



The Link Between Grain and Goodness

*Submitted electronically via regulations.gov*

January 26, 2022

James Frederick  
Acting Assistant Secretary of Labor  
Occupational Safety and Health Administration  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

**RE: Advanced Notice of Proposed Rulemaking (ANPRM): Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings (Docket No. OSHA -2021-0009)**

Dear Acting Assistant Secretary Frederick:

The North American Millers' Association (NAMA) appreciates the opportunity to submit comments on behalf of the grain milling industry in response to the Occupational Safety and Health Administration (OSHA) Advanced Notice of Proposed Rulemaking (ANPRM): Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings (Docket No. OSHA -2021-0009). NAMA represents millers of wheat, corn, oats, and rye across the continental United States, Puerto Rico, and Canada. Our members take raw grain and, through grinding and crushing, create flour and other products that are used to make favorite foods, such as bread, cereals, pasta, cookies, cakes, and snack foods.

NAMA members and the U.S. grain milling industry are committed to the safety and health of their employees. Due to the broad scope of the ANPRM, we have provided comments below to a select number of the questions posed in the ANPRM. As you will see in our comments, this is a complex issue where a "one size fits all" approach is not feasible or economical. Additionally, we feel strongly that the lack of heat related injuries and illnesses within the grain milling industry do not warrant a new set of regulations on top of the existing authority OSHA has to monitor and regulate these types of instances.

**Questions from the ANPRM with comments:**

***27) Are OSHA's existing efforts and authorities adequate or effective in protecting workers from hazardous heat in indoor and outdoor work settings?***

OSHA currently has adequate authority through the General Duty Clause (5)(a)(1) to address hazards associated with protecting workers from heat exposure both in indoor and outdoor work settings. The General Duty Clause states: "Employers must furnish to each of its employees a workplace that is free from recognized hazards that are causing or likely to cause death or serious physical harm". Creating additional regulatory burden is not likely to result in additional workplace safety with regards to heat related illnesses.

The ANPRM implies that there is underreporting of heat related illnesses. However, Section B as written covers “Under Reporting of Occupational Illnesses, Injuries and Fatalities Due to Hazardous Heat”. Also, the recordkeeping standard 1904.5 reinforces that employers “must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness”. The standard states “work-relatedness is presumed from events or exposure occurring in the work environment”.

Furthermore, employers are required to report hospitalizations and fatalities. Again, OSHA has the authority to monitor and address any serious “heat” related illnesses to ensure that they are recorded when medical treatment or other further escalated injuries occur. If an employer is not reporting a serious heat related illness that involves hospitalization or death, it is unlikely an additional standard will change the reporting.

Underreporting of heat related injuries and illnesses is within OSHA’s authority to control and adequately protect workers by issuing citations and penalties under 29 CFR 1904. OSHA should review and consider modifications to current monitoring protocols to determine the true extent of the number of illnesses without estimates. New regulations should only be promulgated based on actual need.

**38) What efforts are employers currently taking to prevent occupational heat-related illness in their workplace? Please provide examples and data.**

Current efforts within the grain milling industry include best practices for protecting workers from heat exposure and related illnesses through education, training and implementing procedures and actions during different stages of exposure to heat. Education and training is essential to ensuring workers have the tools to protect themselves from heat related illnesses. Training is provided on an annual basis for managers, supervisors, facility employees, and contractors.

Employer education and training programs includes many topics such as:

- The importance of good nutrition
- Rest and hydration away from work
- Proper hydration at work
- Consuming specific amounts of water or drinks that replaces lost electrolytes
- Having cool water and other options of drinks
- Self-monitoring
- Recognize the early signs and symptoms of heat related illnesses
- Buddy systems and/or communication methods and observations
- Encourage speaking up and accepting feedback looking out for one another
- Reporting concerns to the supervisor
- Outside work includes area for shade, shelters for breaks and meals
- A set plan for breaks depending on the workload and heat exposure and conditions
- Mini breaks to maintain hydration and too cool off
- Inside work facilities to include areas to cool down and take breaks and meals
- Reliance on natural air movement or mechanical air movement
- The use of cooling headbands and other types of PPE, clothing, and cooling device
- Scheduling work to reduce exposure of non-routine work or tasks that increases risk
- In some situations, limiting or restricting the length of time of a task

- Daily shift or safety toolbox talks where information on the factors of the day are addressed
- Signage or use of posters for inside work during times of elevated conditions
- Conditioning of employees and acclimation to the work and the environment

Many inside work environments, if not most areas inside of production plants, are not air conditioned due to many factors including the size and complexity of the processes and operations. When it is warm outside, inside areas may be elevated from the outside ambient temperatures. In these situations, having access to a climate-controlled breakroom, cool down areas and the many items previously listed are essential.

Additional strategies employed in the industry include toolbox talks to remind employees to be proactive and to self-monitor and react quickly if feeling uncomfortable. Situations where someone feels that they are getting warm or hot, showing signs of excessive perspiration, sweating or becoming tired are all reasons to take a break and rehydrate.

Employers also sometimes buy and maintain a supply of freezer pops and other special drinks to aid in cooling off at breaks. The topic of preventing heat related illnesses is complicated just like the weather and varying conditions and people and there is no “one size fits all solution” that could be mandated. It would be very difficult to have a prescriptive standard considering all of the many variables with work and work environments.

On page 59311 of the ANPRM it states “further, if the illness or injury does not require medical treatment beyond first aid...it is not required to be reported.” In this context, it is presented as a negative condition. Early preventive measures and actions are key points in preventing heat related illnesses. The proper approach is to identify an issue before it is so severe that an employee would need “*medical treatment*”. Best practices include preventive measures at the earliest possible point where the worker isn’t feeling well. The goal is to prevent the need for even “*first aid*”. You must identify any hazard at the earliest stage and mitigate it.

**39) How effective have employers been in preventing occupational heat- related illness in their workplaces, and how are employer-driven heat injury and illness prevention programs being evaluated?**

We believe the data speaks for itself as the milling industry does not have a significant medical treatment experience rate nor has it experienced a significant number of heat related recordable events. We consider it to be smart business practice to manage heat like all other conditions and potential hazards in the workplace. The industry has been successful in reducing the risk with a proactive performance approach that varies greatly day-to-day, just like workloads, weather, and other conditions.

Effectiveness of heat illness prevention programs and efforts can be measured in terms of “recordable” injury and illnesses by OSHA and the BLS. There is quantitative information and results from entire industries and individual locations. The milling industry participates in the required annual BLS surveys. Companies depending on size must also report to OSHA their injuries and illnesses on an annual basis.

**51) What factors are the most important contributors to heat-related illness risk? & 53) What individual risk factors are the most important contributors to heat-related illness risk?**

The important factors contributing to heat-related illness risk management have been provided in our response on the important aspects of an effective Heat Prevention Program. Any one of these factors if not managed properly could be the single factor that could result in a Serious Illness or Fatality (SIF).

Individual health status and fitness, rest, hydration, acclimation, extreme hot conditions, humidity, workload, lack of prevention efforts, or drug related issues could specifically lead to a SIF.

**59) What engineering controls, administrative controls, or PPE can be used to prevent heat-related illness in indoor and outdoor work settings? Have the qualitative or quantitative effectiveness of these controls been evaluated?**

Engineering Controls:

- Outdoor Facilities: Shelters and shade areas
- Indoor Facilities: Air conditioning or cooling methods in breakrooms and control rooms
- Allow natural air flow, mechanical air flow, cooling fans, and local exhaust ventilation
- Use of mechanical tools, equipment, or methods to reduce the amount of physical effort needed
- Insulation of hot equipment

Administrative Controls:

- Modify work schedules and activities
- Rotate employees
- Frequent breaks, time for meals, and mini breaks
- Adjust workload of non-routine tasks
- Buddy systems
- Monitor the implementation of the Heat Prevention Plan

**61) Are certain controls that are more effective or more feasible than others? If so, which ones? Do effectiveness and feasibility of controls differ due to setting (indoor/outdoor, business size, arrangement of work, etc.)?**

Engineering controls such as temperature controls or air condition systems are not feasible in many industrial settings. Large industrial plants may include tens of thousands or hundreds of thousand square feet of floor space, and 6 or 7 digit cubic feet totals when areas with high ceilings are included. Temperature controls may not be feasible in some areas because they are designed to be open or partially open to the outside. Grain milling industry facilities require a very small number of operators who work through a very large facility, with multiple floors, multiple buildings, and other areas. Installing air conditioning in all work areas would not be physically possible and certainly would be cost prohibitive. Indoor facilities do have areas for employees to take breaks in controlled environments. However, we rely on administrative controls to be the most effective to control the risk of heat related illness.

**91) How do employers currently involve workers in heat injury and illness prevention?**

As discussed earlier, employers involve all employees in education and training related to the Heat Illness Prevention Programs on an annual basis. This is supplemented with daily toolbox talks (*seasonally*) and general promotion around the facilities, including in the form of signage, digital monitors, posters, and other information.

Thank you again for the opportunity to comment on this Advanced Notice of Proposed Rulemaking. If you have any questions regarding our comments, or if it would be helpful to further discuss how the grain milling industry addresses heat related injury and illness prevention, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Dale J. Nellor". The signature is written in a cursive, flowing style.

Dale Nellor  
Vice President, Government & Technical Affairs  
North American Millers' Association