lev, and
6 thank you, Your Honor.

7 JUDGE DONALDSON: Thank you. Any other questions
8 from the public?

9 MS. CARLON: There are none, Your Honor.

10 JUDGE DONALDSON: All right. Looks like that
11 concludes your -- your testimony then. Thank you very
12 much.

13 MS. MANN-LEV: Thank you.

14 MS. CARLON: The next speaker is Joanne Leovy.
15 Please state your name and affiliation for the record.

16 DR. LEOVY: Hi. My name is Joanne Leovy. I'm a
17 physician, an MD. And I'm the Chair of Nevada
18 Clinicians for Climate Action.

19 JUDGE DONALDSON: All right. Please go right
20 ahead.

21 DR. LEOVY: Thank you. I'm a board certified
22 physician in Las Vegas, Nevada, and I've completed a

1 diploma course in Climate Medicine. Nevada Clinicians
2 for Climate Action, my organization, organizes health
3 professionals in our state on education and advocacy
4 regarding climate related health impacts. I support
5 the strongest possible occupational heat regulation as
6 a means of ensuring that our state's employers and
7 workforce are prepared to remain safe in the face of
8 rapidly increasing numbers of extreme heat days.

9 Every worker heat death is preventable, and OSHA
10 must act. Nevada has the nation's two fastest warming
11 cities and is struggling to develop resilience
12 provisions to protect our population. Southern Nevada
13 recorded a record 527 heat-related deaths in 2024.
14 Occupational heat-related complaints rose from 210 in
15 2022 to 300 in 2023 and 467 for the first nine months
16 of 2024.

17 In November 2024, the Nevada Division of
18 Industrial Relations approved an occupational heat
19 illness standard that went into effect in April 2025.
20 This regulation was developed in collaboration with
21 employers and industry, along with occupational and
22 health experts and community-based organizations.

1 Several measures in the Nevada standard mirror the
2 proposed federal regulation, and I support their
3 inclusion into OSHA's final rule.

4 One, requiring employers with ten or more
5 employees to conduct a job hazard analysis to determine
6 whether there is a risk of heat exposure, and when risk
7 is identified, to develop a heat illness prevention
8 plan to reasonably render employment and places of
9 employment safe from heat-related hazards. The plan
10 must account for the severity and duration of workload
11 and any protective clothing or equipment used by the
12 employee.

13 Two, mandating employee input into this written
14 plan.

15 Three, mandating mitigating practices to reduce
16 risk, including engineering controls such as shade,
17 practice controls like shifting work to earlier hours,
18 and personal protective controls such as cooling vests
19 or individual body temperature monitors.

20 Four, mandating water and a means of cooling for
21 all employees working under the plan, and additional
22 rest breaks for those showing signs of heat illness.

1 Five, designating a person to carry out the safety
2 plan, monitor working conditions, and implement
3 emergency response procedures.

4 Importantly, Nevada guidance for employee
5 education includes assuring that employees understand
6 their individual risks based on body habitus, chronic
7 disease or conditions, medication, and substance use.
8 The federal regulations should include this important
9 provision and mandate that information be
10 understandable based on employees' language facility
11 and literacy.

12 OSHA should follow the Nevada standard in
13 including radiant heat exposure in the rule. This is
14 important because of the risk of pavement burns in
15 part. Research from the University of Nevada, Las
16 Vegas has shown that pavement -- pavement burn
17 incidence increases exponentially in our climate with
18 temperatures over 95 degrees Fahrenheit.

19 I believe that this federal draft offers
20 opportunities to protect Nevada workers beyond the
21 mandates of the state standard. The major difference
22 between the Nevada standard and the federal draft is

1 that the Nevada standard does not set forth temperature
2 triggers, instead relying on less -- a less specific,
3 one-time job hazard analysis. I am unaware of evidence
4 documenting the effectiveness of this approach.

5 The draft OSHA proposal documents extensive
6 evidence supporting use of a temperature threshold. So
7 if any variation to the proposed temperature limits is
8 contemplated, OSHA might consider examining Nevada's
9 2025 heat-related complaint data to look for any post-
10 implementation decrease in worker complaints or heat-
11 related incidents.

12 Furthermore, the Nevada standard suggests, but
13 does not mandate, a period of acclimatization with
14 modified job duties. I support mandated requirements
15 for employee acclimatization due to data extensively
16 documented in the draft OSHA proposal. Concerns that
17 acclimatization periods are unnecessary because most
18 employees are aware of the job position's heat exposure
19 risk are counter to my experience as a primary care
20 physician.

21 Many of my patients have worked occasional hours
22 at heat exposed jobs such as convention setup and

1 hospitality. I've treated several who became ill with
2 heat exhaustion, dizziness, vertigo, or nausea during
3 their shifts, possibly due to the lack of regular hours
4 to become acclimatized. I'm aware of a young, healthy
5 resort pool attendant who suffered heat syncope during
6 his first day on the job. Workers eager to demonstrate
7 good job performance during their initial days of
8 employment are unlikely to self-select for
9 acclimatization protocols. So including clear
10 acclimatization guidance and protocols is essential.
11 Thank you.

12 JUDGE DONALDSON: All right. Thank you. OSHA, do
13 you have any questions for the witness?

14 MS. WANGDAHL: Thank you, Your Honor. This is Amy
15 Wangdahl with the Directorate of Standards and
16 Guidance. We do not have any questions today, but we
17 would like to thank Dr. Leovy for your participation
18 and testimony on behalf of Nevada Clinicians for
19 Climate Action today. Thank you.

20 JUDGE DONALDSON: All right. Same question for
21 the Solicitor's Office. Are there any questions for
22 this testifier?

1 MS. WILES: Thank you, Your Honor. Linda Wiles
2 for the Solicitor's Office. I don't have any
3 questions. Thank you so much, Dr. Leovy.

4 JUDGE DONALDSON: All right. Before we let you
5 go, let's see if there are any questions from other
6 members of the public.

7 MS. CARLON: There are none, Your Honor.

8 JUDGE DONALDSON: All right. Well, on behalf of
9 everyone, thank you very much for your testimony.

10 MS. CARLON: The next speaker is Joshua Trosclair.
11 Unfortunately, we do not see your name in the attendee
12 list. So if you have joined under another name, please
13 use the raise hand feature to go ahead and indicate
14 your presence. And if you have dialed in, please use
15 star three to raise your hand.

16 Our next speaker is Paloma Greenwald -- excuse
17 me -- Greenwald. Please state your name and
18 affiliation for the record.

19 MS. GREENWALD: Yes, hello. Paloma Greenwald.
20 Good afternoon, and thank you for this opportunity to
21 speak. Again, I am Paloma Greenwald. I'm a registered
22 nurse with decades of experience in elder care as well

1 as workers' compensation disability case management. I
2 now live and work in the desert southwest of Arizona.
3 I work for Elders Climate Action, where our volunteers
4 work to protect all life from climate change. I
5 appreciate this chance to share my perspective on the
6 urgent need for OSHA's heat injury and illness
7 prevention standard.

8 Let me begin with a story that weighs heavily on
9 me. Not long ago, I met with a worker who reported
10 being threatened and mocked by her supervisors for
11 showing symptoms of heat stroke. She told me about
12 drinking water, discarded from bottles left behind by
13 customers because her employer disallowed her bringing
14 her own bottle. Now, despite feeling ill on this
15 particular night shift, she pushed through only to
16 be -- you know, mocked by her employer. And she was
17 hospitalized within hours.

18 In other cases, a man in Arizona, under 40,
19 collapsed while repairing an HVAC system. And another
20 man in his 20s injured by heat while roofing during a
21 heat wave. One of these gentlemen continues to suffer
22 from chronic kidney damage two years later, and the

1 other remains in a coma. But let me assure you, these
2 are not isolated incidents. They are a reality for too
3 many of our workers.

4 Now, two powerful trends are converging. First,
5 we're experiencing more intense and longer lasting heat
6 waves than ever before. The science is clear that
7 climate change, driven by human activity, is increasing
8 the frequency and severity of extreme heat events.
9 These are not just weather anomalies, they are part of
10 a larger pattern that is directly impacting the health
11 and safety of American workers. Second, older adults
12 are remaining in the workforce for longer and longer
13 times, often out of necessity as inflation drives up
14 the cost of health care, food, and housing. Elders are
15 especially vulnerable to heat injury, and without a
16 strong heat standard, they will remain unprotected.

17 Now, as a nurse, I can tell you that heat illness
18 is not just a matter of discomfort; it's a matter of
19 life and death. Older adults and those with chronic
20 health conditions are at particular risk. But even
21 very young and healthy workers can suffer permanent
22 harm. The economic impact is significant.

1 Hospitalizations, long term disability, and ongoing
2 medical care for heat-related injuries drive up health
3 care costs for families, employers and communities.
4 Workers' compensation claims and lost productivity add
5 further strain to businesses in our health care system.

6 Now these costs -- these are costs that could be
7 largely prevented with sensible and foreseeable heat
8 standards. Given that broader national climate
9 protections are still evolving and very slowly, OSHA's
10 leadership in enacting a strong heat standard is one of
11 the most immediate and effective ways to protect
12 workers from the dangers of extreme heat right now.
13 This action is urgently needed to address the risks we
14 face today, even as larger climate solutions are
15 debated and developed.

16 Now, while I urge OSHA to move swiftly to adopt a
17 comprehensive heat injury and illness prevention
18 standard, I request that it include mandatory access to
19 water, shade, and rest breaks, which are not just
20 guidelines, but requirements with accountability.
21 Acclimatization protocols for new and returning
22 workers, since sudden exposure is a known major risk in

1 these cases. In particular, training for all workers
2 and supervisors to recognize and respond to heat stress
3 symptoms is quite important. Special protections
4 indeed for older workers and those with health
5 conditions who may not recognize their symptoms until
6 it's too late.

7 It's also essential that we work collaboratively.
8 I recommend that OSHA and the EPA partner with state
9 agencies and community organizations, especially those
10 serving older adults and vulnerable populations, to
11 ensure education, outreach, and mutual support for
12 those at risk. Local health departments, worker
13 centers, and senior services can help deliver training,
14 distribute resources, and provide culturally competent
15 guidance.

16 In closing, I want to remind everyone that no one
17 should have to risk their lives, or simply -- for
18 simply trying to earn a living. These tragedies I've
19 described, and the economic burdens they create, are in
20 fact preventable. By enacting and enforcing strong
21 heat standards that recognize the reality of our
22 changing climate, we can protect workers, reduce health

1 care costs, and build healthier, more resilient
2 communities. And I thank you for time -- I thank you
3 for this time and for your commitment to protecting
4 America's workforce.

5 JUDGE DONALDSON: Thank you as well. OSHA, do you
6 have any questions for Ms. Greenwald?

7 MS. WANGDAHL: Thank you, Your Honor. This is Amy
8 Wangdahl with the Directorate of Standards and
9 Guidance. We do not have any questions right now, but
10 we'd like to thank Ms. Greenwald for her time and
11 testimony on behalf of the Elders Climate Action today.
12 Thank you.

13 MS. GREENWALD: My pleasure.

14 JUDGE DONALDSON: Are there any questions from the
15 Office of the Solicitor?

16 MS. WILES: Thank you, Your Honor. Linda Wiles
17 from the Solicitor's Office. I also don't have any
18 questions, and I thank you for your time today.

19 JUDGE DONALDSON: Are there any questions from the
20 public?

21 MS. CARLON: No, Your Honor.

22 JUDGE DONALDSON: All right. Then we'll consider

1 that the close of your testimony. Thank you very much,
2 Ms. Greenwald.

3 MS. CARLON: Our next speaker is Ashton Dolce.
4 Please state your name and affiliation for the record.

5 MR. DOLCE: Ashton Dolce. I am a youth climate
6 organizer with the Sunrise Movement, a youth movement
7 for climate change.

8 JUDGE DONALDSON: Thank you, Mr. Dolce. Please
9 proceed with your comments.

10 MR. DOLCE: Hi. Good afternoon. I apologize, I'm
11 very sick right now, so I'm going to keep my camera
12 off. But my name is Ashton Dolce and I'm a youth
13 climate organizer from Phoenix, Arizona. Over the past
14 three years, I've worked directly with city officials,
15 labor advocates, and frontline communities to craft
16 policy responses to one of the deadliest climate
17 threats we face -- extreme heat.

18 Today, OSHA has the opportunity and the
19 responsibility to do what its very mission demands --
20 to assure safe and healthful working conditions by
21 setting and enforcing standards around extreme heat.
22 That -- that is a promise, one that millions of workers

1 across this country are waiting for OSHA to keep.
2 Outdoor workers deserve an enforceable heat standard,
3 basic protections that many are still being denied
4 today in workplaces, not just in Phoenix and Arizona,
5 but in many cities across this country.

6 Phoenix is one of the hottest cities in the
7 country. In our summers temperatures regularly exceed
8 110 degrees. Yesterday, we broke yet another heat
9 record, reaching 116 degrees for the first time on June
10 30th, the first time on record we've seen in recorded
11 history. Cities like Phoenix and Tempe have already
12 shown that enforceable standards like the one proposed
13 today are effective. Local heat ordinances have
14 mandated water breaks and shaded rest periods for
15 outdoor workers, and the feedback has been positive.
16 Workers I've spoken to have reported more clear
17 guidelines and even more access to water and shade.

18 But localized policies are not enough. Extreme
19 heat doesn't stop at city lines, and we need OSHA to do
20 what only it can -- implement a national, enforceable
21 standard for outdoor heat safety. According to the
22 Bureau of Labor Statistics, 479 workers in the U.S.

1 died from exposure to environmental heat from 2011 to
2 2022. And there were an even more estimated 33,890
3 estimated worker heat-related injuries. It's clear
4 that many of our workers, oftentimes on farms, in
5 construction zones, on delivery routes, are simply
6 trying to do their jobs but are being impacted by the
7 horrific conditions of extreme heat.

8 And it's critical that we understand that our most
9 vulnerable, taken advantage of populations are often
10 the most marginalized by extreme heat. In fact,
11 undocumented workers report being denied basic
12 protections, yet they make up a large plurality of
13 outdoor workers -- nearly 50 percent of all farmworkers
14 and fifteen percent of all construction workers.

15 But critically, OSHA enforces workplace
16 protections regardless of immigration status.
17 Undocumented workers are entitled to protections under
18 health and safety laws. And with the Kaiser Family
19 Foundation reporting that 50 percent of undocumented
20 Americans lack health care coverage, we must understand
21 that a large plurality of our outdoor workers don't
22 just lack protections in their workplaces, but also

1 cannot afford the care after experiencing heat stroke
2 or illness.

3 An enforceable heat standard would protect
4 millions, millions of outdoor workers. The workers
5 powering our nation deserve dignity and respect. They
6 deserve prevention. Prevention is not optional; it's
7 essential. And without a federal heat standard, we are
8 gambling with human lives every day.

9 And as the climate crisis worsens, these risks
10 will only grow. We have a window of opportunity right
11 now to pass the first enforceable federal heat standard
12 in U.S. history and OSHA must implement a strong one.
13 It's the bare minimum, and it's the right thing to do.
14 Thank you.

15 JUDGE DONALDSON: All right. Thank you. OSHA, do
16 you have any questions for Mr. Dolce?

17 MS. WANGDAHL: Thank you, Your Honor. This is Amy
18 Wangdahl with the Directorate of Standards and
19 Guidance. We don't have any questions today for Mr.
20 Dolce, but we'd like to thank you for your
21 participation and your comments submitted on behalf of
22 Sunrise Movement. Thank you.

1 JUDGE DONALDSON: Are there any questions from the
2 Solicitor's Office?

3 MS. WILES: Thank you, Your Honor. Linda Wiles
4 from the Solicitor's Office. I also don't have any
5 questions, but I thank you, Mr. Dolce, for your
6 participation.

7 JUDGE DONALDSON: And next, any questions from
8 members of the public?

9 MS. CARLON: Yes, we have one from Ms. Christman.
10 Please state your name for the record.

11 MS. CHRISTMAN: My name is Anastasia Christman.
12 I'm with the National Employment Law Project. Thanks
13 for your testimony today, Mr. Dolce. I just have one
14 quick question. You noted how hot Phoenix gets on a
15 consistent basis, and that you've been talking with a
16 lot of workers. Do you think that workers, because
17 they also live in Phoenix, don't need to be
18 acclimatized to do physical work in Phoenix?

19 MR. DOLCE: Absolutely not. In reality, because
20 the conditions of working hard labor are so extreme,
21 it's completely different than, say, for example,
22 walking out of your car or walking to the store in the

1 heat. I can give an example of yesterday. The
2 temperatures were 116 degrees. Simply walking on the
3 asphalt to go into the grocery store was unbearable.
4 It was simply too hot. And to act as if workers can
5 deal with these conditions hours after hours simply
6 because they live in Phoenix is just not true, and
7 represents the fact that, you know, a lot -- majority
8 of people in government are not experiencing the same
9 conditions that these workers are going through, these
10 daily, hourly conditions, week after week, month after
11 month, summer after summer. Thank you.

12 MS. CHRISTMAN: Thank you for that answer. Thank
13 you. And that's my only question, Your Honor. Thank
14 you.

15 JUDGE DONALDSON: Thank you. I'll wait for any
16 other questions from members of the public.

17 MS. CARLON: There are no -- none, Your Honor.

18 JUDGE DONALDSON: No further. Okay. Thank you,
19 Mr. Dolce.

20 MS. CARLON: The next speaker is GreenLatinos,
21 represented by Irene Burga, Meisei Gonzalez, Carlos
22 Matutes, and Patricia Nelson. Please state your name

1 and affiliation as you all move out -- move throughout
2 your testimony.

3 MS. BURGA: Hi, everyone. Yes, my name is
4 Irina -- you can also call me Irene -- Burga. I'm with
5 GreenLatinos. I'm the Climate Justice and Clean Air
6 Program Director there. GreenLatinos is an active
7 comunidad of Latino leaders. We are emboldened by the
8 power and wisdom of our culture and driven to secure an
9 environmental liberation. And I'm here today
10 representing thousands of Latino community members
11 across the country who demand that OSHA finalize a
12 strong, enforceable national heat standard to protect
13 both indoor and outdoor workers from the deadly and
14 growing threat of extreme heat.

15 At GreenLatinos, we work every day to elevate the
16 voices of those most impacted by the climate crisis,
17 mainly through our Latino Climate Justice Framework,
18 which is a set of community informed priorities, that
19 includes protecting the health, safety and dignity of
20 Latino communities. In it, we uplift the urgent need
21 for federal heat protection standards because our
22 community is overrepresented in the most heat-exposed

1 jobs. Nearly six in ten agricultural workers, three in
2 ten construction workers and over two in ten of
3 warehousing and transportation workers in the US are
4 Latino. These are not just jobs. They are people, and
5 they are at risk every single day.

6 In 2022, more than 2,300 people in the US died
7 from extreme heat. The number is likely dramatic -- a
8 dramatic undercount of the reality. Heat-related
9 illness and death is consistently underreported,
10 especially for Latinos. Many who are -- who are
11 immigrants speak English as a second language and work
12 in industries with minimal protections or regulatory
13 oversight. They are often afraid to speak up, and even
14 when their health is in immediate danger.

15 We documented one such case with our partners,
16 Farmworker Justice and Campesinos Sin Fronteras in our
17 Latino Climate Justice Framework video campaign on
18 extreme heat in 2023. It was a heartbreaking and all
19 too common story from Yuma, Arizona, one of the hottest
20 agricultural regions in the country. A farmworker
21 there collapsed in the field from heat exhaustion. She
22 was denied a proper break. She wasn't given adequate

1 water. No one responded in time. She passed out under
2 the scorching sun and she could have died.

3 This is preventable. No one should fear that
4 going to work might be a death sentence because of the
5 heat. Too many workers come home dizzy and nauseated
6 after long hours in unbearable heat, afraid to stop
7 working because the pressure to meet quotas or keep a
8 job outweighs their own safety.

9 For many Latino workers, they push through life-
10 threatening symptoms in silence. And with climate
11 change supercharging extreme heat events, these
12 conditions are only becoming more dangerous, more
13 widespread, and more deadly. That's why we need OSHA
14 to continue to act boldly. And we are urging here a
15 meaningful heat standard.

16 And that should include a few points --
17 strengthened worker protections against retaliation.
18 So ensuring that workers, particularly undocumented and
19 migrant workers, can report unsafe conditions without
20 fear of retaliation, deportation, or job loss.
21 Culturally relevant and language accessible training.
22 Mandate that all heat safety training be delivered in

1 languages spoken by the workforce, including Spanish
2 and indigenous languages. Training must also be
3 culturally sensitive, accounting for literacy levels
4 and regional context.

5 Protections for seasonal and temporary workers,
6 including specific enforceable provisions for contract,
7 seasonal and temporary workers, those most vulnerable
8 and most likely to fall through the cracks. Legal
9 protections for migrant workers, coordinating with
10 federal agencies to ensure that migrant and
11 undocumented workers can access workplace protections
12 and health without jeopardizing their immigration
13 status.

14 Economic support for heat-related illnesses --
15 expand provisions for workers who suffer heat-related
16 injuries, including paid medical leave and access to
17 affordable care. Partner with health agencies to
18 provide mobile clinics and workplace health screenings,
19 especially in rural areas. We believe that this cannot
20 be optional. Voluntary guidance is not saving lives
21 and enforcement must be real. Accountability must be
22 built in.

1 With climate change driving more frequent and
2 severe heat waves, this crisis will only deepen with
3 time. Workers are already dying, and Latino workers,
4 who make up a disproportionate share of our frontline
5 labor force, are bearing the brunt. The lack of
6 federal heat protections is a racial and environmental
7 injustice. GreenLatinos urges OSHA to adopt the
8 strongest possible heat standards without further
9 delay. And the Latino community is watching, and we
10 will continue organizing and uplifting stories like the
11 farmworker in Yuma and fighting until every one of our
12 workers is protected. We can't wait another -- we
13 can't wait another day. And just thank you for your
14 time and for your efforts.

15 JUDGE DONALDSON: Who would like to speak next
16 from your organization?

17 MR. GONZALEZ: Hello? Can you hear me? It's
18 Meisei Gonzalez.

19 JUDGE DONALDSON: Yes, we can hear you.

20 MR. GONZALEZ: My name is Meisei Gonzalez, and I
21 am the Climate Justice and Clean Air Advocate with
22 GreenLatinos. I'm a resident of Salt Lake City, Utah,

1 and I've spent the past five years working in
2 environmental justice, advocating for clean air and
3 climate protections for working class communities. But
4 today I'm not here just as an advocate; I'm speaking as
5 a son of a construction worker and restaurant cook.

6 I come from a very proud, working class immigrant
7 family. My dad has spent decades laying down concrete
8 across Utah. He's worked on everything from homes in
9 private developments to public infrastructure projects.
10 His hands have helped to build the communities we live
11 in, and my brother has actually recently followed in
12 his footsteps, starting his own company where he does
13 his very similar work to support himself and his
14 family. My mom has worked long hours in kitchens,
15 often in poorly ventilated spaces where heat from
16 stoves and ovens make every shift in health -- a health
17 risk. The labor has paved the way for me to get to
18 college, but I know it came with sacrifices.

19 I've had the opportunity to work alongside both of
20 them, and I can tell you from personal experience, it
21 gets dangerously hot. And it's only getting hotter
22 every year. These days, my dad starts his shift before

1 the sun rises, trying to get ahead of the midday heat.
2 But even with an early start, when he's out there in
3 the middle of the day, we check in on him constantly,
4 making sure he's drinking enough water and taking
5 breaks, which his work at the time does not require.

6 I now have the privilege to work in a climate
7 controlled space, but that's not the reality for
8 millions of workers across the country. Between 1992
9 and 2002, more than a thousand U.S. workers died from
10 heat-related causes, and in 2022 alone, 43 workers lost
11 their lives due to occupational heat exposure. And we
12 know those numbers don't reflect the full scope of this
13 crisis. Those are only the ones that felt comfortable
14 reporting.

15 From 2011 to 2020, an estimated 32,890 heat-
16 related injuries and illnesses caused workers to miss
17 time from work. That's over 3,000 people every year,
18 many of them in industries where missing a few days can
19 mean falling behind on rent or bills. When I read
20 those numbers, I don't just see statistics; I see my
21 family -- I see my dad, I see my brother, and I see my
22 mom. I see the neighbors and friends who continue to

1 work through these conditions without protections they
2 deserve. These are the people who are making sure our
3 roads are maintained. They're building the homes that
4 we desperately need. They're planting, harvesting, and
5 preparing the food on our tables. They deserve more
6 than our thanks. They deserve respect and real
7 protections.

8 Implementing heat protection plans, offering clear
9 safety trainings, and ensuring access to water and rest
10 breaks are simple steps. They're not radical, they're
11 not expensive, but they can save lives. That's why
12 we're calling on OSHA to not only finalize the rule,
13 but to strengthen it. We support culturally and
14 linguistically appropriate training for workers in the
15 languages they speak, protections against retaliation
16 for those who report unsafe conditions specifically for
17 those with mixed documentation status, paid medical
18 leave and healthcare access for workers suffering from
19 heat-related illnesses, regardless of immigration
20 status again, and clear and enforceable protections for
21 temporary and seasonal workers who are often the most
22 vulnerable.

1 Protecting workers from extreme heat is not only a
2 safety issue; it's a matter of dignity and justice. We
3 already know the climate crisis is making this worse
4 year after year, but we know what works and we know
5 what's possible. We urge you now to act, while, to
6 keep this country running. And on behalf of
7 GreenLatinos and working class families across the
8 country, I urge you to move forward with this rule and
9 adopt the strongest version possible, one that saves
10 lives, one that respects workers, and one that meets
11 this moment that we're in. Thank you for your time and
12 your commitment to this issue.

13 JUDGE DONALDSON: Thank you as well for your
14 statements. I see someone else has turned on their
15 camera. Are you the next speaker?

16 MR. MATUTES: I am. Thank you very much. Buenas
17 tardes, my name is Carlos Matutes, State Director for
18 GreenLatinos New Mexico. We're a national organization
19 working for environmental justice for Latino
20 communities and other communities of color.

21 As someone who grew up working in industrial
22 equipment outdoors in South Texas, I personally know

1 the impacts of extreme heat on workers. I know what it
2 feels like to be so overheated that it becomes
3 difficult to even think clearly. We're asking that the
4 Occupational Health and Safety Administration protect
5 the well-being of all of our workers.

6 These common sense rules protect millions of
7 workers who put their health at risk, put food on our
8 store shelves, build our roads, and keep our economy
9 running. Here in New Mexico, the vast majority of
10 workers impacted by extreme heat are Latine. We make
11 up more than 80 percent of farmworkers here, 64 percent
12 of construction workers, and a disproportionately high
13 representation of both landscaping and oil and gas
14 production. The more time that passes without
15 equitable work or heat protection rules increases the
16 risk of severe injury or worse.

17 Heat injury has devastating impacts, not only on
18 workers themselves, but on their families and their
19 communities. The Baylor College of Medicine notes that
20 excessive heat causes changes in the emotions and
21 behavior that can result in feelings of anger,
22 irritability, aggression, discomfort, stress, and

1 fatigue. In other research, there is a direct
2 correlation between excessive heat and physical,
3 emotional, and intimate partner violence.

4 Latine workers are three times as likely to die
5 from heat on the job compared to non-Latine workers.
6 Is this what we want for our nation, for our
7 communities? We value the humanity and dignity of our
8 people, more than a slight uptick in profits. Even
9 that's a false dichotomy. Increasing worker protection
10 is not only the right thing to do, but also decreases
11 the time that employees are away from work due to
12 injury and illness.

13 And while paid rest breaks during extreme heat
14 seems like they would decrease productivity, this will
15 actually keep everyone healthy, alert and able to do
16 their jobs better. We strongly encourage employers to
17 implement these worker heat protection rules on their
18 own, but we ask OSHA to continue putting workers needs
19 at the forefront. Thank you very much for your time.

20 JUDGE DONALDSON: Thank you. I believe we have a
21 fourth person. Oh, I see now. Ms. -- Ms. Garcia
22 Nelson.

1 MS. GARCIA-NELSON: Yes, ma'am. Thank you. I'm
2 going to keep my camera off because my internet's bad.

3 JUDGE DONALDSON: Understood. We can hear you.

4 MS. GARCIA-NELSON: Perfect. Good morning. My
5 name is Patricia Garcia-Nelson. I'm speaking on behalf
6 today of GreenLatinos and as someone from a proud
7 working class family who has spent generations
8 contributing to this country's backbone industries
9 through work in agriculture, farming, and construction.

10 My family's story is rooted in work. My great
11 grandfather and my grandfather came to this country
12 through the Bracero Program to work in the fields. My
13 mother worked in agriculture before and after coming to
14 the US, and my father spent over 20 years working on a
15 dairy farm. That kind of work requires discipline,
16 grit, and heart. I also worked in agriculture as a
17 teenager, and I saw firsthand how hard it was to
18 experience extreme heat. Today, many of my family
19 members still continue to work outdoors, whether in
20 construction or the fields, and we take pride in our
21 work despite the risks.

22 As someone who's lived it, I can tell you that

1 extreme heat is not just uncomfortable; it's dangerous.
2 And we've seen it's getting worse. My colleagues have
3 already gone through some of these statistics, but I'd
4 like to share them again. Between 1992 and 2002 --
5 2022, over a thousand workers lost their lives really
6 due to heat-related illness. In 2022, 43 workers
7 didn't come home to their family members. Over the
8 last decade -- over the last decade, nearly 34,000
9 people have missed work because of heat-related injury
10 or illness, and many of them don't have the option to
11 take a sick day.

12 These are not just statistics. These are our
13 neighbors, our friends, our family members. Latino
14 workers make up a significant portion of America's
15 farmworker, construction crews, and other outdoor
16 laborers. But this isn't just a Latino issue. This is
17 an American issue because these are the people keeping
18 our food supplies running, building our homes,
19 maintaining our highways, supporting all the industries
20 that we depend on.

21 OSHA's proposed rule on heat-related illness
22 prevention is a commonsense measure that would prevent

1 unnecessary suffering and save lives. This rule isn't
2 just about -- this rule isn't about red tape. It's
3 simple, practical steps like making sure workers have
4 access to water, shade, rest, and information to stay
5 safe in high temperatures. That's the kind of basic,
6 reasonable workplace standard any employee should and
7 does have to follow. Because when workers are healthy
8 and safe, businesses run better, families stay whole,
9 and communities thrive.

10 I urge OSHA to strengthen the rule by requiring
11 clear protections from retaliation for workers who
12 speak up about unsafe heat conditions, maintaining
13 training in the language that the workers will
14 understand, including Spanish and indigenous languages,
15 ensuring access to basic medical care and sick leave
16 for those affected by the heat stress, regardless of
17 where they were born, and covering temporary and
18 seasonal workers who often face the highest risk with
19 the fewest safeguards.

20 We ask people to show up, to do hard jobs, to feed
21 our families, build our economy, and uphold our way of
22 life. And in return, they deserve the basic

1 protections that allow them to work with dignity and go
2 home safely. This rule is about responsibility. It's
3 about honoring the values that built this country --
4 hard work, family, and fairness. Please finalize and
5 strengthen this rule. The people who keep this country
6 running deserve no less. Thank you for your time.

7 JUDGE DONALDSON: All right. I believe that's all
8 the testifiers from GreenLatinos. OSHA, do you have
9 any questions for any of those witnesses?

10 MS. WANGDAHL: Thank you, Your Honor. This is Amy
11 Wangdahl with the Directorate of Standards and
12 Guidance. We do have a few questions for this panel,
13 and I would like to just say that they can choose to
14 answer today or they can submit post-hearing comments
15 or a combination of the two. So I'm going to turn it
16 over to Ryan Tremain.

17 MR. TREMAIN: Thank you. My name is Ryan Tremain
18 with OSHA Standards and Guidance. And I believe that
19 each of the speakers today, in some manner or another,
20 testified about the importance of OSHA including
21 specific measures to protect temporary, seasonal, and
22 contract workers. I just wanted to invite GreenLatinos

1 to provide any additional information or perhaps
2 suggestions for OSHA regulatory texts to ensure that
3 these workers are better protected.

4 And as Amy said, of course, that could be right
5 now, today or in post-hearing briefs. But we -- we
6 would certainly be interested in any additional
7 information. I know Ms. Burga had suggested like
8 interagency coordination, to ensure that workers know
9 their rights and listed off a few other things. And
10 just expanding on some of that or suggestions for reg
11 text would be great.

12 MS. BURGA: Yeah. Thank you for that question
13 and -- and request for further information. Yeah, I
14 think the most effective would probably be to follow up
15 with some of our written -- maybe in writing, kind of
16 what our suggestions are. And I'm happy to elaborate
17 more on some of the points I made and -- and some of
18 the points my colleagues made as well.

19 MR. TREMAIN: That's great. Thank you very much.
20 Additionally, in your comments, you stressed the
21 importance of language accessible training materials.
22 And so OSHA would also be interested, if possible,

1 whether there are any translation tools that you all
2 could recommend that employers can use for -- for
3 accurate translations, because of course, that's always
4 been as well.

5 MS. BURGA: Great, yeah. I -- we can include that
6 as well. And yeah, I'll just note that I think that's
7 always the tricky part is like -- yeah, not relying
8 just on kind of like Google Translate, but like how to
9 do culturally sensitive, accurate translations. And we
10 have some ideas. So happy to share more about that as
11 well.

12 MR. TREMAIN: Thank you very much. That's all I
13 have.

14 MS. WANGDAHL: Okay. Thank you. This is Amy
15 Wangdahl again. I just would like to thank the panel
16 for their time and participation today. We look
17 forward to getting your post-hearing comments. And
18 that is all that -- that concludes OSHA's questions for
19 the GreenLatino panel. Thank you.

20 JUDGE DONALDSON: Anything from the Solicitor's
21 Office?

22 MS. WILES: thank you, Your Honor. Linda Wiles

1 from the Solicitor's Office. I don't have any
2 additional questions, but I'm also thankful for your
3 participation in today's hearing.

4 JUDGE DONALDSON: All right. Now, to the members
5 of the public in this hearing, are there any questions
6 for the witnesses from GreenLatinos?

7 MS. CARLON: There are none, Your Honor.

8 JUDGE DONALDSON: Are none. All right. Then,
9 that would conclude your presentation. And again, we
10 appreciate -- we appreciate it. Are the panelists okay
11 to continue going? I know we're towards the end of the
12 agenda and so we could keep going or do you need a
13 break of any sort?

14 MS. CARLON: We were actually just about to ask if
15 we could go ahead and break for a ten minute recess.

16 JUDGE DONALDSON: I read your mind. All right.
17 Let's first break for ten minutes and go off the
18 record. And just everyone stay on the link.

19 MS. CARLON: Yeah.

20 JUDGE DONALDSON: Thank you.

21 MS. CARLON: And Ms. Gurnick, we will reconvene
22 with you as our next witness.

1 JUDGE DONALDSON: Be back in ten. Thanks.

2 (Break.)

3 JUDGE DONALDSON: All right. Welcome back. Our
4 timer says that that short break is over. Let's go
5 back on the record.

6 MS. CARLON: All right.

7 Our next speaker is Genevieve Gurnick. Please
8 state your name and affiliation for the record.

9 MS. GURNICK: Hello, my name is Genevieve Gurnick.
10 I'm part of Seaway Bolt, speaking on behalf of the --
11 of the Industrial Fasteners Institute today.

12 JUDGE DONALDSON: Welcome. You can proceed with
13 your testimony.

14 MS. GURNICK: Thank you for the opportunity to
15 speak today. My name is Genevieve Gurnick. I am the
16 third generation to work in my family's fastener
17 manufacturing business called Seaway Bolt and Specials.
18 Seaway has been in Columbia Station, Ohio, since 1957.
19 We are a member of the automotive division of the
20 Industrial Fasteners Institute, or the IFI. It is a
21 trade association which represents approximately 85
22 percent of fastener production capacity in North

1 America.

2 IFI members make -- make the nuts, bolts, screws,
3 and other fastener assemblies necessary to hold
4 together every car, truck, plane, bridge, and computer,
5 and cell phone that you use every day. To be more
6 specific, no building, water, utility project, highway,
7 bridge, or other infrastructure project can be built
8 without our highly engineered structural fasteners.

9 Not a single military or commercial aircraft,
10 ship, submarine, or their power plants can be assembled
11 without geometrically sophisticated fastener
12 components. In the aerospace market, U.S. fasteners
13 are the world standard. It is estimated that over 92
14 percent of aerospace fasteners worldwide are produced
15 by IFI member companies.

16 All automotive vehicles require many fasteners and
17 their powertrain, structural assembly, steering, brake
18 control mechanisms, and electronics, appliances --
19 excuse me -- appliances, heavy truck, off-road
20 vehicles, consumer and military electronics, power
21 generation, electrical grid, water, and sewer
22 infrastructure, oil and gas exploration and production,

1 mining, rail, shipbuilding, and medical products all
2 use the fasteners manufactured in the United States
3 today.

4 Heat is not just a weather phenomenon for the
5 fastener manufacturers; it is a critical part of our
6 manufacturing process. And yet, the faster industry
7 does not have a record of heat-related injuries,
8 despite these heat processes on the factory floor.
9 Because our operations have cold and warm, or hot
10 forging machines, or forging, or heat-treating
11 equipment, or large ovens, or heat furnaces, we have
12 plans in place to monitor indoor heat conditions for
13 our employees already.

14 IFI urges OSHA to focus its future efforts on
15 industries that are having heat-related injuries. IFI
16 submitted detailed comments on -- on January 14th,
17 2025, in response to the previous administration's
18 request for public comment on the proposed rulemaking
19 for Heat Injury and Illness Prevention in Outdoor and
20 Indoor Work Settings.

21 In addition, I participated in the 2023 Small
22 Business Regulatory Enforcement Fairness panels to

1 provide OSHA with small business input on the proposed
2 rule. IFI had -- IFI had another small business member
3 that participated in the panel as well. Unfortunately,
4 the proposed rule did not take into account the small
5 business panel's recommendations.

6 I would like to highlight some of the key points
7 that I made during the small business panel that the --
8 IFI made -- made in its public comments on the
9 proposed rules in hopes that OSHA will withdraw the
10 current proposal. In general, IFI does not believe
11 in -- an indoor heat standard is necessary. The
12 fastener industry has no history of heat-related
13 issues, which is direct result of the steps fastener
14 manufacturers, like Seaway, take to protect our
15 employees and ensure customer needs are met.

16 IFI members address heat issues in a variety of
17 ways, including altered shift times, frequent hydration
18 break -- breaks, cold treats on extremely hot weather
19 days, and fans where appropriate. Furthermore, the
20 labor market is such that if a manufacturer does not
21 provide adequate protections, an employee -- and
22 employee monitoring for potential heat -- heat issues,

1 employees will simply find another place to work.

2 A one-size-fits-all heat standard that sets
3 arbitrary heat triggers and does not take into account
4 regional differences will be very difficult for
5 manufacturers like IFI members to implement. IFI
6 members' facilities are located all over the United
7 States, with concentrations in California, Arizona, and
8 Nevada for aerospace, Michigan, Indiana, Ohio, and
9 Illinois for -- for the automotive industries, and in
10 some places like Pennsylvania, New England, and the
11 south for industrial products.

12 These various locations mean that weather
13 conditions, including humidity levels, are very
14 different from facility to facility. Every
15 manufacturer must adapt its heat prevention plans to
16 its location for the time of year and its production
17 processes, especially if they are heat treating
18 product.

19 In addition, manufacturing facilities are often --
20 excuse me -- manufacturing facilities are often older
21 and not designed to be temperature controlled.
22 Installing and operating cooling systems to reach an

1 arbitrary indoor temperature would be expensive, and in
2 some factories, impossible, in an industry with
3 incredibly tight operating margins and fixed contracts
4 with customers.

5 In addition, the current labor shortages make
6 cross-training and rotating staff from certain jobs
7 difficult to impossible. At small facilities like
8 Seaway, the absence of even one highly valued team
9 member leads to production challenges that must be
10 managed appropriately. For large companies, even
11 losing one percent of the production team has
12 operational consequences, given the specialized nature
13 of a skilled manufacturing worker.

14 IFI members are already experiencing workforce
15 disruptions, and shortages -- and onerous difficult --
16 an onerous, difficult to achieve, indoor heat standard
17 will not only further exacerbate an already stretched
18 supply chain. Both IFI member companies that
19 participated in the small business panel process, as
20 well as the other small businesses on the panel,
21 stressed that we already have heat illness prevention
22 plans in place, and conduct annual trainings -- annual

1 training programs with refreshers, as needed, that
2 protect employees from excessive heat while allowing
3 operations to continue.

4 The panel participants discussed our training
5 programs that include onboarding and ongoing education,
6 specialized supervisor training, and employee
7 communication materials, such as video boards, clock-in
8 reminders, daily softy talk -- daily soft -- safety
9 talks, and pamphlets. Panelists stressed that
10 employees are allowed breaks at any time, with no
11 retaliation, access to water and electrolyte drinks,
12 fans, and access to cool areas.

13 While IFI appreciates that OSHA took some of the
14 panel's recommendations into account -- into account by
15 not mandating misters, cooling attire, or recordkeeping
16 for the rest breaks, the proposed rules continues to
17 entirely -- to be entirely too prescriptive for the
18 variety of manufacturing environments that exist.

19 The proposed rule ignored the panel's comments
20 that a proposed temperature trigger of 80 degrees was
21 too low, and the acclimatization proposals were overly
22 burdensome for new employees, and employees returning

1 to work after -- after vacations. Regarding the
2 proposed rule's requirements for acclimatization, it is
3 not feasible in the fastener industry to assign a new
4 employee alternave -- alternative tasks during
5 acclimatization time periods, as suggested by OSHA.

6 Machine operators do not have a back office role,
7 nor are there any tasks for which they are hired that
8 the employee can perform. Therefore, fastener
9 manufacturers could -- would simply send the person
10 home without -- without pay or focus, and set -- or --
11 or focus instead on hiring individuals already in the
12 industry to avoid the disruption, which will have broad
13 consequences to the workforce, including the further
14 exploration of automation to replace workers subject to
15 the regulation.

16 Finally, IFI strongly disagrees with the cost
17 estimates OSHA provided in the proposed rule. Even
18 companies that already have heat prevention plans in
19 place would need more than the suggested 40 hours to
20 ensure their current plans are in compliance with the
21 proposed standard. OSHA provided an estimate for IFI's
22 North American Industry Classification System code of

1 3327 of \$1,379 per year for compliance. Annual
2 training alone costs more than that by at least a
3 factor of ten.

4 IFI fully supports OSHA's efforts to protect
5 workers. However, the previous administration's
6 proposed rule mandates that the same onerous
7 requirements for every type of operation in every
8 region of the country, which could make continuing
9 these -- those operations difficult to impossible, all
10 without increasing worker safety.

11 We urge OSA -- OSHA to withdraw the proposed rule.
12 If OSHA determines that a mandated indoor heat standard
13 is necessary, we urge the agency to work with
14 stakeholders to issue a new proposal that includes
15 maximum flexibility for regions of the country and
16 individual industry sectors. For example, OSHA should
17 exempt industries like fastener manufacturing that
18 require processes -- process heating with no
19 alternatives to manufacture the product, and that have
20 no history of heat-related industry -- illnesses.
21 Metalworking industries like fastener manufacturing
22 already take unique and specific steps to ensure a safe

1 work environment for our employees. Thank you for your
2 time today.

3 JUDGE DONALDSON: All right. And thank you as
4 well.

5 OSHA, OSHA panel, do you have any questions for
6 Ms. Gurnick-Long?

7 MS. WANGDAHL: Thank you, Your Honor. This is Amy
8 Wangdahl with the Directorate of Standards and
9 Guidance.

10 Thank you very much, Ms. Gurnick, for your
11 testimony today, and then, also participating in the
12 SBREFA process previously. We love when stakeholders
13 follow through and participate in the variety of ways
14 that you can in a rulemaking process. So we just
15 wanted to thank you for that. The panel does have a
16 number of questions for you, so you can either answer
17 today, or you can follow up with written comments in
18 the post-hearing testimony, or a combination of both.
19 So don't feel like you have to answer everything today.
20 You can always submit those comments later.

21 MS. GURNICK: Okay.

22 MS. WANGDAHL: Okay? So I'm gonna start talking

1 about -- you mentioned that the proposed standard is
2 too prescriptive, and we've heard that from another --
3 from a number of testimonies already in the hearing,
4 and that OSHA should adopt a more flexible,
5 performance-oriented standard. So I have two questions
6 for you on that.

7 We're wondering if you have any recommendations on
8 how OSHA could structure a more performance-based
9 standard so that we're able to ensure that it's
10 sufficiently protective while providing enough clarity
11 for the employers?

12 MS. GURNICK: I would like to withhold an answer
13 on that question specifically and follow up on post-
14 hearing.

15 MS. WANGDAHL: And then, a follow up to that is,
16 are there any elements of a Heat Injury and Illness
17 Prevention Plan that you believe could -- should be
18 more prescriptive in nature, and if there are any that
19 could be more performance-based?

20 MS. GURNICK: We --

21 MS. WANGDAHL: You can -- you can -- you can
22 follow up in -- in written comments. These are kind of

1 a -- I don't want you to feel like you're taking a
2 test.

3 MS. GURNICK: Yeah. Yes. I'm going to follow up.
4 I -- I never wanna over -- I -- like, I -- I never want
5 to overstep my speaking on behalf of the entire
6 fastener industry.

7 MS. WANGDAHL: Sure.

8 MS. GURNICK: So --

9 MS. WANGDAHL: Yes, so --

10 MS. GURNICK: -- I will follow up with that one as
11 well.

12 MS. WANGDAHL: Absolutely. Okay. So I'm gonna
13 turn it over to Zoe Petropoulos, who is participating
14 virtually today.

15 MS. PETROPOULOS: Hi, this is Zoe Petropoulos with
16 the Directorate of Standards and Guidance, and I have
17 questions that are specific to the written comments
18 that IFI submitted on the proposal. And so like Amy
19 mentioned, you're welcome to answer now, but you're
20 also welcome to answer in post-hearing comments.

21 So in their comment, IFI mentioned -- and I
22 believe you mentioned in your testimony as well, that

1 the triggers proposed by OSHA do not take into account
2 regional differences, and the standard with these
3 triggers, quote, "will be very difficult for most
4 manufacturers, like IFI members, to implement", end
5 quote.

6 So I have a few follow up questions specific to
7 the -- the topic of triggers. Can you provide, now or
8 in post-hearing comments, more detail as to the
9 specific difficulties IFI members would have in
10 complying with these triggers?

11 MS. GURNICK: I will definitely follow up post-
12 hearing, but some of the immediate ones that come
13 into -- into my immediate thought process are the
14 fastener manufacturers that have to heat treat,
15 especially in the aerospace industry, which are focused
16 around California and Arizona. They're going to have
17 just higher ambient temperatures just from turning on
18 the machines, and those factories have to run 24/7 or
19 the equipment will literally not work.

20 So there's a lot of built-in problems inherent
21 with that. So I hope that kind of helps there, but we
22 will definitely follow up more on that in the post-

1 hearing.

2 MS. PETROPOULOS: Thank you. My next question is
3 about -- I want to clarify something that was written
4 in the IFI comment. It was later down in the comment,
5 and there was a sentence, quote, "Any heat index number
6 at or above 85 degrees Fahrenheit would mean monitoring
7 employees. And anything above 95 degrees Fahrenheit
8 heat index would require preventative measures", end
9 quote.

10 And I'm wondering, is it incorrect - is it correct
11 to interpret these as triggers that IFI members
12 currently use in work sites? Some members? I'm
13 wondering if you could also speak to whether Seaway
14 Bolt and Specials uses these triggers? Any
15 clarification would help.

16 MS. GURNICK: I will -- I will definitely follow
17 up with that. Again, specifically for Seaway, we have
18 different -- we do not use an actual -- we have heat
19 triggers that we look at as a management team, but what
20 it comes down to every single day is being out on the
21 floor, and working with the employees, and seeing how
22 they're reacting because there's certain areas --

1 especially, like, I mentioned the heat treating lines.

2 Even in the dead of winter, it's going to be 80 --
3 80 degrees next to that machine. Or if you're doing
4 any hot forging, the temperature is going to be -- like
5 I said, in the dead of winter when it could be negative
6 20 out, it's going to be almost 80 plus degrees at that
7 hot forging center. So it's very hard for us, as a
8 manufacturer, to just say today, yeah, it's going to be
9 85 degrees.

10 But you also have to remember that that operator
11 who is doing the hot forging, or is running the heat
12 treat line, or even casting the steel in the steel
13 factories, they're going to be wearing copious amounts
14 of PPE to protect them from burns and all those other
15 things which already raises their own internal
16 temperature.

17 So it gets very specific for our NAICS code very
18 quickly so that's why I would like to also follow up
19 afterwards so that we can cover the individual things
20 because the whole fastener industry, like I mentioned,
21 has wide varieties of manufacturing processes that are
22 hotter or colder, and everything in between.

1 MS. PETROPOULOS: Got it. Thank you. And I want
2 to go back to something that you said in your testimony
3 about accounting for regional differences in the
4 triggers, and so I have a couple of questions about
5 that. If OSHA were to take an approach of having
6 geographically varying triggers, what geographic area
7 or boundary would IFI envision OSHA using? So for
8 instance, county level, state level, region level, et
9 cetera, and what data would IFI envision OSHA using to
10 inform those boundaries?

11 MS. GURNICK: I will definitely follow up with
12 that one post-hearing. As I did mention, we have
13 manufacturers all over the country, so we will have a
14 very detailed response to that.

15 MS. PETROPOULOS: Thank you. And this is a
16 related question. Does IFI envision that any
17 potentially geographically varying triggers would also
18 apply to indoor work sites that have process related
19 heat?

20 MS. GURNICK: I -- I will follow up with that one
21 as well.

22 MS. PETROPOULOS: Okay.

1 MS. GURNICK: Definitely.

2 MS. PETROPOULOS: I want to change topics. I'm
3 sorry if I interrupted you just now. Okay. I'm going
4 to change topics and talk about monitoring of heat
5 hazards, and this is again, a specific question related
6 to something that was in IFI's comment. So in
7 answering one of the questions that OSHA posed in the
8 NPRM about whether OSHA should specify a frequency of
9 monitoring, IFI's written comment states that the
10 organization feels the proposal is too prescriptive,
11 and adding further requirements would make it more
12 difficult for manufacturers to comply.

13 However, we've heard the opposite from commenters
14 like the Brewers Association, and they stated in their
15 comment that the frequency of monitoring is too
16 ambiguous, and that small businesses will have to guess
17 as to what frequency is sufficient. And they
18 recommended that OSHA provide a clear standard on this
19 provision for monitoring to quote, "ensure clarity and
20 better compliance", end quote. And I'm wondering if
21 IFI agrees with the Brewers Association on this
22 argument. Why or why not?

1 MS. GURNICK: I'm -- on behalf of the IFI, I'm
2 going to follow up on -- follow up with that
3 afterwards. On behalf of Seaway, it is quite
4 prescriptive, and it is hard for small companies to be
5 able to understand what exactly is required by OSHA.
6 But again, I feel like it comes down to each individual
7 manufacturing location, specifically within our
8 industry, to be able to answer that just because the
9 jobs vary so much within a factory in itself.

10 MS. PETROPOULOS: Got it. And any data you can
11 provide, either now or in post-hearing comments as to
12 what frequency IFI members currently monitor conditions
13 in their work areas? We would be interested in hearing
14 about that. I know that there were comments that IFI
15 provided about that, you know, heat index is currently
16 used in - in some member facilities. So any - any
17 information you have on current frequency of
18 monitoring, we'd be interested in that.

19 MS. GURNICK: Absolutely. We can share that.

20 MS. PETROPOULOS: And then, I do have one last
21 question for you on a different topic. How do Seaway
22 Bolt and Specials, and other IFI member employers,

1 determine whether an injury at their work site was
2 heat-related? For instance, does a physician or other
3 medical professional make an onsite determination
4 regarding whether heat caused or contributed to an
5 injury? And a follow-up question is, from a
6 recordkeeping perspective, if there are cases where
7 it's unknown if heat contributed, what typically
8 happens?

9 MS. GURNICK: Oh, big question. Specifically, on
10 behalf of Seaway Bolt, if we have an injury, we have a
11 physician sign off on that. So we have protocols in
12 place for any injury. They must have a physician or
13 physician equivalent sign off to return to work.

14 And then, we, based off of that, address it. On
15 behalf of other IFI members, I cannot speak to it
16 purely because location of factories and size of
17 factories has a huge role in that. Some factories have
18 on-site physicians, and some factories are miles away
19 from a hospital. So I will hold off on that, and then,
20 respond in post-hearing. And then, what was your
21 second question again? I'm sorry.

22 MS. PETROPOULOS: The - the second question to

1 that was just from a recordkeeping perspective, if
2 there are cases where it's unknown if heat contributed,
3 what typically happens?

4 MS. GURNICK: That is a great question. I will
5 have to follow up with you in the post-hearing brief on
6 that, and ask my HR department just -- that was a bad
7 joke. Yeah, I will follow up on that.

8 MS. PETROPOULOS: Thank you.

9 And that was it for me.

10 Thank you for all of my many questions.

11 MS. GURNICK: Great questions. Thank you.

12 JUDGE DONALDSON: Are those all of the questions
13 from OSHA or is there anyone else?

14 MS. WANGDAHL: No, Your Honor. We have a number
15 of other questions for this witness.

16 We're going to go to Ryan Tremain, who has some
17 questions on the Heat Illness Prevention Plan and
18 acclimatization.

19 MR. TREMAIN: Hi, this is Ryan with OSHA.

20 You mentioned that you -- that your members
21 already have Heat Illness Prevention Plans that are in
22 place and that you've found effective. I just wanted

1 to say that if you're able to share any examples of
2 those plans in your post-hearing comments, OSHA would
3 certainly welcome that.

4 Next, on -- you had discussed a bit about
5 acclimatization, and stated that the -- the gradual
6 acclimatization schedule that OSHA included in the
7 proposal wouldn't be -- would -- would be impracticable
8 for -- for your industry due to the lack of alternative
9 job tasks for machine operators in particular.

10 But I wonder, OSHA had proposed a second
11 alternative, a second option for acclimatization, that
12 gives employers more flexibility to design an
13 acclimatization plan that implements high heat trigger
14 provisions for the first week. And then -- well, you
15 know, when -- when the trigger is exceeded, and then,
16 other provisions kick in, including, like, observing
17 employees, and allowing scheduled breaks, and so on,
18 and so forth.

19 Sort of a modified schedule based on employer's
20 assessment of the situation. And I was just wondering
21 is - is that second option, is that something that you
22 looked at, or is that something that would be suitable

1 for your members, your - sort of, more palatable? And
2 you know, why or why not, I guess would be something to
3 have a look at.

4 MS. GURNICK: Thank you, Brian. And we will
5 definitely share those examples. Like I mentioned, we
6 have a wide variety of types of factories throughout
7 the country, so we can share those examples. I will
8 hold off on responding on behalf of the IFI for your -
9 for your question and respond in the post-hearing
10 brief.

11 We -- but going back directly to what I said
12 earlier, the acclimatization, part of the issue is how
13 highly skilled our machine operators are. It's very
14 hard to find replacements for them. So the second that
15 we get one of those operators, we need them immediately
16 because the ramp-up period to train that operator to be
17 able to run one of these \$5 to \$10 million machines is
18 very highly specialized.

19 So that's what that comment is referring to. And
20 the -- the -- there's no back office work. If there
21 is, that would be great, but at the end of the day,
22 when a machine operator is -- that we hire, they're

1 highly paid. They make six-plus figures to be able to
2 run these ten -- like I said, \$10, \$20 million
3 machines. They're there because they are industry
4 professionals. So that's why -- that's why that
5 comment was made.

6 MR. TREMAIN: Okay.

7 MS. GURNICK: Did that explain that well?

8 MR. TREMAIN: It does. It -- I think it explains
9 why the -- the gradual acclimatization wouldn't be
10 suitable, and I was just wondering if the, sort of,
11 more mitigated approach that uses, you know, maybe fans
12 or other cooling devices, increased employer
13 observation of employees, increased breaks being
14 offered, that sort of thing, and if something like that
15 would be -- would make more sense? Really, it's a sort
16 of a option two that was, I guess, in the proposal, I
17 guess.

18 MS. GURNICK: Understood. Thank you, Brian. I --
19 like I said, I'm gonna hold off on answering that part
20 for the IFI. But personally, within our work
21 environment, we consider all options because those
22 operators are in such high demand and in such need.

1 MR. TREMAIN: Okay. And finally, I've just been
2 admiring your display of various bolts and fasteners
3 behind you.

4 MS. GURNICK: Thank you.

5 MR. TREMAIN: That's all --

6 MS. GURNICK: Thank you.

7 MR. TREMAIN: -- for me. Thank you.

8 MS. WANGDAHL: Okay. We're going to head to
9 Tiffany DeFoe, who has a question on rest breaks.

10 MS. DEFOE: Hi. This is Tiffany DeFoe from the
11 Directorate of Standards and Guidance, OSHA. I wanted
12 to also follow up on one of the responses that IFI --
13 IFI provided to the questions in the NPRM. It was a
14 question where OSHA was asking for feedback about the
15 proposed requirement to provide a 15 -- or to require a
16 15-minute rest break every two hours.

17 And in IFI's response to that, the -- you guys
18 discussed the automated nature of the equipment, and it
19 sounded, like, that the way that the equipment works
20 makes it pretty feasible for workers to take breaks
21 at -- at, you know, regular times or whenever they
22 need. I wanted to ask for some clarification. In

1 terms of the proposed requirement -- so we -- we
2 understand that you do not believe it's -- it's needed
3 for your industry, but I wanted to ask another angle of
4 that.

5 If -- if OSHA does move forward with a -- with a
6 final rule on heat, and if it does include a scheduled,
7 mandated rest break provision, are there logistical
8 challenges or other challenges that your organization
9 believes would arise, in your context, from meeting the
10 proposed version of the mandated rest breaks -- rest
11 breaks schedule?

12 And -- and those can be, like, you know -- I mean,
13 we're definitely interested in any sort of logistical
14 challenges that may arise, regardless of the automated
15 processes or other challenges that you care to give us
16 feedback on. And if so, does your organization have
17 recommendations for how scheduled rest breaks
18 provisions could be made more flexible while still
19 being protective to the workforce?

20 MS. GURNICK: I am going to let -- I will follow
21 up with that in post-hearing. So in our industry, it
22 is common for unions, and a lot of that is -- plays

1 into effect on that as well. So logistically, looking
2 at how different factories are structured across the
3 United States, for some that may be an issue,
4 logistically speaking.

5 So -- and then, again, you mentioned the automated
6 nature of our machinery. Just for a little bit of
7 background of how that works, typically there's the
8 setup, and -- and depending on how new the machine is,
9 or how complicated of a part you're making, a setup --
10 which is the most labor intensive part -- could take
11 anywhere from an hour to 8 hours. So that's where
12 it'll very much be based off of the worker and the
13 employer of how those types of things would typically
14 play out.

15 And then, after it's -- the equipment is set up,
16 then, it is automated from that point on. But there --
17 yeah, so I hope that kind of gives a bit of a
18 background on that. But otherwise, I'm going to let --
19 I'll follow up post-hearing.

20 MS. DEFOE: Thank you. Yeah. No, I mean, that --
21 that bit of information just now is helpful, and
22 apologies, but it inspired a -- a follow on question.

1 Just -- in the situations that you mentioned just now,
2 where there may in fact be stretches of time where
3 there is sort of is -- sort of a time sensitive
4 operation that's not automated in process, can your
5 membership provide information that would help us
6 understand how they're currently covering any needed
7 rest breaks that -- that come up during those
8 operations?

9 MS. GURNICK: Yes, we can definitely provide that.
10 And on -- on behalf of Seaway, when we have -- on
11 behalf of Seaway, this is not on behalf of IFI, when
12 those situations arise, it's very much -- well, besides
13 we already have mandated breaks within Seaway, and
14 given wherever they are on a setup process, operators
15 know -- and we have it -- a -- a culture and an
16 environment, if an operator needs a break, they have a
17 chair within ten feet of them or less, actually.

18 I think it's within five feet that they're able to
19 sit down somewhere and take a rest. And then, within
20 ten feet, or a 30 second walk, they can access an air-
21 conditioned room. So that's just personally within
22 Seaway. That is not a reflection of IFI.

1 MS. DEFOE: Thank you very much. That's all I
2 have.

3 MS. WANGDAHL: Okay.

4 We have some technological feasibility questions
5 from Brenda Finter.

6 MS. FINTER: Hello. Brenda Finter, OSHA,
7 Directorate of Standards and Guidance. I have three
8 questions for you. First one, you mentioned that
9 members have plans in place to monitor indoor heat
10 conditions. Are you able to share any existing
11 monitoring plans from IFI members in post-hearing
12 comments?

13 MS. GURNICK: Hello, Brenda. Do you just mean how
14 we're recording that data?

15 MS. FINTER: Can you share actual plans, or if
16 not, just any information that you can provide, any
17 details, would be fine.

18 MS. GURNICK: I definitely overthought that. Yes,
19 we can provide -- there is some that we'll be able to
20 provide.

21 MS. FINTER: Okay. Thank you. And also, you
22 mentioned that members use fans where appropriate. Can

1 you provide more detail on when fan use is deemed
2 appropriate versus when not? And again, you can
3 provide this in post-hearing comments, but you're free
4 to try to answer now.

5 MS. GURNICK: I'll -- I'll definitely follow up
6 post-hearing. Fans are the hottest commodity, I think,
7 in every manufacturing facility. Everyone that's
8 anyone has a fan, so we leave that up to the operator.
9 We have operators that run fans when it's zero degrees
10 outside, so -- but -- but the biggest issue for --
11 especially in -- in our factory at Seaway is -- we're
12 running steel parts.

13 So there's actually some places where we do not
14 have fans because it'll increase rusting. So that
15 varies widely across the industry and locations and
16 fans. But when operators are typically working,
17 there's a fan if -- if they need one, we get them a
18 fan. They -- they run the show. We even have fans
19 hooked up to tow motors.

20 MS. FINTER: I see.

21 MS. GURNICK: If --

22 MS. FINTER: Oh, sorry. I didn't mean to

1 interrupt you.

2 MS. GURNICK: It's okay. Sorry. I probably
3 won't -- went way into depth on that one.

4 MS. FINTER: No, that's great.

5 Last question. What controls are currently being
6 used by member companies to keep employees safe in work
7 areas where air-conditioning and fans cannot be used?

8 MS. GURNICK: I will definitely follow up post-
9 hearing with some examples of that. But some of the
10 immediate ones that come to mind are buddy checks.
11 Buddy checks are -- a huge part of our industry is
12 taking care of your fellow worker and -- and -- and
13 then, oh, gosh. It's very common to also use PPE.
14 The -- the word's escaping my mind. The cooling
15 jackets and different accoutrements like that. So
16 across the industry, different techniques are used, and
17 we'll follow up in the post-hearing about specifics.

18 MS. FINTER: Well, that inspired a real quick
19 follow up question. Any experience that you can share
20 about using cooling PPE would be very helpful as well.
21 Benefits versus any problems with using the cooling
22 PPE. And that's all --

1 MS. GURNICK: Well, we'll --

2 MS. FINTER: -- I have.

3 MS. GURNICK: -- yes, we'll follow up post-hearing
4 with that.

5 MS. WANGDAHL: Okay. And we have some economic
6 analysis questions from Joo-Hyung Shin.

7 MS. SHIN: Hi. Hi, this is Joo-Hyung Shin from
8 OSHA. In written comments and your testimony, you
9 discussed in length about OSHA's cost estimates. For
10 example, you mentioned that even companies with plans
11 in place would need more than 40 hours to ensure that
12 their current plans are in compliance with the proposed
13 standard.

14 If you could provide a little more detail on what
15 tasks would need to be completed and the corresponding
16 labor hours that would be needed to review and modify
17 existing plans to ensure compliance? Any more detail
18 on that, like, for -- like, what do you mean by more 40
19 hours? If you could elaborate on that, we would
20 appreciate it.

21 A follow up question on the cost estimates is, you
22 also mentioned in written comments and your testimony

1 that OSHA's annual compliance cost estimate of \$1,379
2 for the industry is an underestimate, saying that
3 annual training costs would cost more than -- by, at
4 least, a factor of ten.

5 Similarly, if you could provide more detail behind
6 your cost estimate of training, like, how you arrived
7 at the conclusion that it will cost by at least of a
8 factor of ten? And also, if there are other provisions
9 in which you disagree with OSHA's cost estimates, and
10 if you could provide alternative estimates, OSHA would
11 greatly appreciate those as well.

12 (AUDIO INTERFERENCE)

13 MS. GURNICK: Thank you. We will definitely
14 follow up post-hearing in the post-hearing brief about
15 that. Specifically though, we're a very compliance-
16 based industry. Every single fastener that is sold in
17 the United States has to meet either an automotive or
18 some other standard. So we are standard experts, we
19 understand how to be audited, and to comply with them.

20 And going off of that, in my earlier comment, that
21 I said margins are extremely small in this industry.
22 So every single time that we have to stop our machines

1 and conduct a training, that is lost -- that is -- lost
2 time is not the appropriate use when talking to OSHA.
3 It is lost manufacturing time, so that is kind of how
4 we calculate things. It -- or it -- we also refer to
5 it as sorting hours or running hours. So that's
6 typically how it's calculated for the industry.

7 MS. SHIN: Okay. Thank you.

8 MS. WANGDAHL: This is Amy with OSHA, again. I
9 just want to thank you, Ms. Gurnick, for your time and
10 accepting all of these questions. I -- we know it was
11 a lot, and we look forward to receiving your post-
12 hearing comments. We appreciate your time and
13 testimony today on behalf of Seaway Bolt, and also,
14 IFI.

15 And Your Honor, that concludes questions from
16 OSHA.

17 JUDGE DONALDSON: Thank you, OSHA.

18 Solicitor's Office, do you have any questions for
19 the witness?

20 MS. WILES: Thank you, Your Honor. Linda Wiles
21 from the Solicitor's Office. I think that Ms. Gurnick-
22 Long has answered many, many questions already so I

1 have no further questions for her. But I thank her
2 and - as a representative of her company, Seaway Bolt,
3 and on behalf of IFI for being here today and for
4 contributing to OSHA's rulemaking, so thank you.

5 JUDGE DONALDSON: Well, let me check with the
6 public just before we make sure you're -- whether your
7 statements are -- are finished or complete.

8 Are there any questions from the public attending
9 this session?

10 MS. CARLON: There are none, Your Honor.

11 JUDGE DONALDSON: There are not?

12 All right. Well then, after those -- those
13 several questions, I do think that is the end of your
14 statement. If you are, in fact -- can finish, Ms.
15 Gurnick-Long, with what you wanted to say?

16 MS. GURNICK: Thank you, everybody. Have a great
17 afternoon.

18 JUDGE DONALDSON: Thank you.

19 MS. CARLON: The next speaker is Marc Sorini.
20 Please state your name and affiliation for the record.

21 MR. SORINI: Good afternoon. Marc Sorini with the
22 Brewers Association. Delighted to be here and -- and

1 speak to you. Also delighted to hear that -- that my
2 comments were read. So the Brewers Association
3 represents small and independent brewers. We have a
4 couple of reasonably large company members, but still
5 much smaller than the large multinationals that
6 dominate the industry.

7 There are over 9,000 small breweries in this
8 country. Over 4,500 are members of the Brewers
9 Association. We have members in every state, and --
10 and our median member makes less than 1,000 barrels of
11 beer a year, and has less than 15 employees. So these
12 are the quintessential small businesses that we
13 represent.

14 Now, it's obvious that a brewery is going to be
15 covered by this -- by this rule if it goes into effect.
16 We have a heat source called a brew kettle in every
17 single production brewery in America. And -- and then,
18 in addition to that, a lot of our members are more
19 retailers than they are, sort of, large distributing
20 breweries or -- or distributing breweries, and
21 therefore, they have retail components these days that
22 often include some outdoor areas, particularly in the

1 warm months.

2 And of course, with temperatures being what they
3 are, oftentimes we'll -- we'll exceed the thresholds,
4 so we have a great interest in this. We'll -- we'll
5 start by observing that I don't know that heat is a
6 particular problem in the -- the brewing industry. We
7 do have resources that we put out for all of our
8 members on safety, and those have specifically included
9 heat -- heat -- heat resources.

10 I was just peeking at our website and saw an
11 article we wrote on this subject in -- in 2022. So we
12 think that small breweries -- small breweries do their
13 best to comply with this. And that's a -- I think
14 that's an observation, to say. I'm not sure we're the
15 crux of the problem, and particularly given the
16 pressures on OSHA to -- to rule make in a way that
17 eliminates other rulemaking, we're not sure this is --
18 this is the best use of our time to put on small
19 brewers.

20 But if you do go forward, we do have some
21 suggestions, and I think one of them was highlighted
22 here. Our members don't have resources, you know, to

1 afford outside -- I mean, a couple of our biggest
2 members maybe, but most of our members cannot afford
3 outside counsel, cannot afford expensive consultants,
4 do not have the expertise to look at guidance. And so
5 you know, the -- the biggest one that grabs us is rest
6 breaks as needed.

7 Well, what is a rest break as needed? And we have
8 a couple of concerns with that. Number one, I think
9 our -- our members are going to be scratching their
10 heads if they have to comply with that. And number
11 two, it looks like it converts that standard
12 effectively into a strict liability standard. In
13 effect, if -- no matter what, you know -- what
14 diligence is done by the employer, if there is a heat
15 injury, well clearly, that employee needed it.

16 And that, in fact, the de facto injury itself is
17 going to be seen as the reason to say that the standard
18 was violated. So we're not particularly keen on that.
19 We'd like to see a much more objective standard there
20 or eliminate that standard altogether. But -- but
21 right now, we see that as a -- as a huge problem for
22 small -- small and independent brewers.

1 Second one was the one that Ms. Petropoulos
2 highlighted. We really are not big fans of the
3 frequency of outdoor monitoring standard. I'll quote
4 it here. I -- I generally don't like reading from
5 stuff, but it's, "with sufficient frequency to
6 determine with reasonable accuracy employees' exposure
7 to heat".

8 If I'm -- if I'm a -- even if I'm a lawyer, I
9 recognize that there's a lot of play there. And if I'm
10 not a lawyer, and I'm a small business owner, I have no
11 idea what that means. Our folks try to comply, and if
12 you give them a standard, they will do their darndest
13 to comply. But that is something that they are not
14 going to know how to comply with. They're not going to
15 have the expertise or the consulting firepower to be
16 able to figure that out.

17 We would much prefer something that's clear,
18 again, if -- if this rulemaking proceeds. And then,
19 the other two bits are things that may be belt and
20 suspenders, but we want to make clarity on. Most of
21 our members are going to have that area around the brew
22 house that will get hot, but they're also going to have

1 air-conditioned retail areas.

2 So making clear that using a retail space for your
3 cool down area, I think would be very good, because
4 otherwise we're not gonna - some of our members are too
5 small to have dedicated break rooms. The retail area
6 is the break room. And then, second of all, making
7 clear that there doesn't have to be any kind of overlap
8 between the heat safety training, the heat safety plan,
9 and other ongoing safety and training programs would be
10 great.

11 And in fact, if this does get adopted, we would
12 want to see that adopted into our plans that are
13 already in place for our members. So that's what --
14 that's what I have to say, and appreciate your time and
15 attention. And if you have any questions, I'm happy to
16 answer them.

17 JUDGE DONALDSON: Thank you.

18 Are there any questions for Mr. Sorini?

19 MS. WANGDAHL: Thank you, Your Honor. This is Amy
20 Wangdahl with OSHA's Directorate of Standards and
21 Guidance.

22 And we do have a number of questions for you

1 today, Mr. Sorini.

2 MR. SORINI: Great.

3 MS. WANGDAHL: So sit back and relax, and --

4 MR. SORINI: All right.

5 MS. WANGDAHL: -- as I mentioned with previous
6 presenters, you can either answer today, or you can
7 submit your answers in post-hearing comments, or a
8 combination of the two. So as we discussed with other
9 presenters today, we've heard that several groups
10 testifying have said that they felt that the proposed
11 standard is too prescriptive.

12 And you, yourself, mentioned, you know, some
13 issues that you might have, and that we should adopt a
14 more flexible performance-oriented standard. Do you
15 have any recommendations on how OSHA can structure a
16 more performance-based standard to ensure it's
17 sufficiently protective while providing enough clarity
18 for employers? And I know you mentioned, just a few
19 minutes ago, talking about the rest breaks as needed as
20 one example. So if you had any other examples, we
21 would be interested in hearing those.

22 MR. SORINI: Yeah, the two specifics that I gave

1 are certainly there. You know, if -- if I zoom out a
2 little bit, I would make the following observation.
3 When it comes to brewery injuries -- and -- and -- and
4 I am not the internal expert at BA on this. The -- the
5 head of our technical programs is, but I -- I know
6 enough to be dangerous.

7 Most of the times where there are failures, it's
8 not because somebody violated an OSHA rule or -- or
9 another rule. It's because they simply don't give a
10 you know what, and usually, they're not members of
11 ours. And so the sad reality is that a lot of
12 prescriptive rules generally are preaching to the
13 converted.

14 And so, you know, our -- our -- my focus certainly
15 was if somebody's reading these rules and wants to
16 comply, let's make it easy to comply. The sad reality
17 is -- I remember a few years ago, we had -- it had
18 nothing to do with heat injury, but we had a tragic
19 incident at a brewery. And you know, the -- the -- the
20 list of mistakes that were made in -- leading to this
21 accident were, you know, multiple -- multiple OSHA
22 violations and other things.

1 So I think that's just a general observation that
2 sometimes being very -- attempting to highly regulate
3 some of this stuff for small businesses, in particular,
4 is not going to achieve the desired result. So --
5 and -- and I know that's counterproductive to say to
6 the folks that are promulgating the rule, but -- but --
7 but that's kind of our observation, generally, is that
8 we want to make sure if the rule gets passed, and we've
9 got members that are -- that know and care and look at
10 it, they will. I think the people that are nonmembers,
11 who are typically just running on a shoestring, are
12 gonna be the problem and they're not gonna be reached
13 by whatever the rule is.

14 MS. WANGDAHL: Okay. If you have other
15 observations on where we can make changes, please feel
16 free to --

17 MR. SORINI: Yep.

18 MS. WANGDAHL: -- submit those.

19 MR. SORINI: Yep.

20 MS. WANGDAHL: And then --

21 MR. SORINI: Yeah, we've -- we've provided the big
22 four that we saw, as far as, you know, if -- if the

1 standard goes through, these are -- these are the big
2 four improvements we'd like to see.

3 MS. WANGDAHL: Okay. What elements of a Heat
4 Injury and Illness Prevention Plan do you believe
5 should be prescriptive in nature, and which could be
6 more performance-based?

7 MR. SORINI: When you say performance-based, help
8 me out. What's -- what do you mean by that?

9 MS. WANGDAHL: Well, we're trying to find areas
10 where we can be more flexible or have some built-in
11 flexibility for employers so that -- but you've already
12 sort of pointed out that you don't like the as-needed
13 rest breaks, as needed. You know --

14 MR. SORINI: Yeah.

15 MS. WANGDAHL: -- to the --

16 MR. SORINI: I mean, if there's a way -- so -- so
17 the challenge with a lot of these things is that if --
18 if it's rest breaks as needed, it becomes something
19 similar to a tort standard. And when the -- and when
20 the enforcement mechanism is more regulatory so that
21 you get written up, it becomes much harder to -- it
22 becomes, in my view, a -- a difficult way to -- a

1 different -- a difficult challenge to comply when
2 you've got a small business owner going well, as
3 needed? I'm not sure what that means and -- and I
4 think that's your challenge. So we tend to say if
5 we're going to have rules, let's -- let's have very
6 clear rules.

7 MS. WANGDAHL: So -- so another example, being
8 more prescriptive, is where OSHA could say each
9 employer must provide eight ounces of water every four
10 hours. So if there are some examples that you could
11 provide the agency --

12 MR. SORINI: Right.

13 MS. WANGDAHL: -- with prescriptive and more
14 performance-based, we would appreciate that.

15 MR. SORINI: Okay.

16 MS. WANGDAHL: Okay?

17 MR. SORINI: All right.

18 MS. WANGDAHL: I'm going to turn it over to Zoe
19 Petropoulos who's going to talk about identifying heat
20 hazards.

21 MR. SORINI: Sure.

22 MS. PETROPOULOS: I can see you writing something

1 down so I can wait if you would like me to?

2 MR. SORINI: Oh, yeah. No, I was just want --
3 writing down the question. Go ahead.

4 MS. PETROPOULOS: So I just wanted to follow up
5 about the concern that you - you repeated around the
6 frequency of monitoring, under paragraph (d), and I
7 know in your written comment you suggested that perhaps
8 a monitoring of every two hours could be - like, you
9 provide that as an example.

10 MR. SORINI: Yep.

11 MS. PETROPOULOS: And so I wanted to ask --

12 MR. SORINI: And -- and that was provided to me by
13 my -- by our technical folks, who are much closer to
14 the actual operations than I am, but yeah.

15 MS. PETROPOULOS: That's helpful, because I was
16 gonna ask are most brewers typically already monitoring
17 at this frequency, or is this, you know, a -- a -- a
18 hypothetical example provided --

19 MR. SORINI: Most is hard to say when you have
20 9,500 breweries out there.

21 But I would say probably -- probably -- but I -- I
22 can't say I know that for sure, and I don't -- I mean,

1 we do pretty regular surveys of our members on a number
2 of things. I don't think this is one of them. So --
3 but I can get back to you on -- on whether we know more
4 on -- on what the standard practices are. I -- I don't
5 know that for sure.

6 MS. PETROPOULOS: Okay. Well related, we'd be
7 interested into -- in how brewers are currently
8 monitoring conditions, what equipment they're using --

9 MR. SORINI: Yeah.

10 MS. WANGDAHL: -- you know, what works well for
11 them versus not.

12 MR. SORINI: Yeah.

13 MS. WANGDAHL: We would also be interested in that
14 information.

15 MR. SORINI: Yeah, it's probably fairly basic for
16 most of our members. I mean, you know, if you -- with
17 our members, you have a couple of -- a couple of large
18 members here. Sierra Nevada Brewing Company, for
19 example, which are going to be, you know -- they're
20 still small compared to Anheuser-Busch, but they're
21 going to be relatively state-of-the-art. But that's,
22 like, 0.2 percent of our members, and everybody else is

1 an extremely small business. So think about, like,
2 your average mom-and-pop coffee shop. They're probably
3 just using a basic thermometer.

4 MS. PETROPOULOS: Got it. That information is
5 helpful. Thank you so much.

6 And that's it for me, Amy.

7 MS. WANGDAHL: Okay.

8 MR. SORINI: Thank you.

9 MS. WANGDAHL: We have Brenda Finter, who has some
10 questions on technological -- technological feasibility
11 and engineering controls.

12 MR. SORINI: Okay.

13 MS. FINTER: Hello. Brenda Finter, OSHA
14 Directorate of Standards and Guidance. I have just a
15 couple of questions. First one, do your members use
16 any methods to isolate radiant heat from heat-
17 generating equipment? If so, what have they tried
18 that's been successful and what has been unsuccessful?

19 MR. SORINI: Yeah, I would have to get back to you
20 on that. My guess is that, like, a very sophisticated,
21 you know -- like, looking at, specifically, the radiant
22 heat coming from the brew kettle is probably not being

1 measured in 95 percent of our members. That's my
2 guess. Again, these are very small businesses with
3 very small staffs and very -- and -- and -- you know,
4 without the opportunity to get sophisticated equipment,
5 but I could be wrong. So let me -- let me check and
6 get back to you.

7 MS. FINTER: Okay. And then, next question is, in
8 your comment, you mentioned that many small brewers
9 have air-conditioned retail space.

10 MR. SORINI: Mm-hmm.

11 MS. FINTER: For brewers without these air-
12 conditioned spaces, are there situations where
13 employees take breaks outdoors to cool off?

14 MR. SORINI: I doubt it unless, you know -- unless
15 they want to because they're smokers or something odd
16 like that, but I doubt it. Again with 9,500, it's hard
17 to make a broad generalization, but usually -- so I --
18 I would say today, roughly -- well, in excess of 90
19 percent of our members have some sort of retail space.
20 I -- I -- I think that's probably the case.

21 The largest members will have a standard, you
22 know, dedicated break rooms and other things. I'm not

1 sure there's any brewery, or many breweries, that, you
2 know, the only choice is stay in the brew house or go
3 outside. I doubt that's the case, but again, I can --
4 I can see if we have any data on it.

5 MS. FINTER: Okay. Thank you.

6 MS. WANGDAHL: Okay.

7 We're going to move to Tiffany DeFoe to talk about
8 rest breaks.

9 MS. DEFOE: Hi. Tiffany DeFoe, Directorate of
10 Standards and Guidance, OSHA. So circling back again
11 to your rest break comments, I wanted to ask first --
12 so it sounded to me, in your in your written comments,
13 like, part of your concern with the as-needed rest
14 breaks for post provision, was that -- that the way
15 that that provision was worded could potentially
16 create, sort of, like, unfair liabilities for
17 employers?

18 MR. SORINI: Yeah, I gotcha.

19 MS. DEFOE: Okay. And I wanted to ask, so this is
20 with the background, that -- would that -- that
21 provision is sort of -- how we proposed the language
22 was to ensure that employees could take breaks when

1 they feel at risk of overheating. Even if it's, you
2 know -- even if it's in addition to any scheduled rest
3 breaks. And I wanted to ask if there were any specific
4 changes to the language of that provision that you
5 could suggest -- in post-hearing comments is great if
6 that's better than now -- that would address the
7 concerns that you're having about unfair liabilities,
8 while still preserving the ability of employees to take
9 breaks when they feel at risk of overheating?

10 MR. SORINI: Yeah, I'll -- I'll leave the details
11 to post comment -- comments. I do think that
12 there's -- needs to be some sort of objective standard,
13 right? As needed can be very subjective, and so some
14 sort of -- some sort of standard, and it's good to
15 clarify that it's -- hey, that the, you know -- the
16 worker thought that they were feeling lightheaded,
17 right, and -- and -- and -- and I -- I think there'd be
18 no disagreement from anybody, and any of our members,
19 to say if, in that case, there ought to be some sort of
20 break provided.

21 But -- but there ought to be some sort of, you
22 know, reasonable-person standard, if you will, to say

1 is -- is there a reason for the employer to think that
2 this is needed, you know? My -- my fear with an as-
3 needed is, well, you should've -- you should've -- you
4 should've looked out, and walked the floor, and talked
5 to your people, and gotten to the point where you knew
6 that Joe Blow was -- was -- was overheated.

7 I mean, I -- that's very hard, and -- and -- and I
8 fear that, well, Joe Blow passed out from the heat. He
9 needed a break, you didn't give him one, that's --
10 that -- you're getting written up. You -- you had a
11 violation. And God forbid Joe Blow hurt himself at --
12 in doing so because now you've got, you know, the OSHA
13 violation. The -- is the basis for tort liability and
14 all sorts of other things. So -- so that's why --
15 that's why we think there ought to be something much
16 more -- much more objective.

17 MS. DEFOE: Mm-hmm. I -- I think I followed that.
18 Let me clarify. If -- if OSHA were to, for example,
19 promulgate a provision that employers must -- that if
20 an employee approaches them and says, I need a break.
21 I'm at risk of overheating.

22 MR. SORINI: A reasonable request for a break, you

1 know? Something like that.

2 MS. DEFOE: Well, let's just start with a request
3 for a break --

4 MR. SORINI: Mm-hmm.

5 MS. DEFOE: -- with the reason given that they
6 feel at risk of overheating.

7 MR. SORINI: Yeah, and --

8 MS. DEFOE: So the --

9 MR. SORINI: -- technically, I think that's right.

10 MS. DEFOE: -- so the responsibility is to --
11 is -- is to grant the request rather than to --

12 MR. SORINI: Yeah.

13 MS. DEFOE: -- you know, then to, like, make -- to
14 understand without any communication --

15 MR. SORINI: yep.

16 MS. DEFOE: -- that some was needed.

17 MR. SORINI: Yeah, I mean, I -- I think -- I think
18 we're in -- we're heading in the right direction, for
19 sure. I'd have to think through the, you know -- could
20 you have an employee that then, you know, walks into
21 work the first thing in the morning, and says I'm
22 feeling hot, you know? See you in eight hours. I

1 mean, obviously -- again, there has to be some sort of
2 reasonableness standard here that -- that -- that comes
3 into play.

4 MS. DEFOE: Yes, and actually, you're -- what
5 you're saying right now is -- there's some -- some
6 comments that we've received by -- from folks earlier
7 in the hearing process that were raising concerns and
8 questions similar to that one. And I'll just note that
9 one of the suggestions that we've received about that
10 concern is that OSHA could -- so as your -- as you --
11 your comments make clear you're aware, OSHA develops
12 guidance that is designed to accompany any rule that
13 we're promulgating, and to help provide some extra
14 information about what the expectations are, or how the
15 agency intends things to be interpreted. And I was a
16 little dismayed to hear that -- that lawyers are
17 required for understanding that. I'm sorry.

18 MR. SORINI: Yeah.

19 MS. DEFOE: That's on me.

20 MR. SORINI: No, I -- so --

21 MS. DEFOE: But --

22 MR. SORINI: -- so my experience -- but look.

1 I -- my -- my focus, I'm a 25-year-partner at a big
2 firm was that -- was that most of your small business
3 clients -- and I had a few who could afford it, you
4 know, they would read the regs but they could never get
5 down into the, well, you know, TTP Ruling 20008-3 says
6 X. They're never gonna know that. That's when --
7 okay. You can -- you can call Marc and he's going to
8 know where all the bodies are buried, as far as the,
9 you know -- the -- the non-regulatory guidance.

10 I -- I -- I -- I -- my personal view, and just
11 from long experience as - in private practice is that
12 you need lawyers, and/or consultants, if you're going
13 to get down into the sub regulatory guidance. Or -- or
14 by the way, the other thing is, I googled it. And if
15 you can find it by Google easily, maybe that helps
16 because that's what - that's what a lot - that's the
17 compliance program for probably 95 percent of our
18 members, is Google.

19 MS. DEFOE: Well, okay. I'll circle back to that
20 topic in a moment, but I just --

21 MR. SORINI: Okay.

22 MS. DEFOE: - wanted to first - in the guidance -

1 so if - if we move forward with the heat standard,
2 we'll develop guidance to go with it. And the
3 suggestion that we receive from someone who had a
4 similar concern about potential abuse of as-needed rest
5 break provisions by employees was that OSHA should
6 include, in its guidance, sort of, a healthy dose of
7 explanation about what was considered, what the
8 expectations were, and what - to - to help to sort of
9 create what they called guardrails -

10 MR. SORINI: Mm-hmm.

11 MS. DEFOE: -- around the use of as-needed breaks
12 by employees. And so with that in mind, if you have
13 any thoughts that you'd like to share about that
14 suggestion and what kind of information could be useful
15 to include about -- about your concern.

16 MR. SORINI: Yep.

17 MS. DEFOE: And -- and guidance, as opposed to the
18 reg.

19 MR. SORINI: Yeah, so as -- as a general matter,
20 I do think that -- that more clarity -- and certainly
21 clarity within the rules would be helpful. On other
22 guidance, I can't think of anything at the moment just

1 cause I hadn't thought out how that applies in a
2 brewery situation, but certainly would be happy to file
3 further -- further comments.

4 MS. DEFOE: Let's see here. And then, on, kind of
5 the other branch of the rest break requirements that we
6 proposed, I -- I wonder if you can comment -- and
7 again, like, post-hearing is fine -- on whether you
8 think that them -- scheduled -- mandated scheduled rest
9 breaks that the proposed rule includes at the high heat
10 trigger would be feasible for your industry or the part
11 of your industry that you're representing here today --

12 (Cross talking.)

13 MR. SORINI: Every two hours, if I recall?

14 MS. DEFOE: Mm-hmm. That's right.

15 MR. SORINI: Yeah, I think in general that's
16 probably when -- when we talked amongst our, you
17 know -- our technical advisory folks, they thought that
18 that was probably -- that was probably doable, yeah.
19 That most -- most breweries are doing that already, you
20 know, just in the usual break cycle.

21 MS. DEFOE: All right. Good to know. Thank you.

22 MR. SORINI: Yeah, yeah. I mean, one of the good

1 things that we don't have the issue that I think some
2 of the industries here have is, you know, if you're out
3 in a road construction site, it becomes much more
4 difficult than at a, you know -- essentially, a
5 combined manufacturing retail business, which is what
6 most of our member businesses are.

7 MS. DEFOE: Thank you. And then, the last
8 question that I had for you was actually just about the
9 part of your comment that noted that the way that OSHA
10 practices in the field, and guidance documents that,
11 you know, that they are -- that they do help to provide
12 additional clarity on how the rule is to be applied and
13 enforced, but that knowledge of those details can be
14 hard to access for small businesses.

15 So you've already talked about that a little bit
16 here today --

17 MR. SORINI: Yeah.

18 MS. DEFOE: -- but if you had any further thoughts
19 for the record on how that information could be made
20 more accessible to small businesses?

21 MR. SORINI: Well, I've --

22 (Cross talking.)

1 MR. SORINI: -- always felt like regulations, you
2 know -- regulations is a little bit of a less is more
3 approach, which is regulations that are clear and
4 concise, but where you can get everything in one
5 package is good. And -- and -- and I know that those
6 are sometimes at cross-purposes, right? If you want a
7 short regulation, you can't go into details.

8 So I recognize that that's a challenge, but -
9 but -- but my experience, you know - again, not - not
10 an -- as an OSHA attorney but as a practicing attorney
11 in a highly regulated field, you know, alcohol
12 beverages, is that most -- most of your brewery owners,
13 production folks, whatever, could get to the regs.

14 Getting further below that to the rulings, and the
15 industry circulars, and the, you know -- what various
16 advisories is much, much, much harder. And then, you
17 have to reconcile them, right, because then maybe
18 there's 18 different -- I mean, I remember with my
19 customs -- when I did customs rulings, right? You'd
20 have dozens of customs rulings, and you have to try to
21 reconcile them, and that -- that becomes very, very
22 hard for a small business owner.

1 That -- that -- that's where -- that's where
2 companies of scale -- and this gets back to, sort of,
3 our reason of being. We are protecting small
4 independent businesses. Companies of scale that can
5 spread the costs of compliance out amongst very large,
6 you know, production runs, you know, in the case of
7 beer or whether it's services, you name it. It becomes
8 pretty easy to, you know, hire an expert who can say I
9 know exactly where the rulings are and I know exactly
10 how to do this. We - we basically operate on the
11 principle that 99 percent of our members can't do
12 that - or at least 95 percent of our members can't do
13 that.

14 MS. DEFOE: Well, thank you very much for your
15 patience with all my questions.

16 MR. SORINI: No, no. That's great.

17 MS. DEFOE: And your responses, yeah.

18 MR. SORINI: I'm happy to.

19 MS. WANGDAHL: Okay.

20 MS. DEFOE: It's --

21 MS. WANGDAHL: We have a few economic questions
22 from Joo-Hyung Shin.

1 MS. SHIN: Hi. This is Joo-Hyung Shin from OSHA.
2 In your submitted comments on your testimony, you
3 mentioned that small brewers generally have safety
4 plans and training already in place.

5 MR. SORINI: Yeah.

6 MS. SHIN: If you could provide more detail on the
7 existing plans and training that your members have in
8 place, and provide some examples, if that's possible?
9 And also, how much it would cost to incorporate heat
10 safety related material into the existing plans, we
11 would greatly appreciate that information.

12 MR. SORINI: Yep. I can -- I can have our folks
13 gather a -- gather a safety plan. And in fact, I
14 believe we provide a -- a -- a -- a model safety plan
15 document for our members. So I can get you that,
16 absolutely.

17 MS. SHIN: That's great. Thank you. And my last
18 question is, if you have data that speaks to the
19 percentage of your members that have ice makers or
20 freezers where ice can be stored onsite, we would
21 appreciate that information as well.

22 MR. SORINI: Okay. Yeah, I doubt we're keeping

1 that data, but I bet I could get a -- a --

2 MS. SHIN: Like, any number percentage.

3 MR. SORINI: -- rough estimate. Mm-hmm.

4 MS. SHIN: Like, how prevalent that is? We
5 were -- we're just interested in that information.

6 MR. SORINI: Okay. Sure.

7 MS. SHIN: That's all for me. Thank you.

8 MR. SORINI: All right.

9 MS. WANGDAHL: So this is Amy Wangdahl again. Mr.
10 Sorini, I just wanna add one small item. As you
11 pointed out, the four major issues, or concerns that
12 you had, if there's anything in the proposal that you
13 liked, or that you believe employers can comply with,
14 we always appreciate that feedback as well.

15 MR. SORINI: Okay.

16 MS. WANGDAHL: And I should have mentioned this
17 before. Our -- you know, we're on YouTube right now,
18 so I -- we see you taking notes. And for Ms. Gurnick-
19 Long, she was taking notes as well, but you could
20 always watch the recording on YouTube immediately after
21 the hearing, and a transcript will be probably a few
22 weeks, but you can also get the questions at that point

1 if that helps you any?

2 MR. SORINI: Yeah, that'll be helpful.

3 Absolutely.

4 MS. WANGDAHL: So we really appreciate the time
5 and your testimony today, Mr. Sorini. We look forward
6 to receiving your post-hearing comments.

7 And Your Honor, that concludes questions from
8 OSHA.

9 MR. SORINI: Great. Thank you very much. For --
10 for clarity, one question. Do you have a specific
11 deadline set for the post-hearing comments? And if
12 they were already in my material, sorry for asking.

13 MS. WANGDAHL: I believe -- I'm sorry. Your --
14 Go ahead, Your Honor.

15 JUDGE DONALDSON: Oh, that -- either of us can
16 answer it I think, but I'm -- I'm showing that there's
17 a 90-day period that ends September 30th, 2025.

18 Anybody correct me if I'm wrong, but that there's
19 a 90-day period for that opportunity to submit more
20 information post-hearing.

21 MR. SORINI: Perfect. Okay. Very good. Thank
22 you.

1 Thank you, Your Honor.

2 JUDGE DONALDSON: Thank you very much.

3 Well, let me make sure there's no other questions
4 for you. I know that --

5 MR. SORINI: Yep, yep.

6 JUDGE DONALDSON: -- you've -- you've answered a
7 number already.

8 But from the Solicitors Office, I need to check
9 with you. Any questions?

10 MS. WILES: Thank you, Your Honor. Linda Wiles
11 from the Solicitor's Office.

12 Thank you, Mr. Sorini, for being so frank in your
13 discussion with us today and in answering your
14 questions. I did have just one small follow up. I
15 heard you say that compliance assistance and guidance
16 materials are not readily accessible or easy for the
17 small business -- small businesses to utilize.

18 So if, in your post-hearing comments, you have any
19 suggestions or recommendations how OSHA might be able
20 to make those materials more accessible for small
21 businesses, I think we would greatly appreciate that
22 input.

1 MR. SORINI: I'll think about it. I -- it's a
2 perennial problem, and I also must admit, I -- I don't
3 know how your system works as far as how well -- how --
4 how searchable your databases are, and stuff. It's
5 just my experience, and you know, dealing with multiple
6 other agencies that it's -- it -- it -- it -- that
7 stuff is very hard for a small business to really
8 get -- get their head around.

9 MS. WILES: Fair enough. I think that's not in --
10 a unique experience so --

11 MR. SORINI: Yeah.

12 MS. WILES: -- any suggestions from your members
13 or any ideas that you have, that would be greatly
14 appreciated.

15 And that's it for me, Your Honor.

16 JUDGE DONALDSON: Thank you very much.

17 Are -- are there any members of the public present
18 that have a question for Mr. Sorini?

19 MS. CARLON: There are none, Your Honor.

20 JUDGE DONALDSON: Okay.

21 Well then, that does conclude your statements
22 for -- at this time. Of course, you -- it sounds like

1 you plan to submit more information post-hearing, and
2 you have about -- the 90 days to do that.

3 And thank you, OSHA, for touching on how to
4 revisit all the questions, either at YouTube or an
5 uploaded transcript in a couple weeks or more at
6 regulations.gov for this -- for this particular
7 hearing.

8 But -- but thank you again, Mr. Sorini.

9 MR. SORINI: Thank you.

10 MS. WANGDAHL: Our next speaker is Marcus
11 Cervantes. Please state your name and affiliation for
12 the record.

13 DR. CERVANTES: Hello. My name is Marcus
14 Cervantes. I am a physician specializing in both
15 family medicine and occupational and environmental
16 medicine. I am on the board of the Association of
17 Occupational and Environmental Clinics, or AOEC, and
18 I'm speaking on behalf of AOEC today.

19 So AOEC is a network of occupational and
20 environmental clinics and professionals across the
21 United States. Clinicians and AOEC clinics see workers
22 exposed to heat in jobs ranging from construction,

1 agriculture, postal delivery, firefighting, and
2 emergency response.

3 This is a growing trend that every year, more and
4 more workers are exposed to higher and higher
5 temperatures. On May 13th, the National Weather
6 Service reported that the Southwest is set to
7 experience the hottest May heat waves of all time.
8 Further, they noted that many will not be acclimated --
9 acclimatized to this type of heat so early within the
10 year, and 2024 was the hottest year in recorded
11 history. We'll see about this summer.

12 I say that with a heat wave where I am currently,
13 and where I reside. So there's no question in my mind,
14 as well as other occupational medicine physicians, that
15 more workers will get sick, get injured, die due to
16 heat exposure at work. It's my opinion that an OSHA
17 standard is recommended, but not only that, probably
18 long overdue.

19 The proposed standard has provisions that protect
20 many workers, although I think there should be some
21 additions to the standard. The scope should include
22 all indoor and outdoor workers. The standard should

1 also specifically state that temporary workers should
2 be included. Employers should have a Heat Injury and
3 Illness Prevention Program. I believe that was part of
4 the standard, but if it isn't, it should be.

5 All employers should have a -- or these employers
6 should have a written plan, and the idea behind that
7 being that that forces employers to evaluate the risk
8 of heat exposure to their workforce, and create an
9 appropriate heat exposure control plan. Employees
10 should also have access to the plan so that workers are
11 more educated and -- and more aware of -- of the -- the
12 hazards.

13 And then, a written plan also allows compliance
14 officers for OSHA to quickly determine whether a plan
15 is one, appropriate, and, two if it's been followed.
16 So I did want to take a couple minutes to talk about
17 heat-related injuries as well. So in addition to
18 water, rest, and shade, the most important workplace
19 control to prevent heat-related injuries, illnesses,
20 and death is acclimatization.

21 So workers who are not acclimatized to heat are at
22 a much greater risk. And approximately 70 percent of

1 heat-related deaths are in new and returning workers
2 who are not acclimatized. The proposed standard does
3 not allow for maximum protection for unacclimatized
4 workers.

5 They need time on the job to acclimatize, and
6 certainly, they will not be acclimatized when starting
7 a -- a new job after leaving their air-conditioned
8 home, or apartment, regardless of their country of
9 origin or their current region of permanent resident.
10 The body acclimates to hotter conditions by improving
11 sweating, increasing blood plasma flow, and improving
12 heart function.

13 These physiologic adaptations occur within 5 to 17
14 days and depend on many factors, including the level of
15 heat, the workload, personal risk factors, PPE used by
16 workers -- or personal protective equipment, as well as
17 baseline medical conditions. And when not working in
18 heat for a period of time, say due to a medical leave
19 or vacation, the body quickly loses these adaptations
20 as well.

21 One thing that I heard another member point out
22 was that they currently use the buddy system. I will

1 get to that, but I think that's an important part of
2 the standard -- or that should be included within the
3 standard. Typically, when we talk about heat-related
4 illnesses, we oftentimes describe them as separate
5 entities, but really it's kind of a -- a continuum of
6 symptoms.

7 So heat stroke, heat exhaustion, heat syncope,
8 heat cramps, heat rash, they're not always discrete,
9 but they overlap. You can have heat cramps and heat
10 exhaustion at the same time. You can be sweating
11 profusely while you progress from heat exhaustion to
12 heat stroke.

13 And during that progression, that can happen both
14 very quickly and sometimes very subtly as well. What
15 we actually see with heat stroke is that confusion and
16 disorientation are the most common symptoms of heat
17 stroke. So where I am going with this is despite
18 adequate training, despite an employer having a written
19 H-I-P-P that the employee is well versed and has well
20 read, and should ideally -- yeah -- be aware of, they
21 may fail to recognize their own symptoms because of
22 again, confusion and disorientation.

1 So because of this, observation for signs and
2 symptoms should be considered at the initial heat
3 trigger. And additionally, new and returning workers,
4 OSHA should require a buddy system as well. So if a
5 worker were -- were to become confused or disoriented
6 when reaching the heat stroke stage, again, they're
7 unlikely to -- to recognize those symptoms at that
8 point.

9 Supervisors can also be an important part of this
10 monitoring workers for heat stress symptoms. I
11 certainly have a concern about workers working alone.
12 And then, a supervisor should also be on the site. So
13 more and more of these days, we are all doing things
14 remotely.

15 I mean, I -- we are all speaking to each other
16 remotely, or at least many of us are, but a supervisor
17 remotely evaluating a lone worker could easily miss
18 some signs or symptoms of heat exhaustion and heat
19 stroke that can only be recognized face-to-face. So as
20 a -- as a practitioner of medicine now, a small part of
21 my practice is telemedicine.

22 And certainly, a lot is lost from examination and

1 speaking to people when you're doing it through a
2 webcam like this. So when in the field, emergency
3 management of heat stroke is typically required to save
4 a life. And again, a confused worker working alone
5 will not -- will probably not be able to do those
6 things so -- so a buddy system is part of this as well.

7 My other thoughts is that medical surveillance and
8 medical screening may also be a valuable part of the
9 standard. Workers who regularly work in hot
10 environments should be part of this, as OSHA recognized
11 in the notice of proposed rulemaking, workers with a
12 number of medical conditions and workers on a variety
13 of medications are at an increased risk of heat-related
14 illness.

15 Training may not be enough. Workers may not
16 realize that they're in -- at increased risk. And by
17 placing the burden on workers to recognize the risks,
18 you're asking the -- the worker to make medical
19 decisions, a worker who may not have any medical
20 background whatsoever.

21 And this is not an uncommon thing. OSHA has
22 recognized the -- the need for medical screenings in

1 many standards such as lead, asbestos, silica. So heat
2 is a hazardous exposure. Many heat-related deaths have
3 been reported in the literature and investigated by
4 OSHA, and they could have been prevented through
5 medical screening programs that identified workers at
6 higher risk, or provided accommodations for these
7 workers.

8 Myself and other clinicians in occupational
9 medicine, we regularly use screening questionnaires
10 like OSHA's respiratory questionnaire, required within
11 the respiratory protection standard. A -- I -- I
12 believe that this author actually spoke either a few
13 days ago or last week, but Brett Perkison used a
14 medical screening questionnaire to look at municipal
15 outdoor workers, and that was actually shown to
16 decrease the incidence of heat-related illnesses in
17 those -- in those workers.

18 It is also my impression that there should be a
19 trigger within the heat standard for medical evaluation
20 when workers continue to have signs and symptoms of
21 heat illness. Typically, when that happens, the
22 workers should be medically evaluated beyond first aid.

1 And so specifically, what I say -- well, what I mean
2 when I say that, what would prompt that? So
3 specifically, if a worker has symptoms of headache,
4 dizziness, nausea, fatigue, weakness, vomiting, or
5 other symptoms that are not substantially improved
6 after 15 minutes of rest, cooling, and hydration, then
7 immediate medical attention should be sought and
8 provided, or sooner if the symptoms are worsening.

9 Workers who have mental confusion, or have had an
10 episode of loss of consciousness -- what I would call a
11 syncopal event -- they should be immediately evaluated
12 since these may be higher or more likely indicators of
13 heat stroke or a serious health condition. In these
14 cases, immediate transportation to a hospital emergency
15 department in an air-conditioned vehicle is the
16 appropriate intervention for those requiring medical
17 attention.

18 And again, heat stroke is a medical emergency
19 requiring immediate treatment. So -- so in conclusion,
20 heat stress is increasingly causing many of these
21 injuries, but it's completely preventable. And I speak
22 on behalf of AOE -- AOEC when I say that we strongly

1 purport -- support OSHA's proposed heat standard and
2 urged them to finalize the standard. Thank you.

3 JUDGE DONALDSON: Thank you, Dr. Cervantes.

4 OSHA, do you have any questions for the witness?

5 MS. WANGDAHL: Thank you, Your Honor. This is Amy
6 Wangdahl with Directorate of Standards and Guidance,
7 and we have a few questions for Dr. Cervantes.

8 DR. CERVANTES: Sure.

9 MS. WANGDAHL: I'm gonna go first. You touched on
10 your support of the buddy system during your
11 presentation, but we've heard from some groups that
12 they were requiring the buddy system where we have
13 workers that would be identifying a heat illness in
14 their coworkers is not possible because the workers are
15 not, quote, unquote, "medical professionals".

16 In your experience as a medical professional, are
17 the symptoms of heat illness something that non-medical
18 professionals can be trained to identify?

19 DR. CERVANTES: Yes, I think it'd be reasonable to
20 anticipate that the layperson could identify confusion
21 or disorientation. This is a common complaint in
22 family medicine offices, the emergency departments

1 where someone brings in their grandmother or their
2 child and says, they seem a little confused. Can you
3 help? Can -- can they be evaluated? So altered mental
4 status is a common, common, common concern, probably in
5 the top ten of most frequent encounters within any
6 emergency department within the United States, so.

7 MS. WANGDAHL: Okay. Thank you.

8 And we're going to turn to Zoe Petropoulos.

9 MS. PETROPOULOS: Hey. This is Zoe Petropoulos
10 with the Directorate of Standards and Guidance. We've
11 heard --

12 DR. CERVANTES: Hi.

13 MS. PETROPOULOS: Hi. We've heard multiple
14 medical professionals and surveillance experts
15 throughout this hearing say that they believe that
16 heat-related injuries and illnesses among workers are
17 undercounted in official administrative and
18 surveillance datasets. Do you agree with this? Why or
19 why not?

20 DR. CERVANTES: I would -- I would agree with
21 that, absolutely. So I actually -- during my
22 occupational environmental medicine training -- was

1 fortunate enough to intern at the Office of
2 Occupational Medicine and -- and Nursing at OSHA. And
3 I do recall that this was a frequent issue for the
4 characterization of heat-related illnesses and deaths.

5 Specifically, deaths in those cases when the
6 Office of Medicine and Nursing was involved. But
7 typically, if we didn't have evidence from the coroner
8 or pathology that there was a elevated temperature
9 within the body -- so typically, if we were fortunate
10 enough, maybe EMS or someone else had stuck a rectal
11 thermometer within a passed out worker, found that they
12 had a temp of 104.

13 And this is documented somewhere, but frequently,
14 these kinds of things don't happen. And so there's
15 really not proof within some of the -- or some of
16 the -- the medical evidence, that that was the case
17 of -- of a fatality. So yeah, I -- I would not be
18 surprised. There is also ample literature out there
19 that has looked at heat-related illness in non-citizen
20 workers within the U.S. as well so -- and there seems
21 to be some under representation of heat-related
22 illnesses in those groups, as well, from -- from data.

1 So yeah, I -- I think that would be a fair assessment
2 that we're probably undercounting the significance of
3 this.

4 MS. PETROPOULOS: Thank you.

5 That's it for me.

6 MS. WANGDAHL: Dr. Cervantes, that's all we have
7 from OSHA. I want to thank you for your time and
8 testimony today. And if you have anything additionally
9 that you'd like to follow up, you can - feel free to
10 submit your post-hearing comments.

11 Your Honor, that's all that OSHA has today. Thank
12 you.

13 JUDGE DONALDSON: Thank you, OSHA.

14 Anything from the Office of the Solicitor? Any
15 questions?

16 MS. WILES: Thank you, Your Honor. Linda Wiles
17 from the Solicitor's Office. Not - no questions for
18 me.

19 Thank you, Dr. Cervantes for your time and for
20 being here.

21 And I just wanted to state on the record, I want
22 to thank all the participants at today's hearing for

1 making the time to prepare their statements, and enter
2 into the record, and respond to OSHA's scrupulous
3 rulemaking. It's a really important part of OSHA's
4 work in terms of protecting workers. And so all of the
5 statements we've received today have been duly noted
6 and entered into the record, and will be considered by
7 OSHA moving forward.

8 JUDGE DONALDSON: All right. And -- and thank you
9 very much.

10 Does anyone from attending members of the public,
11 do they have any questions for Dr. Cervantes?

12 MS. CARLON: There are none, Your Honor.

13 JUDGE DONALDSON: All right. Then, we can thank
14 you conclusively, Dr. Cervantes. Thank you for your
15 participation.

16 DR. CERVANTES: Thank you.

17 MS. CARLON: We are --

18 JUDGE DONALDSON: I'll give you --

19 MS. CARLON: -- now at the --

20 JUDGE DONALDSON: -- okay.

21 MS. CARLON: Oh, sorry, Your Honor.

22 JUDGE DONALDSON: I was about to ask you if you

1 have anyone else on the speaking agenda?

2 MS. CARLON: Yes, I was going to -- so now that
3 we're at the end of the speaking order, I was just
4 going to recall any of our absent attendees from this
5 afternoon. I think we only have one, and that is
6 Joshua Trosclair. So if Joshua Trosclair is on the
7 line, and you've joined under a different name, please
8 use the raise-hand button at the bottom of your Webex
9 screen to indicate your presence.

10 And if you have called in, please use star three
11 to raise your hand.

12 At this time, he is still absent, Your Honor.

13 JUDGE DONALDSON: All right. Well, thank you for
14 checking to see if he might have joined us.

15 So having reached the end of the speaking order,
16 we're now -- we've concluded with all of the scheduled
17 witnesses for the day. I want to remind everyone --
18 we've covered it very recently -- but you may submit
19 additional evidence or statements, respond to
20 questions, and so on. Of the matters that are relevant
21 to this proceeding.

22 And that can be done within 90 days of the end of

1 the hearing. That date is September 30th, 2025, and
2 that that point, the record for the rulemaking will
3 close.

4 On behalf of the Department of Labor, I want to
5 publicly thank everyone who's participated today,
6 giving your time, your testimony, responding to
7 questions, responding in the future to questions,
8 potentially. Thank you for participating in this
9 hearing today.

10 That goes for all of the participants for the
11 hearing. This -- and thank you very much for joining
12 and sharing an interest in this important matter.

13 Having concluded the speakers and all the other
14 comments, the hearing is adjourned for the day. So it
15 will be reconvened at 9:30 a.m. tomorrow morning,
16 Eastern Time.

17 We'll go off the record.

18 (Whereupon, at 3:36 p.m., the hearing was
19 adjourned.)
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