

From: [Roland Carette-Meyers](#)
To: [Gaw, David \(LNI\)](#); [Shute, Carmyn L \(LNI\)](#)
Subject: Comment on Rulesmaking for Outdoor Workers in High Heat 08.10.22
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External Email

Dear Mr. Gaw and Ms. Shute, et al.:

Thank you for being open to public comments regarding worker protections and safety measures related to extreme heat. I am particularly interested in how these measures and other efforts can be used to better protect agricultural workers who work on the front lines of the climate crisis and whose work is essential to keeping Washington fed. I have a number of questions that do not require direct answers from you in the short term but which I hope will inform the evolution of practices and policies to protect workers from heat.

My first general concern is related to the resources that L&I and OSHA have. What resources are available now or what plans are there to build tools which can educate workers, inspect or ensure compliance on the part of employers, enforce measures, and meaningfully address violations of measures in a way that deters (or meaningfully punishes) bad actors. Is there a budget for education and enforcement? Is there staff in place to bring educational materials (in a variety of languages) to work sites? Is there a plan in place to remove bad actors from positions in which they might offend again? Are there resources available for workers to report violations while protecting themselves from retribution?

I appreciate that budgets are tight and that staffing is a challenge but I would love to either see how resources will be made available, how these are being developed, or what gaps L&I sees and hopes to address in a future budget cycle.

Some specific comments and questions:

Because employers must provide shade and provide cool-down periods, it is important that these either be explicitly linked or more clearly defines. Shade should be provided *during* cool-down periods as well as during work.

The emergency policy requires written notice about heat-mitigation strategies to be posted in workspaces. How will OSHA enforce this in mobile work environments and ensure adequate translation to Spanish, etc.?

At this time the policy notes that "...there are no specific requirements as to how much shade or other cooling methods are required." Why not and how can we set a metric or minimum

threshold for shade and cooling methods?

The policy notes that "...employees must be allowed and encouraged to take a preventative cool-down rest in the shade or using another means provided by the employer to reduce body temperature..." Is it reasonable to require employers to make cooling breaks compulsory ahead of the 89-degree "trigger point"? What does "encouragement" look like in practice?

Under this policy, employers must "closely observe employees for signs and symptoms of heat-related illness..." Will employers be offered training in this type of observation and/or in the first aid measures that can be taken in the event of heat-related illness?

Will a lower "trigger" threshold apply to vulnerable employees (elderly, pregnant, or with preexisting conditions, etc.)?

Regarding the guidance that employers have the "flexibility to create their own work/rest cycle", I wonder how L&I/OSHA defines the minimum standards for work/rest balance or cycles. What is the floor for this or what is the minimum that employers must offer to ensure worker health? What different "factors" can an employer cite to justify different types of cycles?

When employers are given flexibility, most tend to defer to the minimum (see: the minimum wage). Many would do less if they could, so how do we build a floor that recognizes this tendency of the management class while also meaningfully protecting workers?

The rules note that workers are allowed to take "as needed" cool-down breaks. What prevents an employer from retaliating against workers who take more breaks than others due to necessity? Different bodies have different thresholds for heat tolerance. Factors include weight, age, gender, preexisting health conditions, etc.

What protections are in place for workers whose physical condition may require more cool-down breaks than the norm? How is the "norm" defined? Are "as needed" cool-down breaks meant to supplement or replace the required cool-down breaks? Is there a way to address the worry that those workers who work by piece instead of by the hour will be disincentivized to take those breaks and therefore be more at risk?

These rules and the document you have provided are an excellent start and I hope that the above concerns can be addressed as the process continues and as we work in service of those who feed us.

Thank you again for your time and for accepting public comment.

- Roland Carette-Meyers

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