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Court Reporting

Transcript of Day 8

Thursday, June 26, 2025

OSHA Heat Injury and Illness Prevention Hearing

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

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OSHA'S INFORMAL RULEMAKING HEARING

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FOR HEAT INJURY AND ILLNESS PREVENTION IN OUTDOOR AND

11

INDOOR WORK SETTINGS

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Day 8 of 12

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Thursday, June 26, 2025

15

9:30 a.m.

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1 PARTICIPANTS

2 PRESIDING:

3 STEPHEN HENLEY, Chief Administrative Law
4 Judge, Office of Administrative Law Judges, United
5 States Department of Labor

6

7 OSHA PANEL:

8 ANDREW LEVINSON

9 GARY ORR

10 DEIRDRE GREEN

11 TIFFANY DEFOE

12 BRENDA FINTER

13 ZOE PETROPOULOS

14 RACHEL CARSE

15 JOO-HYUNG SHIN

16 ADRIANA LOPEZ-MENENDEZ

17 JESSICA STONE

18 EDUARDO HERNANDEZ

19 PATRICIA DOWNS

20 OFFICE OF THE SOLICITOR OF LABOR

21 DANIEL MOCZULA

22 LINDA WILES

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17 ALSO PRESENT:

18 DREW ROBERTS, ABT Global

19

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P R O C E E D I N G S

JUDGE HENLEY: The hearing 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 in volume 89 of the Federal Register beginning at 70,698.

I am Stephen Henley, the Chief Administrative Law Judge for the United States Department of Labor, and I will be presiding over today's session. The purpose of which is to receive, from interested parties, oral testimony, as well as other information pertinent to the proposed rule. After this hearing and post-hearing comment period have closed, OSHA will review the entire record in determining the content of the final rule.

My role as presiding judge is limited to conducting this hearing to ensure that a complete and accurate record is made, and that all interested parties receive a fair hearing and have the opportunity to submit their information. The hearing schedule and

1 OSHA procedures governing the hearing are available on
2 the website at www.osha.gov/heat-exposure/rulemaking.
3 These documents were sent to people and organizations
4 who filed a timely notice of intention to appear at
5 this hearing.

6 A few words about the nature of the hearing.
7 Despite the informal nature, it is governed by rules,
8 both OSHA -- OSHA's rules governing hearings at 29 CFR
9 part 1911 and the hearing procedures issued specific to
10 this rulemaking. These rules are meant to ensure that
11 everyone has a fair opportunity to speak and express an
12 opinion about the proposed rule. To that end, they
13 also allow me to hold witnesses to their allotted
14 times, limit undue repetition or excessive argument,
15 and generally keep the hearing on schedule.

16 Any written comments you have submitted to the
17 docket are already part of the record of this
18 rulemaking. In the rare case where witnesses wish to
19 provide any other documents that have not already been
20 entered in the docket, they should provide them by
21 email to OSHAevents_dsg@dol.gov before the witness
22 begins their testimony, so that they can be entered as

1 exhibits in the record.

2 Because all pre-submitted documents are already
3 part of the record, your oral testimony should
4 concentrate on presenting the highlights of your
5 written comments or clarifying your written
6 submissions. Hearing participants may also submit
7 additional evidence or statements for a period of 90
8 days from the end of the hearing, which is September
9 30th, 2025. At that point, the record for this
10 rulemaking will close.

11 Today after each speaker or panel of speakers
12 completes giving oral testimony, OSHA and the
13 Solicitor's Office will have an opportunity to ask
14 questions of the speaker or panel. When OSHA and SOL
15 have finished asking questions, there will be an
16 opportunity, as time permits, for persons who filed a
17 timely notice of intention to appear to question the
18 witness or panel. Participants may only direct
19 questions to witnesses with whom they have no
20 organizational affiliation.

21 This is the process I intend to follow. After
22 OSHA has finished asking questions of a witness or

1 panel, I'll ask the participants who wish to ask
2 questions of the witness to identify themselves by
3 raising the raise hand button in Webex or pressing star
4 three on their phones for those who have called in.

5 Based on the hearing schedule and the number of
6 participants who wish to ask questions, I will
7 determine the order in which the participants will
8 question the particular witness or panel and any time
9 restrictions on that questioning. If we have more
10 questions than time, it may be possible to ask
11 additional questions after the conclusion of the final
12 witness's testimony. Further, if witnesses are unable
13 to answer a question during today's hearing or would
14 like to expand on the answers provided, they are
15 welcome to use the post-hearing comment period to
16 submit such information.

17 I would also like to remind you that this
18 proceeding is being recorded and transcribed by a court
19 reporter. To ensure that the reporter is able to
20 provide an accurate record of all the testimony,
21 questions, and responses, please try to remember to
22 provide verbal responses to all questions. The court

1 reporter may have a hard time seeing if you only nod or
2 shake your head in response to a question. In
3 addition, please remember to identify yourselves before
4 beginning your testimony and before asking or answering
5 a question. And don't worry, I know many participants
6 aren't accustomed to doing these things. I will try
7 and remind you as we go along. The transcript of the
8 hearing will be uploaded to the hearing docket on
9 regulations.gov, approximately two weeks following the
10 hearing.

11 Now, unless we have any further announcements or
12 housekeeping matters, I believe we can proceed with
13 public testimony. I believe the speaking order will be
14 displayed shortly. Here we go. The -- when you are
15 called on to testify again, please state your name and
16 affiliation for the record. Speak slowly and clearly
17 so our court reporter can record these proceedings
18 accurately. And our first panel is from the American
19 Federation of Teachers who will speak for 40 minutes.
20 AFT?

21 MR. KOWAL: Good morning. Can you hear me?

22 JUDGE HENLEY: We can hear you. If you can

1 identify yourself, sir?

2 MR. KOWAL: Sure, thank you. My name is Dr.
3 Frederick Kowal, and I'm Vice President of the American
4 Federation of Teachers, Co-Chair of AFT's Climate
5 Crisis Task Force, President of Local 2190, United
6 University Professions, the union which represents over
7 40,000 faculty and professionals working in the State
8 University of New York system, and Chair of the Board
9 of Directors of the National Wildlife Federation. I
10 appear before you today solely on behalf of the AFT and
11 the 1.8 million members we represent, to voice our
12 strong support for the proposed OSHA heat rule.

13 Our members include pre-K through 12th grade
14 teachers, paraprofessionals, and other school related
15 personnel; higher education faculty and professional
16 staff; federal, state, and local employees; nurses,
17 physicians, and other healthcare professionals. In the
18 case of UUP, that includes over 13,000 members engaged
19 in patient care at SUNY's three public teaching
20 hospitals.

21 Across every state, heat waves are occurring more
22 often than they used to. They last longer and they are

1 more intense. In July 2023, the Earth broke or tied
2 its record for the hottest day on record four days in a
3 row. Climate scientists have issued warnings for years
4 about the disastrous consequences of climate change.
5 We now expect that each summer will be, quote unquote,
6 "the new record" for the hottest on record, and can
7 expect that many areas of the country will be regularly
8 placed under excessive heat warnings, as has just
9 occurred over the past week.

10 According to the National Oceanic and Atmospheric
11 Administration, NOAA, the Earth's average land and
12 ocean temperatures in 2024 were 2.32 degrees Fahrenheit
13 above the 20th century average, the highest global
14 temperature among all the years in NOAA's 1850 through
15 2024 climate record. Our planet's ten warmest years
16 since 1850 have all occurred in the past decade.
17 Localized impacts are even more dramatic. Over the
18 past 50 years, Austin, Texas has seen the number of
19 days with temperatures above the 100 degree mark
20 increase by one month, while in Houston over the same
21 period, there's also been an increase of one month of
22 days with temperatures over 95 degrees.

1 As the number of days marked by excessive heat
2 have increased, we've seen a rise in heat-related
3 illnesses, emergency room visits, and deaths. Whether
4 our members are teaching in front of a classroom of
5 students, making road repairs, staffing a help desk in
6 a state government office, maintaining our college
7 campuses throughout the year, or attending to patients
8 in emergency rooms, workplace exposure to excessive
9 heat is a concern for every AFT member.

10 I'm joined by colleagues today who represent the
11 workers who serve in these different roles. They will
12 describe the damage that extreme heat exposure does to
13 our brains and our bodies. They will tell you that we
14 are seeing an increase in heat illness and heat-related
15 deaths on the job. They will explain how heat exposure
16 drives up costs for employers due to missed work days
17 and increased health care utilization. What their
18 testimony will make clear is that we need an OSHA heat
19 standard that requires employers to take action to
20 mitigate heat exposure and prevent heat-related
21 illnesses.

22 Over the course of these hearings. You have

1 heard, and will continue to hear, from employers who
2 will say that a heat standard is burdensome and
3 difficult to implement. We take issue with that.
4 There are so many ways for employers to intervene to
5 ensure the safety and health of their employees,
6 whether it is by ensuring that staff stay hydrated by
7 providing water and drink stations, educating staff to
8 recognize the signs of heat exhaustion or illness,
9 relaxing uniform requirements during the summer,
10 providing paid rest breaks, providing access to air-
11 conditioned indoor space, or ensuring access to shade
12 outdoors. Employees -- employers can and must take
13 action to protect their employees.

14 The fact is, we all have a moral obligation to do
15 everything in our power to protect our workers. As the
16 Earth's climate warms, heat waves will only increase in
17 frequency and intensity. All workers, no matter where
18 they work, should have legal protections to ensure
19 their safety at work. With that, I hand things over to
20 my colleague from AFT Connecticut, John Brady.

21 MR. BRADY: Thank you. And thank you for the
22 opportunity to speak today. My name is John Brady. I

1 am the Vice President of AFT Connecticut, representing
2 34,000 members in health care, public services,
3 schools, and higher education. I worked in health care
4 for 25 years, 16 as an emergency department nurse. ERs
5 nationwide are the front line for heat-related
6 illnesses as periods of extreme heat become hotter,
7 longer and more frequent.

8 Today, I want to talk to you as a health care
9 provider about the immediate and long-term impacts --
10 impacts of heat exposure on human health, and human and
11 financial costs of preventable suffering. I will also
12 share examples of how healthcare workers are at risk
13 for heat-related illness in some settings.

14 Data from the Bureau of Labor Statistics tells us
15 that heat-related fatalities have been increasing every
16 year, with 55 deaths attributed to heat stress in 2023.
17 This was a 28 percent increase from 2022, when 43
18 workers died and a 53 percent increase from 2021 when
19 36 workers died. BLS data also reveals that heat
20 exposure caused nearly 33,000 serious lost time
21 illnesses between 1992 and 2020. 963 workers died
22 during that period.

1 These are illnesses and fatalities that have been
2 directly attributed to heat. The short-term impacts of
3 exposure are well known. Heat exhaustion is serious.
4 Heat stroke can result in organ failure and death
5 without prompt treatment. Other acute impacts include
6 dehydration, respiratory distress, cardiac dysfunction,
7 hypertension, and heart rate disturbances. Heat
8 increases fatigue and reduces cognitive function,
9 impairing judgment and or coordination leading to
10 injury in the workplace. Injuries can also be caused
11 by hot tools, slippery sweat, or perspiration fogging
12 up eye protection.

13 The true toll of heat-related illnesses and
14 fatalities is higher when we consider how heat
15 exacerbates underlying health conditions and impacts
16 chronic heat exposure over time. Heat is more
17 dangerous to people with existing conditions such as
18 cardiovascular disease, diabetes, obesity, and
19 psychiatric conditions. Poor air quality during hot
20 weather increases the stress on people with respiratory
21 illnesses, including chronic obstructive pulmonary
22 disorder and asthma. Some medications, such as

1 diuretics and stimulants, increase the risk of heat
2 stress. Heat can cause complications during pregnancy
3 and increases the risk of pre-eclampsia, premature
4 death, and birth defects.

5 People who work outdoors and in labor intensive
6 occupations suffer the long-term impacts of heat
7 exposure, causing chronic illnesses such as kidney
8 disease, cardiovascular problems, reproductive health
9 issues, and neurological effects. Heat also increases
10 the absorption of chemicals through increased
11 respiration and blood flow, which can lead to higher
12 toxicity over time. For indoor workers, long term
13 exposure to heat impacts respiratory health, diabetes,
14 schizophrenia, and dementia. All of these result in
15 additional health care expenditures and pressures on
16 our health care system.

17 Heat-related ER visits increased substantially
18 across the US in the summer of 2023, compared with the
19 same period from 2018 to 2022, according to a CDC
20 study. A report examining all insurance claims in
21 Virginia from 2016 to 2020 found 400 outpatient visits,
22 nearly 7000 ER visits and nearly 2000 hospital

1 admissions attributable to direct or indirect heat-
2 related illnesses. Researchers extrapolated those
3 figures to all 50 states, estimating heat event days
4 would be responsible for nearly 235,000 ER visits and
5 more than 56,000 hospital admissions for direct and
6 indirect heat-related illnesses, adding approximately 1
7 million -- \$1 billion in healthcare costs annually.

8 During heat waves, healthcare workers experience
9 this additional pressure on the health care system,
10 both in terms of more patients and patients who are
11 sicker. Additionally, the stress that people
12 experience during extreme heat increases the risk of
13 workplace violence.

14 Healthcare staff are also exposed to heat for
15 extended periods in some situations. EMS workers
16 provide care outdoors in homes and other locations,
17 exposing them to a range of temperatures, including
18 when they respond to fires. Home health nurses and
19 aides also work in homes, including those without
20 adequate cooling. Healthcare workers wear full PPE,
21 including gowns, gloves, eye protection, and masks or
22 respirators for extended periods in some settings, such

1 as trauma units and isolation rooms. Room temperatures
2 are raised to nearly 100 degrees in some burn units to
3 prevent hypothermia for severely compromised burn
4 patients. During the pandemic, many healthcare workers
5 were deployed to conduct testing in parking lots in
6 full PPE. This happens during significant disease
7 outbreaks and chemical and radiation events.

8 Increased stress, fatigue, and dehydration from
9 heat can impair healthcare workers' cognitive ability
10 and results in increased risk of medical errors. Most
11 patient care spaces and hospitals are kept comfortable.
12 But hospitals also have laundry rooms, kitchens, boiler
13 rooms, parking garages and other locations where
14 temperatures may not be well controlled.

15 Just this week, in one of the hospitals where we
16 represent the nurses in Norwich, Connecticut, the HVAC
17 system failed. Temperatures quickly rose in patient
18 care areas to near 100 degrees. As a unionized
19 workplace, we were able to advocate for our members and
20 to get the problem solved quickly. But that may not be
21 the case in many hospitals across the country that are
22 not unionized. Thank you. I look forward to any

1 questions and I'd like to hand off to my brother, Erik.

2 MR. BERG: Thank you and good morning. Can you
3 hear me?

4 MS. PETROPOULOS: Yes.

5 MR. BERG: Okay. Wonderful. Thank you. Good
6 morning, Judge Henley and other participants in the
7 hearing. My name is Erik Berg. I'm a 25 year
8 elementary school teacher currently serving as
9 President of the Boston Teachers Union. During my last
10 14 years in the classroom, I taught 2nd grade on the
11 south side of the third floor of a brick school
12 building constructed in 1913. This is not unusual for
13 Boston public schools, where the average age of schools
14 is over 80 and only four new school buildings out of
15 123 have been constructed in the past 20 years.

16 In Boston, we're in school through nearly the end
17 of June. We were in school until Monday of this week,
18 for instance. So on days when it was over 90 degrees
19 outside, my classroom and the others on my floor were
20 like a kiln, over 90 degrees inside. And I can recall
21 many times on hot days having two fans going in the
22 classroom that I had brought in -- so it was hard to

1 hear anyone, but at least we had air moving -- and my
2 students just melting, you know, their hair plastered
3 to their faces by sweat, sweltering and struggling to
4 focus on anything, much less the end of the year
5 testing by which our school was judged by the state.

6 I have a photograph -- if someone could put that
7 on the screen -- of one of my colleagues with her
8 students. This was in late May of 2017, on a day in
9 the 90s. Just to get a sense of what it's like for
10 seven hours in a classroom on the third floor of the
11 Philbrick School and so many schools in Boston.
12 It's -- it's just -- it's just overwhelming. And I
13 remember thinking at the time that folks who don't have
14 to work in that kind of heat all day just can't really
15 imagine what it's like. I don't know if that photo is
16 able. I saw it briefly on the screen, but I don't know
17 if it's able to be on.

18 So my colleagues and I would go get popsicles at
19 the supermarket, and while they were a hit for a few
20 minutes for the kids, it just wasn't fair to those kids
21 to expect them to learn in that heat. And it was not
22 fair to us teachers, nor was it safe, to expect us to

1 work seven hours a day in that heat. Now, a few years
2 ago, Boston Public Schools did install window air-
3 conditioners in most of our older schools. It requires
4 keeping one or two windows permanently closed in most
5 classrooms, but the relief provided by these window
6 units makes all the difference on hot days. We still
7 have 11 schools without any AC, because we're told that
8 those buildings require major electrical upgrades to
9 power the window units, and those students and teachers
10 continue to struggle with heat.

11 Additionally, many of our schools with HVAC
12 systems have issues on hot days, and those systems fail
13 at alarming rates. As things get warmer in the summer
14 in Boston, it is only that much worse. As I mentioned,
15 Monday this week was the last day of school, and it
16 reached 94 degrees in Boston. On that day, just after
17 noon, according to the BPS indoor air quality
18 dashboard, Room 315 at the Hennigan Elementary School
19 was 88 degrees, multiple classrooms at the Murphy
20 Elementary School were over 89 degrees, and Room 304 at
21 the Mather Elementary School was 99 degrees in the
22 classroom. And I have a screenshot of the indoor air

1 quality measuring system. If -- if somebody could put
2 that also on the screen, that would be great.

3 So Tuesday this week was 102 degrees in Boston.
4 It was the fourth highest temperature ever recorded in
5 Boston. And luckily, the school year was over by then.
6 But especially as our world warms, these days are going
7 to become more frequent. And it's only fair that
8 teachers and other workers, not to mention our
9 students, are not subjected to debilitating heat in
10 their classrooms.

11 I've mentioned the indoor air quality sensor
12 dashboard, and a few years ago, the Boston Public
13 Schools invested in this dashboard across nearly every
14 classroom, nurse's office, and main office. And it's
15 supported by rooftop outdoor air sensors. This
16 initiative stands as a testament to the union aligned
17 value of safeguarding worker and student health through
18 robust, data driven systems. In our fight for safer
19 schools, where every worker, educator, and student can
20 thrive, we must treat indoor air as a fundamental
21 right. And when we are monitoring and establishing
22 rules for temperatures in workplaces, we should use the

1 wet bulb globe temperature as the measurement, because
2 that is what better indicates the expected heat stress
3 on the human body. Effective indoor air quality
4 monitoring ensures that environments intended for work
5 do not become grounds for illness.

6 But I would also add that monitoring only goes so
7 far because when classrooms and offices get overheated,
8 as happened this week and the previous week, there
9 needs to be some relief for workers in our K to 12
10 schools. Now, Monday was a previously scheduled early
11 release day, so we were able to advocate that, in the
12 schools without AC teachers' professional development
13 was moved to virtual so that teachers could be in an
14 air-conditioned space. But on a regular school day,
15 unlike in an office building, this type of
16 accommodation is impossible in a school setting. And
17 teachers and other school workers, along with students,
18 are subjected to temperatures in the 90s for hours at a
19 time and expected to teach and learn well in that
20 environment.

21 We know that high temperatures in work
22 environments, including indoor work environments,

1 increase the risk of workplace injuries due to reduced
2 cognitive function and physical performance, which can
3 have both immediate and lasting effects on workers'
4 health and safety and reduces worker productivity.
5 While OSHA doesn't directly cover the health and safety
6 hazards facing K-12 students, much more research has
7 been conducted on the effects of heat on children and
8 learning -- and learning outcomes than on the members
9 we represent. But by extrapolation, we can state
10 confidently that student learning conditions are
11 educator working conditions and similar manifestations
12 of the effects of heat occur in adults as well.

13 The studies that have looked at this issue have
14 found that excessive classroom heat can significantly
15 hinder students' ability to learn, concentrate, and
16 engage in academic activities. High temperatures have
17 been linked to decreased focus, impaired cognitive
18 function, and increased fatigue, making it harder for
19 students to retain information and participate
20 effectively in lessons. Additionally, heat can lead to
21 irritability, stress, and physical discomfort, further
22 disrupting classroom dynamics and student performance.

1 In extreme cases, prolonged exposure to high
2 temperatures can contribute to absenteeism and reduce
3 motivation, ultimately affecting overall academic
4 success.

5 There is no doubt that these same effects,
6 magnified for older teachers and staff and for those
7 with health issues, are felt by educators and other
8 school workers in such hot classrooms and work
9 environments. That's why, as a veteran teacher and as
10 a union leader, I am here today to ask that public
11 employees and indoor workers remain included in the
12 proposed OSHA heat rules. In my own classroom
13 experience, and in the experience of the 8500 active
14 members of the Boston Teachers Union who work in hot
15 schools year in and year out, the protections that
16 would be afforded to workers, including teachers and
17 other educators, by these regulations, are critical to
18 protecting their health and safety. Thank you for the
19 opportunity to speak on this important issue this
20 morning. And now I'd like to hand it over to my
21 colleague Kenya Campbell, President of AFT Maryland.
22 Thank you.

1 JUDGE HENLEY: Kenya. Before you start, this is
2 Judge Henley. Mr. Berg, did you previously submit the
3 photo and chart to the docket?

4 MR. BERG: I believe that that I did. I just want
5 to make sure that they -- they were submitted.

6 JUDGE HENLEY: But I'm getting a yes from SOL.
7 Thank you.

8 MR. BERG: Wonderful, thank you.

9 JUDGE HENLEY: Ms. Campbell?

10 MR. ROBERTS: It would appear Ms. Campbell is
11 having some difficulty joining, which we are trying to
12 work through.

13 JUDGE HENLEY: Can we hear from Ms. Holland? Is
14 she on? Can you promote her?

15 MS. HOLLAND: Yes, good morning. Can you hear me
16 okay?

17 JUDGE HENLEY: Yes, ma'am.

18 MS. HOLLAND: Good morning. My name is Whitney
19 Holland, and I am proud to represent AFT New Mexico.
20 We are a union of educators, school staff, and higher
21 education faculty across the state, from urban
22 districts to the most rural school communities.

1 Before I left the classroom to do full time union
2 work, I was an elementary teacher in a public school in
3 New Mexico for ten years. I remember the feeling of
4 walking into my classroom in August and being hit with
5 a wall of stagnant, suffocating heat. We'd opened the
6 doors and windows, run box fans, turn off the lights,
7 but it barely made a difference. The students were
8 hot, sluggish and distracted. I was doing everything I
9 could to keep them engaged, but I could barely focus
10 myself. On the worst days, it didn't feel safe to
11 teach, but we were still expected to carry on as if
12 nothing was wrong. That experience stays with me. It
13 wasn't just uncomfortable, it was dangerous.

14 That's why I'm here today. To speak in strong
15 support of OSHA's proposed heat standard and to urge
16 that it be made stronger, more comprehensive, and above
17 all, inclusive of the realities our members face each
18 day.

19 In New Mexico, we live with extreme heat. From
20 Las Cruces to Gallup, from Clovis to Espanola, we are
21 seeing more and more days with temperatures climbing
22 over 90 and even 100 degrees. Just last summer,

1 Albuquerque tied its all-time record for more days
2 above 100. Triple digit days have become routine in
3 southern New Mexico.

4 And yet what's changed, even more than the heat
5 itself, is our ability to respond to it. The systems
6 we rely on are school buildings, our buses, our
7 ventilation infrastructure weren't designed for this,
8 and they're failing under the pressure. Most of our
9 public schools were built decades ago. Many still lack
10 air-conditioning. Instead, we rely on outdated swamp
11 coolers that can't keep up, especially during monsoon
12 conditions. Classrooms have poor insulation, limited
13 or no airflow, and some don't even have windows that
14 can open.

15 New Mexico educators regularly report their
16 classrooms exceed 85 degrees during the school day.
17 That's not just uncomfortable, it's unsafe for both
18 students and staff. One teacher told us her classroom
19 hit 94 degrees during a September heat wave. Her
20 students couldn't concentrate. One felt faint. She
21 developed a migraine so severe she asked to leave
22 early, but there was no cooling provided, no paid rest

1 break, and no support offered. This wasn't a temporary
2 fluke. It's a regular risk in New Mexico.

3 Our school bus drivers often deal with even more
4 extreme conditions. Their buses regularly have no air-
5 conditioning and very little ventilation. With the
6 windows open and the top hatches unlatched, they do
7 what they can, but it's still not enough. One driver
8 told us she keeps a towel in the front seat to wipe the
9 sweat off her hands, so she can safely hold the
10 steering wheel. Drivers report blurred vision, light
11 headedness, and exhaustion while transporting dozens of
12 students in 100 plus degrees heat.

13 Cafeteria workers, paraprofessionals on playground
14 duty, custodians, maintenance workers, they all endure
15 the same heat exposure, and many of them could fall
16 outside the protections of this rule because their jobs
17 are considered sedentary. That classification doesn't
18 reflect the reality of their work. These workers are
19 constantly on their feet, moving, lifting, monitoring,
20 preparing food, cleaning, repairing. They do this in
21 environments that often trap heat; small kitchen
22 unventilated workspaces, and even basements. This

1 exemption must be removed. It excludes too many
2 workers who are clearly at risk. We cannot create a
3 standard that leaves out people very vulnerable to
4 rising temperatures.

5 I also want to emphasize that the burden is not
6 equally distributed across our state. Rural and tribal
7 schools in New Mexico face even greater challenges. In
8 some areas, HVAC systems are literally patched together
9 with duct tape, and when they break, which they often
10 do, replacement parts can take weeks or even months to
11 arrive. Infrastructure investment is low and the need
12 is urgent. It's hard to follow a heat illness plan
13 when the tools simply aren't there. That's why federal
14 protections are so essential. They establish a floor
15 that all employers must meet, regardless of location or
16 funding.

17 We've seen tragic heat-related deaths among
18 workers in New Mexico, especially those who labor
19 outdoors. But the danger isn't limited to construction
20 and agriculture. It extends to every corner of our
21 public sector, including classrooms, kitchens, campuses
22 and buses. Heat doesn't discriminate by job title.

1 That's why AFT New Mexico supports OSHA's proposal to
2 require paid rest breaks, but we urge you to strengthen
3 it. These breaks should begin at 80 degrees, not 90.
4 The science and our experience, tells us that heat
5 illness often begins in the mid-80s, especially in
6 poor, ventilated indoor spaces, and for new or
7 returning workers who haven't had time to acclimate.

8 We also support the use of the wet bulb globe
9 temperature instead of just the heat index. In New
10 Mexico's high elevation, low humidity, and intense sun,
11 the wet bulb globe temperature provides a much more
12 accurate picture of how heat actually affects the human
13 body. A dry 90 degree day in Albuquerque with full sun
14 and no wind can be just as dangerous as a humid day
15 elsewhere. We need a measurement standard that
16 reflects our reality.

17 Another important aspect of this rule is the
18 inclusion of workers, and where applicable the unions,
19 and the creation and implementation of the heat illness
20 protection -- prevention plan. This is a crucial
21 piece. In districts where administrators and local
22 unions work together, we've seen how it can make a

1 difference, implementing training, adjusting schedules
2 to avoid peak heat hours, and ensuring hydration
3 stations are available and used.

4 This kind of collaboration shouldn't depend on
5 local goodwill. It should be required. Workers are
6 the ones experiencing the risk firsthand. They must
7 have a voice in how to mitigate it. Their inclusion
8 strengthens both compliance and outcomes.

9 Right now, only a handful of states in the country
10 have heat protections. New Mexico is not yet one of
11 them. That means the vast majority of our educators,
12 staff, and public workers are counting on you. Safety
13 shouldn't depend on what zip code you work in or how
14 generous your employer happens to be. Let's be clear
15 this isn't a surprise hazard. Heat is predictable,
16 it's preventable, and it's getting worse. OSHA's final
17 rule must treat it with the same seriousness we apply
18 to other workplace hazards, because it is one.

19 We need a strong, enforceable standard that
20 protects all workers. That includes teachers, bus
21 drivers, cafeteria workers, custodians, educational
22 support staff who keep New Mexico's public institutions

1 running. They show up every day, no matter the
2 temperature, and they deserve to do their job in safe
3 conditions.

4 I think it's crystal clear in our testimony today
5 that AFT and its affiliates are committed to making
6 sure our classrooms are safe for educators and
7 students. We want to ensure is that the standard is in
8 place so there is no interruptions to our learning, so
9 educators can focus on teaching and students can focus
10 on learning. Thank you again for the opportunity to
11 speak and for your commitment to protecting America's
12 workers.

13 JUDGE HENLEY: Thank you, Ms. Holland. I think we
14 have Ms. Campbell. Ms. Campbell?

15 MS. CAMPBELL: Yes. Can you hear me?

16 JUDGE HENLEY: Yes, ma'am.

17 MS. CAMPBELL: Okay. Good morning. I'm Kenya
18 Campbell, President of AFT Maryland. AFT Maryland
19 represents school district employees, health care
20 workers, doctors, as well as public employees,
21 providing a range of services for cities, counties, and
22 states. Today, I will highlight the challenges of city

1 and state public employees, as my fellow panelists have
2 and will address facing -- concerns facing other
3 constituencies.

4 As a federation of unions, we represent state,
5 county, and city employees across the state of
6 Maryland. Many of these public employees are required
7 to work outdoors, including state park rangers, parking
8 enforcement officers, and Baltimore City maintenance
9 crews, among others. Our members are increasingly
10 faced with challenging working conditions due to
11 dangerously high temperatures during the summer months.
12 These dedicated public servants are on the front lines,
13 ensuring essential services are delivered in spite of
14 the extreme heat.

15 Today, I will highlight the work we've done with
16 MOSH and the lessons we've learned from that
17 experience, because we believe it can help to inform
18 the work for a federal standard. AFT Maryland has been
19 actively engaged with the Maryland Department of Labor,
20 the Maryland Occupational Safety and Health (MOSH)
21 Division, and state legislature and city government to
22 address this critical issue.

1 I am pleased to report that MOSH finalized new
2 heat illness prevention rules with implementation
3 beginning this summer. These new regulations are a
4 direct and necessary response to the rising
5 temperatures we are experiencing due to climate change.
6 This urgent action was, in part, a response to a tragic
7 event that showed the severe risks associated with heat
8 exposure on the job.

9 On August 2nd, 2024, Ronald Silver, a 36 year old
10 Baltimore sanitation worker, died of heat exhaustion
11 while on the job. His death prompted an immediate and
12 thorough investigation into working conditions within
13 the Baltimore Department of Public Works. A report on
14 Mr. Silver's death by the city's inspector general
15 listed failures to ensure a safe work environment,
16 including the lack of cold water and limited access to
17 cooling facilities. MOSH cited DPW for these
18 violations.

19 In response to the awareness of these critical
20 needs, the MOSH heat stress standards went into effect
21 on September 30th, 2024. These comprehensive standards
22 apply to both indoor and outdoor workplaces, where

1 employees' exposure to a heat index is at or above 80
2 degrees Fahrenheit for more than 15 consecutive minutes
3 per hour.

4 Some of the key requirements and provisions of
5 these new MOSH heat stress standards include;
6 employees -- employers are now mandated to develop,
7 implement, and maintain a heat-related illness
8 prevention plan that is accessible to employees and
9 MOSH. This plan must address how sufficient drinking
10 water will be provided, how to recognize and respond to
11 heat-related illness symptoms, how rest break schedules
12 will be implemented based on environmental conditions,
13 workload, PPE, and emergency response procedures.

14 Furthermore, it requires training for employees on
15 heat hazards and prevention. It also -- it also asks
16 employers that they must monitor the heat index at work
17 sites using reliable methods, including direct
18 measurement and local weather data from recognized
19 sources like the National Weather Service. Employers
20 must also provide shaded areas as close to the work
21 area as practicable. If shade is not feasible or
22 unsafe, alternative cooling and control measures must

1 be implemented.

2 Employers must provide at least 32oz of cool
3 drinking water per hour, per employee, at no cost, and
4 as close to the work areas as possible. When the heat
5 index reaches or exceeds 90 degrees Fahrenheit,
6 specific procedures are triggered. This includes a
7 minimum rest period of ten minutes for every two hours
8 work when the heat index is between 90 degrees
9 Fahrenheit and 100 degrees Fahrenheit, and a minimum
10 rest period of 15 minutes for every hour worked when
11 the heat index is above 100 degrees.

12 Training, also on heat-related illness prevention,
13 must be provided initially, annually, and immediately
14 following any suspected or confirmed heat-related
15 illness incident. Training records must be maintained
16 for one year.

17 While Mr. Silver's death opened the doors to new
18 standards, his death was definitely a tragedy that was
19 preventable. And keep in mind, we still have members
20 who remain at risk every single day. Members of AFT
21 Maryland's unions are professional employees who are
22 often out in job settings where extreme heat can be a

1 daily work hazard. These are workers who service the
2 state of Maryland, who make Maryland work.

3 My members are, for example, lead abatement
4 specialists, professionals and scientists who work for
5 the Department of Environment, who travel to sites
6 where evidence of elevated lead levels have been found.
7 Often, they must assess properties that are outdoors
8 and indoors with poor ventilation.

9 My members are also park rangers, professionals
10 who -- who are working for the Department of Natural
11 Resources at our state parks, making sure visitors are
12 safe and rules and regulations are followed.

13 My members are also registered nurses and other
14 health professionals working in health care facilities
15 that often may be dated, poorly ventilated, with
16 minimal to no -- no air-conditioning.

17 We also have water meter readers, technicians, and
18 repairmen, specialists who work for municipal or county
19 public works to read water meters for residents, often
20 involved in outdoor work in confined spaces depending
21 on the size of the meter. Workers have reported being
22 in these spaces for long periods of time without shade,

1 water, or frequent breaks.

2 This issue is very personal to me because for more
3 than a decade as a classroom teacher with respiratory
4 issues, asthma, it was challenging to combat my own
5 health issues and be there for my students who were
6 attempting to learn while facing uncomfortable
7 classroom conditions. I witnessed firsthand the
8 incidents extreme heat conditions caused. I've had
9 multiple students with frequent nosebleeds, six
10 students and colleagues who were transported to the ER
11 for various heat exhaustion symptoms. My school
12 building was dated with poor ventilation due to
13 inaccessible windows or windows that could not be
14 opened. There was also the expectation of returning to
15 the school building the next day after an extreme heat,
16 with the previous day's stifling temperatures still in
17 the building combined with current temperatures.

18 I could go on and on with examples of how my
19 members are at risk while on the job. While Maryland
20 has a standard, we need a national standard because all
21 workers deserve the protections we were able to enact
22 in our state. These fights should not have to be

1 fought tirelessly on the state level when a
2 comprehensive national standard could do so much more.
3 There are literally millions of public employees who do
4 the same jobs as our members, but do not have any
5 protections.

6 For these reasons, AFT Maryland believes the new
7 heat stress standards are a vital step towards
8 safeguarding the health and lives of all workers.
9 These regulations will significantly lower the risk of
10 heat-related illnesses and fatalities, allowing
11 employees to perform their essential duties safely. We
12 urge OSHA to consider the comprehensive nature of these
13 regulations as a model for federal action. As the
14 threat of heat-related illness is a national concern
15 that demands a national and nationwide response. Thank
16 you for your time. I'll now hand it over back to Fred.

17 MR. KOWAL: Thank you very much, Kenya. And thank
18 you again, Judge Henley. And to all from the
19 Department of Labor and OSHA who are on this hearing.
20 It is vitally important for all of us to be aware that
21 we are facing, and we must acknowledge, a situation
22 of -- of heat-related injuries, rising both in terms of

1 prevalence and scope. The deaths that are occurring
2 and will continue to occur, to a large extent, due to
3 the climate crisis that we're facing. The health
4 impact of rising temperatures will be broad for
5 everyone, but especially harsh for those who have
6 preexisting medical conditions, pregnant workers, and
7 the elderly.

8 I can attest to personally, coming from public
9 higher education, that due to long standing
10 disinvestment in public higher education institutions,
11 what we are seeing are buildings and facilities that
12 are not air-conditioned, that are not safe to work in.
13 As I started with earlier, in higher education, we have
14 members of AFT and UUP who are working year round in
15 diverse settings, in residential halls, dormitories
16 which are not air-conditioned.

17 Also, in diverse campuses like my home campus, we
18 have a farm. And on that farm, we have livestock who
19 are subject to the same dangers of high temperatures.
20 But at the same time, the staff who work at that farm
21 have to deal with the intense heat brought on by the
22 climate crisis.

1 And so we are dealing with such a diversity of
2 membership in AFT. And that is why, as you have heard,
3 this issue is so vitally important to us. We believe,
4 as a union, that workplace safety is foundational to
5 any meaningful economic opportunity. Without the legal
6 protections needed to ensure workers are safe on the
7 job and can return to -- return to their families after
8 a day of work, little else is secure.

9 In conclusion, we'd like to thank OSHA for this
10 opportunity to provide testimony on the need for a
11 strong standard on extreme heat to protect both indoor
12 and outdoor workers. We believe all workers deserve
13 protection from excessive heat. As you can see from
14 the testimony our panel of AFT leaders provided today,
15 occupational exposure to heat does not discriminate.
16 All workers face both immediate and long-term health
17 risks from heat exposure on the job. We urge OSHA to
18 prioritize implementing a federal heat-specific
19 workplace standard that articulates employers'
20 obligations for protecting workers and finalize it
21 without delay. Thank you.

22 JUDGE HENLEY: Thank you, sir. Do we have

1 questions from OSHA for this panel?

2 MS. PETROPOULOS: We do, Your Honor. This is Zoe
3 Petropoulos with the Directorate of Standards and
4 Guidance. First off, I want to thank the AFT panel for
5 your testimony. We'll have a few questions for you,
6 and I'll start.

7 So OSHA received comments noting that employees
8 are currently working in schools with inadequate
9 climate control and suggested that these employees
10 should be covered by the proposed standard. And we
11 also heard that in your testimony. And we're wondering
12 if you could elaborate on the experiences of your
13 members in working in such school buildings. What are
14 typical temperatures? How often are members exposed to
15 conditions above the initial and high heat triggers?
16 How often are these members provided with alternative
17 options such as working virtually? And how often are
18 school days' start and stop times altered due to heat?

19 I know that there were some examples mentioned by
20 Mr. Berg and Ms. Holland in their testimony, but we're
21 interested in any data that your organization may have
22 on these topics beyond what they shared. And we also

1 welcome any data on these topics beyond school
2 classrooms and on any -- in any other workplaces where
3 AFT members work.

4 THE REPORTER: This is the court reporter. And
5 may I please remind folks to stay muted if they're not
6 speaking? Thank you.

7 JUDGE HENLEY: Mr. Kowal, if you don't have a
8 response now, I think you can submit them in your post-
9 hearing -- during the post-hearing comment period.

10 MR. KOWAL: Yeah, certainly. I appreciate that,
11 Your Honor. I believe Erik has something that he would
12 like to state on this.

13 JUDGE HENLEY: Mr. Berg?

14 MR. BERG: Yes, thank you. I don't have, you
15 know, data in terms of numbers. But to one of the
16 questions you asked, which is how often are start or
17 end times changed up due to heat and how often are --
18 is instruction or work moved to a virtual setting? The
19 answer, at least in Boston, is zero. That has never
20 happened in the Boston public schools. And folks are
21 just left to -- to struggle through. They'll --
22 they'll add more water to -- topping this off, only a

1 few years ago did we actually get drinkable water
2 fountains in the Boston Public Schools, which we now
3 have. But they would bring in big, you know, water --
4 bubblers for water coolers and additional fans. Now we
5 do have the air-conditioning, so it's slightly better
6 in many of our schools.

7 But when it's hot outside in the 11 schools that
8 don't have air-conditioning and two of the schools I
9 mentioned today have HVAC systems which failed, and
10 those can be even worse because they don't have
11 operable windows. But in those situations, students
12 and teachers and other educators and school employees
13 are left to just suffer through the hot conditions.

14 MS. PETROPOULOS: Thank you. Yeah. If there's
15 anything else that AFT would like to share in their
16 post-hearing comments, we definitely welcome it. I
17 have a few more questions. First is in response to
18 something Mr. Berg just said. How often are fans used
19 as a control measure? Under what circumstances? How
20 often are fans available? Again, any data you have or
21 examples you can share, we would be interested.

22 MR. KOWAL: I will offer one example. And again,

1 because of the diversity of our membership, this
2 occurred at one of the teaching hospitals where we
3 represent the employees. And it occurred in the
4 building where at lower reaches of that building, there
5 was no air-conditioning. And it was where both support
6 staff were working at the hospital, but also some
7 bioengineering work was being done there. There was --
8 there was -- it was not air-conditioning. Heat got
9 intense during summer months. And what they were
10 advised to do was to set up fans.

11 Unfortunately, in setting up fans -- and this
12 occurred within the last two years, it was post COVID.
13 When they set up the fans, it, of course, just moved
14 the heat around. It did not alleviate the -- the
15 situation whatsoever and continued to cause problems
16 for -- for our members who were working in that -- in
17 that setting. But we also do have more data on the
18 dashboard that we can provide for you as well.

19 MS. PETROPOULOS: Thank you. I noted that Mr.
20 Berg and Ms. Holland both mentioned that -- in their
21 testimony, that OSHA should use wet bulb globe
22 temperature instead of heat index. I'm wondering if

1 you're aware of any employers who currently measure wet
2 bulb globe temperature in work areas. And if you're
3 able to share any data or examples of existing use of
4 wet bulb globe temperature, we would be interested in
5 that. And if you'd like to address that in post-
6 hearing comments, that's also all right.

7 MR. KOWAL: We can -- we can provide that for you,
8 yes.

9 MS. PETROPOULOS: Thank you. And then, Ms.
10 Holland, in your testimony, you mentioned specific
11 groups of workers who may be deemed sedentary and
12 therefore exempted under the proposal as it's currently
13 written. Can you explain, either now or in post-
14 hearing comments, why you believe their work would be
15 considered meeting OSHA's definition of sedentary?

16 MS. HOLLAND: Yes, absolutely. Good morning.
17 Thank you for the question. I think we'll follow up in
18 post-hearing as well. But I really dived into a lot of
19 these paraprofessional roles. While it's viewed as
20 grading papers or whatnot, their jobs require a high
21 amount of being up and around, supervising students,
22 sometimes being the teacher of record. So they're

1 doing those kind of duties that aren't just sitting at
2 a desk all day or working side by side with students.
3 And so looking at the playground responsibilities, the
4 cafeteria responsibilities. And again, we'll follow up
5 with more information and concrete data.

6 MS. PETROPOULOS: Great. And yes, you just
7 alluded to something I was going to ask. If you have
8 any data on these workers and any data specifically on
9 heat-related injuries and illnesses among these
10 workers, if you could share those in post your
11 comments, we would be interested.

12 MS. HOLLAND: Yes, absolutely. Thank you.

13 MS. PETROPOULOS: Thank you. Our next question
14 will come from Tiffany DeFoe.

15 JUDGE HENLEY: Hold on. Mr. Berg, did I -- or Mr.
16 Brady, did you have your hand up? Were you offering a
17 comment?

18 MR. BRADY: I was going to offer a comment, Your
19 Honor, on that. Specifically, when it comes to
20 hospitals, one of the groups that we do represent some
21 places and I think could be considered sedentary are
22 our monitor techs who monitor the -- the cardiac -- the

1 panel -- the bank of -- of cardiac monitors in one
2 location and then are on the phone to the nurses to
3 alert them if there's something wrong with the -- with
4 their patient. When the hospital in Connecticut lost
5 HVAC this -- this year -- this week they were also
6 exposed to the heat that was near 100 degrees. And
7 they really need to be sharp on that job. But they are
8 sedentary. They're sitting at a desk.

9 JUDGE HENLEY: Thank you. Ms. Petropoulos, I'll
10 throw it back to you. Did you have a colleague who's
11 going to ask the next questions?

12 MS. PETROPOULOS: Yeah. Our next question will
13 come from Tiffany DeFoe.

14 MS. DEFOE: Hi. For the record, this is Tiffany
15 DeFoe with the Directorate of Standards and Guidance,
16 OSHA. Yeah, I actually have two questions. The first
17 one -- Ms. Campbell, thank you very much for providing
18 more insight into the developments with MOSH in
19 Maryland. That was really good to hear about. And I
20 also appreciated seeing the sample heat program that
21 you provided on -- or that MOSH has provided on the
22 website.

1 I'm wondering. It would be very interesting to
2 see, especially for the -- the rest break provisions,
3 in the sample program the way it's set up, there are
4 sort of discussion questions where employers can give
5 descriptions of how they are planning to follow the
6 requirements of the -- of the new MOSH program. And I
7 wonder if it would be possible to provide any examples
8 of actual programs that have been submitted, if there
9 are employers who might be willing to share them to the
10 record. I know that might be a little complicated, but
11 it seems worth asking.

12 MS. CAMPBELL: No, but it's -- it's a good
13 question. And what we'll do is we'll follow up in
14 post-hearing to, you know, get those comments over to
15 you all.

16 MS. DEFOE: I really appreciate that. And then
17 for the panel generally, I wanted to note that,
18 throughout the process of this hearing we've received a
19 variety of comments that the proposed requirements for
20 mandatory scheduled rest breaks every two hours are in
21 too -- or too inflexible for some workplaces or some
22 work processes. And the suggestions that we've

1 received on that topic are mostly, either that the
2 requirement for mandatory rest breaks should be removed
3 from any final rule and only as-needed breaks should be
4 used, or that the final rule should in some way make
5 the mandatory schedule of rest breaks provision more
6 flexible to accommodate different work situations. And
7 I'd be interested, either now or in post-hearing
8 comments or both, if AFT could give your membership's
9 thoughts on these suggested changes to the proposed
10 rule?

11 MR. KOWAL: Absolutely. I think that that is an
12 important issue to be responded to. And -- and we will
13 certainly submit post-hearing comments in relation to
14 that.

15 MS. DEFOE: Thank you, much appreciated. That's
16 all I have.

17 MS. PETROPOULOS: This is Zoe Petropoulos again.
18 Our next question comes from Adriana Lopez.

19 MS. LOPEZ: Good morning. Can you hear me?

20 JUDGE HENLEY: Yes.

21 MS. LOPEZ: Thank you. Good morning. Adriana
22 Lopez with OSHA, Directorate of Standards and Guidance.

1 Thank you for your testimony. This question is for Ms.
2 Holland or anyone that can comment. In your written
3 comments, you cited the Natural Resources Defense
4 Council's report featuring a Louisiana bus driver's
5 experience with extreme heat. My first question, in
6 the absence of data on the percentage of vehicles with
7 sufficiently cooled vehicle cabs, OSHA's preliminary
8 economic analysis assumed that 50 percent of school bus
9 drivers work in sufficiently cooled vehicle cabs. Do
10 you think that this is a reasonable estimate? That's
11 it for that question.

12 JUDGE HENLEY: Ms. Holland, do you want to take a
13 crack?

14 MS. HOLLAND: Absolutely. Yes. Sorry. Yeah, I
15 think 50 percent is reasonable. And I think that's
16 concerning to me, especially looking at southern New
17 Mexico. If that means only 50 percent of our people
18 are in cooled heat -- or cabs when we have 100 degrees
19 regular temperatures. And so I believe, yes, the
20 answer to your question is that data seems accurate,
21 but I think that's alarming.

22 MS. LOPEZ: Sure. Thank you very much. And then

1 my second question. Anybody can comment on this. Do
2 you have any data on the percentage of operating school
3 buses that lack air-conditioning or climate control,
4 and what factors might be correlated with the
5 percentage of buses that have climate control?

6 MR. KOWAL: Again, I think that we can be
7 providing you with -- with data on that. I think it's
8 an important question. Initially my -- my gut reaction
9 is this is -- this is something that truly is going to
10 be driven by economic factors and school districts that
11 have the resources. It is much the same as in higher
12 education, where institutions that have the resources,
13 have a much better working conditions as opposed to
14 those that do not. So I think economic factors would
15 be a driving force.

16 MS. LOPEZ: Thank you very much.

17 MS. PETROPOULOS: This is -- this is Zoe
18 Petropoulos again. That concludes the questions from
19 the OSHA panel.

20 JUDGE HENLEY: Thank you. Do we have questions
21 from our solicitor representatives for this panel?

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

1 from the Solicitor's Office. Can you hear me?

2 JUDGE HENLEY: Yes.

3 MS. WILES: Perfect. I do not have any questions,
4 but I do have an administrative matter that I would
5 like to address. I would like the record to reflect
6 that the AFT submitted two images to display with their
7 testimony today, and I would like to mark them as
8 Exhibit 10 and add them to the hearing record.

9 JUDGE HENLEY: Did you say 10?

10 MS. WILES: Yes.

11 JUDGE HENLEY: So admitted. Thank you.

12 MS. WILES: Thank you, Your Honor. That's it for
13 me.

14 JUDGE HENLEY: So I think we have time for a
15 couple questions. Drew, do we have any questions from
16 the public?

17 MR. ROBERTS: I believe we have Travis Parsons.

18 JUDGE HENLEY: How many did you -- is he it?

19 MR. ROBERTS: I'm sorry?

20 JUDGE HENLEY: How many -- how many people do we
21 have in the queue?

22 MR. ROBERTS: Oh, just -- just -- just Mr.

1 Parsons.

2 MS. PETROPOULOS: I think there was another hand
3 raised.

4 MR. ROBERTS: Oh there is. There's another. So
5 sorry, I apologize. There's two people in the queue.
6 Sorry.

7 JUDGE HENLEY: Okay. If you can promote the first
8 individual. And, you know, sir, if -- once we promote
9 you, if you can identify yourself and direct your
10 question to a particular individual if you can.

11 MR. PARSONS: Yeah. Good morning. It's Travis
12 Parsons from Laborers' Health and Safety Fund. Thank
13 you for your testimony, especially about the classroom
14 exposures. That was very enlightening. My question is
15 for the rep from Maryland. I think her first name was
16 Kenya. Are there any additional resources that MOSH,
17 Maryland OSHA has provided to assist employers to come
18 into compliance with the new standard?

19 MS. CAMPBELL: Yes. Thank you for your question.
20 They have included a compliance checklist as well as
21 some examples of like a model program to assist
22 employers in meeting the new requirements. The

1 Department of Labor is also doing outreach as well as
2 education to prepare for the full compliance this
3 summer. So in preparation for the rollout, they
4 actually are providing educational opportunities so
5 that both employers as well as employees would actually
6 be on board and ready for the rollout of the of the
7 standards.

8 MR. PARSONS: All right. Thank you. That's my
9 only question.

10 JUDGE HENLEY: Thank you. Drew, if you can
11 promote our second questioner, please.

12 MS. ARBERRY: Hi. Chenay Arberry with the AFL-
13 CIO. Can you hear me?

14 JUDGE HENLEY: Yes, Mr. Arberry, we can.

15 MS. ARBERRY: Thanks, Your Honor. This question
16 is for Whitney in New Mexico or Erik in Boston, or
17 perhaps both. Could you tell us more about what
18 happens when you and other education -- education
19 professionals have spoken up about hot working
20 conditions to your respective employers?

21 MS. HOLLAND: Absolutely. I love this question.
22 Thank you. I think education professionals have this

1 landmine of being perceived as whiny. And so when we
2 do raise any kind of concern, the answer we typically
3 get from our administrators is, well, do the best that
4 you can. Don't disrupt the learning environment. Stay
5 the course. Make sure the kids don't know that these
6 conditions are unfathomable.

7 And in my personal experience as a 3rd grade
8 teacher for ten years, when I would raise that alarm
9 bell over and over again, I was told -- well, we can
10 give you PTA money to go buy a box fan. Which one box
11 fan is not going to cool my classroom with 25 to 30
12 kids in it. And it's hard given -- and I will not get
13 into the weeds on this, but the capital outlay system
14 in New Mexico, that is the funding mechanism to improve
15 and increase our HVAC systems and any kind of school
16 infrastructure is so archaic that we're bogged down.
17 And so it's hard. Our administrators are also in
18 equally as terrible positions because this money isn't
19 available to improve our systems. And so that was
20 typically the response I got was crack a window, buy a
21 box fan, do the best that you can, and just carry on.

22 MR. BERG: And I would echo that. That's very

1 similar to what we have heard. But I would just add
2 earlier this month one of our schools, the Murphy,
3 which I mentioned in my testimony, is a school that was
4 built in the 70s, has an HVAC system. That HVAC system
5 failed, and when the days started getting hot in late
6 May, early June, we went to the school department and
7 said, listen, you've got to fix this HVAC system.
8 Because the windows don't open and when it's even, you
9 know, 82, 83, 84 degrees outside, it's very, very hot
10 inside. And they said, well, they were going to have
11 the company come out and begin the repairs or maybe
12 assess the repairs on June 30th, which is well after
13 school is out.

14 So it's -- it's really -- folks are left to fend
15 for themselves and it's -- it's popsicles and box fans.
16 They will bring in big industrial fans for common
17 spaces such as -- such as cafeterias and auditoriums.
18 This year, for the first time, in one school, in a few
19 special education classrooms, they brought in portable
20 air-conditioners with a big hose that that goes to the
21 outside that can sort of stand in the middle of the
22 room. And that was helpful. But that was only a few

1 classrooms, and they prioritized the classrooms for
2 students with more significant disabilities. Thank
3 you.

4 MS. ARBERRY: Your Honor, I just have one more
5 question. This is Chenay Arberry with the AFL-CIO.
6 This is for the other panelist, John. Can you explain
7 upon the kinds of short and long term health impacts
8 workers might experience from related heat exposure?
9 You had mentioned particularly like, I think hospital
10 or healthcare workers.

11 MR. BRADY: Yeah. I mean, well, all workers
12 exposed to heat over time, especially repeated heat
13 over time. I mean, there's some long-term effects that
14 aren't as obvious as, you know, the short-term effects
15 of -- of the asthma kicking in and -- and dehydration
16 and exhaustion. But long term, dehydration puts a real
17 strain on the kidneys, and -- and it can lead to
18 permanent -- it can lead to kidney stones, it can lead
19 to permanent kidney problems, and permanent kidney
20 damage. And there's -- there's a condition called
21 rhabdomyolysis, which is a breakdown of muscle tissue,
22 which happens with a combination of heat and exertion,

1 where your muscles just break down and the kidneys have
2 to filter that all out. And it really puts a big
3 stress on the kidney.

4 Going through that and not getting proper
5 treatment can lead to kidney damage, which -- which
6 then leads to all kinds of problems like increased
7 blood pressure, which is partially regulated by the
8 kidneys. Long term, it puts increased stress from --
9 heat stress puts a strain on the cardiovascular system
10 and increases the risk of heart attack, stroke,
11 arrhythmia. It increases COPD and asthma. It -- it --
12 it can affect infertility in both men and women. And
13 it certainly increases the risk of maternal morbidity,
14 pre-eclampsia, and birth defects. And also
15 neurologically, it can exacerbate conditions such as --
16 such as dementia and increase the risk of strokes. So
17 I mean, there's so many things that long-term and
18 repeated heat does to all workers, no matter where you
19 face it. Thank you for the question.

20 JUDGE HENLEY: Thank you. Is that it, Drew?
21 Anybody else in the queue?

22 MR. ROBERTS: There is nobody else in the queue.

1 JUDGE HENLEY: Then I would like to thank our
2 panelists representing the American Federation of
3 Teachers for their testimony this morning. At this
4 time, you are excused. Thank you all very much. If we
5 can, Drew, promote our next panelist from the National
6 Education Association, Mr. Salcedo or Ms. Salcedo. Are
7 you with us?

8 MS. SALCEDO: Yes. Can you hear me?

9 JUDGE HENLEY: Yes, ma'am. If you could identify
10 yourself and again, the association you're
11 representing.

12 MS. SALCEDO: Yes. Good morning all. My name is
13 Eunice Salcedo. I am a Senior Health and Safety
14 Specialist at the National Education Association, the
15 nation's largest union, representing more than three
16 million educators. Thank you for the opportunity to
17 speak on the proposed heat rule, which can help
18 educators and students learn, thrive, and breathe
19 across the country.

20 Our members include teachers, paraprofessionals,
21 nurses, bus drivers, custodians, food service workers,
22 HVAC technicians, and many more who all have this

1 unwavering commitment to their students' success and
2 learning. Public schools are unique ecosystems. In a
3 school building, there are four times as many occupants
4 as in a building for the same amount of square space.
5 Students learning conditions are educators working
6 conditions. Extreme heat is something educators
7 understand all too well and have long advocated for
8 change.

9 Schools have a variety of heat generating sources
10 introduced during learning activities, such as in home
11 economics, industrial, and vocational classes. Certain
12 job duties, including cooking in a hot kitchen,
13 supervising recess during warm months, and driving a
14 school bus with no AC pose risks. Excessive heat is no
15 longer an anomaly. Extreme temperatures have a direct
16 impact on education. They contribute to health-related
17 incidents, poor academic achievement, an increase in
18 student discipline issues, and it interrupts learning
19 due to early dismissals or absences.

20 As conditions worsen, excessive heat and high
21 humidity can create new hazards in schools. Unsafe
22 working conditions are a major reason why educators are

1 leaving the workforce, which worsens educator
2 shortages. NEA members submitted over 2900 member
3 stories on excessive heat from September 2024 to
4 January 2025. And here are a few real lived
5 experiences we heard from NEA members.

6 A science teacher in Ohio shared she had no air-
7 conditioning in her second floor classroom. It
8 routinely got hot and humid enough at the start and the
9 end of the school year to alter or cancel her
10 instructional plans. This year, the record heat was
11 104 degrees in her classroom. The windows only opened
12 a small crack for security purposes. For the first and
13 last several weeks of class, she taught in sweat soaked
14 clothes, mopping her face with paper towels, and
15 experienced nausea and headaches. Despite these awful
16 conditions, the school never called a heat day.

17 In a high school with more than 1000 students,
18 there was only eight air-conditioned spaces.
19 Nevertheless, that tiny fraction of the building having
20 air-conditioning, they were considered an air-
21 conditioned school.

22 A custodian shared that he was unable to perform

1 his shift duties because it was horribly hot. Spending
2 any time in the kitchen caused -- caused him to use his
3 inhaler, which caused him to -- raised his blood sugar
4 levels. As a custodian, they were told that air-
5 conditioning is a privilege and not a right. This is
6 concerning as they work in buildings during the summer,
7 running heavy machinery and moving furniture. Rooms
8 with air-conditioning off and newly washed carpeting
9 could also cause mold and mildew. He shared that
10 several of his -- several of the custodians were senior
11 citizens, and a lot of staff have health concerns that
12 are intensified by extreme heat.

13 A food service worker in Nevada shared that it's
14 very hot working in the kitchen. She had to purchase
15 her own fans to cool the space down. The whole school
16 has the cooling systems off during the summer months,
17 but they're asked to come in early and have to work
18 without any provided cooling.

19 Lastly, an equipment operator in Florida shared
20 that they are in charge of the upkeep of the grounds
21 and athletic fields year round. And are -- they are
22 constantly in the heat and have no access to a cool

1 place to recover. He shared that the trucks are
2 monitored by GPS, and if they idle the trucks to get
3 some AC, they are reprimanded by administrators. To
4 help with the heat, the supervisor did adjust the
5 schedule to come in an hour early, so they can get out
6 before it gets unbearable.

7 Our members' experiences highlight that we need a
8 strong, comprehensive standard to protect workers from
9 extreme heat, and -- in both indoor and outdoor work
10 settings. We need heat triggers, we need the use of
11 the wet bulb globe temperature, and the prioritization
12 of the hierarchy of controls. This is a widely and
13 deeply felt issue. The three million members of the
14 National Education Association support and are behind
15 this rule. This concludes my testimony. Thank you.

16 JUDGE HENLEY: Thank you, Ms. Salcedo. Do we have
17 questions for this panelist from our OSHA
18 representatives?

19 MR. LEVINSON: Yes, Your Honor, Andrew Levinson
20 for OSHA. Thank you very much for your testimony, Ms.
21 Salcedo. In your testimony, you indicated that you
22 thought OSHA should follow existing state heat

1 standards such as California and Oregon. And we've
2 heard testimony from others suggesting that OSHA should
3 follow Nevada's heat standard, which does not have
4 triggers, but instead takes an alternate approach that
5 uses a job hazard analysis. Either now or in your
6 post-hearing comments, we'd love to know your thoughts
7 on whether or not -- on which OSHA standards OSHA
8 should follow and why? And what do you think the
9 advantages and disadvantages of the different state
10 approaches are to -- to address heat?

11 MS. SALCEDO: Thank you for that question.
12 Absolutely. I would love to go and talk a little bit
13 more in my post-hearing comments, but what I can share
14 is that, yes, California's, Oregon's standard is -- we
15 feel it's more protective for our members. We
16 definitely think heat triggers need to be included.
17 The Nevada heat standard is not as protective, but we
18 can go into depth and like, explain more.

19 MR. LEVINSON: Thank you. Your Honor, the next
20 question from OSHA comes from Zoe Petropoulos.

21 THE REPORTER: And Ms. Petropoulos, before you
22 speak -- please mute yourself because your papers are

1 rustling can interfere. So thank you.

2 MS. PETROPOULOS: I don't think that's me. I
3 think that might have been someone else.

4 THE REPORTER: Oh, yes. Just saying in general.
5 Thank you.

6 MS. PETROPOULOS: Oh, got it. Thank you. Yeah.
7 This is Zoe Petropoulos with the Directorate of
8 Standards and Guidance. In your written comments, you
9 emphasized the need for electrolyte provision alongside
10 water access. Could you clarify, either now or in
11 post-hearing comments, under what conditions you think
12 electrolyte supplements should be provided, and also in
13 your member's experiences, are meal breaks and meals
14 eaten by workers not adequate for electrolyte
15 replenishment?

16 MS. SALCEDO: Yes, I can go into depth when I do
17 my post-hearing comments. What I do want to share is
18 that oftentimes our members don't get the chance to
19 take a full on, like rest break, lunches at times, even
20 bathroom breaks. So it's very important that that's
21 also included in the standard. But yeah, I can go into
22 depth about that in our post-hearing comments.

1 MS. PETROPOULOS: Thank you. That's it for me.

2 MR. LEVINSON: Your Honor, the next questions from
3 OSHA come from Brenda Finter.

4 MS. FINTER: Good morning, Brenda Finter from
5 OSHA's Directorate of Standards and Guidance. I have
6 four questions for you. The first one is regarding
7 school buses. How do employers currently monitor for
8 heat on school buses? If they do monitor, what types
9 of measurements do they take? And if they do not
10 monitor, how do they know when to institute heat
11 protections?

12 MS. SALCEDO: Yeah. Let me get back to you on
13 that. I need to check in with our folks around that.
14 I will say that the newer electric school buses are the
15 ones that typically have AC. From what I heard from
16 members is school buses typically don't have air-
17 conditioning. But I want to see what approaches they
18 are taking for those that don't have any air-
19 conditioning.

20 MS. FINTER: Okay, thank you. We'd appreciate
21 that. Next question is, do employers use weather
22 reporting apps like the heat app -- the NIOSH OSHA heat

1 app, for instance? And if they do, do they find these
2 helpful and why or why not?

3 MS. SALCEDO: I do hear from a lot of schools they
4 use heat index to kind of determine what to do in
5 schools. But we recommend the wet bulb globe
6 temperature. And it is feasible. I know of schools
7 that do it. For example, there's a school in south New
8 Jersey that uses wet bulb globe temperatures, and they
9 use it for whenever their student athletes have
10 practice or games. And they use it to determine, you
11 know, how many rest breaks there needs to be taken,
12 water breaks. They have -- it also helps them
13 determine -- do we need a plastic tub with cool water
14 in case anyone overheats to have that readily available
15 for emergency purposes? So I do know that's being used
16 as well.

17 MS. FINTER: Thank you. Next question is what
18 controls do you currently see being used to prevent
19 heat-related injuries for bus drivers? And I'll add on
20 to that, what have you tried that has worked or been
21 successful and what have you tried that did not work
22 and why?

1 MS. SALCEDO: Yeah. Let me see what I can get
2 from our members when we reach out. Regarding that, I
3 knew as I know as of now, not a lot is being done.
4 Just windows down, pretty much and whenever bus drivers
5 drive, you get that wind. But whenever they're idle,
6 there's no cooling mechanisms. So I can see what --
7 what's actually happening, as well, and share that with
8 you all.

9 MS. FINTER: Thank you. And also, related to
10 that, OSHA assumes that 50 percent of bus drivers work
11 in sufficiently cooled vehicle cabs below the heat
12 trigger. Do you think that estimate is reasonable?

13 MS. SALCEDO: I would also need to double check on
14 that number.

15 MS. FINTER: Okay, thank you. Last question.
16 OSHA received comments regarding working in schools
17 with inadequate climate control. For the proposal,
18 OSHA estimated 15 percent of school employees are in
19 facilities where they may be exposed to heat due to
20 inadequate climate control. Can you explain whether
21 you believe that 15 percent is a reasonable estimate,
22 or if you have any data on this topic?

1 MS. SALCEDO: Could you repeat that? Did you say
2 15 percent?

3 MS. FINTER: Yeah, 15. Yeah. I was worried I
4 might have not said that clearly. So 1-5, 15 percent.

5 MS. SALCEDO: Yeah, I -- I want to make sure I
6 have the numbers right. So I -- I would like to take
7 the time and put that in my post-hearing comments. But
8 from -- as you heard in my testimony, over 2900 members
9 shared their experiences. And all -- all of them were
10 saying that they either don't have air-conditioning in
11 their schools or if they do have air-conditioning, it's
12 broken or it's not functioning. And that can -- I've
13 heard educators say it's broken for up to two weeks
14 without getting any maintenance or repair happening.
15 So but I would love to go back and put that in my post-
16 hearing comments.

17 MS. FINTER: Okay. Thank you. That was very
18 helpful.

19 MR. LEVINSON: And Your Honor, the last questions
20 from the OSHA panel come from Tiffany DeFoe.

21 MS. DEFOE: Hi. This is Tiffany DeFoe,
22 Directorate of Standards and Guidance, OSHA. Ms.

1 Salcedo, you mentioned in your testimony just now --
2 you made reference to the fact that some of your
3 membership faces challenges with taking rest breaks.
4 And I wonder if, in your post-hearing comments, you
5 could -- if there's any further detail that you could
6 provide about whether there are sort of specific jobs
7 or work processes where it's particularly difficult in
8 your membership's experience to take rest breaks, what
9 the challenges are in those situations, and any
10 potential solutions your organization would suggest in
11 those cases.

12 MS. SALCEDO: Thank you so much for that question.
13 Implementing rest breaks is vital, and it needs to be
14 included in the standard. As it is, educators already
15 struggle taking bathroom breaks. I've heard about it
16 more with classroom teachers. I've heard a lot of
17 educators don't drink water to reduce having to take a
18 bathroom break. So they're already exposed to these
19 temperatures. They're not drinking water because
20 they -- they don't have that ability to use the
21 restroom.

22 A couple weeks ago, I was out in the field and I

1 met a Phoenix classroom teacher. She was a 1st grade
2 teacher, and she mentions how, in order to use the
3 restroom, she has to coordinate with her neighboring
4 classroom teacher the right time, where the class is in
5 between lessons, where she can rush to the restroom and
6 then rush back. So that just shows you that bathroom
7 breaks are not even -- basic necessities are -- right,
8 are not even taken into account. And -- and employers
9 are not doing what they need to do to make sure that
10 educators have that time. And which is why we need
11 rest breaks in this final rule.

12 MS. DEFOE: Thank you. The -- I had a second part
13 to that question, which you just led into very well.
14 Thank you. I also wanted to ask if the -- if your
15 membership is -- if they are aware of any examples that
16 you would put forward of organizations that are doing a
17 good job of giving employees rest breaks? And what are
18 the keys to how that's working well? That would be
19 really useful information to have as well.

20 MS. SALCEDO: Yeah, I can add that in my post-
21 hearing comments. I do know that sometimes we've won
22 contract language. So we had to bargain over it with

1 the employer, come to an agreement, and have it in our
2 contracts to make sure that we had enough breaks in the
3 school day. So I can share that language as well, but
4 also add more evidence. Yeah.

5 MS. DEFOE: Thank you. That would be terrific.
6 And I have one more question. I asked a similar
7 version to AFT earlier. Just it's about the comments
8 that we've received throughout the hearing from a
9 variety of organizations that the proposed requirements
10 for mandatory rest breaks every two hours are not
11 workable for all workplaces or all work processes. And
12 comments -- and suggestions that we should either
13 remove the -- those requirements for mandatory
14 scheduled rest breaks from any final standard, or
15 should, in some way make, those -- that part of the
16 rest break requirements more flexible, more adaptable
17 to different work situations. And so I'd also really
18 appreciate any thoughts that your membership has to
19 offer about those proposed modifications to the -- to
20 the standard.

21 MS. SALCEDO: Yeah. Thank you. I'll definitely
22 take a look at that and put them in my post-hearing

1 comments.

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

3 MR. LEVINSON: Your Honor, that concludes OSHA's
4 questions.

5 JUDGE HENLEY: Thank you, Mr. Levinson. Do we
6 have questions from the Office of the Solicitor.

7 MR. MOCZULA: Daniel Moczula for the Office of the
8 Solicitor. No questions from us. Thank you very much
9 for your testimony and time.

10 JUDGE HENLEY: Do we have any members of the
11 public in the queue?

12 MR. ROBERTS: We have one in the queue, yes.

13 JUDGE HENLEY: Can you promote, please?

14 MR. ROBERTS: Yes. Ayusha Shrestha?

15 MS. SHRESTHA: Hello. Thank you. This is Ayusha
16 Shrestha from the AFL-CIO. Thank you, Ms. Salcedo, for
17 your very -- and the stories that you told. I wanted
18 to ask, we've -- we've heard of schools not having
19 controls within their workplaces and -- and as a result
20 of that, negatively impacting both employees and
21 students. I wanted to ask, though, what kind of
22 control measures have you seen that have reasonably

1 brought -- that you believe reasonably -- reasonably
2 brings the temperature down in these settings. Do you
3 have examples of controls that have proven to be
4 successful in these educational settings to bring
5 temperature down?

6 MS. SALCEDO: Yes. Thank you so much for that
7 question. Engineering controls like mechanical
8 ventilation is best. And it definitely looks different
9 in every school because there's a lot of factors that
10 come into play. So it could be central air systems
11 that serve multiple spaces. It could be heat pumps, it
12 could be -- in older schools, I've seen unit
13 ventilators as well. In spaces with high humidity, you
14 could have dehumidifiers to supplement those existing
15 controls.

16 Some schools already have HVAC systems, but the
17 big thing is that they're in need of repair or
18 maintenance. For example, a report by the Government
19 Accountability Office found that over 36,000 schools
20 nationwide don't have adequate ventilation systems.
21 And just to give an example, out in LA, the unified
22 school district. The HVAC technicians had over 1,000

1 cooling system service calls that needed some type of
2 maintenance or repair. And that includes 650
3 classrooms with this -- with units in need of repair.
4 So it just talks about the volume of like delayed
5 maintenance, delayed repair.

6 Things that don't work as well are natural
7 ventilation, right? Schools -- some schools have
8 policies where they can't really open windows. They
9 can't open doors because of security concerns. And for
10 those that can open windows, those windows don't open
11 up because they're angled in a way that doesn't allow
12 airflow. And that air is also not filtered. So think
13 about everything that's coming into the space. You
14 have students with asthma that can also be triggered.
15 So that's also needs to be considered.

16 For fans, I know there's a lot of educators that
17 purchase their own fans and then bring them into the
18 classroom, your typical one being a box fan. Those
19 don't provide as much relief after a certain
20 temperature. As you heard, the food service worker,
21 she had to bring her own fan because she was just
22 trying to find some type of, like, relief because it

1 was not cooling. In classrooms, I've heard that fans
2 can be very loud at times and can be disruptive when
3 teaching as well.

4 But you know, when the AC systems don't work,
5 there's quite a few options that they can do. They can
6 do portable cooling units, window units. You need to
7 have that right system for the occupancy and space.
8 But this is also why we need this heat standard for
9 when temperatures do get to that certain temperature,
10 we have those protections to make sure that educators
11 are safe.

12 JUDGE HENLEY: Thank you, Ms. Salcedo.

13 MS. SHRESTHA: Oh. I'm so sorry. Thank you. I
14 have one more question. Thank you for that answer.
15 And then furthermore, we've heard both you from NEA and
16 AFT talk about how teachers have experienced lots of --
17 lots of experience with high temperatures in
18 classrooms. I wanted to ask, in your experience, how
19 high do these temperatures reach in education settings
20 that would be considered indoor, sedentary, on average?
21 And how many learning hours would you say, on average,
22 are lost due to extreme heat, however you want to

1 quantify that?

2 MS. SALCEDO: Yeah, and I would love to go more in
3 depth in our post-hearing comments. But what I can
4 share -- learning loss is such a big issue. There was
5 a report done that I can share with you all that talked
6 about students' absences increase to moderate and
7 extreme hot temperatures. So students are 8 percent,
8 10 percent, 16 percent more likely to be absent on days
9 where temperatures are in the 80s and 90s.

10 The same report also looked into student
11 discipline, so students being defiant, students being
12 disruptive bullying, fighting. So when schools had
13 high temperatures and no functioning AC, you had
14 student discipline referrals increase 7 percent when
15 temperatures were 80 degrees. And they rose up to 21
16 percent when maximum temperatures were 90 degrees. And
17 then also -- so that students, you know, not coming
18 into school and it's also students being referred --
19 like disciplined.

20 But also schools call heat days or do like early
21 dismissals or cancel schools. So that also has
22 increased over time. And currently schools typically

1 take -- there's a -- there's an analysis that was done
2 by the Washington Post where the average rate is six to
3 seven days annually. And I just want to highlight that
4 that becomes an equity issue, because you have schools
5 that are well funded with air-conditioning that can
6 stay in class and, you know, educators can do their
7 job. While you have the other schools that don't have
8 AC, that are having to close, you know, close for the
9 day, early dismissals or they're in that hot room, hot
10 temperatures and learning is not happening. This puts
11 a stress on educators. There are already educator
12 shortages. You're adding stress, you're adding poor
13 working conditions. It just exacerbates the issue.
14 But thank you for that question.

15 MS. SHRESTHA: Thanks for -- thank you for your
16 thoughtful answer. That's all from me. Thank you.

17 JUDGE HENLEY: Drew is that it in the queue?

18 MR. ROBERTS: That is it for questions from the
19 public.

20 JUDGE HENLEY: So I would like to thank our
21 representative panelist from the National Education
22 Association for her testimony this morning, and you are

1 excused, ma'am. Thank you. And if we can promote our
2 next panelist from La Isla Network, Mr. Wegman, for 20
3 minutes. Mr. Wegman, can you hear me?

4 MR. WEGMAN: Yes, I can hear you.

5 JUDGE HENLEY: Floor is yours, sir. 20 minutes.

6 MR. WEGMAN: Can I have the slides?

7 JUDGE HENLEY: Were these slides submitted
8 previously as part of the docket?

9 MR. WEGMAN: Yes.

10 JUDGE HENLEY: Drew, do you have those?

11 MR. ROBERTS: Here they come.

12 MR. WEGMAN: Thank you. Good morning. My name is
13 David Wegman. I'm professor emeritus at the University
14 of Massachusetts Lowell, adjunct professor at the
15 Harvard T. H. Chan School of Public Health, and I serve
16 as a non-compensated senior scientist and researcher at
17 the La Isla Network. Next slide.

18 To begin with, I wish to make clear that I and the
19 La Isla Network support OSHA's rulemaking on
20 occupational heat exposure. However, the proposal
21 needs several feasible improvements; adopting the wet
22 bulb globe temperature instead of the heat index to

1 monitor heat stress, establishing a ceiling temperature
2 at which work must cease, and finally, the economic
3 analysis must also consider the growing costs of
4 inaction as global temperatures continue to rise. I've
5 submitted comments in my written testimony about these
6 feasible improvements. Next slide.

7 In this oral testimony, I will focus on three
8 specific areas that also need urgent attention. First,
9 the rule must account for metabolic load, the internal
10 heat generated by physical work. Second, the required
11 break frequency is insufficient, especially under high
12 exertion conditions. Finally, OSHA should acknowledge
13 that well-structured multi interventions can enhance
14 productivity and yield positive returns on investment.
15 Next slide.

16 Further documentation on the need for the WBGT.
17 OSHA's rule uses either the heat index or the WBGT as
18 the trigger, but the heat index does not factor in
19 metabolic load, how hard the body is working. By
20 contrast, NIOSH's Recommended Alert Limit and
21 Recommended Exposure Limit for WBGT, the allowable
22 alternative to the heat index specified in the proposed

1 rule, does include metabolic considerations. Unless
2 the WBGT is voluntary used by a covered entity, the
3 protection provided by the heat index will not account
4 for the true heat burden on working individuals. Next
5 slide.

6 This slide shows how NIOSH's WBGT thresholds for
7 the Recommended Alert Limit and Recommended Exposure
8 Limit, as noted in the proposed rule, are designed to
9 account for the different levels of metabolic load.
10 Without this adjustment, thresholds do not reflect real
11 world risks, especially for those doing heavy or very
12 heavy work. Next slide.

13 This slide provides a quick overview on the topic
14 of metabolic load and rest breaks. Note that OSHA has
15 already called attention to the study by Meade, in
16 their notice of proposed rule of proposed rulemaking,
17 of the importance of metabolic load. Both
18 environmental and metabolic load need to be accounted
19 for in considering rest break frequency.

20 In both US and Nicaraguan studies, we've seen the
21 core body temperature correlates more with metabolic
22 load than with WBGT alone. The US study of 175

1 construction workers shows a significant correlation
2 between core body temperature and metabolic effort.
3 Furthermore, in our studies in Nicaragua, increasing
4 the frequency and timing of breaks for sugar cane
5 workers improved estimated core body temperature
6 control across a variety of hot or very hot days. Next
7 slide.

8 We studied US construction workers in a hot August
9 environment using accelerometry and pulse rate to
10 quantify work intensity among 175 construction workers.
11 Work intensity was grouped into four categories, and
12 then we estimated percent of workday performing intense
13 work, heavy, or very heavy. We also measured WBGT
14 continuously and estimated core temperature, what we
15 called EC temp, from continuous heart rate measures.
16 Next slide.

17 We then examined estimated core temperatures
18 compared with peak work frequency and peak WBGT.
19 Notably, you see in the bottom right of this slide that
20 there was no significant association of peak WBGT with
21 estimated core temperature. But in the upper right,
22 you observe there was a significant correlation when

1 comparing percent of day performing intense work. It
2 was the workers performing heavy or very heavy labor
3 who reached estimated core temperatures above 36
4 degrees Celsius, underlining the need to account for
5 work effort and adjust break scheduling accordingly.
6 Next slide.

7 Here, looking along the right-hand side of the
8 slide, you can see the impact of each rest break with
9 the dip in estimated core temperature. Note also, how
10 rapidly core temperature rose as work began, within the
11 first hour. Separately, we found in the lower right,
12 the medium to low work intensity labors do not approach
13 38 degrees Centigrade, while those in very heavy work
14 do have a few readings in the danger zone. Next slide.

15 In a moment, I will further illustrate the impact
16 of an increased frequency of rest breaks. I begin,
17 however, with two related concerns. OSHA's current
18 proposal calls only for a 15-minute break every two
19 hours, and this is only mandated when the heat index is
20 greater than or equal to 90 degrees Fahrenheit. This
21 is inadequate. My first concern regarding the defense
22 of this is that observational studies, that were

1 largely dismissed in OSHA's review, provide real world
2 insights over weeks and months of labor compared with
3 the very short periods examined in experimental
4 studies.

5 Moreover, as part of OSHA's critique of
6 observational studies, several times references made to
7 uncontrolled confounding. This is a recognized
8 limitation of observational studies. But when raised,
9 reviewers are obligated to report the proposed
10 direction and magnitude of such confounding in order to
11 consider how likely confounding can explain away the
12 results. By contrast, while experimental studies do
13 offer tight control on confounders, they suffer from
14 the already mentioned short duration as well as the use
15 of small samples of young, healthy, usually male,
16 that -- that don't reflect the realities of the diverse
17 workforce.

18 An example of a true but minor confounder is the
19 smoking-lung cancer association. There is a clear
20 scientific consensus that this association remains
21 extremely strong, even if the association does not
22 adjust for socioeconomic status. Bottom line, OSHA

1 should reconsider their literature review by providing
2 a more balanced use of both forms of evidence,
3 observational and experimental, to inform their
4 proposal. Next slide.

5 My second concern is that OSHA relies on
6 voluntary, symptom based, if needed approach to breaks
7 at heat index of 80 degrees Fahrenheit. This is
8 seriously problematic. Power imbalances between
9 employers and employees, and production pressures on
10 both can prevent workers from speaking up. OSHA
11 presents no evidence that such a voluntary system would
12 work. OSHA must require more frequent breaks for
13 intense labor. For example, but not necessarily a
14 proposal, at heat index of greater than 80, 15 minutes
15 every two hours and greater than 90, 10 minutes every
16 hour. Next slide.

17 Here is the illustration of the importance of an
18 increased frequency of breaks beyond that currently
19 proposed. These three curves come from three different
20 studies we carried out in Central America. In a
21 setting without intervention, workers spent nearly two
22 hours above 38 degrees Centigrade core temperatures.

1 In a second setting, a prolonged break was added -- one
2 prolonged break was added, however little change for
3 core temperature. Although incident kidney injury, a
4 term that we've proposed, decreased substantially.

5 Finally, in our Center of Excellence, with full
6 intervention, frequent breaks, and a shorter workday
7 core temperatures above 38 degrees Centigrade has
8 halved and, as I will show you in a moment, without
9 sacrificing productivity. Next slide.

10 In our work at the Nicaraguan Center of
11 Excellence, we examined the situation over ten years,
12 showing that full implementation of a multi
13 intervention program increased break frequency,
14 decreased length of the workday, and providing shade,
15 hydration, and training with easy access. We
16 documented an increase in tons of cane harvested per
17 hour. Despite shorter workdays, output per worker was
18 sustained, showing that in this setting, rest and
19 productivity were not in conflict. Next slide.

20 This graph presents the story clearly. Work
21 hours, the yellow triangles, drop from eight to five --
22 under five. Yet productivity, the blue diamonds,

1 double from 0.8 to 1.6 tons per hour. The intervention
2 didn't just preserve productivity, it enhanced it.
3 Next slide.

4 Return on investment. In just three years after
5 investing in heat safety measures, the sugar mill
6 achieved a return of \$1.60 -- \$1.60 for every dollar
7 invested in the multi intervention program. They
8 attributed this to reported lower absenteeism, fewer
9 accidents, and reduced medical costs. This is not just
10 a public health imperative; it's a business win. Next
11 slide.

12 In closing, OSHA's proposed rule is commendable,
13 but must be strengthened by the recommendations
14 outlined in my written testimony; WBGT instead of heat
15 index, adding a seating -- ceiling level for the chosen
16 index above which work cannot -- incorporate a
17 predictable impact analysis. Further metabolic load,
18 improve break frequency, and adopting an multi
19 intervention will better protect workers. And the data
20 show these changes are both feasible and beneficial.
21 Thank you.

22 JUDGE HENLEY: Thank you, Mr. Wegman, for your

1 testimony. Do we have questions from the OSHA
2 representatives?

3 MR. LEVINSON: Yes, Your Honor. Andrew Levinson
4 for OSHA. Thank you, Dr. Wegman, for your testimony
5 and for the work of La Isla Network. In the preamble
6 to the proposed rule, OSHA cited a number of studies
7 and data and analysis to suggest that worker
8 productivity declines in the heat, but that those
9 declines are partially offset by rest breaks. Is this
10 conclusion consistent with your observations and
11 research?

12 MR. WEGMAN: I believe so, but let me clarify that
13 in post-hearing comments.

14 MR. LEVINSON: Thank you. Also in, either now or
15 in post-hearing comments, we would like your thoughts
16 on whether you agree with OSHA's approach of estimating
17 the offsets in productivity decline, and or if you have
18 any suggestions for how OSHA could improve its
19 methodology on the estimates or analysis of the
20 relationship between productivity and -- and rest
21 breaks?

22 MR. WEGMAN: I'd be happy to add that in post-

1 hearing comment.

2 MR. LEVINSON: Thank you very much, sir. The next
3 questions from OSHA come from Zoe Petropoulos.

4 MS. PETROPOULOS: Hi. This is Zoe Petropoulos
5 with Directorate of Standards and Guidance. In your
6 written comment, you mentioned the newly developed AIHA
7 app for determining wet bulb globe temperature at
8 worksites. If you're aware of any data or research
9 validating the values produced by this app,
10 particularly the inputs entered by the user, could you
11 share those with us in your post-hearing comments?

12 MR. WEGMAN: I'd be happy to.

13 MS. PETROPOULOS: Thank you. In your testimony,
14 you emphasized the importance of metabolic heat load.
15 Are you aware of any methods for accurately estimating
16 metabolic heat load that could be deployed by most
17 employers, and particularly those who may not have an
18 industrial hygienist on staff? If yes, if you have any
19 data on the accuracy of those methods or real world
20 examples of their use, we would welcome those in post-
21 hearing comments.

22 MR. WEGMAN: Okay. Thank you.

1 MS. PETROPOULOS: I'm sorry. This is my last
2 question. In your written comment, you mentioned the
3 newly developed HASTE mnemonic for responding to heat
4 stroke. If you have any data or research on the
5 efficacy of this mnemonic or examples of its successful
6 implementation in workplaces, can you share those with
7 us in post-hearing comments?

8 And I actually have a sub part to that question
9 that I just thought of. If you could clarify, either
10 now or in post-hearing comments, what you see as the --
11 the differences between the mnemonic and what it
12 provides and what OSHA has proposed in its provision on
13 emergency response and planning, we would also welcome
14 that, either now or in post-hearing comments.

15 MR. WEGMAN: I should do that in post-hearing
16 comments, I think. Can I ask a question as these --
17 the questions you're posing are good ones and rather
18 well articulated. Is it clear that these will be
19 available on the YouTube version of this hearing so
20 that I can recover them?

21 MR. LEVINSON: Yes, sir, it will. And OSHA also
22 intends to produce a list of questions that have been

1 asked at the hearing for all hearing participants that
2 we will publish at the end of the hearing on the OSHA
3 rulemaking webpage for this hearing.

4 MS. PETROPOULOS: And there will also be a
5 transcript.

6 MR. WEGMAN: Each day, Mr. Levinson? Or at the
7 end of it?

8 MR. LEVINSON: At the end of the hearing.

9 MR. WEGMAN: It's going to end tomorrow anyway.
10 So okay.

11 MR. LEVINSON: No, it goes on next week also.

12 MR. WEGMAN: Oh, okay.

13 MR. LEVINSON: The last questions from OSHA, Your
14 Honor, come from Adriana Lopez.

15 MS. LOPEZ: Adriana Lopez, OSHA Directorate of
16 Standards and Guidance. Mr. Wegman, thank you for your
17 testimony. In submitted comments, the La Isla Network
18 mentions an ongoing project based on a major
19 construction site in the Midwest US on the negative
20 impacts of heat and the effectiveness of worker
21 protections to mitigate such impacts. In post-hearing
22 comments, could you share any data and analysis

1 resulting from this project, if you're able to, please?

2 MR. WEGMAN: Anything that's public, I will -- I
3 will share.

4 MS. LOPEZ: Thank you very much. That's it for my
5 questions. And thank you for your testimony again.

6 MR. LEVINSON: Your Honor. Andrew Levinson for
7 OSHA. That concludes the agency's questions.

8 JUDGE HENLEY: Thank you. Mr. Levinson. Do we
9 have questions from the Solicitor's Office?

10 MR. MOCZULA: Attorney Daniel Moczula for the
11 Solicitor's Office. No questions, but I would like to
12 enter the PowerPoint used by the presenter as Exhibit
13 Number 11.

14 JUDGE HENLEY: So admitted. Thank you.

15 MR. MOCZULA: Thank you.

16 JUDGE HENLEY: Drew, do we have any anybody in the
17 queue for questions?

18 MR. ROBERTS: Ms. Shrestha.

19 JUDGE HENLEY: If you could promote her, please.

20 MS. SHRESTHA: Oh, hi. Thank you. Dr. Wegman, I
21 wanted to ask if --

22 JUDGE HENLEY: Can you identify yourself, ma'am?

1 MS. SHRESTHA: I'm so sorry. Yes. This is Ayusha
2 Shrestha from the AFL-CIO. Thank you so much for your
3 very comprehensive presentation. I wanted to ask if --
4 are you aware of -- you mentioned studies and
5 institutes from other countries in your presentation.
6 I wanted to ask if you're aware of other countries who
7 have stop work authorities above certain temperatures
8 or any other form of standards similar to what we're
9 looking for?

10 MR. WEGMAN: In the countries that we have
11 studied, those standards do not exist. But I will, in
12 post-hearing comments, identify any that I -- that we
13 have found.

14 MS. SHRESTHA: Okay. And when you do, in your
15 post-hearing comments or now, if you can point to any
16 business detriments that those countries have had or
17 business growth that those countries have had and the
18 worker efficiencies impact that those countries have
19 had, that would be fantastic. Thank you so much.

20 MR. WEGMAN: The --

21 JUDGE HENLEY: Dr. Wegman, I think you're --
22 you're frozen. I think you froze for a second. Can

1 you hear me? This is Judge Henley.

2 MR. WEGMAN: My connection seems to be poor at the
3 moment. I'm -- I think I'm back, but --

4 JUDGE HENLEY: Yeah. Did you have a follow-up --
5 clarification question?

6 MR. WEGMAN: I did, yeah.

7 JUDGE HENLEY: I was talking to Dr. Wegman. You
8 seem to be asking a question and then were frozen.

9 MR. WEGMAN: No, I was frozen, but I didn't hear
10 her question clearly. That's -- that was my problem.

11 JUDGE HENLEY: So the question will be part of the
12 transcript.

13 MR. WEGMAN: I'm sorry that I can't answer it
14 because I don't know what it is.

15 JUDGE HENLEY: Yeah, I think, as Mr. Levinson
16 said, we'll have a list of all the questions provided
17 as part of the transcript. And then I believe he said
18 they'll be posted at some point. Is that true, Mr.
19 Levinson, accessible to the witnesses?

20 MR. LEVINSON: Yes, Your Honor. We will post it
21 on the OSHA rulemaking web page, and we will email it
22 to everybody who filed a notice of intent to appear.

1 JUDGE HENLEY: Okay. Thank you. So you'll get
2 it, Dr. Wegman.

3 MR. WEGMAN: Thank you.

4 JUDGE HENLEY: I would like to thank Dr. Wegman
5 and La Isla Network for their testimony this morning.
6 You're excused, Dr. Wegman, thank you very much.

7 MR. WEGMAN: Thank you.

8 JUDGE HENLEY: And Drew, if you can promote our
9 last panel for this morning from the National Volunteer
10 Fire Council, and I'll turn it over to them. Please
11 identify yourself. And somebody -- somebody is
12 keyboarding. If you can mute when you're not speaking,
13 please.

14 MR. MARUCA: Hi. I guess -- all right. I see
15 Eric is on here also. I'm -- I'm Joe Maruca of East
16 Sandwich, Massachusetts. I'm a member of the board of
17 directors of the National Volunteer Fire Council. I'm
18 a recently retired EMT and volunteer EMS provider. So
19 I guess I'll -- I'll run first here.

20 To start with, the National Volunteer Fire
21 Council, or NVFC, would like to reiterate its support
22 for the exclusion for fire departments, including the

1 paid on-call, combination, and volunteer departments
2 that's currently part of the proposed heat rules. Fire
3 departments do a good job of managing heat, and there
4 are few heat-related injuries in the fire service that
5 would be prevented or mitigated by these proposed
6 rules. The fire service has a -- has a good record of
7 managing heat, protecting its firefighters and EMS
8 providers from heat-related injuries.

9 Additionally, the NVFC believes that the
10 standalone, volunteer, and paid on-call EMS providers
11 should be similarly excluded from the heat rules in the
12 same manner as the fire departments. Under the
13 proposed rule, or at least the way we're reading it,
14 the EMS providers are exempt from the heat rule only
15 when responding to and working at an emergency
16 incident. However, their nonemergency operations are
17 not high risk for heat injuries. Most of what we do
18 between emergencies is clerical, educational, and
19 equipment checks. This is particularly true of
20 volunteer and on-call EMS agencies.

21 As is the case with the volunteer fire service,
22 the volunteer EMS service has limited funds and limited

1 administrative capacity to implement the heat rule or
2 any other regulatory schemes -- but the heat rule,
3 particularly as it's written. Volunteer and paid on-
4 call EMS providers are typically responding from home
5 or work to an ambulance station or garage, or directly
6 to the patient's location, and then to -- then to
7 transport. And then they transport that patient to the
8 hospital. And when they return from the call, they're
9 at our station only long enough to prepare the
10 ambulance for the next emergency or to complete their
11 incident reports, and then they leave.

12 Additionally, the NVFC feels that the heat rule
13 falls into the trap of being a one-size-fits-all
14 regulation that doesn't take the varying risk factors
15 of geography into account. The United States is a vast
16 land with notable differences in summer temperatures as
17 you travel from south to north. While Dallas, Texas
18 experiences an average of 110 days with a temperature
19 of 90 degrees or more, Massachusetts experiences
20 notably less by a factor of five, with an average of 15
21 days with a temperature of 90 degrees or more. It's
22 even cooler in northern New England in the summer,

1 which I know from personal experience, and which I am
2 sure my colleagues from Maine, New Hampshire and
3 Vermont would be able to attest. Anchorage, Alaska has
4 had one 90 degree day in the last ten years.

5 Applying the heat rule to volunteer ambulance
6 services in Alaska or other cool climate areas does not
7 address a significant risk of injury to EMS providers,
8 requiring the same administrative steps and systems for
9 volunteer and on-call organizations with limited
10 administrative capabilities, creates an additional
11 economic and administrative burden without any gain to
12 their safety. Given these differences, it also strikes
13 us that the heat rule should be applied differently in
14 different climates of the region, and if there is a
15 significant risk of heat injuries to EMS providers when
16 doing nonemergency work, it's certainly greater in
17 places with more 90 degree days than those with only a
18 handful of 90 degree days.

19 Additionally, when the temperature hits 90 degrees
20 in many northern states, it only peaks in the 90s at
21 midday and then retreats to cooler temperatures as the
22 day wears on. In the north, we don't typically or

1 generally experience as many overnight 90 degree you
2 know, periods as other parts of the country.

3 The use of the new NOAA US Climate Normals map,
4 showing normal temperatures in the United States from
5 1991 to 2020 across the whole country, might be a good
6 starting point for seeing how the heat rule could be
7 customized to address the different levels of heat that
8 band across the country.

9 Lastly, you should just note for the record
10 that -- that all ambulances have air-conditioning and
11 carry lots of water. You know, they are essential to
12 how we treat patients. So we're in a pretty good
13 environment most of the time. Thank you for the
14 opportunity to be heard. And I will pass the baton to
15 my partner, Eric Quinney. Thank you.

16 MR. QUINNEY: Thanks, Joe. Good morning, panel.
17 I'm Eric Quinney, Chairman of the EMS Rescue Section
18 and a director from the state of Wyoming for the
19 National Volunteer Fire Council. The National
20 Volunteer Fire Council is the largest membership
21 organization association representing the national
22 interests of the volunteer fire and emergency medical

1 service providers. I'd like to emphasize the points
2 that Joe made in his testimony and provide you with an
3 understanding of volunteer EMS.

4 The NVFC interprets the exemption in paragraph
5 (a)(2)(iii) of the proposed heat rule to include
6 entities whose primary role is firefighting, EMS, or
7 technical search and rescue, regardless of whether they
8 are covered by other OSHA standards listed in this
9 paragraph. The NVFC requests that OSHA clarify that
10 this is the case, and that such an exemption should be
11 the final -- be in the final version of OSHA's proposed
12 heat rule.

13 Nonhospital EMS in the United States is
14 administered via several different types of providers
15 like private ambulance services, nonfire-based local
16 government agencies like police departments, and
17 nonprofit entities. Public fire based agencies and
18 organizations are the largest providers of EMS in the
19 United States, providing approximately 40 percent of
20 this care. This is particularly the case in small
21 rural communities that are predominantly served by
22 volunteer departments.

1 Approximately 90 percent of US fire departments
2 provide some form of emergency medical services. This
3 includes both basic life support and advanced life
4 support services. Fire departments provide EMS via
5 fire firefighters that are cross-trained as emergency
6 medical providers and personnel that are trained as
7 emergency EMS EMTs. Like the fire service as a whole,
8 fire-based EMS has had to do more with less in recent
9 years. According to the United States Fire
10 Administration, 64 percent of calls answered in 2020
11 required EMS.

12 According to the National Fire Protection
13 Association, the number of calls US fire departments
14 answered climbed from almost 12 million to a little
15 over 36 million between 1986 and 2020, while the number
16 of volunteer firefighters in the United States has
17 dropped from approximately 808,000 to 676,000 during
18 the same period. The recruitment and retention issues
19 seen in the volunteer fire service are felt much more
20 in fire-based EMS, due to competition and resources
21 offered by other positions within the medical field
22 that are available to those with EMS training.

1 The time required to fulfill additional one-size-
2 fits-all training and requirements that are not suited
3 to the needs of small volunteer fire departments and
4 the communities they serve, are often cited as the
5 reason for the departure of volunteer fire and EMS
6 personnel. Like the fire service as a whole, fire-
7 based EMS personnel have excelled at policing
8 themselves to address their risk associated with heat.
9 Due to every second counting in emergency medical
10 response, it is crucial that any additional steps taken
11 in EMS operation be absolutely essential.

12 Additionally, there are much more significant risks
13 than heat impacting EMS personnel, like mental well-
14 being due to traumatic exposures and vehicle safety.

15 As mentioned earlier, small rural communities that
16 are almost entirely served by EMS that is provided by
17 rural -- rural volunteer fire departments -- that
18 resources in these communities are often strained and
19 many lack full time municipal staff. An example of
20 that is, right now, I am the only EMT staffing our
21 community's ambulance with the local community driver.
22 I was hoping that this -- that I wouldn't get called

1 out during my testimony.

2 But the point is that if -- if we place undue
3 burdens and unnecessary burdens on our local volunteer
4 EMS departments, it is going to serve as a catalyst to
5 have communities go without EMS service and require EMS
6 to come from a farther distance away, which will cost
7 people their lives. There's no replacement available
8 for -- for my community. If -- if -- if I were to
9 leave today and be gone, there is nobody else to answer
10 the call. And that's the case in many places across
11 the country -- many places here in Wyoming. And we do
12 not want these departments to become overwhelmed due to
13 the additional requirements that are not tailored to
14 their specific needs or risk profile.

15 On behalf of the NVFC and its EMS section, I urge
16 OSHA to include an exemption for entities whose primary
17 function is providing firefighting, EMS, or technical
18 search and rescue in the final version of the proposed
19 heat rule and to retain its emergency service
20 exemption. I thank OSHA for the opportunity to testify
21 this morning, and its consideration of the information
22 that I and Joe have provided on behalf of the National

1 Volunteer Fire Council. Thank you. And we stand for
2 any questions.

3 JUDGE HENLEY: Thank you, both. Do we have
4 questions from our OSHA representatives for this panel?

5 MR. LEVINSON: Thank you, Judge Henley. Andrew
6 Levinson for OSHA. Gentlemen, I just wanted to say
7 thank you very much for your service. I thought your
8 testimony was very effective. And OSHA has no
9 questions at this time for these witnesses.

10 JUDGE HENLEY: Thank you. What about Solicitor?
11 Questions from the Office of the Solicitor?

12 MR. MOCZULA: Daniel Moczula from the Office of
13 the Solicitor. Likewise, we have no questions for the
14 participants, but we thank them for their testimony and
15 time.

16 JUDGE HENLEY: Thank you. Drew, any members of
17 the public in the queue?

18 MR. ROBERTS: I have one in the queue. A Mr.
19 Bruce Lundegren.

20 JUDGE HENLEY: Please promote Mr. Lundegren. Mr.
21 Lundegren, do you have a question? Identify yourself
22 sir, and any association -- affiliation.

1 MR. LUNDEGREN: Yes. Yes, good morning, Your
2 Honor. My name is Bruce Lundegren and I work for the
3 Office of Advocacy at the US Small Business
4 Administration. Good morning to Joe and Eric. I had a
5 question. And first of all, let me thank Joe and the
6 National Volunteer Fire Council for their participation
7 in OSHA's SBREFA panel on emergency response that we
8 held back in 2020. That is obviously a parallel
9 rulemaking that's going on with this.

10 And Joe and Eric, I had a question to ask you,
11 which is in the -- the heat rule, in the proposed
12 section 1910.148, which are the exceptions, says this
13 rule applies to all employers except -- and it says
14 organizations whose primary function is the performance
15 of firefighting, emergency response activities, of
16 workplace emergency management response teams,
17 emergency medical services, and technical search and
18 rescue and emergency response activities already
19 covered by 1910.156, among other provisions. And my
20 question is wouldn't your associations -- excuse me --
21 your sector be exempt from these provisions by the
22 emergency -- because you're engaged in these exempt

1 activities?

2 MR. MARUCA: Okay. I think I can -- I can answer
3 that. It is a little -- a little murky.

4 MR. LUNDEGREN: Yes, it is.

5 MR. MARUCA: And I think that the way I've read it
6 and the way that the -- the NVFC is interpreting it, is
7 that if you are a standalone volunteer or paid on-call
8 or little combination EMS provider that is not part of
9 a fire department, that -- that we would come under the
10 heat rule. But that if we are providing EMS as part of
11 a fire department operation, that we would be exempt
12 because we would have to -- the way that seems written
13 to us is that you have to be engaged in all of those
14 activities, firefighting, EMS, rescue.

15 And in many communities across the country,
16 particularly in rural communities, it's not unusual to
17 have a volunteer fire department that does the fire and
18 rescue work and then a volunteer ambulance squad of
19 some type that's doing EMS in the community. This is a
20 very common arrangement across the country. And so
21 it's -- it's unclear, to me. And so I think that's
22 something that you're right, that OSHA needs to

1 clarify.

2 But we suggest that that the standalone
3 agencies -- the standalone EMS ambulance squads should
4 have the same treatment as the fire departments and
5 simply be exempt from this, because we have to manage
6 this in a very different way than other industries do.
7 And we have a lot in place for that already.

8 MR. LUNDEGREN: Okay. Thank you, Joe. This is
9 Bruce Lundegren again. So I think what you're saying
10 is that this provision, this exemption from the scope
11 of the statute, should be, as well as all of the
12 activities covered by 156, and not only those covered
13 by 156 -- that all of these organizations should be
14 exempt from the heat standard. Is that correct?

15 MR. MARUCA: Yes.

16 MR. LUNDEGREN: Okay. And then Joe, Bruce
17 Lundegren again. I think that what you would say is
18 that the emergency response sector is so different and
19 so variable to the types of work environments that
20 you're operating in, that it would be impractical,
21 infeasible, or in some instances create a greater
22 hazard to comply with this standard, which is really

1 different than what your -- what your sector is
2 involved in. Is that correct?

3 MR. MARUCA: It is. And -- and particularly the
4 volunteer or the paid on-call or the small
5 combinations, you know, where you might have one or two
6 full time people and a dozen or two dozen volunteers in
7 them. We're really -- we're not like the schools.
8 We're not like construction. We're not like trash
9 pickup. We're -- we're a municipal or we're a
10 community service, but we're -- we're also -- we --
11 because we're volunteer operations, we lack the power
12 imbalance that I'm hearing. I've been listening to a
13 lot of the other people talking about this issue.

14 You know, we -- we -- we run ourselves. We take
15 care of ourselves in a different way. But you know,
16 our whole -- our whole deployment model, our whole
17 purpose for being is very different from -- from other
18 industries. There's no profit margin here or anything.
19 So yes.

20 MR. LUNDEGREN: Okay. Thank you, Joe. And I --
21 you know, I just suggest that since OSHA has a separate
22 work -- rulemaking on emergency response, that I think

1 this provision needs to be clarified because the
2 language is a little bit -- a little bit odd,
3 particularly the -- the use of semicolons. And I'm not
4 exactly sure what OSHA is -- is attempting to exclude.

5 But thank you again. And I would just say, you
6 know, Joe, that I know that your industry is very, very
7 different. And I think that the agricultural folks in
8 the construction folks feel the same way and they're
9 also concerned about a one-size-fits-all rule that
10 covers these really, really diverse work environments.
11 Thank you, Your Honor. And that is all I had. Thank
12 you.

13 JUDGE HENLEY: All right. Thank you, Mr.
14 Lundegren. Drew, is that it in the queue?

15 MR. LEVINSON: No more questions.

16 JUDGE HENLEY: So I'd like to thank our NVFC
17 panelists for their testimony this morning. At this
18 point, gentlemen, you are excused.

19 MR. MARUCA: Thank you.

20 JUDGE HENLEY: I think that is it for this
21 morning's panelists. We will take a lunch break and
22 reconvene at 1:00 p.m. Eastern Time. We're off the

1 record. Thanks.

2 (Lunch break.)

3 MR. ROBERTS: This is Drew Roberts, OSHA's
4 contractor. It is 1 p.m. Eastern time, and we are now
5 rejoining OSHA's informal rulemaking hearing for Heat
6 Injury and Illness Prevention in Outdoor and Indoor
7 Work Settings. Before we begin, we'd like to go over
8 some logistics for this afternoon's hearing.

9 As a reminder, all attendees are muted
10 automatically. All Webex attendees can access closed
11 captioning and translated captioning by clicking on the
12 CC icon in the lower left-hand corner of the
13 application. You can individually select your caption
14 language if translation is required.

15 We'll pause shortly as I share the same slide in
16 Spanish.

17 All YouTube viewers will have access to auto
18 translation the day after the hearing.

19 All Webex attendees can access Spanish translation
20 during a given testimony by clicking on the
21 interpretation globe icon on the left-hand corner of
22 the application. From the -- the drop-down menu, you

1 will choose Spanish, and then, swipe all the way to the
2 right to hear the Spanish interpretation. All Webex
3 attendees delivering testimony will have access to a
4 countdown timer to ensure allotted time is adhered to.

5 We will launch the timer for you, and it should be
6 seen in the right-hand slide of your -- right-hand side
7 of your screen. If you do not see this app launched in
8 your Webex window, please follow the instructions on
9 the screen now to manually launch this app. If you are
10 speaking today, you will receive a notification on your
11 screen that you are being promoted to -- to a
12 panelist -- to the panelist group a few minutes before
13 it is time to provide your testimony.

14 Once promoted to the panelist role, you will be
15 able to unmute and turn on your camera. We ask that
16 you do not unmute or turn on your camera until your
17 name has been called and you have been asked to start
18 your testimony.

19 Speakers connected by telephone should unmute
20 their phone when called to testify. During --
21 depending on the timing, there may be an opportunity to
22 ask questions of other speakers giving testimony. You

1 may raise -- you may press the raise hand button at the
2 bottom of the Webex application to indicate that you
3 have a question. If there is time, you will be called
4 on by name and promoted to the panelist group to unmute
5 and ask your question.

6 If you have any technical difficulties, please
7 send an email with your name and phone number to
8 public_hearing@abtassoc.com.

9 Now, we will continue with our public testimony.
10 The expecting speaking order is displayed on the
11 screen. I will introduce each speaker in turn. Please
12 speak slowly and clearly so our court reporter can
13 record these processes -- proceedings accurately.

14 The first speaker will be Kristyn Oldendorf.
15 Please state your name and affiliation for the record.

16 JUDGE HENLEY: Ms. Oldendorf? Ms. Oldendorf?

17 MR. ROBERTS: I see Ms. Oldendorf is here.

18 JUDGE HENLEY: Ms. Oldendorf?

19 And I'm getting her feedback, Drew.

20 MR. ROBERTS: Yes.

21 And Ms. Oldendorf, are you -- can -- are you able
22 to hear us and -- and speak?

1 MS. OLDENDORF: Apologies. Can you hear me now?

2 JUDGE HENLEY: Yes, Ms. Oldendorf. And I'm
3 getting feedback, Drew, is that me, alone?

4 MR. ROBERTS: Yeah, you appear to be logged in
5 twice. That might be why.

6 JUDGE HENLEY: What about now?

7 MR. ROBERTS: That sounds good.

8 JUDGE HENLEY: All right.

9 Thank you, Ms. Oldendorf. If you could identify
10 yourself and what your affiliated agency is, and then
11 you can proceed with your testimony.

12 MS. OLDENDORF: Yes, thank you. Apologies for the
13 delay.

14 Good afternoon. I'm Kristyn Oldendorf. I'm
15 Senior Director of Public Policy and Communications at
16 the Solid Waste Association of North America, SWANA.
17 SWANA is a professional association of individuals in
18 the waste and recycling sector throughout all areas of
19 the United States, and we represent both the public and
20 private sectors, and our goal is really to advance
21 waste as a resource.

22 So our members work in all areas of the industry.

1 So anything you can think of, kind of, related to waste
2 and resource management, recycling, composting. That
3 includes foods, collecting materials, and operating
4 facilities, landfills, compost facilities, waste
5 energy, recycling, so they're, you know, running
6 operations, designing systems, doing communications,
7 and more.

8 So as you can imagine, many of these jobs do
9 require significant amounts of time outdoors, which can
10 be in high temperatures. Indoors, as well, many of
11 these facilities are not temperature controlled so
12 would be experiencing high heat at times. So due to
13 this, you know, safety really is a priority for SWANA.
14 We recognize that heat illness is a safety issue, so
15 we're pleased that OSHA is taking this action to
16 propose this new standard, and we really commend OSHA
17 for moving this forward.

18 We know, even within our industry, there have been
19 instances of illnesses and even fatalities, so it's
20 important that we raise awareness and move these
21 standards forward. Our comments are really focused on
22 how to move forward in a feasible, effective, and

1 affordable manner, and we do believe that our industry
2 of waste and resource management has some unique
3 operational concerns and considerations, so we might
4 need some flexibility to consider.

5 So for example, the employees collecting materials
6 are on collections routes all day. They might be
7 covering really long distances, they might have to do
8 multiple trips back and forth to a transfer station, or
9 to the disposal facility. So thinking about that
10 rest -- rest requirement, those employees may need to
11 find a location that meets the standards for the
12 requirement while they're out on their routes.

13 And these routes aren't always, you know, going to
14 be in the same place at the same time, week by week.
15 You know, that -- lots of factors there, traffic,
16 weather, the volume of material they're collecting. So
17 having a set location for those breaks might be a
18 little difficult. They might need to have some
19 flexibility in where they're stopping, you know, week-
20 to-week or day-to-day.

21 And if you think about the number of routes in a
22 city and a community, each route would probably have

1 its own location that's actually convenient to where
2 they are at a given time. So thinking about the
3 requirement to list all the break locations for each of
4 the routes in that heat illness and -- Heat Injury and
5 Illness Prevention Plan would be lengthy and
6 complicated.

7 So we're hearing from our members that it would be
8 helpful to be able to include examples of rest
9 locations rather than each individual location for each
10 individual route. It could be that the, you know, plan
11 lists the key locations, but there's flexibility to use
12 others as well, you know, depending on what's
13 convenient for the route at the time, so we wanted to
14 take that into account.

15 Another factor that we're -- have some concerns
16 about is the heat standards by region. This has come
17 up in testimony by others as well. You know, some
18 areas of the country experience temperatures above the
19 initial heat threshold of 80 degrees much of the year.
20 So workers in those regions would be more used to that
21 heat than workers in other parts of the country that
22 aren't experiencing those heat levels.

1 We know that being acclimated to the heat is a
2 major factor in preventing heat illness, so we would
3 recommend that those heat induch -- index thresholds
4 vary more by the average temperature -- vary by region
5 instead of using the same thresholds across the country
6 for everybody.

7 We also have some concerns about funding. OSHA
8 did provide cost estimates of the equipment and
9 required operational changes that would be needed to
10 comply. Many businesses and government agencies may
11 still struggle to afford these changes and to be --
12 really be able to meet the requirements the way they
13 would want to. So thinking about equipment, the staff
14 time, especially for the break requirements, and
15 requirements for new employees to be able to acclimate
16 gradually, there is a cost to that time.

17 Some employers may need to make upgrades, you
18 know, potentially to install air-conditioning or
19 ventilation, and that might have a disproportionate
20 cost burden to the public sector, as well as many
21 private sector employers. So we would request that
22 OSHA think about grants specifically to help support

1 complying with these regulations, potentially a -- low
2 interest loans or other funding opportunities would
3 really be appreciated, just to think about how -- how
4 we can really afford to implement these needed
5 improvements.

6 I think that local governments, in particular, can
7 be burdened by many unfunded mandates in different
8 areas, and have a lot of competing funding priorities,
9 so just keeping that in mind. So in conclusion, we
10 appreciate OSHA's work on this issue, and we would
11 encourage consideration of these concerns. Thank you.

12 JUDGE HENLEY: Thank you for your testimony, Ms.
13 Oldendorf.

14 Does our OSHA panel have questions for Ms.
15 Oldendorf?

16 MR. LEVINSON: Yes, Your Honor. Andrew Levinson
17 for OSHA.

18 Thank you again for your testimony, Ms. Oldendorf.
19 So OSHA has heard from a number of stakeholders that
20 they think that the current standard as proposed is too
21 prescriptive, and that we -- OSHA should have a more
22 flexible performance-oriented approach. We heard some

1 of that in your testimony now.

2 So what I'm curious about, either now or in post-
3 hearing comments, are any thoughts that you have about
4 how OSHA could incorporate more flexibility and have a
5 more performance-oriented standard while still, at the
6 same time, having some guarantees of protections for
7 workers to make sure that they are adequately
8 protected. Do you have any thoughts on that now or --

9 MS. OLDENDORF: I can speak to that briefly. Yes,
10 thank you for that question. I think that is something
11 we'd be supportive of. Many employers already have
12 heat protection programs in place, right? So if
13 they're able to demonstrate that, thinking also about
14 states that may already have state-level plans in
15 place, that are being followed.

16 So I think having some basic guidelines, and then,
17 allowing the employers a bit more flexibility in
18 demonstrating how they're meeting those requirements
19 without being so prescriptive of the, kind of, step-by-
20 step way to do that. Related to that, this was in our
21 longer comments -- written comments that were
22 submitted, but we did hear from our members some, maybe

1 concerns, about the length of the plan.

2 And again, talking about a collection vehicle. If
3 you're required to keep that plan on hand, are you
4 talking about, you know -- I don't know -- driving
5 around with a big book that demonstrates, you know, how
6 you're meeting the requirements? So yeah, I think just
7 thinking about is there a way that we can summarize and
8 allow employers a little more flexibility in showing
9 how they're meeting some basic requirements?

10 MR. LEVINSON: Thank you.

11 Our next question comes from Gary Orr.

12 MR. ORR: Thank you, Andy.

13 Yes, this is Gary Orr, OSHA Directorate of
14 Enforcement Programs. Ms. Oldendorf, thank you so
15 much. As I was setting my trash and recycle out this
16 morning, and it was 77 degrees already, I was thinking
17 of your -- your member companies' employees and the job
18 that they do, and certainly appreciate that job. My
19 question is on your injury prevention plan and your
20 heat injury prevention plan.

21 And you had talked about the -- the need for
22 flexibility there, and I -- as I understand it, you

1 have members who work in facilities, and then, members
2 who are -- are mobile. And I know you have talked a
3 little bit in your comments about those mobile
4 employees. And so I guess one of my -- my thoughts
5 here is to try to -- try to understand how they do that
6 now. How -- how do they provide some water, rest,
7 shade, breaks for employees? And if you have any
8 thoughts on that now or in your written comments would
9 be great.

10 MS. OLDENDORF: Yes, thank you for that. So
11 individuals within facilities, it's a bit less
12 complicated because they most likely would have a break
13 room or, you know, a place within the facility. Mobile
14 is more complicated. So a lot of times, it might be
15 that it -- it really depends, I would say, kind of
16 company by company or community by community. But
17 often, there might be different -- let's just take a
18 local government.

19 They would have local government facilities
20 throughout the city where they could stop, or in
21 certain areas, it might be that they're, you know,
22 stopping at a convenience store, you know, somewhere

1 air-conditioned where they can stop and get a cold
2 drink. So it very much -- sorry I don't have a great
3 answer for this, but I think it really depends on your
4 geographic region.

5 Are you in a city, are you out in the country, and
6 just what facilities would be nearby to be able to stop
7 and take that break. And I think also, just how -- how
8 the routes set up day-by-day and you know, are they --
9 not to get too complicated, but if they are going back
10 to a -- a facility to -- you know, to the transfer
11 station, or depending on the length of the route, it
12 might just depend. So I think for mobile it just --
13 I -- I guess this gets back to having the flexibility
14 question. There's just going to be a lot of different
15 variables there.

16 MR. ORR: Thank you so much. And I think
17 that's -- that's what we're looking for and -- and I
18 appreciate your examples. Any others that you could
19 provide would be very helpful. Thank you.

20 MR. LEVINSON: Your Honor, the next question comes
21 from Tiffany DeFoe.

22 MS. DEFOE: Thank you. This is Tiffany DeFoe,

1 Directorate with Standards and Guidance, OSHA. My
2 first question is just a little bit of an extension of
3 Gary's. He was a little more focused on sort of, like,
4 where the breaks are taking place. And when you're
5 answering -- when you're providing information about
6 that, any further detail that you could provide about
7 how breaks are scheduled, or if they are scheduled in
8 advance, or if they tend to be more at the discretion
9 of the workers, or a mix, depending on positions?

10 MS. OLDENDORF: Yeah, great question. Again, it
11 will depend. Sometimes, this is actually, you know,
12 within the union contract or within the employers'
13 policy that there might be, you know, set paid rest
14 periods. Sometimes, they might be unpaid rest periods.
15 I think, again, that just depends on, you know, if
16 there's a union contract or other factors.

17 A lot of times I -- I think it is discretionary,
18 especially if you're out on a route. It might just be,
19 kind of, a judgment call of are you in a location
20 that's convenient to take a break? You know, are you,
21 you know -- is it safe? Is there somewhere, you know,
22 good to pull over? So -- and just keeping in mind,

1 like, how -- I guess, how the team's doing. Do they
2 need a break?

3 So yeah, again, I think it just kind of depends.
4 I think employers are generally receptive of the break,
5 especially when you're talking about being out on a
6 route. I think within a facility, it's -- tends to be
7 more set, if you're talking about, you know, say a
8 recycling facility. There's usually set break times
9 and shift change times.

10 MS. DEFOE: Thanks. And you mentioned, you know,
11 just -- just now you mentioned a couple of challenges
12 that can come up with the -- the just logistical
13 ability to take breaks sometimes. You mentioned safety
14 or is there a good place to pull over along the route.
15 If there's information you can provide, and this --
16 this could be in post-hearing comments if you'd like,
17 just to give us a picture of whether there are
18 specific -- just what the specific challenges may be
19 with employees being able to take breaks when they need
20 to, or when a few hours have gone by without one?

21 Let's say, for example, two hours have gone by
22 without one; it would be good to understand what the

1 challenges are and if they are -- if there are ways
2 that they can be surmounted by changes to the work
3 process or scheduling.

4 MS. OLDENDORF: Okay. I'd be happy to follow up
5 on that, yes.

6 MS. DEFOE: And my last question. So we've
7 received a variety of comments throughout the course of
8 the hearing so far that the proposed requirements for
9 mandatory rest breaks every two hours can be
10 inflexible, overly inflexible, or even unworkable for
11 some workplaces, some jobs.

12 And so we've received a number of recommendations
13 that either OSHA should, if it moves forward with the
14 final rule, remove the mandatory scheduled rest break
15 requirements from it or should develop a variant of
16 them -- of the rest break scheduling requirement
17 that -- that is more flexible than it is in the
18 proposal.

19 And so I'd be interested in hearing any thoughts
20 that your membership wants to share in response to
21 those suggestions. Not -- not right now. I'm just --
22 I know you haven't had a chance to really think about

1 that yet, but feel free to. But also feel free to --
2 to defer to the -- the post-hearing comments if there's
3 anything you'd like to say.

4 MS. OLDENDORF: Thank you. I'll just note, I
5 don't -- we're not necessarily opposing that there
6 should be rest breaks, and I think we recognize that
7 sometimes employees might not recognize right away
8 signs of heat illness, so those rest breaks could be
9 important in preventing that, proactively. However,
10 every two hours is a bit inflexible, and again, can be
11 difficult, depending on the type of work you're doing
12 at the time.

13 So I think we would consider thinking about if
14 there are other ways to be flexible. Is it maybe a set
15 number of breaks within a day, but you know, we can
16 have more discretion on when to take those breaks. So
17 yes, I can follow up with that as well if there's
18 additional feedback from our members that I received.

19 MS. DEFOE: That's all I have. Thank you so much.

20 MS. OLDENDORF: Thank you.

21 MR. LEVINSON: Your Honor, the next questions from
22 OSHA come from Zoe Petropoulos.

1 MS. PETROPOULOS: Hi. Zoe Petropoulos with OSHA
2 Directorate of Standards and Guidance. So you
3 mentioned in your comment, and your testimony, a
4 suggestion that OSHA should address the -- adjust the
5 triggers by region. I have a couple questions about
6 that. If OSHA were to take that approach, what
7 geographic area, or boundary, would your organization
8 recommend OSHA use? For instance, a county level, a
9 state level, or something larger, like a region? What
10 data would you like OSHA to consider in such a
11 geographically varying trigger?

12 MS. OLDENDORF: Yes. We don't have a specific
13 recommendation for that. I think we would probably
14 rely on weather experts, but I -- I think at the --
15 kind of, our goal here is to think about what the
16 average temperatures are and however it makes sense to
17 divide that up. Maybe it is -- maybe there is a
18 geographic region that has, you know -- kind of shares
19 an average temperature that can be that set. But yeah,
20 we don't have, like, a specific recommendation in that
21 regard.

22 MS. PETROPOULOS: Got it. My next question about

1 that. Are you aware of any members who are currently
2 accounting for geography and regional climate in their
3 Heat Injury and Illness Prevention Plans? And if so,
4 are you able to share any details or examples, likely
5 in post-hearing comments?

6 MS. OLDENDORF: I can look into that for post-
7 hearing comments, yes.

8 MS. PETROPOULOS: Thanks. And then, I have one
9 more question, kind of on a similar topic. Can you
10 share -- can you provide -- and either now, or in post-
11 hearing comments, details or examples of how your
12 members currently monitor heat hazards at their work
13 sites? Is it, you know -- are they consulting
14 forecasts, do they conduct measurements in work areas,
15 and what have they found that works well for them?

16 MS. OLDENDORF: Yes. They're generally, yeah,
17 checking forecasts, checking the temperature at the
18 time of the day, and informing their employees when
19 there is high heat, and reminding them of, you know,
20 the tips and best practices. They -- a lot of them do
21 already have campaigns in place, so a lot of them are
22 really proactively getting out water, and electrolytes,

1 and things like that.

2 So it's -- again, I think it varies quite a bit.
3 Some of them are probably pretty formalized, and others
4 might be a little more casual, that they know it's a
5 hot day so they were, you know, encouraging employees
6 to take their time and take extra breaks. So I -- I
7 think it varies a bit, but yes. Right now, it's more
8 often self-directed, if there's not something in place
9 at the state level already.

10 MS. PETROPOULOS: Got it. Thanks so much.

11 That's it for me. Thank you.

12 MR. LEVINSON: And Your Honor, the last question
13 from OSHA comes from Rachel Carse.

14 MS. CARSE: Hi. Thank you for your testimony. My
15 name is Rachel Carse, and I'm from OSHA DSG.
16 Typically, on the -- in the fleet of waste collection
17 vehicles, is there air-conditioning?

18 MS. OLDENDORF: I -- I would say it is. I don't
19 have actual stats on this. I think it is common to
20 have air-conditioning, but not everybody does have air-
21 conditioning.

22 MS. CARSE: Okay.

1 MS. OLDENDORF: I think -- yeah.

2 MS. CARSE: Sorry. And would it be possible to
3 look into that and see if you have any information on
4 the percentage of vehicles? If not, that's okay, too.

5 MS. OLDENDORF: Yeah, we've -- I can see if any of
6 that exists.

7 MS. CARSE: And as your members update their
8 fleets, did -- is it more likely, or becoming more
9 common, that they are buying air-conditioned fleets or
10 air-conditioned vehicles?

11 MS. OLDENDORF: I've -- it probably depends on the
12 part of the country and how needed it is.

13 MS. CARSE: Uh-huh.

14 MS. OLDENDORF: Probably costs as well, but yes.
15 I know -- we want -- represent mostly public sector
16 municipalities so it -- sometimes it is a funding
17 issue. Some of them just do have older fleets that
18 might not have the air-conditioning, but I think if
19 they're investing in new fleets, they would be
20 prioritizing air-conditioning if they're -- especially
21 if they're in a region that would need it.

22 MS. CARSE: Okay. Thank you. That's all.

1 MR. LEVINSON: And Your Honor, that concludes the
2 questions from the OSHA panel.

3 JUDGE HENLEY: Thank you. Do we have questions
4 from the Solicitor's Office?

5 MR. MOCZULA: Daniel Moczula from the Solicitor's
6 Office. No questions.

7 Thank you very much for your testimony and time.

8 MS. OLDENDORF: Thank you.

9 JUDGE HENLEY: Drew, do we have any members of the
10 public in the queue?

11 MR. ROBERTS: Yes, we have one.

12 Bruce Lundegren.

13 JUDGE HENLEY: Mr. Lundegren, you have a question?

14 MR. LUNDEGREN: Hi. This is Bruce Lundegren with
15 the Office of Advocacy at the U.S. Small Business
16 Administration. I just had one question I wanted to
17 ask you, and -- and I guess this kind of gets to the
18 issue of flexibility, and you know, some of the
19 prescriptive nature of the proposed rule that's -- that
20 a lot of the small businesses have complained about.
21 But are there aspects of the rule that you think would
22 be impractical -- impractical, infeasible, or that

1 could create a greater hazard in the workplace?

2 MS. OLDENDORF: We didn't address that
3 specifically in our comments. I think what I just went
4 over provides some of our concerns about the
5 practicality. I think, especially around the rest
6 breaks and allowing new employees time to acclimate to
7 the temperature can be difficult. I think a lot of it
8 does come down to not necessarily that it's infeasible
9 in all cases, but having the kind of bandwidth and
10 budget to do so (AUDIO INTERFERENCE).

11 MR. LUNDEGREN: Okay. Can -- and --

12 MS. OLDENDORF: So I'm not saying there aren't any
13 that -- that meet what you're saying, but we didn't
14 specifically address that in our comments.

15 MR. LUNDEGREN: Yep. Bruce Lundegren again. Yes,
16 understood. Thank you, Kristyn. And I -- I would --
17 what I was getting at is some -- some of the -- the --

18 JUDGE HENLEY: So Mr. Lundegren?

19 MR. LUNDEGREN: -- (AUDIO INTERFERENCE) --

20 JUDGE HENLEY: This is Judge Henley. It's really
21 not an opportunity for you to advocate. You are
22 allowed --

1 MR. LUNDEGREN: No, I'm just saying --

2 JUDGE HENLEY: -- to ask questions.

3 MR. LUNDEGREN: -- yeah. Some of the other groups
4 have -- have said that some of the provisions would
5 create potentially hazardous situations at -- at their
6 workplace. And I just wondered if something -- if you
7 had a similar concerns with it.

8 JUDGE HENLEY: Yeah. Thank you, sir. Is there
9 anybody else in the queue, Drew?

10 MR. ROBERTS: There's no one else in the queue,
11 Your Honor.

12 JUDGE HENLEY: Ms. Oldendorf, thank you again for
13 your testimony this afternoon on behalf of the Solid
14 Waste Association in North America. Now, you are
15 excused.

16 MS. OLDENDORF: Thank you.

17 JUDGE HENLEY: Drew, if you could promote the next
18 panel and panelists from the National Waste and
19 Recycling Association?

20 MR. ROBERTS: Yeah.

21 From the National Waste and Recycling Association
22 we have Enjoli DeGrasse and Kirk Sander.

1 MR. SANDER: Good -- good afternoon. Can you hear
2 us?

3 JUDGE HENLEY: Yes, sir.

4 MR. SANDER: Good.

5 JUDGE HENLEY: Can you please identify yourself?
6 And you have 20 minutes.

7 MR. SANDER: All right.

8 Kirk Sander, Senior Vice President of Safety and
9 Standards with the National Waste and Recycling
10 Association, and with me will be Angelea -- Enjoli
11 DeGrasse, the Director of Safety for the National Waste
12 and Recycling Association.

13 Distinguished members of OSHA, thank you for the
14 opportunity to address this crucial issue of Heat
15 Injury and Illness Prevention in Outdoor and Indoor
16 Work Settings. The National Waste and Recycling
17 Association is a trade association that represents
18 private sector waste and recycling companies in the
19 United States, and manufacturers and service providers
20 who do business with those companies.

21 NWRA's members operate in all 50 states and the
22 District of Columbia. NWRA provides safety, education,

1 research, leadership, and advocacy expertise to promote
2 the North American waste and recycling industries, and
3 create a climate where members prosper and provide
4 safe, economically sustainable, and environmentally
5 sound services.

6 The waste and recycling industry is an essential
7 infrastructure operating in all weather conditions.
8 Collection operations occur outdoors, on streets, at
9 transfer stations, recycling facilities, and landfills,
10 while post collection, processing, and materials
11 recovery take place in a combination of indoor and
12 outdoor operations.

13 Our members -- member companies have recognized
14 the hazards associated with heat and cold, and have
15 moved to institute programs to protect our frontline
16 workers. As representatives of the companies varying
17 in size from small local fleets to national operations,
18 we recognize the importance of creating safe and
19 adaptive environments for our workers, especially
20 during extreme weather conditions.

21 Our testimony today will highlight policies,
22 practices, and recommendations from NWRA member

1 companies that highlight the diverse nature of hazard
2 control and risk management. NWRA believes certain
3 sections of the standards remain largely unchanged,
4 including section (c), Heat Injury and Illness
5 Prevention Plans; (d), identifying heat hazards; (g),
6 heat illness, emergency response, and planning; (h),
7 training; (j), requirements implemented at no cost to
8 employees; (k), dates; and (l), severability.

9 We would, however, like to highlight the
10 importance of flexibility and hazard control, which
11 will be elaborated in our -- on -- on in this
12 testimony, with examples from our memberships. We
13 formally submit our testimony concerning the suggested
14 co-amendments and the remaining sections of the
15 proposed standard as follows.

16 Enjoli? Or is she frozen right now?

17 JUDGE HENLEY: Ms. DeGrasse, are you with us?
18 This is Judge Henley.

19 Drew, do -- can we have her in the --

20 MR. ROBERTS: It -- it -- it -- it -- it appears
21 Ms. DeGrasse is no longer with us.

22 JUDGE HENLEY: Okay. Let's -- let's give a second

1 and maybe she'll reconnect.

2 MR. SANDER: She says she's on, but she -- she's
3 not allowed to unmute.

4 MR. ROBERTS: Oh. I -- I see her. I see her.
5 She's rejoined.

6 There you go.

7 She should be with us now.

8 MR. SANDER: All right.

9 JUDGE HENLEY: Ms. DeGrasse?

10 MS. DEGRASSE: Hello. Can you hear me?

11 JUDGE HENLEY: We can, Ms. DeGrasse.

12 MS. DEGRASSE: Okay. Great.

13 So I want to address the -- the standard by
14 starting with the scope and application in section
15 (a)(2)(ii), scope and application, as it pertains to
16 the exclusion of short duration exposure employees. We
17 propose that short durations should be increased to 30
18 minutes or less in any 60 minute period when
19 temperatures fall within the 80 to 102 degree range.

20 An increase to 30 minutes is proposed based on a
21 conservative estimate of the range in the upper
22 critical temperatures at which the human body will

1 increase metabolic energy outside its thermal neutral
2 zone to cool itself. This estimate was derived based
3 on a 2022 study by Henderson and Halsey published in
4 the Journal of Thermal Biology, which sought to define
5 the upper critical temperature at which blood flow
6 regulation cannot service sufficient heat dumping to
7 maintain energy balance in the human -- human body.

8 This article defines the metabolic thermal neutral
9 zone as the range of ambient temperatures at which the
10 body's resting metabolic rate is at a minimum. The
11 study took into consideration both healthy and
12 medically compromised adults who were exposed to heat
13 under varied temperature, humidity, and exposure
14 periods. Wearing impermeable clothing, however, was
15 not studied.

16 The study showed a change occurred in the thermal
17 neutral zone between -- anywhere between 15 to 20
18 minutes of exposure at temperatures equal to or greater
19 than 82.6 degrees Fahrenheit at varying levels of
20 relative humidity and ramped versus discrete exposure.
21 The large range in time it took for the thermal neutral
22 zone to react to the environmental pressure shows that

1 humans will respond differently to heat and humidity
2 given varying degrees of age, health, and fitness
3 levels.

4 It also demonstrates that heat risk is situational
5 and controls are best applied with greater flexibility
6 to accommodate the needs of the dynamic workforce,
7 albeit with common sense guardrails. We would also
8 like to add section - to section (a), number (4), which
9 says the written requirements of this standard,
10 including but not limited to the Heat Injury Illness
11 Prevention Plan, shall not apply to employees with
12 fewer - with 10 or fewer employees.

13 Both of these changes will help to make this
14 standard more palatable, especially to our small
15 business employers. Definition section (b), cooling
16 personal protective equipment should exclude non-
17 mandatory use items such as cooling towels, cooling
18 sleeves, hats, or moisture wicking clothing that is
19 provided as a part of a regular uniform apparel. The
20 initial heat trigger of 80 degrees should be a
21 recommendation, not mandatory, given employer -- giving
22 employers flexibility to implement the Heat Injury and

1 Illness Prevention Program based on local climate
2 conditions and workforce needs.

3 The conditions under which the plan is implemented
4 must be documented in the employer's Heat Injury and
5 Illness Prevention Plan as a requirement of part (c) of
6 the standard. Eliminating the requirement of a set
7 initial heat trigger would also enable employers to
8 provide needed resources for employees in shoulder
9 season without fear of compliance concerns due to
10 drastic fluctuations and environmental temperatures.

11 We recommend eliminating the high heat trigger to
12 enable employers to scale protections based on regional
13 conditions and workforce needs, relying more instead on
14 local National Weather Service heat advisories to
15 dictate additional support as needed. Rest breaks
16 should be defined and should include transportation in
17 an air-conditioned vehicle.

18 Although, there is not a complete break from work,
19 workers riding in air-conditioned vehicles can benefit
20 from reduced heat exposure. This time should count as
21 a restorative break for cooling purposes. Employees
22 generally enjoy two 15-minute breaks and a 30-minute

1 lunch period, but are encouraged to stop as needed
2 based on our member feedback.

3 Regarding hazard control, section (e). At this
4 time, I'll provide examples of how NWRA members are
5 currently controlling for heat hazards. On the topic
6 of provision of water and hydration strategies --
7 strategies. Across all fleet companies, hydration
8 remains the cornerstone of their heat prevention
9 strategy. Some companies provide unrestricted access
10 year-round to water, supported by coolers in or on
11 trucks, and ice machines at home reporting locations.

12 Member companies supply insulated containers and
13 ensure replenishment in a variety of ways, including
14 having supervisors meet employees on route with
15 provisions, or allowing employees to take as many off-
16 route breaks as needed to purchase additional
17 hydration, if needed. Member companies also offer
18 access to electrolyte drinks and popsicles for rides
19 home.

20 Workers are allowed to self-regulate their water
21 intake with no strict tracking, and access to water is
22 always available -- made available. Regarding enhanced

1 equipment on the vehicle. Recognizing the importance
2 of a suitable environment, companies have implemented
3 various measures. Most collection trucks are equipped
4 with air-conditioning. I couldn't say a hundred
5 percent of the fleet -- of the fleet, but the majority
6 of them are.

7 If the AC is broken, extended breaks, modified
8 routes, cooling fans, and extra monitoring by
9 supervisors are conducted. Most heavy equipment at
10 landfill sites have AC, and air-conditioned break rooms
11 are made available for workers to access without
12 restriction. Remote landfill employees are provided
13 with shade in the form of cooling tents or umbrellas,
14 along with shade provided from their vehicle, alongside
15 AC equipped vehicles to transport them to air-
16 conditioned break rooms at the facility.

17 Regarding training and emergency preparedness.
18 When regional conditions dictate, companies conduct
19 daily crew-outs with heat and hydration reminders, and
20 weekly tailgate talks on extreme weather. Some member
21 companies utilize FaceTime video via company provided
22 phones to check on workers for signs and symptoms of

1 heat stress. Constant two-way communication is a
2 common practice for waste and recycling companies in
3 normal operations as route progression is closely
4 monitored.

5 Managers across all company sizes receive the same
6 training as operations level employees, with additional
7 attention covering their responsibility to respond to
8 emergency situations. Regarding worker support and
9 monitoring. Our companies prioritize psychological
10 safety and open communication. Workers are encouraged
11 to report heat stress systems -- symptoms or concerns
12 freely.

13 Supervisors conduct routine checks for signs and
14 symptoms of heat illness among workers, especially
15 landfill site workers and those operating in extreme
16 conditions. GPS tracking, in cab rear-facing cameras,
17 and radio communication ensure constant awareness of
18 worker movement and route progress. When conditions
19 nesitate -- necessitate scheduling changes, member
20 companies will schedule routes to start earlier in the
21 day.

22 Members report the same localities -- that some

1 localities will offer temporary variances to noise
2 ordinances, but this does not always happen for private
3 operators, which would not allow their trucks to
4 operate earlier in the morning. Some employers utilize
5 the National Weather Service to monitor environmental
6 conditions, and some find the NIOSH heat app to be very
7 helpful.

8 No company surveyed reported maintaining
9 temperature data at either indoor or outdoor work sites
10 and did not see any value in maintaining this data for
11 any period beyond the point of access. Companies must
12 comply with hours of service regulations already
13 without going beyond time. Instead, crews are sent
14 additional help to finish the route or crews are
15 swapped out when time -- when routes become longer --
16 go longer during the day.

17 One company reported over staffing during extreme
18 temperature periods to ensure that workers had enough
19 time to get the job done, and safely. If a truck's AC
20 is inoperable, drivers may still operate the truck with
21 extra monitoring by supervisors and with the use of in-
22 cab cooling fans, extra break times are allowed, and

1 modified routes are deployed, and extra staffing is
2 provided.

3 Employees who are working at material recovery
4 facilities or recycling centers, cooling fans are
5 provided in those work sites where air-conditioning is
6 not provided to maintain a comfortable temperature.
7 However, a lot of the newer MRFs are air-conditioned.
8 Ice machines and bagged ice are available and stocked
9 to ensure one bag per person at the start of the shift
10 for some of our member companies. Access is always
11 unlimited.

12 Regarding the contingent worker at our -- in our
13 industry. They are routinely used in the waste and
14 recycling industry. Companies require them to receive
15 training from their staffing agency in addition to
16 providing site specific training. Acclimatization for
17 new workers is routinely practiced. Contingent workers
18 are routinely scheduled on limited shifts and rotated
19 out frequently to prevent heat-related injuries and
20 illnesses.

21 Some companies provide nourishment to employees,
22 especially contingent workers, prior to starting their

1 shift. The buddy system is always in place for this
2 group and they are not allowed to work alone.

3 Regarding the effective date, we don't have an
4 issue with the effective date. However, we strongly
5 encourage OSHA to promptly implement a final rule.

6 Companies located in state plan regions with heat
7 regulations have already allocated valuable resources
8 to develop programs adhering to these regulations.
9 Some national companies have adopted the Cal/OSHA heat
10 standard across the board at all locations to ease
11 compliance concerns and recordkeeping burdens. A
12 delayed federal regulation will exacerbate the
13 inconsistencies among state regulations, leading to
14 substantial costs for our employers. These employers
15 have already made significant investments in state
16 compliant programs and will subsequently need to modify
17 these programs to adhere to a new federal requirement.

18 Kirk, I'll pass it to you for a conclusion.

19 MR. SANDER: And in conclusion, we further
20 encourage OSHA to maintain or increase staffing,
21 funding, and accessibility to the OSHA consultation
22 service, as this is an invaluable resource to our

1 smaller operators who do not have the resources or
2 manpower to develop comprehensive plans.

3 Continuing to resource and even expand this
4 service would -- would create an opportunity for robust
5 engagement for the independent small haulers who
6 generally see higher fatality rates than national
7 companies who are well resourced. Ideally, if OSHA
8 could create a toolkit with an available -- with
9 available resources for companies to insert their logo
10 and edit a few areas for site-specific information,
11 this would be widely utilized resource for small -- our
12 small businesses and small independent haulers.

13 And lastly, we encourage OSHA to advocate for its
14 sister agency, NIOSH, to remain fully staffed and open
15 as this agency plays an integral role in occupational
16 safety through its research initiatives, engagement
17 with industry stakeholders on crucial NORA committees,
18 and operation of their non-punitive HHE program.

19 In closing, we firmly believe that the proactive
20 measures taken by employers, and flexibility, and
21 regulation are key to mitigating heat-related illness
22 and injury. By prioritizing hydration, providing

1 suitable working environments, fostering open
2 communication, and delivering comprehensive training,
3 our companies have created safer and more resilient
4 workplaces.

5 We urge OSHA to -- to incorporate these insights
6 into its rulemaking process to safeguard workers across
7 outdoor and indoor settings while maintaining employer
8 flexibility and hazard control. Thank you for the
9 attention to the -- and commitment to this critical
10 issue. This concludes our testimony.

11 JUDGE HENLEY: Thank you, Mr. Sander.

12 Ms. DeGrasse.

13 Andy, does OSHA have questions for this panel?

14 MR. LEVINSON: Yes, Your Honor.

15 Andrew Levinson for OSHA. Thank you to NWRA, and
16 to Mr. Sander, and Ms. DeGrasse. It sounds like - or
17 not sounds like, you stated that you're interested in
18 getting rid of the high heat triggers in paragraph (f).
19 Is it your contention that your members would be
20 adequately protecting their workers if they only had
21 rest breaks as needed and did not have anything
22 required by the - the high heat trigger?

1 MS. DEGRASSE: So in feedback from our membership,
2 they did not want set heat triggers because of the
3 regional differences in temperature. And so they
4 wanted the flexibility of -- to allow each region to
5 make a decision on when to trigger their Heat Injury
6 and Illness Prevention Plan. So it's our idea that
7 there shouldn't be a specific trigger -- trigger
8 because there are regional differences. But as long as
9 the company provides what their decision criteria is in
10 their written -- in their written Heat Injury and
11 Illness Plan, that should suffice with compliance with
12 the regulation.

13 MR. LEVINSON: Thank you. So one of the issues
14 that we've been wrestling with, and -- and this is one
15 where any thoughts that you have now, or certainly in
16 post-hearing comments, we would greatly appreciate it.
17 OSHA is wrestling with this issue of the concept of
18 rest breaks as needed, and then, the practice of some
19 employers, perhaps, discouraging workers from taking
20 rest breaks when they need them.

21 And any thoughts on how OSHA might word a
22 provision to allow the flexibility for rest breaks as

1 needed while still providing some basic fundamental
2 level of protection for workers to ensure that they
3 have the ability to use those rest breaks when needed
4 would be greatly appreciated. I don't know if you have
5 any thoughts now or if that's something perhaps for
6 post-hearing?

7 MR. SANDER: Yeah, Andy. We can definitely think
8 about it for post-hearing, but I think what you said
9 was -- sort of summed it up is giving the employer that
10 flexibility. I mean, we have -- we have one member
11 who -- well, they pick up at a number -- they pick up
12 the waste at a number of convenience stores, and they
13 have a corporate account with those convenience stores
14 where the driver can go in and get a bottle of Gatorade
15 or a water, and use the bathroom in that convenience
16 store, and it's just set up as part of that contract.

17 But based on transportation, what the load is for
18 that -- that -- that day, that could be -- they could
19 be hitting that convenience store at 8 a.m., or 7:30,
20 or 10, depending on what that day comes. And so that
21 could be their rest -- part of their rest break.

22 That's also a rehydration stop. So knowing that that's

1 part of their written plan, that -- and then, with a --
2 CSHO's inspection and saying talking to the drivers,
3 like, hey. Are you -- you know you have this option.
4 Do you utilize it?

5 MR. LEVINSON: Okay. Thank - thank you. One
6 other thing that was contained in paragraph (f) with
7 the heat - the high heat triggers was a requirement for
8 observing workers for signs and symptoms. It sounds
9 like in your testimony that your members are doing
10 that. If OSHA did do away with the high heat triggers,
11 would you still advocate for the importance of people
12 monitoring workers for signs and symptoms?

13 MR. SANDER: Yeah. I mean, we have - we have
14 another member who not only engages their drivers, but
15 also dispatch. I mean, dispatch is sitting in a office
16 somewhere, moving everybody around. But on - when they
17 get a high heat day that they know it's going to be
18 hot - I mean, in Ohio, a 90 degree day is very much
19 different than a 90 degree day in Arizona after it's
20 been 110. So that 90 degree day in Ohio, the
21 dispatchers go - their first question is, how are you
22 doing, do you need water, do you need ice, and then,

1 they get into the dispatch question so.

2 MR. LEVINSON: Okay. Thank you.

3 Our next questions come from Zoe Petropoulos.

4 MS. PETROPOULOS: Hi. Zoe Petropoulos with the
5 Directorate of Standards and Guidance. I have a few
6 questions, and it's a good segue.

7 I know, Ms. DeGrasse, you just mentioned triggers
8 in one of your responses to Andy, and you also
9 mentioned in your testimony that, you know, employers
10 should be allowed to consider regional and local
11 climatic conditions in their Heat Injury and Illness
12 Prevention Plans. And so one question I have, are you
13 aware of any members who currently do this? They
14 account for local conditions in their plans? And if
15 so, can you share any details or examples, either now
16 or in post-hearing comments?

17 MS. DEGRASSE: Yeah. Several members we spoke
18 with use -- readily use the NIOSH heat apps and they
19 use National Weather Service when heat advisories or
20 heat warnings are issued to plan for the day. But they
21 also know in their regions when temperatures are
22 starting to get hotter. Like I said, there's a

1 shoulder season, and that's the real tricky part
2 because you'll have one day that's 60 degrees, and
3 then, all of the sudden it jumps to 85 degrees because
4 of those seasonal fluctuations in that shoulder season.

5 And that's really a concern when you have the heat
6 triggers because there would not have been any time to
7 acclimate anybody to a 90 degree day if the days -- the
8 three days before that, or five days before that, were
9 all in the 50s and 60s, and so there comes the
10 compliance issue.

11 And so when you look at regional fluctuations,
12 using the data available to you from your local weather
13 forecast or your National Weather Service that
14 highlights what the national -- what the heat
15 advisories are for that day can help you better plan
16 for when you need to ramp up your services and
17 supplies.

18 MS. PETROPOULOS: Got it. Okay. You kind of
19 touched on my next question there, but -- so the -- the
20 folks who are using National Weather Service advisories
21 and warnings, does that trigger certain controls or
22 does it trigger, kind of, notifications to employees?

1 MS. DEGRASSE: Absolutely. It triggers them to
2 issue, like, daily -- they -- so a lot of our carriers
3 have either DYAD systems or what do you call telematic
4 systems where they can send out messages to employees,
5 as needed, on a daily basis, hourly, minute. That's
6 how they communicate, just by nature of the waste
7 industry. And drivers, they are constantly being
8 checked on and monitored by dispatch or by supervisors,
9 just to see how the route is progressing, to know
10 whether or not they need to send out extra help to get
11 that route completed within a certain amount of time.
12 And so constant two-way communication is always a part.
13 It's just built into the operation for our industry.

14 MS. PETROPOULOS: Got it. Kind of continuing on
15 the -- the topic of triggers. If you all have read
16 other comments or listened to other folks' testimonies,
17 you probably have heard suggestion that perhaps OSHA
18 should determine a set of geographic -- geographically
19 varying triggers and -- and kind of propose that
20 instead of the set triggers for the nation. Would you
21 agree or disagree with that suggestion?

22 MR. SANDER: I -- I think the question then comes

1 down to what are the geographic localities? I mean, I
2 think through multiple testimonies and meetings, I
3 think you've all heard me talk about the USDA
4 Agricultural Map and how there's certain portions of
5 North Carolina that's aligned with Vermont on growing
6 seasons, and so what does that -- how does OSHA break
7 that down because the -- the coastal areas of South
8 Carolina are going to be very different than the
9 mountain areas. And so going statewide, I think is too
10 expansive, but then, how do you break it down to a
11 smaller area and what is that jurisdictional breakdown,
12 I think, is going to be the key part of making that
13 effective.

14 MS. PETROPOULOS: Got it. Further, continuing on
15 this line of questioning.

16 So you mentioned at the end of your testimony, Ms.
17 DeGrasse, that there are -- I -- I -- I don't know if I
18 quite heard you correctly, but -- so correct me if I'm
19 wrong, but there are large employers, or at least one
20 employer who's adopted the California standard across
21 their operations? Please do correct me if that's not
22 accurate. And if that's the case, are they using the

1 same triggers as in the California standard, or are
2 they using something different, and -- and what's been
3 their experience with that? I would --

4 MS. DEGRASSE: Yeah.

5 MS. PETROPOULOS: -- welcome any input.

6 MS. DEGRASSE: So we did -- we did -- had one
7 member recently report that they just decided to adopt
8 the California heat standard about a month ago, so they
9 have not worked that all out, but they do have
10 operations across the U.S., so I can't provide you with
11 any details on how they're working it out.

12 MS. PETROPOULOS: Got it. Okay. And you know, if
13 in post-hearing comments, you are able to share
14 anything, we would be interested in, kind of, hearing
15 their experience if they have anything they -- that
16 they're willing to share. I'm going to shift gears and
17 ask about a different topic, if that's okay?

18 In your written comment on the NPRM, in reference
19 to fans in the provision (e)(6) on evaluation of fan
20 use, you wrote that, quote, "Flexibility in application
21 of this control should be maintained". And so we were
22 wondering if you could expound more, now or in post-

1 hearing comments, what flexibility, specifically in
2 this context, that you would like OSHA to maintain.

3 MR. SANDER: I think we'll have to go back and
4 look at our comments, and then, we'll provide comments
5 in the post-hearing.

6 MS. PETROPOULOS: Got it. And this is the last
7 question from me. You mentioned, both in your written
8 comment and your testimony, the OSHA-NIOSH heat safety
9 tool app, and just curious if you know of any
10 alternatives your members and managers currently use,
11 or have considered using for accessing similar heat
12 index forecast data? Either now or in post-hearing
13 comments.

14 MR. SANDER: I mean we've pretty much pushed the
15 NIOSH OSHA heat app, and then, the National Weather
16 Service would probably be the two places I've heard the
17 most of.

18 MS. PETROPOULOS: Got it.

19 MS. DEGRASSE: I don't think anyone I spoke to
20 used any -- used the wet bulb globe temperature at all.

21 MS. PETROPOULOS: Thank you so much.

22 That's it for my questions.

1 MR. LEVINSON: Your Honor, the next questions from
2 OSHA come from Patti Downs.

3 MS. DOWNS: Hello, everyone. Patti Downs with the
4 Directorate of Standards and Guidance.

5 My questions are mostly focused on the engineering
6 controls that you have seen in place. And in the
7 written comments that were submitted, you mentioned
8 that incineration of solid waste products has been
9 controlled by applying a mix of administrative controls
10 and engineering controls, including restricting access
11 to areas where ambient temperatures are identified as
12 exceeding 120 degrees Fahrenheit. What engineering
13 controls have been used to shield radiant heat during
14 the incineration of waste? And then, to further that a
15 little, were any found not to be usable or infeasible,
16 and if so, why?

17 MS. DEGRASSE: I think we'll have to address that
18 in post-hearing comments.

19 MS. DOWNS: Okay. That would be great.

20 MS. DEGRASSE: (AUDIO INTERFERENCE).

21 MS. DOWNS: Okay. So for indoor maintenance bays,
22 the written comments mentioned the use of fans for

1 cooling as they help increase air circulation and
2 promote sweat evaporation, and I'm interested in
3 learning if dehumidification has ever been used or
4 needed in humid -- humid environments. And conversely,
5 in arid environments, if you've ever used, like, swamp
6 coolers or misters?

7 MS. DEGRASSE: Swamp coolers have been noted by
8 some of our members as being used for sure, especially
9 in maintenance areas, but in MRFs. A MRF is a material
10 recycling facility -- recovery facility.

11 MR. SANDER: Recovery facility.

12 MS. DEGRASSE: Yes.

13 MS. DOWNS: Okay. Okay. Okay. In -- then, in
14 your testimony today, you mentioned that workers were,
15 kind of, already taking two breaks a day, and then, as
16 needed. Can you tell us a little more about the break
17 areas that workers use with regards to the availability
18 of controls, like, air-conditioning, fans, or shade?

19 MS. DEGRASSE: Yeah.

20 MS. DOWNS: And then, do -- do indoor and outdoor
21 workers use the same break areas or are they usually
22 separate spaces?

1 MS. DEGRASSE: No, indoor and outdoor workers can
2 use the same break areas, and they're air-conditioned.

3 MS. DOWNS: Okay. And then, the last question
4 from me -- and this is Patti Downs, again. What is the
5 prevalence of air-conditioning in the waste collection
6 vehicles?

7 MS. DEGRASSE: I wouldn't say it's -- it's a
8 hundred percent, but it is pretty -- pretty well
9 ubiquitous within our industry. We have been dealing
10 with the heat, trying to get heat-related injuries and
11 illnesses under control for over the last five years.
12 And so they've responded pretty well to doing that and
13 air-conditioning that fleet.

14 MS. DOWNS: Okay.

15 MR. SANDER: That -- the -- the one, probably,
16 caveat to that is, especially on, like, right-side
17 drive where the driver is standing up, usually the door
18 is open or there's some type of barrier, like a -- and
19 so if they're getting in and out, that door could be
20 open on collections. So there comes an issue with
21 overtaxing an air-conditioner --

22 MS. DOWNS: Okay.

1 MR. SANDER: -- because it's not in -- as an
2 enclosed environment.

3 MS. DOWNS: Okay. So then, just a follow on
4 question, then. For those vehicles that are not using
5 air-conditioning, then, are there any alternatives for
6 cooling that are being used?

7 MS. DEGRASSE: Yeah. There are cooling fans that
8 are installed in those vehicles, as well as the company
9 provides coolers and insulated containers to keep and
10 store cool water. Some waste collection trucks have
11 coolers built on to the truck as manufactured.

12 MS. DOWNS: Okay.

13 Okay. That's all for me. Thank you.

14 MR. LEVINSON: Your Honor, the next questions from
15 OSHA come from Deirdre Green.

16 MS. GREEN: Hi, good afternoon. Thank you all for
17 your testimony this afternoon. This is Dr. Deirdre
18 Green with OSHA Directorate of Standards and Guidance.
19 My question is a follow up based on some of the
20 communication methods that you guys just mentioned in
21 your testimony and in your comments. You mentioned
22 that employees receive text messages for safety and

1 health updates, and we're curious what type of
2 information is sent via those messages? Is there any
3 sort of process to understand if those messages have
4 been read, or how frequent those messages are sent out?
5 It sounds like you guys also may use FaceTiming in some
6 situations? So is there any additional information you
7 could provide on that sort of electronic communication
8 that members are using?

9 MS. DEGRASSE: Well, what I know is that it --
10 the -- it varies depending on the fleet. Some of our
11 smaller fleets are using FaceTime because they're
12 smaller. They have, like, 11 drivers, right? And so
13 that may be feasible for them, whereas others use a
14 more robust telematics system, where they are
15 allowed -- able to send text messages back and forth,
16 usually checking on routing, but also are able to send
17 messages, like, hey, are you hydrated? Have you been
18 drinking water? What -- how are you feeling? What are
19 your signs and symptoms? Do you need to report
20 anything? And they also have in-vehicle, rear-facing
21 cameras that look directly at the driver where
22 supervisors can monitor, visually, for signs and

1 symptoms of any type of heat stress.

2 MS. GREEN: Thank you. That's -- that's very
3 helpful. I just -- I had an additional question as
4 well about communication. In the written comments,
5 there -- it was also mentioned that some members have a
6 program where in the event of extreme heat, quote,
7 "Management will provide daily reminders and increase
8 the allowances for rest breaks until the severe weather
9 passes." Are you able to tell us, either now or in
10 your post-hearing comments, more about this program and
11 its effectiveness?

12 MS. DEGRASSE: We probably can provide comments in
13 post-hearing follow up. I do know one member talked
14 about having screen boards that they set up as members
15 first walk in for the day, where they can see messages
16 about any daily heat, extreme heat temperatures that
17 they should look out for the day. So I do know that is
18 one member's way of communicating on a daily basis with
19 members as they walk in to report for work.

20 MS. GREEN: Great. Thank you. Those are all of
21 my questions, Andy.

22 MR. LEVINSON: And Your Honor, the last questions

1 from OSHA come from Adriana Lopez.

2 MS. LOPEZ: Hello. Adriana Lopez, OSHA
3 Directorate of Standards and Guidance. Thank you for
4 your testimony. It was very useful. In your written
5 comments, NWRA says that vehicles or equipment could
6 potentially be used as shade; however, break areas are
7 routinely accessible via employee transport to fixed
8 work sites. Other commenters such as TxSWANA said that
9 break areas along the route are not readily available,
10 and hence, vehicles need to be used as break areas.
11 Would NWRA expand on the availability of break areas
12 along the route?

13 MR. SANDER: I mean, I think it gets back to
14 the -- like, one of our companies providing that
15 agreements with their -- their customers that they can
16 go into convenience stores, get a -- get a bottle of
17 water or a Gatorade, so that they're, by default,
18 acting as a rest area because that's a place where they
19 can use the restroom, they can get -- go into an air-
20 conditioned facility and be hydrated.

21 MS. DEGRASSE: And I think also, just to clarify,
22 rest areas on route, we're talking -- we have, like,

1 three different business operations. We have landfill
2 operations, we have collection operations, and we have
3 material recovery recycling facilities. And so when
4 we're talking about on a route, that's what Kirk just
5 mentioned, that they can go to different stops along
6 their route -- their collection route to provide -- to
7 get access to air-conditioned location.

8 But if we're talking about folks who are in a
9 landfill, some workers may be stationed a long
10 distance, a few miles away from the air-conditioned
11 break room. And so in that instances, their vehicle
12 could be used as shade or some companies provide tents
13 and umbrellas for shading. But there's always an air-
14 conditioned vehicle available at location for those
15 remote employees to be able to transport it back to a
16 facility with air-conditioning.

17 MS. LOPEZ: Okay. Thank you very much for that.
18 That's all for me.

19 MR. LEVINSON: And Your Honor, that concludes
20 OSHA's questions.

21 JUDGE HENLEY: Thank you. Questions from the
22 Office of the Solicitor?

1 MR. MOCZULA: Daniel Moczula from the Office of
2 the Solicitor. No questions from us. Thank you for
3 your testimony and for your time.

4 JUDGE HENLEY: Drew, members of the public in the
5 queue? If so, how many?

6 MR. ROBERTS: Just one, Scott Schneider.

7 MR. SCHNEIDER: Hi. My name is Scott Schneider,
8 and it's great to see you, Enjoli. I haven't seen you
9 in a while. I have a quick question for you. I wanted
10 to follow up on some of the questions about triggers
11 that Zoe Petropoulos asked you. Many of your -- you
12 said many of your members are using the OSHA-NIOSH heat
13 app. And I'm wondering, what are the triggers that are
14 used in the OSHA-NIOSH heat app?

15 MS. DEGRASSE: That's a good question, Scott. I'm
16 not exactly sure.

17 MR. SCHNEIDER: Yeah. I think they use --

18 MS. DEGRASSE: I would think 82.

19 MR. SCHNEIDER: Uh-huh. And if OSHA were to have
20 geographic variation in triggers, then how would that
21 work if people are using the NIOSH OSHA app; how would
22 they decide which one to use?

1 MR. SANDER: Scott, that's a great question, and I
2 think it gets back to what -- it's the implementation
3 and how it's designed so that does then OSHA have to go
4 back to NIOSH and say okay, these are the new triggers,
5 and then can we redesign the app to fit -- fit those
6 triggers so that we're -- so people aren't getting bad
7 information.

8 MR. SCHNEIDER: Yeah. I'm just wondering, how
9 does -- how does an individual employer decide -- if
10 there's no triggers in the standard, how do they decide
11 when to institute precautions? And you know that -- of
12 course you know that OSHA is required to protect
13 everybody, all workers, from material health
14 impairment. So how would that work if there were no
15 triggers and each employer decided what triggers to use
16 on their own?

17 MR. SANDER: I think it comes down to what the
18 written plan is to show that where their -- their
19 triggers are because I think it's getting back to that
20 regional variability where in talking to one member who
21 is in the southwest, he's talking about how 85 feels
22 cool to him because he's been used to 100, 105. But

1 then we talk to members in Ohio and Illinois and
2 they're just -- they can't stand that 85 degrees. And
3 so what does that acclimatization mean because 85 in
4 the Southwest is different than 85 in Ohio.

5 MR. SCHNEIDER: Yeah. Well, the reason I'm asking
6 this is because, you know, the triggers, the heat
7 index, takes into consideration the ambient temperature
8 and the humidity, and that varies from region to
9 region. So that's taken into consideration already
10 that variation in the heat index. So really the only
11 thing that you're -- that seems of concern is the
12 acclimatization from region to region might vary. But
13 really, the heat index does take into consider
14 geographic variation, right?

15 MR. SANDER: I haven't -- I mean, we haven't
16 delved into how the heat index is calculated.

17 JUDGE HENLEY: All right. Thank you, Mr.
18 Schneider.

19 MR. SCHNEIDER: Okay. Thank you very much.

20 JUDGE HENLEY: Anybody else in the queue, Drew?

21 MR. ROBERTS: No one else in the queue, Your
22 Honor.

1 JUDGE HENLEY: Mr. Sander, Ms. DeGrasse, again,
2 I'd like to thank the National Waste and Recycling
3 Association for your testimony this afternoon. You are
4 excused.

5 MR. SANDER: Thank you.

6 JUDGE HENLEY: And if you can promote our next
7 panelists, Ms. Valencia from the City of San Antonio,
8 Solid Waste Management Section.

9 Ms. Valencia? Five minutes.

10 MS. VALENCIA: Good afternoon. Can you hear me?

11 JUDGE HENLEY: Yes, ma'am. You may proceed.

12 MS. VALENCIA: Thank you. So once again, my name
13 is Josephine Valencia. I am the Director of Solid
14 Waste Management for the City of San Antonio. I am
15 also on the board of directors for the Texas Chapter of
16 the Solid Waste Association of North America, TxSWANA.
17 My staff currently drives about seven million miles
18 every year in support of our residential garbage
19 collections. So in San Antonio, we take the wellbeing
20 of our employees very seriously, and we have
21 voluntarily obtained ISO 45001 safety certification. I
22 realize that not every organization takes safety as

1 seriously as we do, so I applaud OSHA for developing
2 heat stress related guidelines.

3 However, I have some concerns with three main
4 areas of your proposed rules. My first area of concern
5 is on the heat trigger index, which I am sure you have
6 heard from a variety of different speakers. I also
7 have some concerns on the documentation of the heat
8 illness prevention plan. And finally, number three, on
9 the shade requirements.

10 On the first one, the establishment of a single
11 heat index for the entire country does not take into
12 account the wide temperature variations that exist.
13 Your heat index of 80 degrees and high trigger of 90
14 degrees is normal for Texas for about half the year.
15 If we were to conduct the hazard alert briefings as
16 required every time we reached this index, I foresee
17 two negative consequences. The first, I think, is that
18 my staff would stop paying attention. These -- if we
19 were doing this on a daily basis, these briefings would
20 simply become part of the background noise and not as
21 impactful.

22 The second I think is that these daily briefings

1 would take time away from other messages. As I'm sure
2 you're aware, the solid waste profession is
3 consistently in the top ten most dangerous professions.
4 And we have a variety of other safety topics that we
5 need to get to employees. For example, dangerous dogs,
6 bloodborne pathogens, and the list goes on in all the
7 things. So every time we would be conducting a heat
8 stress briefing, that would take time away from some of
9 these other topics that we would need to -- that we
10 need to cover.

11 So as an alternative, I would -- I propose two
12 things. First is some sort of regional index. I don't
13 have an exact number, but I believe whatever
14 temperature figure combined with humidity that is
15 chosen should be set at a figure that typically does
16 not exceed about 25 percent of the year. The second
17 suggestion I have is that during extended heat periods,
18 safety briefings occur once a week in more detail as
19 opposed to a single very short daily briefing.

20 As it's written, I suspect many of the
21 organizations in the Southern states won't even bother
22 tracking the heat index and for compliance purposes,

1 would just be giving the same daily briefing without
2 any real consideration of how to make it impactful.

3 My second area of concern is on the heat illness
4 prevention plan. Not so much on the concept of the
5 plan, but I think some of the proposed regulations are
6 unclear. For example, the plan has to be made
7 available, but does that mean on every truck? Or does
8 that mean in the yard, for example? Also, the
9 requirement to identify where specific breaks are going
10 to be taken. Our drivers drive along different routes
11 in different areas of the city, depending on the day,
12 depending whose route they're covering for, if someone
13 is on vacation. So if that can be more generic
14 statements, such as, you know, taking a break at a
15 convenience store, for example, as opposed to
16 identifying one by a specific address.

17 And speaking of break time, that brings me to my
18 third concern of the proposed rules. If I read them
19 correctly, the proposed rules prohibit using vehicles
20 to meet the shade requirements. When your -- when your
21 workday takes place in a vehicle, that is the, I think,
22 the most opportune place to take a break instead of

1 driving around looking for a collection -- a collection
2 area for a break. All of our vehicles are air-
3 conditioned. I know that's not true for the entire
4 solid waste industry.

5 The other thing, my final comment is to say, we
6 currently, all our employees, are allowed to take two
7 breaks right now. During high heat periods, we allow
8 all our employees to take additional breaks as needed.
9 As the earlier speakers talking about solid waste, even
10 though work is out in the field, our supervisors are in
11 constant communication with their drivers and during --
12 for us, you know, 80 degrees is normal. But when we're
13 in the high 90s, we reach out to all employees via
14 telephone on a more frequent basis and encourage them
15 to take additional breaks and just to check on them to
16 make sure that they're still okay.

17 So that concludes my comments, and I am open to
18 any questions that you may have.

19 JUDGE HENLEY: Thank you, Ms. Valencia.

20 Andy, does OSHA have questions for this panelist?

21 MR. LEVINSON: Yes, Your Honor. The first
22 question comes from Patti Downs.

1 MS. DOWNS: Hi. Patti Downs with the Directorate
2 of Standards and Guidance. I'm interested in knowing,
3 how do you currently monitor for heat in your workplace
4 and how often do you check the temperature or the heat?
5 Like, are you doing it just daily, hourly?

6 MS. VALENCIA: So we do -- we do a daily -- we do
7 a daily and -- we do it the night -- we do it the night
8 before at the conclusion of the workday, kind of seeing
9 the forecast for the next day. And then at the
10 morning, we -- so our safety team the night before will
11 send out an email to all the supervisors if there is
12 something expected to be out of the ordinary for the
13 next day. And then in the morning we'll check it
14 again. And depending on the conditions, we'll alert
15 all our staff.

16 And this isn't, you know -- we're talking
17 primarily about heat, but we do it for pretty much any
18 temperature related issue. For example, in San
19 Antonio, we just had some flooding, for example, last
20 week. So we look at all the temperature, anything
21 out -- going out of the -- out of the ordinary and
22 alert our staff to adjust accordingly.

1 MS. DOWNS: Thank you. Patti Downs again. And
2 then, Ms. Valencia, have you found the local weather
3 reporting and apps then, like the OSHA heat app and
4 things like that, to be fairly accurate compared to the
5 actual conditions at your workplaces?

6 MS. VALENCIA: I think for the most part, yes.
7 They are as -- I'm sure in every location there are
8 some kind of microclimates that make things either
9 hotter or cooler. I think that's one of the reasons
10 we've heard several panelists talk about flexibility,
11 especially when it takes the breaks. There are some
12 areas that I know get hotter than what the area may do.
13 So some of our employees would prefer to power on and
14 skip the morning break if they know this area is going
15 to be -- get hotter than the rest of the -- than the
16 temperatures indicate, so they want to get that area
17 done quicker. So and then take a break when they're
18 done with the area before the sun hits a particular
19 area.

20 MS. DOWNS: Okay. Great. Thank you so much.
21 That's all I have, Andy.

22 MR. LEVINSON: Thank you. Your Honor, the next

1 question comes from Zoe Petropoulos.

2 MS. PETROPOULOS: Hi. Zoe Petropoulos with the
3 Directorate of Standards and Guidance. If you've
4 listened to the last two witnesses, this will sound
5 familiar, but I'm curious your thoughts. So you
6 mentioned temperature variations across the country,
7 and it sounds like you think OSHA should account for
8 that. And I'm curious your thoughts on some of the
9 recommendations that we've heard during this hearing on
10 how to approach this.

11 So we've heard from some witnesses that they would
12 like us to determine a set of triggers that are
13 geographically varying and kind of OSHA determines them
14 across the country. And then we also heard a
15 recommendation just now from NWRA that employers should
16 set triggers based on their local climates and they
17 should determine that and they should document how they
18 determined it in their heat injury and illness
19 prevention plan. I'm curious your thoughts on which
20 would make more sense in your opinion and for your
21 organization's operations.

22 MS. VALENCIA: I think what makes more sense for

1 our industry is having an established -- an established
2 trigger that OSHA determines. I'm just thinking that
3 it should not be the same trigger for the entire
4 country.

5 MS. PETROPOULOS: Thank you so much. And that was
6 actually my only question, so I'm done.

7 MR. LEVINSON: Your Honor, the next question comes
8 from Deirdre Green.

9 MS. GREEN: Thank you for your testimony. This is
10 Dr. Deirdre Green from OSHA's Directorate of Standards
11 and Guidance. My first question is about training. I
12 was wondering if you could provide any sort of
13 information on what sorts of trainings you currently
14 provide employees on heat safety topics and which of
15 those have you found to be the most effective.

16 MS. VALENCIA: So we offer a variety of heat-
17 related training. We have the -- we have, for example,
18 urine charts posted in all our bathrooms to talk about
19 dehydration to say make sure you hydrate, especially
20 during the summer times. We have made some videos
21 using some of our own employees that have had -- that
22 are, I guess, get the play for the Oscars and have

1 pretended to have heat stress related injuries and how
2 other employees should respond to them.

3 We also have training for our supervisors in terms
4 of making sure that they reach out to their employees.
5 We do training for everyone on recognizing heat stress
6 related issues with their coworkers, for example. Are
7 they sweating or more importantly, did they stop
8 sweating, for example. Do they look incoherent? So we
9 have all -- we tell all our employees to take care of
10 themselves and to take care of each other. Because we
11 want to make sure that everyone -- it's not one -- it's
12 not one -- we do have safety officers that also conduct
13 regular safety briefings on heat stress. But I believe
14 the most impact comes from when everyone is involved in
15 heat stress and not just delegating the training to --
16 to a safety team. As you can imagine, it's hot in
17 Texas. It's hot in Texas most of the year. So heat
18 stress is always, you know, on the forefront for us for
19 at least half the year.

20 MS. GREEN: Thank you very much. I just want to
21 switch gears now to ask a somewhat different question.
22 Again, this is Deirdre Green from OSHA. This question

1 is about hazard alerts and if you have any suggestions
2 on how to make hazard alerts more effective when
3 temperatures exceed that high heat trigger daily for
4 long periods of time. And what would you do to make
5 this type of alert more effective at emphasizing the
6 urgency of a heat-related injury or illness risk?

7 MS. VALENCIA: I think the first thing is to not
8 do it too often. We -- we talked about, you know,
9 acclimation, and I know several people talked about
10 that. So me, if I were to tell, you know, tell my
11 employees like, oh, it's 80 degrees, you know, be
12 careful. It's like, most of them are still wearing
13 long sleeve shirts during 80 degrees. It's a common
14 for us. So I think on both the -- on both the trigger
15 and the alert portion, it has to kind of match the --
16 match the risk factor.

17 But I think what -- in terms of your question
18 about what's the most impactful, I think it's just a
19 one-on-one communication. And we're a large
20 organization. You know, we're -- about 800 employees
21 work for Solid Waste here. But as you know the
22 previous speaker had said, this is an -- this is an

1 industry where there's constant communication. So
2 because our drivers are out in the field, they have to
3 talk to their supervisor several times a day to check
4 in and make sure what is going on. So for us, I think
5 having that one-on-one communication from a driver to a
6 supervisor at this point is the most impactful.

7 We don't -- we are currently in the process of
8 rolling out a technology assisted communication for all
9 trucks. We're not there yet. That might be the --
10 that might be the future. But I always personally like
11 that one-on-one because if I talk to someone, I know
12 they heard their message. If I sent them a text, I
13 sent them a message on their tablet, I don't know if
14 they actually looked at it. I'm sure that I can tell
15 that they tapped on it to dismiss it, but did it make
16 that impact on them? That, I don't know.

17 MS. GREEN: Thank you, Ms. Valencia.

18 That concludes my questions, Andy.

19 MR. LEVINSON: All right. And Your Honor, the
20 last question from OSHA comes from Rachel Carse.

21 MS. CARSE: We've heard from the previous speakers
22 that --

1 JUDGE HENLEY: Rachel, I'm having difficulty
2 hearing you. There --

3 MS. CARSE: I know. Sorry. Thank you, Ms.
4 Valencia, for your testimony. We just heard -- we just
5 heard from the previous speaker that in some cases,
6 municipal operators are allowed to start their day
7 earlier as noise ordinances in some instances are not
8 applicable. Is this the case in San Antonio? Do you
9 have the ability to start your day earlier if there's a
10 case of extreme heat?

11 MS. VALENCIA: We -- we sometimes will start up to
12 30 minutes earlier in the summertime. Our difficulty
13 though isn't so much our starting early. We do have a
14 noise ordinance, but our bigger issue though is our
15 residents. So if we -- this is residential collection,
16 not commercial that have the dumpster out all day. So
17 on the residential side, I need the residents to bring
18 their can out to the curb for it to be there to pick it
19 up. So if we were to start early, chances are most of
20 our residents are still sleeping and the can is not out
21 there for us to collect.

22 So that's why -- so we have two types of

1 collection. We have collections that happen on the
2 street in front of the house, and then we have some
3 collection that -- which is most of our collections.
4 We have about 20,000 customers who get -- who are
5 collected behind the house, and those cans typically
6 stay out year round all the time. So during extreme
7 heat, we will start collections 30 minutes earlier, but
8 only for our customers that have collection in the back
9 of the house, if that makes sense. Because I don't
10 have to wait for someone to roll their can outside.

11 MS. CARSE: Okay. Yeah. That makes sense. My
12 other question is, you mentioned that 100 percent of
13 your vehicle cabs have air-conditioning. In a typical,
14 like, waste collection crew, would all the workers have
15 access and be able to take a break in that air-
16 conditioned vehicle cab?

17 MS. VALENCIA: Yes. All our -- all our employees
18 do fit in the truck.

19 MS. CARSE: Uh-huh.

20 MS. VALENCIA: We are also installing secondary
21 ACs. In a lot of our vehicles, what we've found is
22 even our vehicles that have AC and they may be brand

1 new, it's tough to keep up with the Texas heat where
2 the -- where the air-conditioning is running pretty
3 much all the time. So secondary air-conditioning is if
4 you can picture on an RV or recreational vehicle that
5 have, like, those AC units on top on the outside, we're
6 starting -- we're experimenting mounting some of those
7 in our vehicles.

8 MS. CARSE: Okay. All right. Thanks. That's all
9 my questions.

10 MR. LEVINSON: And Your Honor, that concludes the
11 questions from the OSHA panel.

12 JUDGE HENLEY: Thank you, Andy. Does the
13 Solicitor have questions for this panelist?

14 MR. MOCZULA: Daniel Moczula for the Solicitor.
15 No questions for the panelist. Thank you.

16 JUDGE HENLEY: Drew, any members of the public in
17 the queue?

18 MR. ROBERTS: No questions from the public, Your
19 Honor.

20 JUDGE HENLEY: Okay.

21 MR. LEVINSON: Your Honor, can we suggest perhaps
22 a ten minute recess?

1 JUDGE HENLEY: Yes. Absolutely. It's 2:20
2 Eastern Time. Let's go off the record and reconvene at
3 2:30, ten minutes. Off the record.

4 (Break.)

5 MR. ROBERTS: This is Drew Roberts, OSHA's
6 coordinator -- contractor. It is 2:30 Eastern Time,
7 and we are now rejoining OSHA's informal rulemaking
8 hearing for heat injury and illness prevention in
9 outdoor and indoor work settings.

10 As a reminder, if you are speaking today, you will
11 receive a notification on your screen that you are
12 being promoted to the panelist group a few minutes
13 before it is time to provide your testimony. We ask
14 that you do not unmute or turn on your camera until
15 your name has been called and you have been asked to
16 start your testimony. All Webex attendees can access
17 closed captioning and translated captioning by clicking
18 the CC icon in the lower left corner of the
19 application. All YouTube viewers will have access to
20 auto translation the day after the hearing. All Webex
21 attendees can access Spanish interpretation during
22 given testimony by clicking on the interpretation globe

1 icon on the left-hand corner of the application.

2 Dependent on timing, there may be opportunity to
3 ask questions of other speakers giving testimony. You
4 may press the raise hand button at the bottom of the
5 Webex application to indicate that you have a question.
6 If there is time, you'll be called on by name and
7 promoted to the panelist group to unmute and ask your
8 question. If you're having any technical difficulties,
9 please send an email with your name and phone number to
10 public_hearing@abtassoc.com.

11 I will introduce each speaker in turn. Please
12 speak slowly and clearly so our court reporter can
13 record your -- record these proceedings accurately. I
14 believe the first speaker --

15 JUDGE HENLEY: Hold on.

16 MR. ROBERTS: Sorry.

17 JUDGE HENLEY: Yeah. Hold on, Drew. Let me say
18 something briefly. So it appears our last panel for
19 the afternoon is the National COSH Network. It appears
20 there are over 15 individual panelists comprising
21 several organizations. Remind each panelist to stay
22 within the time that's been allotted to them for their

1 testimony. And at the end of each panelist's
2 testimony, we will open it up for questions at that
3 point. So if you could promote the first panelist,
4 Drew, please.

5 MR. ROBERTS: Yes. The first panelist is Jessica
6 Martinez from the National Council of Occupational
7 Safety and Health.

8 MS. MARTINEZ: Good afternoon, everyone. Just to
9 confirm, our preference for the panelists is to save
10 questions for the end; did I understand that? Is that
11 how we're doing it, or is it per --

12 JUDGE HENLEY: Yeah, I think you got it right, Ms.
13 Martinez. We're going to go through all the individual
14 panelists, and at the end, we will open it up for
15 questions. So I'm going to ask each panelist to
16 remain, even though your testimony is concluded, until
17 the end, so you're available to answer any questions
18 from OSHA or the Solicitor or members of the public.
19 But thank you, Ms. Martinez. The floor is yours.

20 MS. MARTINEZ: Thank you for that clarification,
21 sir. All right. So good afternoon again. My name is
22 Jessica Martinez, and I serve as the executive director

1 of the National Council for Occupational Safety and
2 Health, also known as National COSH. Our national
3 network is made up of over 25 local COSH groups who
4 support, train, and advocate alongside workers from
5 across the country -- warehouse workers, airport crews,
6 restaurant and food service workers, domestic workers,
7 farmworkers, roofers, day laborers, and many more.
8 Many of them are represented here today in our panel,
9 and I'm here as a moderator to introduce several
10 workers and advocates who will share their personal
11 stories about how extreme heat on the job has impacted
12 their health, their livelihoods, and their families.

13 Each story is different, but the pattern is the
14 same. Workers who have become sick, disoriented, or
15 even hospitalized, some who never made it home again,
16 all because they were forced to labor in dangerously
17 high temperatures with no real protections in place.
18 We've waited far too long for a national enforceable
19 heat standard, and the cost of that delay has been
20 measured in lives. Every single day, National COSH and
21 our local affiliates receive calls from workers asking
22 the same question: is there a law that can protect me

1 from the heat? The answer right now is no, not in most
2 states. And even in places like California with a
3 state standard, many workers, such as those who are
4 incarcerated, still fall through the cracks. This
5 patchwork approach is failing. So the current General
6 Duty Clause is not enough. It's vague. It's reactive.
7 It's not preventative. It places the burden on workers
8 to prove harm after it happens, often when it's too
9 late. In contrast, a clear, enforceable federal heat
10 standard would define employers' responsibilities
11 proactively, offering simple, life-saving requirements,
12 like water, rest, and shade.

13 And let me give you a real example. Tony Pineda
14 is a roofer from Arizona, one of the hottest states in
15 the country and still, shockingly, without a state heat
16 standard. He shared his story with us. Temperatures
17 reached 115 degrees. We often worked more than five
18 hours straight without real breaks. Water was
19 technically available, but it was far away on the
20 ground. Nobody wanted to climb down from the roof to
21 get it. We never received any training on heat
22 exposure. One day, I felt dizzy. I got home and had

1 severe migraines, diarrhea, and was completely
2 exhausted. I didn't go to the doctor. I couldn't
3 afford to. I recovered, but barely. I was lucky.

4 Tony's story is not unique. It's a window into a
5 much broader crisis. More than 436 workers in the U.S.
6 died from heat between 2000 and 2021, according to the
7 Bureau of Labor Statistics data, and that's almost
8 certainly an undercount. Many heat-related deaths go
9 misclassified or unreported. Tens of thousands more
10 suffer from heat stress, dehydration, kidney issues,
11 and long-term complications. Workers in construction
12 and agriculture face the highest risk, and black,
13 brown, immigrant, and undocumented workers are
14 disproportionately affected. This is not just a moral
15 failure. It's an economic one. Countries like Spain
16 and France, countries with scorching summers, have heat
17 protection laws that are enforced. They recognize that
18 a protected workforce is a more productive, stable, and
19 sustainable workforce. When workers are hydrated,
20 rested, and trained, they work better. They stay
21 longer, and they are less likely to get hurt or die.
22 It's not complicated.

1 Let me also be clear that voluntary programs or
2 performance-based standards will not work. We have
3 already seen what happens when enforcement is left to
4 good will or vague intentions. Employers, including
5 massive corporations, continue to ignore the basics,
6 sometimes not even providing shade or drinkable water.
7 Tony had water, but it was 40 feet below him. That's
8 not access; that is complete negligence. A meaningful
9 standard must include clear, specific requirements on
10 water proximity, rest breaks, shaded recovery areas,
11 medical response, and critically, worker training.
12 Tony never received training. He didn't even know what
13 symptoms to watch for. He nearly collapsed. And then
14 there's also fear. Tony never spoke up about what
15 happened. Like many workers, he feared retaliation.
16 He left the job, not just for his health, but for his
17 dignity. Thankfully, he found support at a workers'
18 center, rebuilt his life, and today is supporting other
19 workers who suffer in silence like he did. We also
20 call on OSHA to ensure this standard protects all
21 workers, including those who are incarcerated. Right
22 now, there are incarcerated workers producing over

1 50,000 license plates a day in Folsom Prison in
2 California with no access to basic heat protections.
3 This cannot be the status quo.

4 To summarize, the General Duty Clause is not
5 enough. It's inadequate to protect workers from heat-
6 related harm. All workers, regardless of job sector,
7 geography, immigration status, or incarceration status,
8 deserve clear, enforceable heat protections. This
9 standard must apply to both indoor and outdoor workers
10 and center the needs of the most marginalized. Vague,
11 performance-based standards will not save lives. We
12 need rules that are specific and enforceable. A strong
13 federal standard must require access to water, shade
14 and rest breaks, clearly defined trigger temperatures,
15 acclimatization protocols to prevent deadly heat
16 stress, and culturally and linguistically appropriate
17 training. Inaction is costing lives, and we cannot
18 afford to wait any longer. It's time for a national
19 standard that centers worker safety, worker voices and
20 worker dignity.

21 Thank you all. I will now invite you to hear
22 directly from workers themselves. I'd like to invite

1 Trina David, an airport worker in Arizona. Trina, are
2 you there?

3 JUDGE HENLEY: Ms. David, if you could identify
4 yourself, please, for the record.

5 MS. DAVID: Hi. My name is Trina David. I'm a
6 airport worker in Phoenix, Arizona.

7 JUDGE HENLEY: Yes, ma'am. You can proceed.

8 MS. DAVID: Oh, okay. So I've worked in the
9 airline industry for nearly 20 years. Currently, I
10 work at a major airline at Sky Harbor Airport, and
11 before that, I worked for over a year with a regional
12 carrier at Sky Harbor Airport. So I know firsthand and
13 experience every year the ongoing crisis, one that
14 breaks our bodies, instills fear in us, and costs our
15 lives. And that crisis is heat-related illnesses.

16 Every summer, Arizona sets new heat records. But
17 for those of us working on the airport ramps, inside
18 the aircraft, inside the aircraft bins, and fueling the
19 planes, the temperatures we endure are far worse than
20 what is ever reported or that the public will ever
21 know. Every summer, paramedics are called out to the
22 ramp because an airport worker has collapsed. We all

1 know it's going to happen. We just don't know when
2 that first call will come or how severe it will be to
3 the member. Imagine stepping into an enclosed aircraft
4 bin where the temperature surges past 185 degrees. Our
5 sweat turns the bin into a slippery surface. Burns are
6 unavoidable because the cart temperatures can reach
7 over 140 degrees. Exhaustion just isn't a discomfort;
8 it's a direct threat to our survival.

9 I worked in those bins. I feel the heat claw at
10 my skin in the direct sunlight. It melts the soles of
11 my shoes as I walk across the tarmac, and every year, I
12 have to buy a new pair. I've watched my co-worker
13 struggle to stay upright, their bodies failing under
14 them under relentless pressure. And worst of all, I
15 have seen how companies and corporations choose to
16 ignore our suffering or give us adequate rest periods.
17 And they refuse to acknowledge the long-term
18 consequences of their negligence, which leads to life-
19 changing qualities on our part. This work is
20 relentlessly physical. Every shift demands strength,
21 endurance, and precision as workers lift, pull, stack.
22 The equipment is heavy, and we maneuver massive baggage

1 loads. We work against the clock, often in dangerously
2 high temperatures. The impact to our bodies is real
3 and totally understated because exertion levels are not
4 categorized or considered by the companies.

5 As air travel surges to record breaking levels,
6 luggage volumes have skyrocketed. In 2024, weight
7 limits on the baggage had increased from 30 to 34
8 pounds, and for heavy bags, 50 to 57 pounds. It may
9 not sound like much, but consider an average flight is
10 150 bags. That means the ramp crew handles over 5,000
11 pounds of bags in less than 20 minutes. And if we have
12 to upload that flight, then we handle another 5,000
13 pounds in 30 minutes. So you're asking us to handle
14 11,000 pounds in less than an hour. But it doesn't
15 stop there because we also have mail and cargo that add
16 to those weights. Planes arrive overloaded, and they
17 depart even heavier. The schedules are tight, so the
18 minute one aircraft leaves, another one approaches the
19 gate. So we could be out there from two to four hours,
20 lifting heavy bags continuously in direct sunlight.
21 We're exhausted.

22 In reality, the official temperature readings may

1 say 100 degrees on the ramp at Sky Harbor, and that's
2 what's recorded in the books. But it's 20 to 40
3 degrees hotter. On June 15th, I was out there at 3:11.
4 We hit 112 that day. I took out my heat gun. The
5 tarmac was 155. The steel carts where we put our bags
6 in and maneuver to the planes were 141. The
7 temperature is real and NOSH -- NIOSH does not account
8 for all the radiant temperatures, especially with the
9 planes exhibiting hot air. It's not hard work. It's
10 punishing, and without proper safeguard, it becomes
11 dangerous. The strain on the body is relentless, and
12 the expectation to keep up with unrealistic demands in
13 extreme heat without proper protection is inhumane.

14 Although corporations may provide water and
15 hydration drinks, they pose other risks. Water is not
16 enough, and the sugar in hydration drinks brings other
17 medical concerns to our members. According to the CDC,
18 heat-related illnesses occur when the body temperature
19 rises faster than it can cool itself, and it can damage
20 the brain and other vital organs. I've been a crew
21 chief on that ramp since 2014. I've made it my duty to
22 protect my team and the workers around me. I know

1 firsthand what it's like and how they won't step away,
2 and I have to drag them into the break room so they can
3 cool off. And why they won't go is because they fear
4 retaliation or termination from their employer. They
5 fear that being on a delayed flight will get them
6 written up, and they will lose their job. They fear
7 being told to push through because it's their job and
8 not taking rest breaks.

9 I've ordered my team to go inside and cool down.
10 I know it cost me in the eyes of my employer, and I
11 stand up to them. I know it's going to save their
12 lives. I could have fought back against the system
13 that expects us to endure these dangerous conditions,
14 but I don't. I speak up. I am the voice for those.
15 And here's the most glaring hypocrisies. Airlines
16 refuse to board passengers when an aircraft interior
17 reaches 85 degrees. Ramp workers are expected to
18 endure temperatures well beyond 105 with little or no
19 relief. If an aircraft interior is deemed to be unsafe
20 for passengers at 85, how is it acceptable for labor
21 for workers to labor in higher temperature for hours?
22 To me, the answer is simple: it isn't.

1 One of the labor unions reports that there were 60
2 heat-related injuries in the last 6 months. I believe
3 that number is dangerously underestimated. And if you
4 ask me why, I'll tell you. Because companies
5 discourage workers from claiming heat-related injuries.
6 Saying that it's not an on-the-job injury. Worse, it's
7 not listed as a secondary cause. So if a worker has an
8 injury or trips, the contributing factor could be not
9 that they tripped over the tow bar; it could be because
10 they're dizzy from working hours in direct sunlight and
11 not properly hydrated. And the damage doesn't stop
12 when the shift ends. Heat-related illnesses have
13 lasting effects, ones that medical experts are still
14 studying. But research has already linked them to
15 cardiovascular disease, respiratory, kidneys, diabetes,
16 and even more. These aren't temporary systems. They
17 last us our whole entire life. This is not
18 speculation. This is our reality.

19 Every summer, workers collapse. Every summer,
20 emergency medical intervention is needed. Every
21 summer, preventable injuries occur. Fuelers, cleaners,
22 catering -- everyone working in the sun and overheated

1 aircraft face the same dangers. We're not asking for
2 anything unreasonable. We demand accountability. We
3 demand enforcement of existing laws. We demand real
4 and measurable protections so workers are never forced
5 to choose between their job and their life.

6 Corporations must recognize that workers are not
7 expendable. Efficiency cannot come at the cost of
8 human suffering. Laws should be upheld. Standards
9 should be enforced. Exertion levels to the impact to
10 our bodies need to be considered. Mandated rest
11 periods should be allowed, not just on paper, but in
12 practice.

13 I will tell you that in Phoenix last year, we had
14 a record-breaking 113 days consecutive temperatures at
15 or over a hundred. Started on May 27th at 102 degrees
16 and stopped in September. You all hear that Phoenix is
17 a dry heat. I don't know if you've ever experienced
18 that, but imagine yourself in a convection oven. The
19 moment you breathe in. It burns your lungs, your
20 throat. It dries out all the muscles in your body. No
21 amount of water or hydration is going to get that back.
22 You need rest and cool air.

1 We urge you, as representatives of the people, to
2 act -- not tomorrow, not next summer, but now because
3 every delay costs lives. The heat standards that we
4 have are a good start, but they're minimum. We need to
5 have the flexibility to go beyond the minimum,
6 especially during heat-required days. And just to
7 reiterate, out of those 113 days that we had, 70 of
8 those days were over 110 degrees. So that's a month
9 and a half that we're out there. That's all I had to
10 say. Thank you for listening and hearing my concerns.

11 JUDGE HENLEY: Thank you, Ms. David. If we can
12 promote our next panelist, Ms. Moreno-Dominguez. If
13 you could identify yourself and any affiliated
14 association, please.

15 MS. MORENO-DOMINGUEZ: Good afternoon. My name is
16 Jazmin Moreno-Dominguez, organizing manager at Agave
17 Community Threads and representative of the Arizona
18 Heat Standards Coalition. Thank you for the
19 opportunity to speak today. As I mentioned, I'm the
20 organizing manager at Agave Community Threads, a non-
21 profit focused on environmental and economic justice.
22 I'm also here representing the Arizona Heat Standards

1 Coalition, a nationwide alliances of organizations in
2 Arizona, leading the charge on worker and heat
3 protections. However, I want to be clear that today, I
4 come first and foremost as a daughter. I hope to
5 highlight the urgency for heat protections,
6 particularly for workers in Arizona, because my father
7 has worked construction for the past 30 years in the
8 state.

9 He wakes up before the sun rises and spends his
10 days building Arizona one roof, one wall, one pavement
11 at a time. For my father, summer does not mean longer
12 days and vacations. For my father, summer means
13 battling the unforgiving furnace we call the sun. Days
14 in which he spends up to eleven hours in temperatures
15 that climb past 115 degrees. I ask everyone listening
16 to take a moment to truly envision what it means to
17 work in extreme heat, particularly in a state like
18 Arizona. For many like my father, this isn't a case of
19 brief discomfort you feel when walking from your car to
20 the office or to the store, but the relentless,
21 punishing heat endured by workers like my father for
22 hours on end.

1 I have a few words translated directly from my
2 father that I hope to share with you all. Try to
3 imagine the weight of the sun on your skin for eight
4 hours in 115-degree temperatures. Skin that now stings
5 to the touch. A scalp that burns as it endures the
6 closest proximity from the heat waves. Imagine the sun
7 beating down like fire on your back, sweat soaking
8 through thick, suffocating clothing meant to shield you
9 from burns. Clothing that clings to your skin as you
10 struggle to breathe through the heat. Every step feels
11 heavier. Your hands grip scorching tools. Your vision
12 blurs, and there's no policy requiring anyone to
13 provide you shade, water, or even a moment to pause.
14 Now, imagine doing that not just for some minutes, but
15 for hours without a single break and no relief in
16 sight. This is not a hypothetical situation. These
17 are words from my father, and this has been his reality
18 for the past 30 years in Arizona.

19 The lack of policy has not just created a story of
20 discomfort, it has led to a painful, deadly realities
21 for workers like my father. And ten years ago, that
22 reality nearly broke my father. He came home from work

1 almost unrecognizable, his skin yellow, his body
2 drenched in sweat. He couldn't eat. He could barely
3 stand. He was sick for over a week. He worked until
4 he nearly collapsed because there was no policy in
5 place to protect him, not then and not now. He worked
6 under the sun for hours straight, with not a single
7 moment to rest and not enough water, because the
8 threats to meet deadlines were yelled across to the
9 crews. To adequately protect workers in Arizona, many
10 of whom work in labor and extreme desert temperatures
11 regularly surpassing 115 degrees, we urge OSHA to adopt
12 a heat protection standard that is both enforceable and
13 responsive to regional climate realities, protections
14 that are tailored to the most dangerous weather in the
15 United States: extreme heat in Arizona.

16 Additionally, I urge you all to include language
17 that protects from retaliation if they report unsafe
18 conditions or pause work due to heat-related symptoms.
19 My father's story, and by proxy mine, is not unique.
20 Aside from my father, as an organizer, I represent
21 thousands of community members who have shared parallel
22 experiences to my father. Young workers who have

1 passed out on the job site. Others who have suffered
2 heart damage. Others whose lives continue to be
3 tainted, and bodies haunted by the impacts of extreme
4 heat and the lack of worker protections.

5 All of these stories share a common theme. They
6 are stories of workers who were not protected on the
7 job. Stories of workers who deserve better, and lives
8 that are at risk because worker protections are not
9 prioritized. It is the federal government's
10 responsibility to, and I quote, "assure as far as
11 possible every working man and woman in the nation safe
12 and healthful working conditions". I urge you to
13 please uphold this promise and continue to protect
14 workers across the country. Please allow my father an
15 opportunity to stay safe in the summers. Thank you so
16 much for your time.

17 JUDGE HENLEY: Thank you, Ms. Moreno-Dominguez.
18 If we can promote our next panelist. Ms. Deleon, if
19 you could identify yourself and any affiliated
20 association, please.

21 MS. DELEON: Hi. Yes. Can you hear me?

22 JUDGE HENLEY: We can.

1 MS. DELEON: Hello?

2 JUDGE HENLEY: Yes.

3 MS. DELEON: Okay.

4 JUDGE HENLEY: We can hear you.

5 MS. DELEON: Thank you. Thank you. And thank you
6 to everyone here today that helped arrange the
7 opportunity to comment on the possibility of a federal
8 heat standard. My name is Renee Guerrero Deleon. I'm
9 with the Southern California Coalition for Occupational
10 Safety and Health. We are a nonprofit network of over
11 30 worker centers, unions, and legal aid organizations
12 who have a deep commitment to workplace health and
13 safety, primarily focusing on low wage workers and high
14 exposure industries across the Los Angeles, Orange, and
15 Inland Empire counties.

16 Our ethos is that all workplace deaths, injuries,
17 and illnesses are preventable. Our partners, located
18 across Southern California, are very familiar with the
19 risks of high heat. We were able to gather stories and
20 experiences from them, but also believe it's worth
21 noting that this is upon our direct engagement with
22 folks who can also not be here today, due to a myriad

1 of reasons, whether it be due to fear of retaliation,
2 and also the fact that this meeting takes place during
3 the workday in which they cannot take time off.

4 While speaking to one of our partners in Pomona,
5 we found that day laborers are vulnerable to heat
6 exposure, with some of their members having experienced
7 heat illness and claiming that they, quote, "worked at
8 a job where the employer didn't give proper breaks for
9 heat or didn't even provide water". We met with fast
10 food workers, who were employed by multimillion dollar
11 franchises. These are workers that are oftentimes
12 indoors and outdoors working the drive-thru. There
13 have been instances in which they did not know about
14 their right to accessing free, clean drinking water,
15 and they were told by their employer that they were to
16 be charged for water cups.

17 In partnership with the Inland Empire Labor
18 Council, union members were able to share some of their
19 experiences and encounters with heat. Robert Ramos, a
20 member with the Ironworkers Local in the Inland Empire,
21 shared his experience working in high temperatures on
22 the job. He had experienced symptoms of muscle

1 cramping and disorientation. He recognized these as
2 feelings of heat illness. He was able to notify his
3 foreman and sat in the shade drinking water until he
4 cooled down. Others, unfortunately, have not been as
5 lucky. We have heard from the building trades that
6 they have seen severe cases in which new workers on the
7 job site fall ill and even die due to heat. Albert
8 Duarte, with the IE Building and Construction Trades
9 Council, claims that he saw, quote, "a new apprentice
10 experiencing heat illness. We sent him to the
11 hospital. He was discharged the same night. He went
12 home, fell asleep, and never woke up". Every trade has
13 a component that is dangerous. However, a hazard all
14 trades have in common is heat.

15 With each summer becoming hotter than the last
16 here in California, mitigation and heat illness
17 prevention may be deciding factors on whether or not a
18 worker comes home at the end of the day. Heat illness
19 prevention on the work site is not only effective, it
20 can be lifesaving and should be accessibly communicated
21 to workers, no matter the industry. Coalition members
22 have shared that workers and unions have access to good

1 trainings and workshops that help identify heat
2 illness, as mentioned in the example given earlier.
3 But they have expressed concern around non-union
4 workers having the same opportunity. Incorporating
5 mandatory training into the standard will ensure all
6 workers have access to the same information, and most
7 importantly, have the right to know what the risks are
8 when working in high temperatures.

9 We support the need for an 80-degree heat index
10 trigger for a federal standard to take into account how
11 lower temperatures may feel a lot hotter than what the
12 thermostat says. Partners working outdoors have even
13 said that when working in the direct sun, 80 degrees
14 can feel a lot hotter than that. Given accelerated
15 climate change and the updated heat index work at UC
16 Berkeley, workers are expressing what data is now
17 starting to show. You can experience high heat at much
18 lower temperatures than initially thought. We implore
19 the federal standard to be crafted to also include
20 those who work in the prison system. As of right now,
21 incarcerated laborers do not have heat protection, nor
22 do the staff members inside these facilities. And I

1 want to say that most of our license plates here in
2 California, if you drive a car with a California
3 license plate, they're most likely made at a prison in
4 Folsom County, which I believe produces over 50,000 a
5 day. And so these workers don't have access to heat
6 mitigation that the standard can provide.

7 I think as worker advocates, the best we can ask
8 for is an all-inclusive standard in which training is
9 given in the most accessible language and is properly
10 enforced. And we hope that the federal standard is
11 based on that experience first and foremost. And thank
12 you again to the folks that were able to pull this
13 together today.

14 JUDGE HENLEY: Thank you very much, Ms. Deleon.
15 If we can display the next group of panelists and
16 promote Mr. Brown, please. Mr. Brown, if you can state
17 your name and identify any affiliated association,
18 please.

19 MR. BROWN: Okay. Start video. Oh, yes. Can you
20 hear me?

21 JUDGE HENLEY: Yes, sir.

22 MR. BROWN: Okay. First of all, good afternoon,

1 everyone. My name is Leonard Brown. I'm with
2 WorkSafe. I'm the community organizer. I'm also on
3 the Board of the National Council of Occupational
4 Safety and Health. I'm going to be briefly -- now,
5 speaking from my lived experience of 32 years of
6 incarceration in California prison system -- not
7 something that I'm proud of. First, I'll talk about
8 my -- my work in the prison industry authority PIA. I
9 work in a textile factory. And in a textile factory,
10 there -- there's -- I mean, there's so many variants as
11 to heat. I mean you have -- one, you have these large
12 ovens in there that, you know, for silk screening that
13 they dry the ink on the clothes. And then you have 90
14 people in there, so you add the body heat. Then you
15 just have fans, you don't have -- there's no AC. So
16 factor in all these variants and the temperature
17 easily -- that temperature inside of the building is
18 easily on an average day 105 degrees. And factor in
19 your body heat.

20 Now, I'm going to move on to COVID. I was
21 incarcerated during COVID. Which obviously COVID
22 caught everybody off guard. COVID, when I was in the

1 San Quentin, which is an antiquated prison with no
2 ventilation. During COVID there were no fans, no air
3 circulation because obviously of fears of continued
4 spread of the virus. So I mean the heat was
5 unbearable. Then we was forced to work. We were
6 thrown into the kitchen because many of the cooks, they
7 also contracted COVID. So they weren't -- a lot of
8 them didn't show up to work. So we had to basically
9 man the kitchen to feed everybody. We was forced to
10 work, threatened to be placed in administrative
11 segregation, or getting a write up which would result
12 us losing our good time credits.

13 And then -- and then I want to talk about,
14 briefly, just the overall, you know, the heating and
15 cooling the cells. You know, there are different
16 designs. There's a 180 design, there's two -- there's
17 a 270 design. 270 design in the cells are much
18 smaller; 180, the cells are -- are much bigger which
19 allow a little more air flow. Prisons are cooled with
20 swamp coolers. Swamp coolers, they constantly go out.
21 The filters are not changed properly. If the swamp
22 cooler goes out on the weekend, you're stuck until that

1 following weekend to plan out if the state's
2 engineering come in, and oftentimes they don't even,
3 you know, replace them until later in the day.

4 So then there's -- important to have a national
5 heat standard, especially for incarcerated settings.
6 So there's guard rails just across the board. You
7 know, it's -- it's the heat. I mean, like I said,
8 I'm -- I'm speaking from lived experience and, you
9 know, not from what someone read from a report. It's
10 just in prison -- the set -- in prison setting, we --
11 you don't have, you know, you don't have control.
12 You're at the mercy of the jailers there we would say.
13 You have -- there are little fans and stuff like that,
14 but the fans, they don't -- they just circulate the
15 warm air.

16 It's just -- I think the only way to really to
17 address the problem is just that so that everyone can
18 be safe, including -- not just the -- not just the
19 prisoners, but the people who work in -- in the
20 institutions for their exposed -- they're exposed to
21 the heat too because the guards, they have on vests.
22 They have the -- they wear these vests, and you know,

1 it's -- it's just -- I'm going to keep it short --
2 short and simple. It's just a national heat standard
3 is the -- the only way to -- to ensure everyone's
4 safety.

5 JUDGE HENLEY: Thank you, Mr. Brown.

6 MR. BROWN: Thank you.

7 JUDGE HENLEY: We can promote our next panelist,
8 Mr. Valdez. Mr. Valdez, if you can identify yourself
9 and any affiliated association, please.

10 MR. VALDEZ: All right. Do you hear me?

11 JUDGE HENLEY: Yes, sir.

12 MR. VALDEZ: All right. My name is Donald Valdez.
13 I work at LGB5 Amazon in San Bernardino, California, a
14 warehouse. And I've been there for about six years
15 now, and I have experienced the dangerous heat
16 conditions in the building and Amazon is failing to do
17 enough to protect us from the heat illness in the
18 building. And I -- I know how dangerous heat can be.
19 I'm a former EMT for six years now and I know about
20 hyperthermia and the heat-related illnesses that come
21 with it. And just I'm especially concerned about the
22 building, and my -- not only myself but other coworkers

1 that are experiencing the heat in the building.

2 I've experienced, you know, the signs and symptoms
3 in the building, you know, excessive sweating, you
4 know, feeling nauseous while working, moving pallets,
5 moving carts that are heavy. And usually -- I mean
6 the -- the building is air-conditioned, but it still
7 gets from -- from 70s to 80s and higher, mid -- mid
8 80s. And I've actually, you know, witnessed people,
9 you know, fainting, you know, sitting on the floor,
10 feeling overheated -- overheated, dizzy, you know,
11 feeling, you know, getting headaches and stuff like
12 that.

13 And it's definitely a concern and we've addressed
14 it to Amazon and, you know, the leadership there and
15 they tell us things are going to get done, fans are
16 going to be put on. We tell them if they can put the
17 AC on and they say that they have no control of it,
18 that headquarters has control of that; yet, I mean,
19 it's always the same thing over and over again for so
20 many years. And it's just like they're, you know, they
21 ignore what we have to say when addressing, you know,
22 the -- the heat in the building.

1 But going on with that, like, it's pretty, you
2 know, it's -- it's concerning to me that Amazon is not
3 taking this stuff seriously when, you know,
4 hyperthermia is -- is definitely a concern. And
5 they're not doing anything to address it. We do have,
6 you know -- we do have water fountains -- or yeah,
7 water fountains in place, but a lot of the times,
8 people are not -- don't want to use them because we've
9 had -- had mold in some of those fountains before.

10 So people are getting sick from that. I myself
11 have been sick with a throat infection because of the
12 mold that is building up in those -- in those fountains
13 that they're not maintaining in the building. So
14 that -- that is another concern that we've, you know,
15 pointed out to them, but yet little has been done.

16 Also to -- Amazon gets on us about, you know,
17 rate, time off task, you know, to continue -- to
18 continue working through, you know, through the heat.
19 And we have the water -- you -- we have water and some
20 fans in place, but it's -- it's not enough. I mean,
21 it's still an issue and Amazon continues to push us to
22 work and yet when people are fainting or not feeling

1 well, the only thing Amazon does is really, you know,
2 they sit them down for 15 minutes and get back to work.
3 I know -- I know as an EMT that that person needs to,
4 you know, they need cooling packs in place to put under
5 their armpits or on their neck or, you know, some type
6 of cooling towels so that they can, you know -- you
7 know, feel better so that, you know, it doesn't get
8 worse than what they're experiencing in the building.

9 And I just want to urge OSHA if they can move
10 forward and, you know, really, you know, put these
11 regulations in place so that, you know, it can be
12 enforced in the building because it's definitely a
13 concern for all of us in the building and Amazon is not
14 doing enough to -- to, you know, address these concerns
15 that we keep bringing up to them, but yet they are not
16 doing nothing about it. And I think that is it and
17 thank you for your time.

18 JUDGE HENLEY: Thank you, Mr. Valdez. If we can
19 promote our next panelist. Ms. Velasco, please state
20 your name and any affiliated association.

21 MS. VELASCO: Hello. Hello. Can you hear me?

22 JUDGE HENLEY: Yes, ma'am, we can.

1 MS. VELASCO: Great. Okay, thank you. Good
2 afternoon and thank you for the opportunity to speak
3 today. My name is Denise Velasco, and I am the
4 Strategic Initiatives Director at The Maintenance
5 Cooperation Trust Fund, the MCTF. The MCTF is a
6 statewide watchdog organization in California that has
7 investigated the non-unionized janitorial industry for
8 the past 25 years. We are here to support the
9 establishment of a strong enforceable federal heat
10 standard.

11 The MCTF was established in 1999 in response to a
12 growing crisis of unfair competition in the janitorial
13 industry. Recognizing the rise of unethical operators
14 who ignored labor laws, law abiding contractors
15 partnered with the Unites -- United Service Workers
16 West, California's janitors union, to form the MCTF.
17 Since then, our mission has remained clear; to expose
18 abuses in the underground economy, level the playing
19 field for responsible employers and protect the rights
20 and safety of workers.

21 Through our investigations we have seen firsthand
22 how responsible employers are undercut by bad actors

1 who willfully violate labor laws. Without fair and
2 enforceable standards, these violators gain a
3 competitive advantage by rewarding those who exploit
4 workers and punishing those who play by the rules.
5 This is not about penalizing good employers; it's about
6 holding bad employers accountable and ensuring that all
7 workers have a basic right to safety and dignity on the
8 job.

9 Fortunately, in California, state law provides
10 heat-related protections including access to rest,
11 water, shade, and protection from retaliation when
12 workers speak up. These are not privileges; they are
13 essential safeguards. During this hearing, there has
14 been testimony supporting employers having flexible
15 rules, but in California, it wasn't until we had
16 requirements with triggers that were enforceable by
17 Cal/OSHA that we saw substantial reductions in deaths
18 and in injuries.

19 Today the MCTF is here to urge the -- urge the
20 establishment of a strong enforceable federal heat
21 standard; one that guarantees every worker, regardless
22 of where they live, access to basic protections like

1 rest breaks, drinking water, shade, and freedom from
2 retaliation. No worker should have to risk their
3 health or their life simply for doing their job. These
4 protections must extend beyond California to workers
5 across the country who face the growing threat of
6 extreme heat. Thank you for your time.

7 JUDGE HENLEY: Thank you, Ms. Velasco. If we can
8 promote our next panelist, Mr. Schultz. Mr. Schultz,
9 please state your name and any affiliated organization.

10 MR. SCHULTZ: Good afternoon. My name is James
11 Schultz. I am currently the recording secretary for
12 the Wisconsin Committee on Occupational Safety and
13 Health, WiscOSH. I've been at WiscOSH's board of
14 directors since 1999 where I came on as an at large
15 director. A couple of years the membership promoted me
16 to first vice president. A couple years later, I was
17 hired as the executive director. I originally came to
18 WiscOSH as a delegate from my United Steelworkers
19 Local, which represented workers at the foundry where I
20 worked for more than 15 years.

21 During that time, I served my Local as a
22 bargaining grievance committee member and also as a

1 safety deputy. I am also an injured worker that was
2 retaliated against for workplace activities around
3 occupational health and safety. In my nearly 50 years
4 of lived work experience in a wide variety of
5 occupations in several different industries, I am here
6 to say thank you for the standard you are looking to
7 promulgate for the protection of workers, employers,
8 and the communities that they reside in.

9 I am a third generation foundry rat, having worked
10 for more than 15 years in the same foundry that my
11 father and my grandfather worked in; as well as having
12 worked many other occupations in multiple industries.
13 And I know that all jobs have hazards and that a great
14 many of them are affected by temperature extremes, both
15 hot and cold. These jobs I worked include construction
16 and demolition, landscaping, commercial -- commercial
17 kitchens, building maintenance, machine shops, general
18 laborers on farms and ranches, as well as a trencher
19 working for the Milwaukee County Electrical Department.

20 I have worked jobs where I had union
21 representation and jobs where I did not. Over the last
22 couple of weeks, I have heard a lot of talking heads

1 that clearly had no work experience in the conditions
2 that they gleefully describe as adequate and dismiss
3 the temperature extremes as no big deal or already
4 under control. I've heard them advocate for a less
5 restrictive standard and even advocate for the leaving
6 in place of the General Duty Clause as the ruling
7 standard when it comes to protecting workers from
8 extreme temperature exposures in the workplace.

9 I have heard them talk of the difficulty of
10 providing workers a 15 minute rest break every two
11 hours. As a worker advocate, I have also heard from
12 and spoken with a wide range of workers as well as
13 employers concerning temperature extremes, and I've
14 answered many questions as to what can be done as well
15 as what OSHA says about such working conditions and is
16 there any kind of standard to protect them.

17 I'm also here to testify to the devastating long-
18 term effects of extreme temperature exposures on
19 workers such as my father, now in his mid-80s and
20 suffering from advanced kidney disease as well as COPD.
21 He was never a drinker nor a smoker, but he had
22 repeated and extended exposure to two workplace hazards

1 where kidney disease and loss of kidney function are
2 potential outcomes: silica and extreme temperatures.
3 As a worker advocate I have worked with such workers as
4 Communication Workers of America that you heard from
5 yesterday. Workers that were mandated by their
6 employer that they are expressly forbidden from using
7 the air-conditioning in their vehicle unless it was
8 necessary to keep the equipment within its operating
9 temperature ranges.

10 As an injured worker, I'm here to tell you that I
11 have lived through the need for very detailed and
12 explicit requirements for employers to follow. As an
13 advocate, I've heard from many workers in many
14 occupations with similar experiences. Many employers
15 overwhelmingly believe that if it's really important,
16 it will be in writing and if it's not in writing, it is
17 not going to happen. If it is vague or without
18 detailed requirements, it is not going to happen. And
19 if there is no certainty that they will be cited or
20 worse for not following the regulation, they're not
21 going to do it.

22 As an officer in my union, I can tell you that

1 even in writing it can be a struggle at times to get
2 employers to comply, regardless of whether it is
3 honoring contract language or regulations such as those
4 promulgated by OSHA, EPA, Mine Safety and Health
5 Administration, and others. As a worker, I know the
6 loss of fellow workers to extreme -- to the effects of
7 extreme temperatures in the workplace. I can think of
8 at least two coworkers off the top of my head that died
9 prematurely from exposure to temperature extremes. Two
10 of which were taken from the workplace to the hospital,
11 one that had to stay in the hospital before they died,
12 and two other workers who went home and never returned
13 again.

14 I ask that you continue with this standard. It
15 has been a long time getting to this point, and workers
16 cannot afford to lose ground now as climate change
17 increases and how vastly it -- it is changing and the
18 severity of the change that we are experiencing. We
19 need a strong enforceable standard that protects
20 workers' health and their lives. This means concrete
21 definitions and requirements for employers to do
22 something and that empowers workers to have a voice and

1 a hand in making their work and working conditions safe
2 and healthy.

3 I'd like to thank OSHA, the Department of Labor,
4 this panel, Your Honor, the Solicitor, and all the
5 others for the opportunity to provide some lived
6 experience testimony to these proceedings. And I am
7 here for any questions you may have for me. Thank you.

8 JUDGE HENLEY: Thank you, Mr. Schultz. We can
9 promote our next group of panelists. I believe from
10 the Chicago Workers Collaborative will be testifying in
11 Spanish.

12 MS. MARTINEZ: Yes. We have Rosalia and Dayron
13 who should be going up together. Rosalia (speaking
14 foreign language)? Okay.

15 MS. TENORIO: Can you hear me? Good afternoon.
16 My name is Rosalia Tenorio, and I am part of the
17 Chicago Workers Collaborative. An organization that
18 helps and orients workers especially temporary workers
19 of factories, bodegas, restaurants, and other
20 industries that is -- where they do inside work. Today
21 I want to say the testimony here because I was a worker
22 before an organizer, and I had the same experience as

1 all my other coworkers say they are going through.

2 I felt in my own skin what is extreme heat inside
3 a bodega when we were packing merchandise. I've
4 experienced abuse inside and outside the factory.
5 Especially during the hot temperatures when it's very,
6 very hot. We were working for eight hours without
7 rest, adequate conditions, we had no water, no
8 ventilation. We had to wait our turn to ask for
9 permission to go to the bathroom and refresh ourself
10 because they wouldn't give us a break for us to recover
11 energy.

12 We had to -- in those warehouses, the temperatures
13 were over 100 degrees and with over one hundred and
14 fifty employees inside of them, we would get extreme
15 heat in excess here. One time I made a request
16 personally with other workers in -- we requested more
17 water, and we requested a 15-minute break for rest to
18 establish energy. And we needed a longer rest so we
19 could all rest. After I did those requests, they began
20 to engage in retaliation against me for this -- to
21 punish me for this. The supervisor got mad and said we
22 were there to work, not to rest.

1 After that complaint, I began to experience
2 several consequences because they would take me off the
3 work schedule, or they would put me on the hardest
4 areas to work until I ended up quitting the job. Later
5 I got involved in learning the workers' rights in
6 different organizations, and that's when I learned that
7 I was not the only one dealing with those situations.
8 But a lot of -- a lot of my colleagues were dealing
9 with the same situations. It didn't matter if they
10 worked in a warehouse, a factory, or inside a
11 restaurant.

12 Also, people that work outside in construction and
13 roofing, they're exposed to these types of
14 circumstances. We've known people that have passed
15 away from the heat waves that are too strong, and that
16 is why I'm here -- request your support to reinforce
17 the current laws that exist to care for the workers.
18 Especially because of the temperature that we're
19 exposed to. We need jobs, but we also need to protect
20 our integrity and our health.

21 We ask for more strict reform to protect all the
22 workers that are exposed to this situation. With

1 global warming we know that temperatures are extreme
2 for hot and cold. They do a lot of damage to workers.
3 That's why we need you to take into consideration and
4 pass regulations that are more strict in order to
5 protect all of the workers. We are requesting that
6 the -- OSHA commission regulate the temperature. When
7 in the place of work temperatures are above 80 degrees,
8 they will provide a rest time for all workers, they
9 provide water, and time for us to reestablish our
10 energy because without these conditions being met we
11 cannot continue working.

12 MS. MARTINEZ: Sorry to interrupt, Judge Henley.
13 I just want to point out that I've been told that the
14 interpretation is very poor quality, and it sounds
15 muffled. But if there's a possibility for our Spanish
16 speakers to submit their comments in addition in
17 writing just to make sure it's captured accurately?

18 JUDGE HENLEY: Yeah. They -- they can do that.
19 I -- I -- understand.

20 MS. MARTINEZ: Okay.

21 THE INTERPRETER: Hello? So were you able to hear
22 me? I want to confirm that it's not audio gauge. Can

1 you hear me? I want to confirm that interpretation is
2 sounding correct. I don't -- before I proceed.

3 MS. MARTINEZ: Yes, Dayron, we can hear you. Go
4 for it.

5 MR. ALVARADO: Okay. Good afternoon. My name is
6 Dayron Alvarado, and I don't come as an expert; I come
7 as a worker. I was working in a tortilla factory in
8 conditions that profoundly marked my life, and I want
9 to share that experience and what I lived. And not
10 only me, but thousands of workers in the country that
11 deal with the risk in -- of our health and lives. In
12 the tortilla factory that I worked it was brutal heat.
13 Temperatures would be above 100 degrees Fahrenheit, and
14 it was industrial oven where we were in constant heat,
15 where we were working during six to eight hours
16 constantly without any rest -- to drink --

17 JUDGE HENLEY: Is that it for Mr. Alvarado?

18 MR. ALVARADO: No. I think -- I think my -- my --
19 my connection was not working, sorry.

20 JUDGE HENLEY: Oh. Sorry, sir. Yeah, we can hear
21 you.

22 MR. ALVARADO: The access of water was another

1 issue. Because we had no access to water and all the
2 waters available was hot. We had no access to rest for
3 rehydration. They would discount money if we rested
4 for a certain amount of time, and we were scared to
5 lose money. Me personally, I suffer migraines and nose
6 bleeds during the hottest months. At the beginning I
7 thought it was because of stress, but then I realized
8 it was due to the extreme heat without protection,
9 without protocols. We never received any training to
10 prevent heat sickness.

11 I remember one time a colleague fainted during
12 work, and he hurt himself on the ground. In the
13 beginning there was no first -- no one knew what to do.
14 No one was trained. We had to improvise. After the
15 incident happened, our company didn't change anything.
16 They didn't take any prevention measures to help us.
17 And what's more painful is that we are invisible, and
18 they don't care about us.

19 THE INTERPRETER: It's cutting off.

20 MR. ALVARADO: We are essential workers, but they
21 are not taking into account our rights. Thank you very
22 much.

1 JUDGE HENLEY: Thank you, Mr. Alvarado and thank
2 you, Ms. Tenorio for your testimony. We can promote
3 our next panelist, Ms. Jenkins. Ms. Jenkins, if you
4 can state your name.

5 MS. JENKINS: Yes. Can you -- can you hear me?

6 JUDGE HENLEY: Yes, ma'am.

7 MS. JENKINS: Yes. Again, I'm Brittney Jenkins,
8 and I serve as the Southern Region Coordinator for
9 National COSH. Can I start?

10 JUDGE HENLEY: Yes, ma'am.

11 MS. JENKINS: Okay.

12 JUDGE HENLEY: Yes, ma'am.

13 MS. JENKINS: So I live and -- and work in
14 Houston, Texas and support frontline workers and worker
15 groups across the south from Mississippi to Georgia,
16 from Alabama to Texas who are organizing for basic
17 health and safety protections on the job. Extreme heat
18 is a reality we face year after year in the south. It
19 is dangerous, deadly, and getting worse. Workers in
20 multiple industries including restaurant, construction,
21 agriculture, warehouse are exposed to high temperatures
22 without consistent access to water, rest, or shade.

1 In Georgia, a worker shared how they were forced
2 to continue landscaping work during a heat advisory
3 with no shade breaks. In Mississippi, I've heard from
4 restaurant workers who have experienced heat exhaustion
5 in kitchens that feel like ovens. In Texas,
6 construction workers regularly report being denied
7 water breaks or facing -- or facing retaliation when
8 they ask for relief. These are not isolated
9 experiences. These reflect systemic failures.

10 Across the region, workers are suffering while
11 OSHA coverage remains thin or nonexistent in some
12 southern states. There are no local area officers for
13 hundreds of miles. Where officers do exist, they are
14 often understaffed and under resourced. This means
15 employers know they are unlikely to face consequences
16 and even when they are clearly endangering lives. Too
17 many workers in the south are unprotected, especially
18 in states that lack their own OSHA approved plans. The
19 lack of infrastructure makes enforcement weak and
20 accountability rare.

21 This is where we -- this is why we urgently need a
22 strong enforcement of federal heat standard. It must

1 guarantee water, rest, shade, and cool down breaks. It
2 must protect both indoor and outdoor workers and it
3 must account for the most vulnerable, including those
4 in retail, food service, construction, and agriculture.
5 Voluntary guides is not enough. These employers are
6 aware of the heat hazards workers experience and have
7 access to the guidance. But they either don't follow
8 it, or they don't do enough to protect their workers.

9 Workers are dying while we wait. Every delay puts
10 a worker at risk. This -- this is a matter of life and
11 death, especially in the south where political and
12 regulatory affairs have left workers most vulnerable.
13 So I urge for you to adopt the national heat standards
14 now. One that is strong, enforceable, and centered on
15 protecting workers who are doing the most -- hardest
16 and most essential work. Thank you.

17 JUDGE HENLEY: Thank you, Ms. Jenkins. If we can
18 promote Ms. Stevens. Ms. Stevens, please state your
19 name and any affiliated association. And you can begin
20 your testimony.

21 MS. STEVENS: Hello. Can you hear me?

22 JUDGE HENLEY: We can.

1 MS. STEVENS: Wonderful. Thank you. Good
2 afternoon. My name is Alessandra Stevens and I'm a
3 staff attorney with Sur Legal Collaborative, an
4 organization based in Atlanta, Georgia that works at
5 the intersection of labor and immigration law to
6 educate and empower workers across the deep south.

7 I'm so appreciative of the opportunity to speak
8 with you all today alongside our partners, urging OSHA
9 to move forward with adopting a strong, comprehensive,
10 and enforceable federal heat standard to prevent
11 occupational heat injuries and illnesses for workers in
12 both indoor and outdoor settings. Workers should never
13 have to face the choice between earning a paycheck and
14 risking their lives in the face of extreme heat, yet we
15 know that despite the fact that hazards posed by
16 occupational heat exposure have been recognized for
17 over 50 years, workers still continue to lose their
18 lives.

19 Just yesterday, here in Georgia, where the heat
20 index was a dangerous 106 well into the evening, local
21 emergency rooms were flooded with workers who had been
22 working all day in the heat, and at least one worker

1 from Cummings, Georgia, tragically lost his life after
2 suffering heat stroke and a heart attack while on the
3 job.

4 A strong OSHA heat standard is needed to prevent
5 the continuation of tragic losses of life amongst
6 workers, especially in the South. In recent years, Sur
7 Legal Collaborative has helped to train and advise
8 worker advocates across the country on the dangers of
9 occupational heat exposure and best practices to seek
10 assistance from OSHA to remedy the hazards they face
11 through submission of strong complaints and urging OSHA
12 to use the General Duty Clause and the current National
13 Emphasis Program on heat to abate the imminent dangers
14 they're facing on the job.

15 And while we've been proud to see some
16 organizations succeed at securing citations, it's clear
17 that reliance on the General Duty Clause alone is not
18 up to the hazards that workers are facing. Since the
19 NEP was put into place, few citations have been issued
20 for heat hazards under the General Duty Clause, and
21 here in Georgia, where we have nearly 5 million workers
22 who are facing increasing heat hazards year after year,

1 only 128 businesses have been inspected under the heat
2 NEP, and only 36 have received associated citations,
3 but none of those citations were specific to the heat
4 hazards faced by workers. If employers are not given
5 clear guidance which articulate their obligations,
6 workers' lives will continue to be endangered. We know
7 that under-resourced and exploited communities across
8 the country face the greatest dangers.

9 Risks for occupational heat injuries and death are
10 not evenly distributed but mirror underlying inequities
11 in our society. We serve populations that are
12 disproportionately impacted by the risks of
13 occupational heat stress, including low-income workers
14 of color and immigrant workers who are often
15 concentrated in high-risk industries.

16 Our organization serves a population of poultry
17 workers in North Georgia who, due to old facilities
18 with non-functioning AC, poor ventilation, and radiant
19 heat exposures, report experiencing heat stress-related
20 illnesses and injuries such as headaches, dizziness,
21 faintings, and other injuries on the job year after
22 year.

1 The risk that workers face is exacerbated by other
2 threats on the job, including fears of retaliation for
3 voicing their needs. The poultry industry is famous
4 for not allowing workers to take sufficient bathroom
5 breaks, resulting in urinary tract and kidney
6 infections, which can in turn increase workers'
7 susceptibility to heat illness. Despite employers
8 providing access to water during hot conditions,
9 workers report avoiding drinking water during their
10 shifts to avoid needing to use the restroom on the
11 line, further increasing their risk of experiencing
12 heat illness.

13 The experiences of workers we serve show the
14 importance of setting clear regulations for mandatory
15 rest breaks and guidelines for water consumption. By
16 outlining clear standards for employers to follow,
17 employers will be better equipped to implement
18 effective heat illness and injury prevention programs,
19 workers will be better enabled to advocate for their
20 health and safety, and OSHA will be better enabled to
21 meet its mandate to protect worker health and safety
22 and enforce employer obligations by bringing citations

1 and request abatements citing specific enforceable
2 standards.

3 Workers can't wait another 50 years for OSHA to
4 take action to adopt an occupational heat safety rule
5 and firmly outline employer obligations to prevent
6 continued unnecessary injury and illness amongst their
7 workers. The time is now to take aggressive action,
8 and we thank you for continuing to move this rule
9 forward.

10 Thank you for your time.

11 JUDGE HENLEY: Thank you, Ms. Stevens. Can we
12 promote our next panelist, Ms. Kimber? Ms. Kimber,
13 please state your name and your affiliated association.

14 MS. KIMBER: Yes, my name is Jannie Kimber. Can you
15 hear me?

16 JUDGE HENLEY: We can, Ms. Kimber. You can
17 proceed with your testimony.

18 MS. KIMBER: My name is Jannie Kimber. I work for
19 Consolidated Catfish Industry in Isola, Mississippi,
20 and I'm affiliated with Mississippi Workers for Human
21 Rights. I work -- I've been working at Consolidated
22 Catfish for over 20 years now. We are affected every

1 year by the same thing, and no changes are being done.
2 We work in extreme heat. They bring fans and stuff in,
3 but it's not enough. We need proper air-conditioner.
4 The ventilation system is messed up. It's a lot of
5 mold and everything in the vents and everything, so
6 that's causing health problems as well, and half the
7 time when we're working on the machines and everything,
8 they're getting overheated, so there's more heat added
9 to the excessive heat that's already in the plant.

10 We deal with headaches. I've had nausea,
11 dizziness. I mean, I've been weak, but a lot of this
12 is caused by heat. And we're just now getting into the
13 hot summer months, and it's going to be extremely hot
14 inside the plant, and it's going to be extreme,
15 extreme, extreme temperatures inside the plant because
16 of all the people and the machines that are constantly
17 running, and we're not taking breaks the way we're
18 supposed to.

19 Water fountains are throughout the plant, but
20 you've got people working with guts and scales and
21 everything off of fish, and they go straight to the
22 water fountain with their gloves and stuff on. You

1 don't want to drink behind -- I'm sorry, I just don't
2 be wanting to drink behind. So I wait until I go on my
3 break, go out to the car, and I have a cooler in my
4 car, but everybody is not able to bring water and
5 stuff. So it takes a toll on your body, and we are
6 being affected by this every single day.

7 I appreciate you letting me speak. Hopefully,
8 some plans can be laid out and everything and OSHA can
9 go forth. Please don't overlook us. Thank you.

10 JUDGE HENLEY: Thank you, Ms. Kimber. Our next
11 panelist is Mr. Pierre. Mr. Pierre, if you can hear
12 me, please state your name and your affiliated
13 organization, please. Mr. Pierre? We can hear you.

14 MR. PIERRE: Okay. Can you see me?

15 JUDGE HENLEY: Yes, sir. We can see and hear you
16 now.

17 MR. PIERRE: It's the first time I'm using it,
18 right? I can't see anybody. Hold on. Let me put this
19 thing out better. Hey, how you doing, Judge? My name
20 is Fred Pierre. I'm with Beyond the Bars out of Miami,
21 Florida, and the reason why I'm talking to you today is
22 about the heat that's going down in Miami, Florida.

1 It's real hot down here in Florida.

2 I'm talking on the behalf of temp workers with
3 records. The biggest thing that we go through is
4 basically, they're not coming out and helping us with
5 the heat as far as coming up with water. When I'm up
6 on that construction site and I'm working on top of the
7 roof, it'd be real hot. It'd be like -- I'd be on the
8 34th floor, and the heat is very excruciating. It's
9 like, if you don't bring your own water or if you don't
10 ask for shade, they're not going to give it to you. I
11 see a lot of my friends, a lot of my co-workers, they
12 work out there with me, and they'd be passing out. But
13 what's so crazy for me is the fact that when people'd
14 be passing out, instead of like stopping everything and
15 they change and try to figure out what's the root
16 problem, they pretty much get somebody else to get back
17 on the job to finish the job. It's like, man, humanly,
18 that's not right because, shoot, if he drop out, what
19 makes you think the next person is going to drop out?
20 So it's like, man, for people with records like me,
21 it's very hard to open our mouth and say certain
22 things, because if we say certain things, it's either

1 they're going to replace us or they're not going to
2 give us a ticket to work again.

3 So it's like, man, the heat down here is
4 unbearable. It's real hot. I don't know if you ever
5 looked at a skyscraper or if you ever looked all the
6 way on the top. Imagine a person working in Miami,
7 Florida, and you already know Miami, Florida is always
8 hot. Imagine you taking that elevator all the way to
9 the top floor, and they got you doing garbage removal.
10 So something that nobody don't really want to do, but
11 there's no shade at all. You're already on a
12 skyscraper right now, and there's no way to hide from
13 that sun, and that sun is basically baking you up like
14 a cake, and the floors are reflecting. So you're
15 getting cooked from the bottom and on the top. And as
16 a temp worker, I worked all the way at the bottom
17 digging pits and stuff like that with the heat and dirt
18 coming in my face. But the whole thing about
19 everything is the fact that I'm a human being too. I
20 want to be in the shade too. I want to drink too. I
21 want some rest too.

22 So it's like, man, we need to stop that culture

1 where it's like, man, we want to make sure the building
2 is on point. We want to make sure we on time and stuff
3 like that. The people that's making the building, man,
4 they're getting hurt, man. It's certain times, man,
5 when I go home, I'd be so out of breath. I'd be so
6 burnt out, so cooked out. It's the fact that I really
7 don't want to go work the next day, but I have to,
8 because I got to take care of my family.

9 So pretty much what I'm here today, I just want to
10 advocate for the people, advocate for temp workers with
11 records. And also, I want to make sure you understand
12 that, man, yo, we're getting cooked up here, and we
13 need help. And I'm hoping that you help us -- help out
14 and make a change and don't let a lot of people get
15 hurt anymore, man.

16 I appreciate y'all for having me, and thank you
17 for your time. Thank you.

18 JUDGE HENLEY: Thank you for your testimony, Mr.
19 Pierre. I believe our last panelist for this afternoon
20 is Ms. Castillo from the Fe y Justicia Worker Center,
21 who I also believe will testify in Spanish.

22 Ms. Castillo?

1 JUDGE HENLEY: Can you hear me?

2 MS. MARTINEZ: Yes, Olga, we hear you. Can you
3 talk, Olga?

4 MR. ROBERTS: She is here, but it doesn't look
5 like she has her microphone connected anymore.

6 MS. MARTINEZ: Olga, can you hear me? Can you
7 connect to the mic, please? We cannot hear you. Can
8 you unmute your phone, Olga? I believe she muted
9 herself by mistake. I just want to make sure she --
10 Olga?

11 MR. ROBERTS: It's not on mute. She doesn't have
12 her microphone connected. I'm going to do this a
13 second and move it back. Then we'll try this again.
14 Not sure what device Ms. Castillo is on, but she's not
15 joining with an active microphone.

16 JUDGE HENLEY: So, if she can hear me, she can
17 certainly submit her testimony for the record if she's
18 unable to join us for live testimony.

19 MS. MARTINEZ: Let me see if I can try to call.
20 Let's try one thing, if it's okay with you all. I'm
21 going to see if I can connect her here.

22 MR. ROBERTS: So the issue on my end, just so

1 you're aware, is for maybe for to help you is she has
2 joined, but whatever device she is joining with, either
3 doesn't have a microphone or that microphone is not
4 connected. So, there's no -- she has nothing to unmute
5 at present, and there's nothing that leads me to
6 believe that anything is connected.

7 JUDGE HENLEY: Thanks, Drew.

8 MS. MARTINEZ: Okay, I've tried calling her and
9 it's unfortunate. I can't seem to get through. Well,
10 we will proceed then with written testimony, Judge, for
11 Ms. Castillo, if that's okay. It's unfortunate. I know
12 she really wanted to voice her experience on this call.

13 JUDGE HENLEY: So thank you, Jessica. If you can
14 do that, and we might be able to, since we have other
15 sessions for the next several days, it might be
16 possible for her to be rescheduled. I'll allow Drew to
17 work with OSHA and SOL representatives to see if she
18 can be rescheduled and whatever problems she's
19 encountering can be worked through.

20 But for purposes of today, if you can ensure she
21 submits her testimony, and we'll include it as part of
22 the record. Thank you.

1 MS. MARTINEZ: I appreciate that. Thank you,
2 Judge.

3 JUDGE HENLEY: Andy, does OSHA have questions for
4 this panel?

5 MR. LEVINSON: Yes, Your Honor, we do. First of
6 all, thank you to everybody on the panel for your
7 testimony today. It was very helpful, and we always
8 appreciate hearing directly from workers who are
9 experiencing the hazards that we're working on in that
10 particular standard. I've got a few questions to kick
11 things off.

12 We've heard from many employer groups about the
13 need for flexibility, for a performance-oriented
14 approach, and for avoiding a one-size-fits-all
15 standard. And at the same time, we've asked all of
16 them as well, how can we do that while also providing
17 certain minimum criteria to assure that workers are, in
18 fact, protected from heat hazards?

19 So let me ask you the same question. If we were
20 to go forward with something that was more flexible,
21 what are the minimum criteria that you think need to be
22 in a regulation in order to assure that workers have

1 adequate protection?

2 JUDGE HENLEY: So thank you, Andy. This is Judge
3 Henley. So since we have a number of panelists, in
4 order that we are able to call on you and not talk over
5 each other, if you could raise your hand, and then I'm
6 going to ask Drew to call them in sequence. So if
7 you'd like to answer the question, just raise your hand
8 and we'll call on you. There's a raise hand button at
9 the bottom of the screen.

10 MS. MARTINEZ: I believe I'm the only one at this
11 point, so happy to answer that. And I do feel that
12 several of us, you know, provided very clear
13 indications that we need clear guidelines that do not
14 rest in voluntary or just these general non-flexible
15 standards. We need very minimum. So at least access
16 to water, shade, and rest where you're able to define
17 clearly the distance between water access, shade for
18 workers, as well as flexibility around rest breaks with
19 a minimum standard.

20 You know, we also spoke to the clear trigger
21 temperatures of 80, clear guidelines around
22 acclimatization protocols, and very also ideally

1 linguistically and culturally appropriate training in
2 the language of the workforce, which we know is not
3 happening across the line for a lot of workers, let
4 alone any heat training. So that is some of the --
5 some of the guidelines that we provided today.

6 MR. LEVINSON: Sure, and let me offer Ms. Martinez
7 the opportunity again, either to respond both now
8 and/or in post-hearing written comments.

9 Let me give you, for example, OSHA specified at
10 the high heat trigger, the 15-minute rest breaks every
11 two hours. Some of the employers have come forward and
12 said that sometimes they're driving a route and/or
13 doing a job in a construction site, and one day you
14 might take a break at an hour and 45 minutes, but
15 another day it might not be logical to take a break
16 until two hours and 15 minutes, or maybe even 2:30 or
17 some longer time. Is there a way that we can both
18 provide more flexibility, or do you think that some
19 absolute minimum criteria like 15 minutes, not more
20 than every two or not less than every two hours is
21 necessary?

22 MS. MARTINEZ: Yeah. Thank you so much, and thank

1 you for reminding me of the possibility of post-
2 comment. I feel strongly that I would want to go back
3 to folks in that specific industry from our affiliates
4 to give you a more robust answer, so I'm going to opt
5 for that, for post-comment on that specific.

6 MR. LEVINSON: Okay, thank you. In your written
7 comments, you also talked about OSHA incorporating the
8 hierarchy of controls in this standard, and do you have
9 thoughts on how the agency might do that given the many
10 varied types of workplaces that are out there that will
11 be covered by this?

12 MS. MARTINEZ: Yeah. Absolutely. So I think the
13 ideal in the hierarchy of controls is to eliminate the
14 hazard, and our preference always is usually we
15 understanding that there's different industries, that
16 the goal is ultimately to be able to eliminate that.
17 Now, we understand that that's not always possible.
18 The goal of the hierarchy is to minimize that.

19 So the idea is that as we're looking into the
20 different solutions and how to tailor it to the
21 different industries, that there is intentional
22 language that references the hierarchy of controls,

1 that the goal is always, you know, clearly to
2 eliminate, understanding that if that's not the case,
3 that there are administrative procedures in place,
4 whether that, again, training, policies that allow for
5 some relief around workload, how many workers,
6 preferences for working at night versus day in some
7 specific industries, and really opting to look at the
8 bigger picture with the hierarchy of controls in mind.

9 MR. LEVINSON: Okay, thank you. And the last
10 question I have relates to cooling personal protective
11 equipment, and if any of your members have experience
12 with cooling PPE and or, for example, again, to that
13 notion of flexibility, if employers provided cooling
14 PPE, they might be able to adjust rest breaks because
15 workers would be subjected to less heat. Again, either
16 now or in post-hearing comments, any thoughts that you
17 have on how cooling PPE might fit into a final OSHA
18 standard would be greatly appreciated.

19 MS. MARTINEZ: Absolutely. And I can add, let me
20 answer, but also would like to submit more post
21 comments to make sure it's comprehensive in response.
22 But, you know, the cooling PPE, again, referencing that

1 hierarchy of controls, would really be an option for
2 last resort.

3 We already know that there's limitations around
4 training workers around heat illness. Many employers
5 are not doing it. A lot of workers from the industries
6 we represent are not receiving this. So let alone, we
7 have little confidence that training around proper
8 usage of cooling PPE is going to be done. So again,
9 we'll submit post comment, but for now, we do think
10 that that is an option, a viable one, but should be
11 last in terms of solution.

12 MR. LEVINSON: Thank you. Your Honor, the next
13 questions from OSHA come from Gary Orr.

14 JUDGE HENLEY: Can we -- before we proceed, did I,
15 Drew, did I see a hand raised there?

16 MR. ROBERTS: Yeah, sure. Mr. Brown has his hand
17 raised.

18 JUDGE HENLEY: Mr. Brown, did you have a question
19 or a comment you wanted to answer?

20 MR. BROWN: Yeah, I just wanted to speak for,
21 like, across the settings, the importance of having
22 OSHA imposing a national standard. One would be

1 requiring institutions to switch from swamp coolers to
2 AC over a period of time, maybe by 2028, and to
3 provide -- to allow inmates to purchase larger fans,
4 maybe up to 18-inch fans, and this would dramatically
5 help.

6 JUDGE HENLEY: All right Thank you, sir.

7 Mr. Orr, you had a question?

8 MR. ORR: Oh, no. I was the next panelist.

9 JUDGE HENLEY: You had --

10 MS. MARTINEZ: Judge Henley, I just wanted to
11 point out that I believe Ms. Castillo was able to
12 connect. Any chance we can invite her to speak up?

13 JUDGE HENLEY: Sure. Drew, do we have her
14 available?

15 MS. MARTINEZ: Olga, are you there? If you can
16 please --

17 MS. CASTILLO: Yes, I'm here.

18 MS. MARTINEZ: Yes, we hear you, Olga. Go ahead
19 with your testimony. Thank you so much, Judge.

20 MS. CASTILLO: My name is Olga Castillo, and I
21 work at the Workers' Center Faith Justice as an
22 organizer in Houston, Texas since 1992. During those

1 30 years, and I have been working in different
2 industries. I will provide my testimony regarding a
3 candle factory where I worked. The factory is concrete
4 and metal. Where there were tanks of hot wax, ovens
5 for the candles, many conveyer belts and machines, but
6 overall, you have to do so much production.

7 Even with a door open, if a fan would reach you
8 from far away, it's not enough for the intense heat
9 that you feel for all the sweat that your body is
10 releasing. A lot of work, a lot of heat, and lots of
11 production.

12 Even if you are indoor, the heat and the lack of
13 hydration, the feeling of nausea and headaches, it just
14 is with us every day, and just drinking water is not
15 enough.

16 There is lack of regulations in favor of the
17 working class. That every year just signals to us,
18 just finalize that it's the time to do something.
19 Every year, the statistics of workplace deaths just
20 show us that it's necessary and mandatory to have these
21 regulations, which should be the right of every worker,
22 and it should be a requirement of every employer, and

1 the institution should just look to see that they
2 complied with and implemented. They shouldn't be only
3 written rules that are on the paper or just hanging up
4 in the different walls, but this is (inaudible), but
5 there should be regulations, rules, and must do's, that
6 must be implemented in every workplace.

7 Due to this recent heat wave, the population of
8 low resources are the ones that are more affected.
9 Walking to work is like walking (inaudible), when the
10 temperatures above 3 digits are giving you the morning
11 welcome at your place of work.

12 This summer, just point out that we will be having
13 higher temperatures and the drier summer than usual,
14 and we will be more than 30 days with temperatures with
15 triple digits, and the question here is how many people
16 will not return to their home due to heat stroke. How
17 many lives will be taken in 2025? How many employers
18 will not take or look after the needs of their
19 employees? How many complaints will not be done to the
20 Department of Employment because they are afraid of the
21 retaliation.

22 In a research study done by a Mexican Dr. Jose

1 Luis Gallardo about staying in high temperatures for
2 long periods of time. When the brain is exposed to
3 temperatures over 45C, it's like if a person is inside
4 a car with the doors and windows shut experiencing this
5 same temperature. The person, and in this case, the
6 brain, begins to literally cook. The brain is covered
7 with a liquid which covers the organs of the different
8 parts of the via the central nervous system. If that
9 liquid is being heated too much, it alters the function
10 of the different essential organs of -- the vital
11 organs of the body, like the heart, kidneys, the brain
12 -- what will lead people to experience tachycardia,
13 nausea, (inaudible), muscle cramps, loss of
14 consciousness, and death from a heatstroke. It's very
15 sad that there needs to be a Workers' Memorial Day,
16 that an April 28th exists. Those workers who do not
17 come back, that have lost their lives because there was
18 lack of safety in their workplace or died from a heat
19 stroke. This year, 54 people died here, just in
20 Houston. Today, in this audience, my colleagues and I,
21 we already expressed our needs and testimonies. Now
22 it's your turn to just take an action. What will OSHA

1 do, as an institution? Because you work with the
2 commitment of helping us, the workers. This
3 institution has been created to manage the security and
4 the safety and health of the workers. What will you do
5 to establish and improve the occupational health safety
6 and health and safety standards in the workplace?

7 Thank you very much.

8 JUDGE HENLEY: Thank you very much for your
9 testimony, Ms. Castillo.

10 Yes?

11 MR. LEVINSON: Your Honor, if we could go back to
12 Gary Orr, who had the next question from OSHA.

13 JUDGE HENLEY: Yes, Mr. Orr?

14 MR. ORR: Oh, yes, sir. Thank you.

15 And, Ms. Martinez, thank you for pulling together
16 this panel. It's such a variety of -- of workers,
17 workplaces across the country. I really appreciate
18 that -- that perspective.

19 My question is on the safety heat coordinator, so
20 a very kind of specific portion of the standard -- the
21 proposed standard. In the comments you provided,
22 written comments, you talked about really trying to

1 sort of fine tune that with a competent person, and
2 some things that you suggested might be useful in terms
3 of -- of what -- what would define a competent person.
4 So I was -- I was kind of interested in that, if you
5 have anything to add now or in your post-hearing
6 written comments, it'd be appreciated.

7 MS. MARTINEZ: Absolutely. We can respond to that
8 post -- post-session. Thank you.

9 MR. ORR: Thank you so much.

10 MR. LEVINSON: Your Honor, the next question from
11 OSHA comes from Tiffany DeFoe.

12 MS. DEFOE: Hi, Tiffany Defoe with the Directorate
13 of Standards and Guidance. I just wanted to follow up
14 a little bit on what I heard in the testimony of some
15 of your panel members, who mentioned that they're --
16 they are not necessarily provided with cool water. And
17 I wonder if you could expand a little bit, either now
18 or in post-hearing comments on whether difficulty in
19 accessing cool water is something that's focused in
20 specific industries or jobs, and what are the
21 challenges? Like, are there specific logistical
22 challenges that need to be worked through with getting

1 cool water to workers?

2 MS. MARTINEZ: And I will ask -- invite our panel
3 to raise your hand if you feel you can respond to this
4 at the -- at this moment. If not, you know, you can do
5 submit comments post-hearing.

6 Thank you for your question, Tiffany.

7 Okay. If that's okay, we'll submit comments post-
8 hearing.

9 MR. ROBERTS: We have Jannie with her hand raised.

10 JUDGE HENLEY: We had -- we have a hand raised?

11 MR. ROBERTS: Yeah, we have Ms. Kimber.

12 MS. MARTINEZ: Oh, (indiscernible) Renee, Renee.
13 Excuse me. I missed you. Go for it, Renee.

14 MS. DELEON: Awesome, thank you. Yeah, I will
15 say, like, in some of the workers that we've talked
16 to -- I know I mentioned the fast-food example in my
17 testimony -- I think first and foremost, knowing that
18 the water is there and is free and accessible in the
19 first place is a lot of, like, where the
20 miscommunication comes from. The employer doesn't
21 notify the workers. I think even just knowing, like --
22 I think workers -- in the example I gave, like, they

1 worked for this multi-million-dollar franchise, right?
2 Yet they were told that, like, if they did want water,
3 and let's say you didn't bring, like, a reusable water
4 bottle, they would have to pay for cups, right? And
5 they didn't -- they thought that that was, like,
6 perfectly fine and legal. And the -- and we know that
7 that's not the case. So I think, first and foremost,
8 like, having, like, any accessible communication to all
9 employees that this is something that they can access
10 in the first place would be very helpful.

11 MS. DEFOE: Thank you. Thanks. That's great to
12 understand.

13 MR. ROBERTS: So Ms. --

14 MS. DEFOE: If there --

15 MR. ROBERTS: -- (indiscernible).

16 MS. DEFOE: -- if there are other comments,
17 it's -- you're -- oh, I'm sorry, I didn't mean to
18 interrupt. Was someone starting to speak?

19 MR. ROBERTS: I apologize, I would just mention
20 that Ms. Kimber has a hand raised.

21 MS. KIMBER: Yes.

22 JUDGE HENLEY: Ms. Kimber?

1 MS. KIMBER: Can you hear me?

2 JUDGE HENLEY: We can. Ms. Kimber, did -- did you
3 want to add something? You can speak.

4 MS. KIMBER: Yes. There are several --

5 JUDGE HENLEY: (Indiscernible) --

6 MS. KIMBER: Can you -- there are several water
7 fountains in our plant, but we only have 15-minute
8 breaks, like, every three -- three to four hours.
9 So -- and then by the time you get to the plant -- I
10 mean, to the water fountain, they're coming straight
11 off the kill floor, going straight to the water
12 fountain. So you do not want -- because they have --
13 they're covered in guts and -- and blood and all this
14 stuff. So and -- and it's kind of hard for you to
15 drink behind them by the time you make it over there.
16 So I -- I have -- thankful -- I'm -- I'm thankful
17 enough to have water in my -- in my car. But at the
18 same point in time, we're not getting breaks the way
19 we're supposed to. And we're around all this heat,
20 so -- and there's -- and it's very hard for us to
21 concentrate, even though we have water fountains
22 throughout the plant. But the water is not sanitary

1 either. So that's all I have to say.

2 JUDGE HENLEY: Thank you, Ms. Kimber.

3 Any other questions, raise your --

4 MR. LEVINSON: Your Honor, it looks like Mr. Brown
5 has his hand raised as well.

6 JUDGE HENLEY: Mr. Brown?

7 MR. BROWN: Yeah, I just wanted to say briefly, in
8 incarcerated settings, you know, you -- you're locked
9 in your cell, you're not going to really have any
10 access to cool water. I mean, there's water in the
11 sink in your cell, but you know, when -- when you're
12 locked in and the temperatures in the housing unit, you
13 know, reach 90 -- 90 degrees and 95 degrees -- and it's
14 oftentimes they do -- it goes back to, again, you're at
15 the mercy of your jailer. And so it should be, you
16 know, a protocol to whereas, you know -- they're
17 supposed to provide ice, but that really doesn't --
18 ice -- we very seldom would get ice. You know, we very
19 seldom would get ice because the kitchen would say the
20 ice machine is broken or they need it for the -- for
21 the evening meal. It was always all these different
22 excuses. So I think it should be a dedicated ice

1 machine, just for the purpose of -- you know, for heat.

2 JUDGE HENLEY: Thank you, Mr. Brown.

3 Mr. Pierre, did I see your hand raised?

4 MR. PIERRE: Hey, how're you doing, family? I
5 just wanted -- I -- I just wanted to say this, right.
6 This has -- just like how we have protection for
7 firefighters that work in the fire and the heat get
8 real -- a lot -- get real hot, I feel like there's
9 no -- there shouldn't be no -- no question for us to
10 even at least have a standard to start off with for
11 people that's working -- that's working out -- out in
12 the heat. You know, I feel like that's -- that's,
13 like -- that's just basically human. That's being
14 human. You know, just to make sure we have
15 something -- a base that we can start off on so we
16 could -- we could understand how we can navigate
17 through all the other industries.

18 But just to let you know, it's hot. It's hot
19 up -- it -- it'd be hot up -- it'd be hot -- it'd be
20 real hot. And the fact that we don't have at least a
21 standard, it's very hard for people to understand,
22 like, man, yo, they give it to firefighters, they give

1 it to people that's out in -- in the government, but
2 they won't do nothing for people that's working, that's
3 helping putting these -- these buildings up, that's
4 cutting the grass, that's basically making sure
5 everybody looks good. I'll -- but they don't have
6 nothing to protect nobody that has a record, or that's
7 working out in the -- that's working out there.

8 So just want to let you know, Judge, I know I'm
9 just going over and over, but man, it's serious. It's
10 really hot down here in Miami, Florida, and just the
11 fact that we don't have no -- at least a standard that
12 protects people that's out there working, it's a big
13 thing, you know? We wouldn't do it to our
14 firefighters. Why y'all going to do it to a work --
15 why would y'all go and do it to a worker? You know,
16 that don't make any sense.

17 And another thing I wanted to say, if all of us
18 would go and take a field trip all the way to the -- to
19 the top floor of a building and take all the heat, we
20 wouldn't be having this conversation right now. It
21 don't make any sense for us to be talking about
22 protection for heat. That don't make no sense, bro.

1 No disrespect to anybody that's here, but I've been out
2 there in the heat. I've been there in the sun. I've
3 been baked like a cake. And it's hard for me to
4 understand, like, we're trying to negotiate what kind
5 of standard we need. That don't make no sense. We
6 need water. We need to let the people that's giving us
7 work understand, like, man, yo, understand that, man,
8 hey, this person is fatigued, this person need help.
9 Like, we need to make sure we have that in -- in -- in
10 the play. It doesn't make no sense for us to be having
11 this conversation and we don't have -- we -- we --
12 we're talking about standards when we could be talking
13 about how we could help.

14 Sorry about that. Thank you for y'all time.

15 JUDGE HENLEY: Thank you, Mr. Pierre.

16 MR. LEVINSON: Your -- Your Honor, the next
17 questions from OSHA come from Patti -- Patti Downs.

18 MS. DOWNS: Hi, everyone, Patti Downs with the
19 Directorate of Standards and Guidance. Several of the
20 panelists today mentioned how some of their workplaces
21 get. And thinking specifically about the discussion of
22 the work on the airport tarmac, it seems that, at

1 times, the workplaces can be significantly hotter than
2 local weather reports may indicate. And I'm curious if
3 you can discuss the use or testing of any weather-
4 reporting apps by the National COSH, and if you found
5 them to be accurate compared to, like, actual
6 conditions in the workplace?

7 MS. MARTINEZ: So our experience -- and I'm going
8 to also invite Trina to -- to speak to -- to the
9 airports particularly -- but I can tell you from our
10 experience, several of the workers are not using these
11 apps. One, they're not user friendly, and -- and are
12 really depending on other sources for information. So
13 that is just, like, a general sort of statement for
14 several of the workers.

15 In addition, that they are not in the language of
16 the workers, for many of the industries that we work
17 with. And again, these are high-hazard, low-wage
18 workers, in many cases, that speak English as a second
19 language. So it's -- it's really challenging to use
20 that in this particular case.

21 But Trina, are you available to speak specifically
22 to airports?

1 MS. DAVID: I -- my -- my camera froze -- sorry, I
2 don't know how to reset it, but I am on the call. But
3 yeah, I -- I can tell you a little bit about that. So
4 I myself, personally, use the NIOSH app and the heat
5 index that's on there. However -- because I -- I use
6 that when I go and discuss with management about how,
7 like, we need breaks because, look, this is the
8 recommendation from NIOSH and we're not even getting
9 these breaks. So -- but the biggest challenge is that
10 that heat index and that temperature is only based on
11 what's recorded at Sky Harbor. So it does not include
12 all the radiant heat from the tarmac, from the engines,
13 from the jet blast, from all the metal and steel that's
14 being reflected and retaining heat. So -- you know,
15 not to mention the bag rooms with no ventilation and
16 all this other stuff. So there's a lot more
17 contributing to that temperature that's not listed on
18 that app. If that helps.

19 MS. DOWNS: Okay.

20 Patti Downs again. How -- and Ms. Martinez, I'm
21 going to direct this question at you -- how do the
22 employers that National COSH deals with currently

1 monitor for heat in the workplace? Are they using
2 methods like wet-bulb globe thermometers, or heat
3 index? And would those be feasible for use in the
4 workplaces you deal with?

5 MS. MARTINEZ: So again, we represent -- was that
6 question directed to me? Just to --

7 MS. DOWNS: Yeah.

8 MS. MARTINEZ: Okay, thank you.

9 MS. DOWNS: Yeah.

10 MS. MARTINEZ: Just to clarify it, we're going to
11 submit post comments, but just for general knowledge,
12 our National represents multiple industries, both from
13 the formal and informal sector. So it's -- it's
14 difficult to respond from one perspective.

15 MS. DOWNS: Yeah.

16 MS. MARTINEZ: As you saw today, this panel is
17 quite diverse in nature, from language to industry to
18 location. But we're happy to submit a post comment,
19 once we can further assess from our network what has
20 been the most common from employers. So thank you for
21 the question.

22 MS. DOWNS: Okay, thank you. And then I -- I

1 think, Ms. Martinez, I'm going to read a couple
2 questions in to the record for you to respond with in
3 your post-hearing brief. Because I know there's other
4 questions to be asked and we're getting close to the
5 end of the day. And you may not have the answers right
6 now, right?

7 MS. MARTINEZ: Are you able to also send these in
8 written format?

9 MR. LEVINSON: Yes, we are. So these will both be
10 in the written -- sorry, in the official transcript
11 that OSHA is going to produce, a summary of the
12 questions that we've asked each of the -- the
13 stakeholders, and we will put that on the website and
14 we will also email it to all of the people who filed a
15 notice of intent to appear.

16 MS. MARTINEZ: Excellent. Thank you, that's
17 helpful.

18 MS. DOWNS: Okay, perfect. Patti Downs again.
19 The first question is we've heard from several speakers
20 about situations where the air-conditioning breaks or
21 fails and it's not able to be immediately repaired.
22 Are you aware of any employers that have instituted a

1 policy for how long employees may continue to work if
2 the air-conditioning breaks down, and if they continue
3 to work, do they have any contingency plans in place to
4 prevent heat-related illness? The second is what
5 control technologies, if any, should be included as an
6 alternative to air-conditioning and fans? And I think
7 that's it for me. Thank you so much, appreciate all of
8 your answers.

9 MS. MARTINEZ: Thank you.

10 MR. LEVINSON: All right. Your Honor, the last
11 question from the OSHA panel comes from Rachel Carse.

12 MS. CARSE: Hi. I would like to thank you all for
13 your testimony today. I did have one question about
14 how the -- the -- the workers that we've heard from
15 today think that the heat impacts the amount of work
16 that they can complete or finish? And if it decreases
17 the amount of work, we're also interested in how do
18 they think that might be different if they had access
19 to heat protections?

20 MS. MARTINEZ: Can we get any of our
21 (indiscernible)?

22 JUDGE HENLEY: So certainly, if anybody wants to

1 try to answer now, they can. Or you can as part of the
2 post-hearing comments, after you've thought about the
3 question and answer, submit them as part of the record.

4 MS. MARTINEZ: Thank you.

5 JUDGE HENLEY: Does anybody want to go on the
6 record now?

7 MR. ROBERTS: Ms. Kimber has raised her hand.

8 JUDGE HENLEY: Okay.

9 UNIDENTIFIED SPEAKER: Yes, I can answer the
10 question.

11 JUDGE HENLEY: Ms. Kimber?

12 MS. KIMBER: Yes, can you hear me?

13 JUDGE HENLEY: We can.

14 MS. KIMBER: Okay. As far as the -- could she ask
15 her question again for me?

16 MS. CARSE: Sure, yes. I'm just interested in how
17 the -- the hot environment impacts, like, the amount of
18 work you can get done. Is it more or less? And if you
19 think it decreases the amount of work, do you think
20 added heat protections would affect that?

21 MS. KIMBER: Okay. As far as does it slacks the
22 work, it does, because if you are dehydrated or you're

1 extremely hot, you're sweating expusely, and you're
2 constantly working on this hot machine, it's going to
3 slow you down, it's going to slow work down, and that
4 means longer hours. So that means we are going to have
5 to stay later to finish -- finish the load. Versus if
6 they had air-conditioners and stuff in place or more
7 fans and stuff in place, we could get the job done in a
8 timely manner and we wouldn't be delayed.

9 MS. CARSE: Okay, Thank you.

10 MS. KIMBER: You're welcome.

11 MS. CARSE: I think there's one more person,
12 Leonard Brown.

13 MR. BROWN: Yes. So I -- I'm going to answer it
14 real quick too. One -- well, in incarcerated settings,
15 and -- you know, as far as the heat, the work going to
16 get done, you know, whether -- you know, it has -- it
17 has to get done, and -- and you know, you'll push to
18 get it done or you're subject to write-up. But also
19 I've -- I've worked construction -- or -- I've worked
20 construction since my release in 2022. That was
21 actually my first job, getting out. And -- and one of
22 the things we did was when it would -- we would get up

1 early in the morning, so we'd start the day early. So
2 around 1 o'clock, we wanted to be trying wrapping up,
3 because it would get too hot, you know, working up on
4 the roof or wherever you may be.

5 My -- the particular site that was on was building
6 a building. And so this building was primary -- you
7 know, there's just a lot of steel. So that radiant
8 heat from the steel coming up off the -- so our
9 employer don't realize that, you know, as the day
10 progresses, it would get hotter, so our employees, just
11 being -- you know, out of abundance of caution,
12 would -- we would wrap up the day early because it
13 would be too hot and just to keep everyone safe. But
14 that cuts your hours down and which, it affects your
15 pay, so your paycheck might not be as long at the end
16 of the -- you know, so it does affect. And then it
17 drags the project out longer too, because -- and -- and
18 then you're -- you rushing to try to get much done in
19 that little window because of the heat. So these
20 are -- you know, that's a responsible employer though,
21 but we know that's not the case in most employers
22 though.

1 MS. CARSE: Okay. And do you think if you would
2 have worked, like, the -- the normal hours, the 6 -- 6
3 to 2:30, where you're working at -- during the hottest
4 part of the day, would have got as much done on that
5 shift in the hotter weather than it -- when you started
6 earlier and had access to cooler temperatures? Does
7 that make sense?

8 MR. BROWN: Yup. Yeah, well, no, you won't,
9 because I mean, like I said, if you doing -- if you
10 doing construction work, I mean, it's just -- the --
11 the heat, like I said, the radiant heat, you -- you're
12 not, because you -- you're trying to take a break. And
13 then you're trying to pace yourself, so you don't
14 overheat, right. And then -- and so you -- you're not
15 going to get as much done. And if -- if you get
16 disoriented or -- you know, then -- and if you're
17 constantly taking breaks, then, you know, the boss is
18 going to be like, why are you always sitting down and
19 why are you taking breaks? And so you're not going to
20 get as much done though.

21 MS. CARSE: Okay, thank you.

22 And Ms. Martinez, if you want to collect any

1 additional information and submit it --

2 MS. MARTINEZ: Absolutely.

3 MS. CARSE: -- (indiscernible).

4 MS. MARTINEZ: Absolutely. Thank you for those
5 questions, the key questions.

6 MS. CARSE: Mm-hmm.

7 MR. LEVINSON: All right. Your Honor, that
8 concludes the questions from OSHA.

9 JUDGE HENLEY: All right, thank you, Andy. Do we
10 have questions for this panel from the Solicitor's
11 Office?

12 MR. MOCZULA: Daniel Moczula for the Solicitor's
13 Office. Yes, I do have some questions. There was
14 testimony from other participants, advocating for a --
15 higher heat triggers for employers and employees in the
16 South, because the -- the participants testified that
17 these workers are more accustomed to higher heat. So
18 we would want to know -- we would love to hear about
19 your members and the workers' experiences with heat
20 ranging from 80 to 90 degrees in heat index. This is
21 between our initial heat trigger and our high heat
22 trigger. As well as what your response is to the

1 participants who are advocating for this. You can do
2 this in post-hearing comments, I know that we're
3 abutting above the time.

4 And the other thing I would want to know is that
5 if any of your members work in workplaces that have as-
6 needed rest break policies and whether that is
7 effective in preventing heat-related injury. Again, we
8 welcome this in post-hearing comments because we are
9 abutting to the end -- we're coming to the end of -- of
10 today. But thank you very much for everyone who has
11 assembled to testify and for coming in.

12 JUDGE HENLEY: Thank you.

13 MS. MARTINEZ: Yes, absolutely, we can submit
14 post-hearing. But I want to make sure, if any folks --
15 we -- we only have a couple from the South, reassurance
16 that that's -- that we'll submit post-hearing comments.
17 Okay.

18 JUDGE HENLEY: So we do have a couple of minutes
19 left, if there are questions from the public.

20 Drew, any -- anybody in a queue?

21 MR. ROBERTS: We have Mr. Schneider.

22 JUDGE HENLEY: All right, Mr. Schneider, you have

1 a question?

2 MR. SCHNEIDER: Yes, thank you very much. This is
3 Scott Schneider. I'm wondering, we've heard a lot of
4 testimony from other people, earlier in the hearings,
5 from employers saying that they give people breaks
6 whenever they're needed. And I'm wondering if, number
7 one, that has been the experience of people on the
8 panel, that their employers give them a break whenever
9 they need one, or if any of them have experience where
10 they're -- people are afraid to take a break, either
11 because it's not paid or because they're afraid that
12 they might get disciplined for that?

13 MS. MARTINEZ: Thank you, Scott, for your
14 question. I can -- I can speak in terms of several --
15 again, just generally about the network we represent.
16 I can tell you that 95 percent of the workers that call
17 us, talk to our local COSH groups, are seeking extra
18 support precisely because of the fear of retaliation,
19 or because they're not getting some of the most minimal
20 protections, you know, that's included, water and
21 shade. And sometimes we're talking about potable water
22 as well, which is a key -- key to mention in the access

1 for water. So it does vary. You know, we -- I think
2 that there's opportunity post-hearing to submit for
3 those that do get, you know, rest flexibility. But I
4 can tell you for the most part, a lot of workers opt
5 not to do it for fear of being targeted or retaliated
6 in the industries that we represent. But I want to see
7 if there's any other comments from our panel. I
8 believe I see Alessandra's hand up.

9 MS. STEVENS: Yeah, and I'm also happy to follow
10 up on this more in post-hearing comment. I know that
11 our time is short. But just highlighting what I
12 already mentioned in my testimony and what Jessica
13 shared is that a lot of the workers that we represent
14 are really fearful of retaliation, and experience a lot
15 of pressure to not take breaks, especially if workers
16 are not allowed to take sufficient bathroom breaks,
17 which are already mandated by OSHA standards. We're
18 really not convinced that they are in a position to
19 take as-needed rest breaks when the heat is high or
20 they're experiencing the impacts of heat stress. And
21 so that's really why we think that mandated rest
22 breaks, triggered by these specific temperatures, is

1 needed in these industries where we already know that
2 workers don't feel that they have the power to request
3 the breaks that they need and other abatements to keep
4 themselves safe. But again, happy to expand on this in
5 post-hearing comments.

6 MR. SCHNEIDER: Okay, thank you. I just had one
7 other quick question. Is -- you know, it's very
8 important, some people have testified earlier about the
9 importance of training workers to recognize the
10 symptoms of heat stress in themselves and in their
11 coworkers, so they can recognize a problem before it
12 gets serious. And I'm wondering what kind of training
13 people in -- in -- on the panel have gotten about heat
14 stress in terms of, you know, recognizing the symptoms,
15 for example, and signs?

16 JUDGE HENLEY: So if you're -- does -- does
17 anybody want to answer it now, or you can certainly
18 respond in post-hearing comments.

19 MS. MARTINEZ: We'll definitely respond in post-
20 hearing comments. One thing I will say though is that,
21 you know, National COSH, along with our local COSH
22 affiliates, are doing a lot of the training that

1 employers are not doing, which is -- also puts a big
2 capacity issue for our local organizations. They are
3 not training its workforce on heat illness. Now, I'm
4 not saying -- it's -- that's a general, given the folks
5 that we represent, that are part of our network. I
6 think we'll have an opportunity for post-hearing
7 comments to see what that looks like. We are aware
8 that some employers do provide heat illness prevention.
9 Some is it's limited to, like, a video. Some it's very
10 sort of in a language that workers may not necessarily
11 understand at times. So even when the employer is
12 provided, there is a lot of room for improvement on
13 that front. But wanted to see if anyone else from our
14 panel -- it's kind of hard to see in this platform.

15 I think, Leonard, you wanted to say something
16 else?

17 MR. BROWN: Yeah, I just wanted to -- to -- the
18 previous questions, answer that real quick. So in
19 most -- in most states, prisoners are not considered as
20 workers. So -- so much with standards for that.
21 But -- so that -- so it's kind of hard to -- like, how
22 do we get -- how do we get there? Yet -- although

1 prisoners are not considered, in -- in most states, as
2 workers, yet the IRS requires anyone that does any type
3 of labor for -- regardless the amount of what they're
4 paid, they're required by law to file a tax return. So
5 I'm just trying to figure out, how do we -- how do
6 we -- how does OSHA navigate that in, you know, putting
7 some type of standard together that's -- you know,
8 nationally, that applies to people in incarcerated
9 setting when it comes to heat?

10 JUDGE HENLEY: Thank you, Mr. Brown.

11 MR. SCHNEIDER: Okay, thank you.

12 JUDGE HENLEY: So did OSHA or the Solicitor have
13 any closing remarks or administrative details, anything
14 to close out this afternoon? OSHA?

15 MR. LEVINSON: No, Your Honor.

16 JUDGE HENLEY: SOL?

17 MR. MOCZULA: Nothing from us.

18 JUDGE HENLEY: So I'd like to thank all of our
19 panelists from the National COSH Network for their
20 testimony this afternoon, and we are now at the end of
21 all scheduled witnesses for today. I would like to
22 remind the hearing participants that they may submit

1 additional evidence or statements relevant to the
2 proceeding within 90 days of the end of the hearing --
3 which, again, is September 30th, 2025. At that point,
4 the record for this rulemaking will close.

5 On behalf of the Department of Labor, I wish to
6 publicly thank all those who gave of their time and
7 testimony to contribute to today's session. To all
8 participants, again, thank you for your interest in
9 this very important matter. This hearing is hereby
10 adjourned for today, and we'll reconvene at 9:30 a.m.
11 tomorrow, Eastern Time.

12 (Whereupon, at 4:30 p.m., the hearing was
13 adjourned.)
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