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Mr. Douglas L. Parker
Assistant Secretary of Labor for Occupational Safety and Health
Occupational Safety and Health Administration
United States Department of Labor

RE: Florida Chamber of Commerce and Florida Chamber Leadership Cabinet on Safety, Health and Sustainability Respond to OSHA's Proposed Rule on Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings; Docket Number: OSHA-2021-0009

Dear Assistant Secretary Parker:

The Florida Chamber of Commerce is the state's largest federation of employers, chambers of commerce, and business associations, representing every industry and region as the unified voice of Florida's business community. At the forefront of our efforts to advance workplace safety is the Florida Chamber Leadership Cabinet on Safety, Health & Sustainability, which unites leaders dedicated to our mission of making Florida the safest, healthiest, and most sustainable state in America.

The Leadership Cabinet, which houses the Florida Chamber Safety Council, comprises prominent national safety and health experts from companies across the country, including Ed Foulke, Jr., former head of Occupational Safety and Health Administration (OSHA) and Partner at Fisher Phillips. Together, they provide businesses of all sizes with best practices, resources, and guidance to advance workplace safety and health.

The Florida Chamber Safety Council's Heat Committee brings together leaders from key industries across Florida—such as agriculture, manufacturing, construction, utilities, and tourism—to tackle the pressing challenge of workplace heat safety. Earlier this year, the Florida Chamber's Heat Committee launched a [business-led online platform](#) to provide additional tools and resources around heat safety. This initiative supports Florida-based businesses, their employees, and their families by providing comprehensive resources and guidance. Designed not only for safety professionals but also for small and mid-sized businesses that may not have dedicated safety departments, the platform empowers individuals in roles such as HR, operations, and compliance to take proactive steps in ensuring workplace safety.

While we recognize there will be a change in administration soon after the comment deadline has passed which may result in changes to the rule or a different timeline, the Florida Chamber of Commerce and Florida Chamber Leadership Cabinet submit these comments on behalf of our members on OSHA's current proposed heat injury and illness prevention rule for outdoor and indoor work settings.

Comments on Proposed Rule

Florida's employers generally create approximately 1 in every 10 new jobs nationally and we've proven that protecting workers while growing the economy are not mutually exclusive. These comments were informed by feedback gathered through robust discussions with businesses, safety and health experts across Florida. Our concerns focus on the potential disparate impact this rule could have on Florida businesses and employees, including \$10 billion in labor costs, as well as the risks associated with a one-size-fits-all approach that may inadvertently undermine workplace safety in Florida.

Should OSHA consider other values for the initial and/or high heat trigger, and if so, what evidence exists to support those other values?

OSHA should provide flexibility for employers and allow for the use of heat index or Wet Bulb Globe Temperature (WBGT), as recommended from the National Weather Service and American Conference of Governmental Industrial Hygienists.

Please comment on the appropriateness of using heat index to define the initial and high heat triggers.

The proposed OSHA heat stress standard is too restrictive, and in our opinion, less safe than locally customized, employer-led approaches. The heat stress standard should be flexible and take into consideration employer's site-specific or industry-specific procedures that the employer uses to reduce the risk of occupational heat-related illness. It should not be too prescriptive in the specified work compliance procedures, as procedures should be site-specific.

Please comment on whether there are control options that would be both as effective as shade at reducing heat strain feasible to implement.

There are other effective body cooling technological options that OSHA should recognize. These high cooling rate modalities have positive impacts of body cooling and should be permitted as control options other than or in addition to shade.

Please comment on whether the standard should require annual acclimatization of all employees at the beginning of each heat season (e.g., the first hot week of the year) and approaches for doing so.

No, acclimatization should take into consideration the normal, gradual increasing temperatures for each year. Acclimatization strategies should be site-specific and not prescriptive.

Please comment on whether employers should be able to select a designee to implement observation in situations where it may not be possible to have a superior or heat safety coordinator present.

A designee that is trained and has been granted authority to ensure compliance with methods of observing employees for signs and symptoms of heat-related illness should be permitted. Florida employers have demonstrated their ability to implement robust, condition-based measures to protect their workers, and should continue to be allowed to do so based on the needs of their employees.

Number of Days Heat Index with Initial or High Heat Environment

A national heat rule must account for regional differences in climate, such as Central Florida. The rule will establish various preventive measures to reduce heat-related hazards, including mandatory rest breaks (at least 15 minutes every two hours). Employers must ensure these breaks are scheduled in cool or shaded areas, enabling workers to recuperate from heat exposure. Employers are required to provide at least a 15-minute paid rest break in designated areas at least every two hours.

Table 1: Orlando International Airport Weather Station Data

HEAT INDEX THRESHOLDS	Threshold Exceeded at least Once # Days			Threshold exceeded for at least 2 consecutive hours on all given days. # Days		
	> 80F	> 90F	> 100F	> 80F	> 90F	> 100F
Orlando International Airport Weather Station	278	157	71	268	143	60

Impact & Operational Logistics for Acclimatization:

The rule would amount to \$263M in incremental labor costs in Florida due to the required acclimatization period.

- Data from Orlando International Airport Weather Station reported that the Heat Index met the Initial Heat Threshold of > 80°F and reported those temperatures at least two consecutive hours 268 days in 2024.
 - 5 days X 1 HR. X Labor Rate of \$15.00 = \$75.00 Per Employee/ Per Year.
 - *\$15 will be the Florida minimum wage by September 2026*
 - Approximately 3.5M Outdoor Workers in Florida = \$263M in incremental labor costs.

Impact & Operational Logistics for Breaks:

The data below and comparison to Virginia shows the significant difference in incremental labor costs the proposed rule would have in Florida.

- Data from Orlando International Airport Weather Station reported that the Heat Index met the High Heat Threshold of > 90°F and reported those temperatures at least two consecutive hours 143 Days in 2024.
 - 143 days/yr X 1 hr./day X Labor Rate of \$15.00 = \$2,145.00 Per Employee/ Per Year.
 - \$15 will be the Florida minimum wage by September 2026
 - Approximately 3.5M Outdoor Workers = \$7.5B in incremental labor costs.

Source: The example date range spans from January 1, 2023, to December 31, 2023. NOAA.gov offers this data through its free public domain API, allowing users to query historical weather data for their local airport. Florida's minimum wage has increased to \$13.00 per hour. Each year after that, Florida's minimum wage will increase by \$1.00 until the minimum wage reaches \$15.00 per hour on September 30, 2026. U.S. Bureau of Labor Statistics was used to calculate the percentage of employees with regular outdoor exposure.

Virginia Comparison – Impact & Operational Logistics for Breaks:

HEAT INDEX THRESHOLDS	Threshold Exceeded at least Once			Threshold exceeded for at least 2 consecutive hours on all given days		
	# Days			# Days		
Temperature	> 80 F	> 90 F	> 100 F	> 80 F	> 90 F	> 100 F
Charlottesville Airport Weather Station, Virginia	113	42	9	108	36	6

- Data from Charlottesville Airport Weather Station, Virginia, reported that the Heat Index met the High Heat of > 90°F and reported those temperatures at least two consecutive hours 36 Days in 2024.
 - 36 days/yr X 1 hr./day X Labor Rate of \$12.00 = \$432.00 Per Employee/ Per Year.
 - \$12 will be the Virginia minimum wage by January 2026
 - Approximately 1.5M Outdoor Workers = \$648M in incremental labor costs.

Source: The example date range spans from January 1, 2023, to December 31, 2023. NOAA.gov offers this data through its free public domain API, allowing users to query historical weather data for their local airport. Virginia's State minimum wage has increased to \$12.00 per hour. The minimum wage is slated to raise to reach \$15.00 per hour by January 1, 2026. U.S. Bureau of Labor Statistics was used to calculate the percentage of employees with regular outdoor exposure.

Balancing Worker Safety and Operational Feasibility: Concerns over OSHA's Heat Regulation Thresholds for Initial and High Heat in Florida's Climate.

The proposed OSHA regulations to implement Heat Index (Initial & High Heat) triggers for heat-related safety in states like Florida raise significant concerns due to the region's unique climate. For example, with Central Florida (Orlando International Airport Weather Station) Initial Heat Index temperatures exceeding 80°F nearly 70 percent of the year and surpassing 90°F 42 percent of the time, such measures could impose excessive operational challenges for local businesses, especially those in industries reliant on outdoor labor. Frequent exceedance of these thresholds may lead to excessive work stoppages, heightened compliance costs, and potential disruptions to productivity, significantly impacting Florida's economy while not necessarily making work safer. While worker safety is always paramount, these standards must

account for regional climate realities and balance protective measures with feasible operational practices, ensuring businesses can effectively comply without facing unsustainable burdens. After collecting a year’s worth of Heat Index data through NOAA.gov and analyzing the proposed Initial Heat (>80°F) and High Heat (>90°F) threshold in relation to the quantity of days (based on 1-minute interval data), the total hours (1-minute interval data), and the average number of hours per day that Florida experiences these climate conditions, it is evident that this situation could have significant economic implications for the state of Florida.

The rule will mandate several preventive strategies to mitigate heat-related risks, such as rest breaks (minimum 15 minutes every two hours). The rule will require businesses to implement scheduled rest breaks in cool or shaded areas to allow workers to recover from heat exposure. The frequency and duration of these breaks will need to increase with rising temperatures. The employer must provide employees a minimum 15-minute paid rest break at least every two hours in a designated break area.

The data below explains the Quantity of Days, Quantity of Hours, and Average Number of Hours Per Day Central Florida reached Initial Heat >80°F and High Heat >90°F Index triggers.

Orlando International Airport (MCO) HEAT INDEX Data Analysis	QUANTITY OF DAYS 1-Minute Interval Data	QUANTITY OF HOURS 1-Minute Interval Data	AVERAGE NUMBER OF HOURS PER DAY
> 90F Heat Index	157 days	1,246 hours	7.9 hours
> 80F Heat Index	278 days	3,094 hours	11.1 hours

- Therefore, following the proposed High Heat (>90°F) Index trigger rule, there were 153 days in 2024 when temperatures were at or above the high heat triggers, with an average number of hours per day of 8.6 hours. Therefore, in an 8-hour workday, employers must provide a 15-minute break every two hours.
- That is an additional one-hour break every day for 153 days. This potentially impacts workplace productivity and labor regulations.

Source: The Heat Index data analysis was conducted using a year’s worth of data sourced through the NOAA.gov API, ensuring accurate and reliable Heat Index information from 2023. This historical weather dataset, provided in hourly intervals, included key elements such as Ambient Temperature and Relative Humidity, which were used to calculate the Heat Index. The example date range spans from January 1, 2023, to December 31, 2023. NOAA.gov offers this data through its free public domain API, allowing users to query historical weather data for their local airport.

Acclimatization Period & Buddy System:

Work and rest cycles should be flexible. Even among acclimatized workers, there are differences in work capacity and heat tolerance, and tolerance can vary from day to day. It is more important to understand and educate on these underlying principles rather than follow work and rest times exactly.

It is important to consider the impact of interindividual and intraindividual factors that modify the heat strain response and the associated health outcomes. Personal worker lifestyle attributes, such as personal hygiene, drug use, activities that cause dehydration such as excessive alcohol consumption, inadequate rest and sleep, and not drinking enough water the day before, affect one’s ability to work in hot climates. Equally as important as one’s time away from working in a hot climate are crucial individual factors both temporal and permanent. Heat

affects individuals differently based on a variety of factors, including medical conditions and prescribed medications to treat these illnesses that make some individuals more susceptible to heat injuries and illnesses.

For employees that are taking time off for vacation and need to be re-acclimated, it is impractical for employers to determine the location, temperature, etc. that their employees are traveling to. Implementing this rule for every employee across Florida would be burdensome and not achieve the desired outcome due to individual variability.

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(2022): Indicators to assess physiological heat strain – Part 1: Systematic review, Temperature, DOI: 10.1080/23328940.2022.2037376

OSHA has concerns that the proposed exception in paragraph (e)(7)(iii) could create incentives for employees to lie and/or employers to pressure employees to lie about their acclimatization status. For example, an employer could pressure an employee to report that they consistently worked under the same or similar conditions within the prior 14 days so that the employer does not need to comply with paragraph (e)(7) during the employee's first week on the job. These incentives could put new and returning employees at increased risk because they are not receiving appropriate protection based on their acclimatization status. OSHA seeks comments and evidence on the likelihood of this happening and what OSHA could do to address these potentially troubling incentives.

Nearly all employers prioritize safety, period. However, we do acknowledge that it's possible that short-duration contractor hires could potentially be put at greater risk by erroneously stating that they have been working in similar conditions in the past 14 days when, in fact, they have not. This could incentivize not disclosing so that they can procure employment. It could also be a source of discrimination in that the employer only hires individuals who have 14 days of prior heat acclimatization, thereby leaving out a population of workers. Either way, the worker is potentially hurt financially or could suffer from heat illness.

Examples that OSHA should consider of acclimatization protocols for industries or occupations where it may not be appropriate for an employee to conduct heat-exposed work tasks during the first week on the job (e.g., what activities would be appropriate for these workers to achieve acclimatization)

Industries where contractors are hired for jobs that are less than a day or two would be impractical to manage the 14-day acclimatization period. Essentially, this would restrict the amount of work to 20%-40% over the period of the job, potentially extending a task that would have taken 1-2 days and extend to 3-4. This could jeopardize those contractors that bid a job based on the full 4-day costs versus those that erroneously claim the worker is already acclimated and completes the task in 1-2 days. For short-duration work, there should be alternative options to ensure the safety of the worker.

Conclusion

The Florida Chamber and our members remain committed to advancing workplace safety through collaborative, business-led solutions. Governmental workplace safety regulation is no substitute for the efforts employers already invest to ensure their greatest asset, their workforce, is safe and healthy.

We appreciate OSHA's efforts to address heat safety and urge careful consideration of Florida's unique environment. Governmental one-size-fits-all mandates often result in more confusion, cost and inadvertent consequence than individualized employer-led safety solutions. We believe that workplace safety and growing Florida's economy go hand in hand, and by developing flexible, evidence-based solutions, OSHA can ensure worker protection while enabling businesses —particularly those in unique operational environments—to thrive.

We look forward to continuing to lead on this important conversation and to lending our expertise as OSHA considers changes to its rule.

My best,



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