



**ROCUNITED**  
RESTAURANT OPPORTUNITIES CENTERS UNITED

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July 29, 2022

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

**Re: Comments on OSHA Initiatives To Protect Workers From Heat-Related Hazards,  
Docket No. OSHA-2022-0006**

Dear Mr. Frederick:

Restaurant Opportunities Centers (“ROC”) United appreciates the opportunity to provide this comment regarding the Occupational Safety and Health Administration’s (OSHA) initiatives to protect workers from heat-related hazards in conjunction with a stakeholder meeting held earlier this year.<sup>1</sup> Founded in 2001 to support World Trade Center workers in the wake of 9/11, ROC United has grown into a national membership organization of thousands of restaurant workers across the United States. Our work includes efforts to improve workers’ lives by building worker power and uniting workers of various backgrounds around shared goals of health, safety, respect and dignity for all in the industry.<sup>2</sup> ROC United serves and represents all workers in the industry, from traditional back and front-of-the-house occupations in fine dining full service restaurants, to combined food prep and serving workers in quick service, to the new and growing segment of app-based delivery.

In anticipation of OSHA’s rulemaking process, ROC United put out a call for feedback on the impacts of extreme heat on restaurant workers.<sup>3</sup> We received responses from over 500 people across all 50 states and Puerto Rico. Excerpts from workers’ responses are included throughout our comment below. In brief, heat in restaurant kitchens frequently is dangerously high and its effects are often unmitigated by employers. Restaurant workers describe unsafely hot working conditions resulting in heat exhaustion, heat stroke, sudden fainting, vomiting,

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<sup>1</sup> Stakeholder Meeting on OSHA Initiatives to Protect Workers from Heat-Related Hazards, 87 Fed. Reg. 19,977 (Apr. 6, 2022).

<sup>2</sup> ROC United, *Mission, Vision & Core Values*, <https://rocunited.org/mission/> (last visited July 27, 2022).

<sup>3</sup> We have collected and reviewed copies of the individual comments submitted by our members and other restaurant workers and supporters in response to a campaign we undertook to raise awareness about this rulemaking. We have quoted or summarized comments that we believe are typical or exemplary of restaurant workers’ experiences throughout this submission. If you have any questions about these comments, require additional details, or would like to review a spreadsheet summarizing them, please contact our counsel, identified below.

affected cognitive abilities, exacerbated or new long-term health problems, and dehydration. There are measures employers could take to mitigate these dangers, but they do not do so routinely.<sup>4</sup>

The need for heat protections will only increase with the effects of climate change.<sup>5</sup> While restaurant kitchens have traditionally been hot, elevated temperatures have been exacerbated by the debilitating heat that is occurring with increasing regularity across the United States.<sup>6</sup> Much of the U.S. South has seen a doubling in the number of days above 90 degrees Fahrenheit relative to 1980, and is expected to experience at least 50 more such days per year by 2040-2050.<sup>7</sup> The average annual number of heat waves in major cities across the United States has also sharply risen since the 1960s from two to six in the 2010s.<sup>8</sup> The length of heat wave season as well as the duration of heat waves themselves are also cause for alarm.<sup>9</sup> With warming projected for all parts of the nation this century, worker protections must be responsive to this escalating risk.<sup>10</sup> ROC United urges OSHA to promulgate a rule promptly that provides federal heat safety standards for all workers, including indoor restaurant workers.

### ***Restaurant workers provide an essential service.***

Restaurant workers make up an essential part of the American economy. This industry is projected to reach 898 billion dollars in sales in 2022 and comprises over 11 million workers across the United States.<sup>11</sup> The restaurant industry is in a moment of significant growth, as it recovers from extensive layoffs at the start of the coronavirus pandemic in early 2020, when it is estimated over six million people lost their jobs.<sup>12</sup>

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<sup>4</sup> See U.S. Dept. of Lab., OSHA, *OSHA Technical Manual (OTM) Section III: Chapter 4, Heat Stress*, <https://www.osha.gov/otm/section-3-health-hazards/chapter-4> (Sep. 15, 2017).

<sup>5</sup> See EPA, *Climate Change Indicators: Heat Waves*, [epa.gov/climate-indicators/climate-change-indicators-heat-waves](https://epa.gov/climate-indicators/climate-change-indicators-heat-waves) (Feb. 17, 2022); See also Brenda Jacklitsch et al., Nat'l Inst. for Occupational Safety & Health, *Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments* 127 (2016), <https://www.cdc.gov/niosh/docs/2016-106/pdfs/2016-106.pdf?id=10.26616/NIOSH PUB2016106>.

<sup>6</sup> See Jacklitsch, *supra* note 5, at 33, 127; See also Jisung Park et al, Wash. Ctr. for Equitable Growth, *Temperature Workplace Safety, and Labor Market Inequality* 1 (2021).

<sup>7</sup> Park, *supra* note 6, at 1.

<sup>8</sup> See EPA, *supra* note 5.

<sup>9</sup> The average heat wave season across 50 major cities is 47 days longer now than it was in the 1960s, while the average heat wave length is about four days long. Heat waves that occur earlier in the spring or later in the fall can catch people off-guard and increase exposure to the health risks. See EPA, *supra* note 5.

<sup>10</sup> Nat'l Climate Assessment, *Recent U.S. Temperature Trends*, <https://nca2014.globalchange.gov/report/our-changing-climate/recent-us-temperature-trends> (last visited July 18, 2022).

<sup>11</sup> Nat'l Restaurant Ass'n, *2022 State of the Restaurant Industry Report* (Jan. 31, 2022), <https://restaurant.org/research-and-media/research/research-reports/state-of-the-industry/>.

<sup>12</sup> ROC United, *2020 State of the Restaurant Workers* 3 (2020), <https://drive.google.com/file/d/19zGyWIVUH0cP0JEcniwwzBoAnUuJVWPn/view>.

As the economy has reopened following the most acute phase of the pandemic, the need for front and back of house workers has expanded, garnering national headlines for the extensive fluctuations in industry demand and attention to working conditions in food service environments.<sup>13</sup> Restaurant workers, a majority of whom are women and disproportionately workers of color,<sup>14</sup> also continue to bear disproportionate risk in the pandemic. A recent study found cooks to be one of the professions with the highest coronavirus mortality rates in the United States.<sup>15</sup> These variables reinforce why standards to protect active workers are more critical than ever to rebuild the restaurant industry.

***Restaurant workers are subject to extreme heat at work.***

Commercial kitchens can get dangerously hot, especially when outside temperatures rise, frequently exceeding guidance on safe heat levels in the workplace. OSHA’s latest technical manual on work under heat stress concludes “workplaces with temperatures above 70 degrees Fahrenheit may have a heat hazard present when work activities are at or above a moderate workload.”<sup>16</sup> Concurrently, the CDC recommends workplace heat stress alert limits be set for activity performed for more than 60 minutes above 70 degrees for unacclimatized workers, or above 77 degrees for acclimatized workers.<sup>17</sup>

While research on average temperatures in restaurant kitchens is limited, the research that exists combined with workers’ recounting of their own experiences makes clear that temperatures can get very high. This is particularly relevant for restaurant workers in back of house positions, including dishwashers, cleaners, prep cooks, fry cooks, grill cooks, sous chefs, and executive chefs, who must work in close quarters and high intensity environments surrounded by extremely hot ovens, stovetops, fryers and kitchen equipment. A recent study of commercial kitchens found that during summer months the air temperature at adult height level in the cooking zones of casual kitchens around the United States exceeded 93 degrees Fahrenheit over the course of the day.<sup>18</sup> The operative temperature, which represents how the temperature

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<sup>13</sup> Campaigns to attract restaurant workers across the country have garnered national media attention and increased the spotlight on restaurant working conditions and wage inequities. See Avery Hartmans, *Restaurants Still Can't Find Enough Employees and It's Probably Not Getting Better Anytime Soon*, Business Insider (Feb. 3, 2022, 12:23 PM), <https://www.businessinsider.com/restaurant-worker-shortage-continuing-through-2022-survey-2022-2>.

<sup>14</sup> See ROC United, *2020 State of the Restaurant Workers*, *supra* note 12.

<sup>15</sup> ROC United, *The Impacts of Covid-19 on Restaurant Workers Across America 1-2* (2022), [https://drive.google.com/file/d/1TJU5LZKWci7gODR8pFIwmOYhCAzor2\\_s/view](https://drive.google.com/file/d/1TJU5LZKWci7gODR8pFIwmOYhCAzor2_s/view).

<sup>16</sup> See U.S. Dep’t of Lab., OSHA, *supra* note 4.

<sup>17</sup> See Jacklitsch, *supra* note 5, at 2, 94 (defining “unacclimatized workers” as those who are those not wearing PPE that would provide protection against heat. *Id.* at 2).

<sup>18</sup> Angela Simone et al, *Thermal Environment Evaluation in Commercial Kitchens of United States* (paper presented at Clima 2013, Prague, Czech Republic) (2013), <https://core.ac.uk/download/pdf/13804869.pdf>.

actually feels to people in it, exceeded 100 degrees.<sup>19</sup> Notably, this study found that thermal radiation from hot appliances raised the operative temperature by ten degrees Fahrenheit.<sup>20</sup>

The comments below highlight some of the most persistent problems that make kitchens dangerously hot, including poor ventilation, inadequate air conditioning systems, and long shifts in proximity to hot appliances without sufficient breaks. They also highlight the pervasiveness of these problems across the restaurant industry, in quick-service and fine dining kitchens alike:

- In Minnesota, Mackenzie K. recalled, “In my previous place of employment, it was over 105 degrees Fahrenheit in the kitchen. I was right next to the ovens for my entire shift. I was sweating, dizzy, nauseous, and weak.”
- Deborah L. shared a similarly harrowing experience in Ohio: “I worked five years in a bakery that would often reach 100 degrees Fahrenheit indoors in the back of house area due to broken air conditioning in the summer. This occurred every year when temperatures outside were at their peak, and nothing was done to overhaul the air conditioning system even though it was a persistent problem.”
- Malia D. in California recounted, “I have worked in kitchens for about 10 years and have gotten dizzy and almost passed out countless times due to high heat in the kitchen.”
- Brad K. in Connecticut verified, “I’ve had to work 15 hour shifts in 90 degree kitchens.”
- In Texas, Elizabeth H. discussed, “There’s lots of reasons that heat can build up in a kitchen, and it happens all too easily when it’s already 100 degrees outside.”
- Jane C. identified, “I worked in an upstairs kitchen in Washington D.C. that got over 106 degrees one day at lunch... This was a popular, upscale restaurant & it was always very hot with poor ventilation.”
- In Pennsylvania, Hannah W. recalled her experience in unbearable heat: “I’ve been literally drenched and dripping sweat day after day. One restaurant I worked in had a broken thermostat for an entire month that prevented the AC from cooling the kitchen-- there were many days I thought I might pass out. In another restaurant I would regularly drink three quarts of water during dinner service without needing to urinate because my body was sweating so much from the heat and continuously dehydrating itself.”

***Extreme heat is hazardous to workers’ health.***

The commercial kitchen environment is particularly vulnerable to high outside temperatures that exacerbate indoor heat. Over 20% of restaurant workers who responded to our request for comments described experiencing a significant heat-related incident or long-term health impact due to prolonged work in extreme heat:

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

- In Virginia, Leo H. recounted: “During a particularly brutal heatwave the kitchen I worked at had no air conditioning, just a box fan stuck in the wall. Workers fainted at least once a day... I myself passed out mid sentence and when I came to I suffered a severe anxiety attack. Quite frankly we were lucky nobody passed out and hit their head. No kitchen should be 20 degrees hotter inside than it is outside as it frequently was.”
- Recounting the heat in her Washington D.C. kitchen, Jane C. described, “the line cook next to me fainted from the heat. We stepped over his body to cook during the lunch rush.”

A recent study of temperature impacts on the workplace affirms the prevalence of these hazards identified in workers’ comments. It concludes the food service industry presents “positive heat-injury relationships,” meaning a significant correlation exists between extreme heat and increased rates of injury while working.<sup>21</sup> The incident rates are comparable to other indoor settings, such as wholesale trade, which saw an increase in incidents by 10 percent for days with temperatures above 95 degrees Fahrenheit.<sup>22</sup> Incidents during these high-heat days often take the form of severe heat stroke or heat exhaustion resulting in fainting, severe dehydration, and nausea.<sup>23</sup> The associated health consequences are best expressed through restaurant workers’ own words:

- In Virginia, Alden Y. recalled a mentally and physically taxing experience: “I’ve never drenched my shirt in sweat quicker than working a lunch rush or prepping in the basement that literally reaches 100 [degrees] in the summer. I’m only 19 and in [good] health but almost daily I just feel sick to my stomach from the heat, to the point where I haven’t had the appetite to eat...I’ve even thrown up mid shift due to the conditions.”
- In Montana, Stephen H. recounted, “I have personally watched people have heat stroke in restaurant lines due to extreme heat. I have become physically ill and vomited during periods of extreme heat. Severe dehydration is commonplace and a known fact of life for kitchen workers, and it is wrong.”
- Monica M. in Colorado shared, “I’ve worked in restaurant kitchens all my life. At one chain restaurant one of our cooks got heat stroke and had a heart attack and died. The kitchen was above 90 degrees that day.”
- Reflecting on her 8 years in the restaurant industry, Paige M. in Tennessee remarked, “I have experienced grueling hot southern summers all from the inconvenience of a kitchen

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<sup>21</sup> Park, *supra* note 6, at 19.

<sup>22</sup> *See id.* (citing the U.S. Bureau of Labor and Statistics, discussing wholesale trade as generally “sell[ing] merchandise to other businesses and normally operat[ing] from a warehouse or office.” U.S. Bureau of Lab. & Stat., *Wholesale Trade: NAICS 42*, <https://www.bls.gov/iag/tgs/iag42.htm> (last visited July 25, 2022)).

<sup>23</sup> *See* Workers’ Comments, *supra* note 3; *See also* Juley Fulcher et al., Pub. Citizen, *Boiling Point: OSHA Must Act Immediately to Protect Workers from Deadly Temperatures* 10-11 (2022), <https://www.citizen.org/article/boiling-point/>.

[where] air conditioning has gone out. I have had co-workers pass out on the job at outdoor venues and in the kitchen of the average restaurant from heat exhaustion.”

Heat’s impact on cognition and concentration also leads to deleterious health outcomes when coupled with baseline hazardous work environments.<sup>24</sup> Evidence from workers across the country further illustrates the dangers associated with working in extreme heat:

- Coedy L.B., from Idaho recounts, “The extreme heat affects our well being in numerous ways, [e]specially cognitive reasoning. It only takes one misjudgement to take a fall. With so much cooking equipment chances of a life altering injury are high. I implore OSHA to think of the consequences and risks of working in excessive heat. Food safety rules are based on prevention, [and] should also be consistent with employee safety.”
- Deborah L. described working in a bakery that regularly reached 100 degrees Fahrenheit in the summer: “Employees working in the baking area would sweat profusely (our uniforms require a cotton undershirt, and chef coat with long pants), and become lightheaded or have difficulty concentrating due to heat exhaustion. The job is labor intensive, so high temperatures coupled with physical exertion would lead to dehydration and heat exhaustion.”

***Extreme heat hazards borne by restaurant workers are inequitable.***

Restaurant workers are disproportionately women and people of color, making the risks from high heat faced by workers in this industry inequitable. Across all sectors of the restaurant industry, more than half of restaurant workers are women, and nearly half are people of color.<sup>25</sup> This latter number increases substantially for back of house positions, which include those jobs directly cooking and preparing food in closest proximity to stovetops, ovens, fryers, and high heat equipment, and are accordingly most likely to be dangerously hot. In states with full minimum wage requirements, workers of color make up 60% of all restaurant workers,<sup>26</sup> and more than a third of all women working in restaurants are mothers.<sup>27</sup>

The persistent problem of low pay and benefits for restaurant workers compounds the equity problem. In 2020, about 46.1% of back of house workers and 41.7% of tipped restaurant workers lived under twice the poverty line.<sup>28</sup> This evidence suggests that, as a profession, restaurant workers are less likely to have savings or alternative revenue sources they can turn to if they are injured or their work environment becomes unsafe. Preeti P, a worker in Pennsylvania captured this fear in her comment:

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<sup>24</sup> See Park, *supra* note 6, at 3.

<sup>25</sup> See ROC United, *State of Restaurant Workers*, *supra* note 12, at 2.

<sup>26</sup> See *id.* (documenting “[w]orkers of color comprise 60 percent of the restaurant industry in states with a full minimum wage, compared to 49 percent in \$2.13 states. However, women make up half of the industry in states with a full minimum wage, and over two-thirds in \$2.13 states.” *Id.*).

<sup>27</sup> *Id.* at 2.

<sup>28</sup> *Id.* at 3.

I've worked in food service since I was 16 and there has always been an issue with it being way too hot [back of house] in the kitchen...I can't tell you how many kitchens I've seen with no air conditioning for workers. Many workers I know are afraid to speak up and be silenced or worse, face consequences like retaliation. There are some who are afraid to be seen as weak if they speak up as well, due to some of the toxic machismo in kitchen culture. This all has a major impact on [back of house] workers. This is all so inhumane and needs to stop.

These same workers are also among the least likely to have health insurance.<sup>29</sup> As of 2018, about 38% of cooks and 47% of dishwashers did not receive health insurance from their employer in the U.S.<sup>30</sup> This leaves workers more vulnerable to financial catastrophe from injuries and illnesses caused by on-the-job heat and increases the likelihood that an easily treatable condition will progress to a more serious illness or death.<sup>31</sup> Standards to improve working conditions in extreme heat in restaurants would accordingly have significant benefits for equity and the Biden administration's goals in that respect.<sup>32</sup>

***Employers are not routinely protecting workers from extreme heat.***

Despite the pervasiveness of unsafely hot working conditions, employers are frequently unresponsive to worker needs and fail to implement heat prevention plans, training, or cooling systems that would protect their employees on the job.

For example, of the 116 heat-related complaints filed with Oregon OSHA from June 24 to June 30, 2021, 91 described inadequate protections for excessive indoor heat.<sup>33</sup> Many back of house workers who responded to our request for comments described working in kitchens where there was no HVAC system, or it was frequently broken in months when AC was needed the most.<sup>34</sup> One worker in Ohio recounted, "last summer the restaurant I worked at didn't have AC, their solution was to give us Popsicles. A man ended up passing out due to the heat." Examples of inadequate and unsupportive employer responses to extreme heat are captured in the responses below:

- When Mackenzie K. reported feeling dizzy and nauseous from working in a 105 degree Fahrenheit kitchen, a "supervisor in Minnesota replied he 'was not able to provide any support.' He told me 'take a drink of water and suck it up.'"
- In Kentucky, Crystal K. recounted a similar experience: "I work in a restaurant & our AC never works. It was so hot this year it was literally affecting my heart. On 10/1/21, I got so hot, I was vomiting, dizzy, and got so light-headed I nearly passed out. I was told by 3

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<sup>29</sup> Pub. Citizen, *Boiling Point*, *supra* note 23, at 27.

<sup>30</sup> *See id.*, Fig. 3 (citing Jacob Passy, *Workers in This Field Are the Least Likely to Have Health Insurance*, Market Watch (Mar. 22, 2018, 8:43 AM), <https://on.mktw.net/3ydD2gd>).

<sup>31</sup> *See id.* at 29.

<sup>32</sup> Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 86 Fed. Reg. 7,009 (Jan. 20, 2021).

<sup>33</sup> *See* Pub. Citizen, *supra* note 23, at 27.

<sup>34</sup> *See id.*

different supervisors that because I didn't have a fever, I couldn't go home. One supervisor literally said, 'You look flushed, let me check your temp.' After checking it she said, 'You don't have a fever so, you can't go home. You're just going to have to tough it out because we're short staffed & we really need you.'”

- Stephen M. from Montana recounted, “restaurants also regularly will continue to operate when vent systems go down in extreme temperatures, causing heat to rise to near unbearable levels for people used to even 120 degree heat.”
- Kristin C. summarized the situation in Texas: “Temperatures get extremely hot when on the line cooking. Employers expect employees to work under those conditions without any aid given to try and make the situation better. It’s time for employers to invest in ways to mitigate temperatures in kitchens instead of expecting employees to ‘sweat it out.’”
- Elizabeth H. in Texas described several steps she has been forced to take in the absence of employer intervention: “I've worked in several kitchens in the past that didn't have a plan in place in case the heat in the kitchen got to be too much. . . I've had to resort to freezing damp rags and working with them around my neck, bringing box fans from home and setting them up to provide air flow, and [prevent] suffer[ing] from smoke inhalation and heat stroke on the job.”

Environments in which workers do not feel supported by their employers can also result in an underreporting of workplace injuries and perpetuation of safety hazards that harm workers. Studies suggest there is consistent underreporting of workplace injuries in settings where workers fear retaliation.<sup>35</sup> That is consistent with feedback from comments we collected, where 35% of respondents expressed a desire for protections from retaliation for workers in light of employer pushback to heat-related protections.<sup>36</sup> The intersection of these employee protections and general heat prevention policies is captured in the comment of a worker in Oregon during last summer’s severe heat wave:

My previous workplace was a doughnut shop that had no air circulation aside from propping the front door open. The heat during the summer would get so bad that temps inside the shop could hit triple digits. Frosting would slide off doughnuts on the rack. Team members passed out with such frequency that it was just considered inevitable. If you passed out but woke up feeling okay, you’d be expected to continue your shift in the heat. The company wouldn’t give us a water filter and wouldn’t allow us to take bottled water without paying for it, so we had to fill a bucket with ice from the pizza place across the street and use that for our cold drinking water supply. Absolutely horrible conditions that resulted in walkouts at another location, and the employees who rightfully walked out were all fired.

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<sup>35</sup> Lenore S. Azaroff et. al, *Occupational Injury and Illness Surveillance: Conceptual Filters Explain Underreporting*, 92 Am. J. Pub. Health 1421, 1426 (2002).

<sup>36</sup> See Workers’ Comments, *supra* note 3.



***OSHA should promulgate a heat hazard rule that requires employers to provide meaningful protections to all workers, including restaurant employees, across the United States.***

With clear federal guidance, employers across the United States can take steps to make restaurants safe and sustainable long-term work environments for their employees. Effective strategies implemented in California and at individual restaurants exemplify the kinds of policies that result in reduced heat hazards and consequently, fewer heat-related injuries for workers.<sup>37</sup> These practices include installing and maintaining HVAC/AC systems in kitchens, ensuring workers are hydrating and taking frequent breaks, and implementing proper ventilation systems around ovens, stovetops, and heat producing restaurant equipment.<sup>38</sup> Integrating worker feedback into the development of heat response plans can also result in enormous gains at relatively low costs to employers.

- Providing feedback from her experiences in different kitchens, Hannah M. remarked: “I have been to restaurants with huge live fires for cooking that were comfortable and temperate because ownership invested in the correct equipment, so I know it is entirely possible to keep a kitchen cool--it's just a corner many restaurant owners choose to cut. Cutting that corner endangers their employees in a way that I hope OSHA addresses.”
- In Florida, the executive chef at a fine dining restaurant described, “[o]ur culture allows team members access to Gatorade or soft drinks.’ The company also has a policy that bars staff from working on one of [our] wood-fired grills for more than three days in a row.”<sup>39</sup>
- At a restaurant in Texas that regularly reaches 100 degrees the head chef suggests, “The line cooks take turns running across the street to [] buy every kind of sports drink possible.”<sup>40</sup>

The “Heat Illness Prevention Standard” implemented in California for outdoor workplaces demonstrates the significant impact formal heat protection standards can have on worker health.<sup>41</sup> The program consists of four key steps employers must take to protect workers from heat on days with temperatures above 95°F. These include:

- Train all employees and supervisors about heat illness prevention.
- Provide enough fresh water so each employee can drink at least 1 quart per hour or four 8 ounce glasses per hour, *and encourage them to do so.*
- Provide access to shade and encourage employees to take cool-down rest in the shade for at least 5 minutes. *They should not wait until they feel sick to cool down.*

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<sup>37</sup> See State of Cal. Dep’t of Indus. Rels., *CAL/OSHA Heat Illness Prevention*, [dir.ca.gov/dosh/heatillnessinfo.html](http://dir.ca.gov/dosh/heatillnessinfo.html) (last visited July 27, 2022).

<sup>38</sup> See *id.*, see also U.S. Dep’t of Lab., OSHA, *supra* note 4.

<sup>39</sup> Virginia Chamlee, *How Chefs and Line Cooks Beat the Heat*, Eater (July 8, 2016, 1:00 PM), <https://www.eater.com/2016/7/8/12120414/how-to-stay-cool-hot-restaurant-kitchen>.

<sup>40</sup> *Id.*

<sup>41</sup> Cal. Code Regs. tit. 8, §3395 (2020).

- Develop and implement written procedures for complying with the CAL/OSHA Heat Illness Prevention Standard.<sup>42</sup>

Implementation of this regulation resulted in a reduction in outdoor workplace injuries by 30%.<sup>43</sup> In the wake of this program’s success, CAL/OSHA created an advisory committee to study indoor work environments, and it is currently preparing rulemaking documents to extend heat protections to all indoor work environments, including restaurants.<sup>44</sup> The success of these standards can provide a model for federal guidelines that ensure all restaurant employees across the United States are afforded protections from unsafely hot working conditions. Over 70% of responses to our request for comments indicated a desire for federal guidelines that mandate all restaurants implement a heat prevention plan. The following comment from Celine J. in Minnesota captures the desires of many back of house restaurant workers:

This [policy] is incredibly necessary. Nearly every restaurant I have worked at there has been no AC in the back of house. This is extremely dangerous when combined with workers who have to produce high volumes of plates in a short amount of time. This leaves less time for workers to cool down or even stay hydrated. The hot climate also makes it harder to wear a mask for long periods of time, especially when that mask gets soaked in sweat every hour or two. Please implement strong heat policies so restaurant staff can be happier and healthier, which will in turn translate to happier and healthier customers and a more thriving economy.

### ***Proposals***

ROC United urges OSHA to promulgate a rule to prevent restaurant kitchens from reaching dangerously hot temperatures. The rule should require that employers develop and implement a comprehensive excessive heat prevention plan to protect employees from heat-related injuries and illnesses. In addition, workers must be able to speak up about any workplace hazards and report any health problems on the job without fear of retaliation. To make such a plan effective, it must:

- Be developed and implemented with meaningful participation of covered employees, and their representatives when applicable, and tailored to the specific hazards of the workplace.
- Be written in a language (or languages) understood by substantial percentages of the employees.

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<sup>42</sup> See State of Cal. Dep’t. of Indus. Rels., *supra* note 37.

<sup>43</sup> “We find that hotter temperatures caused approximately 6100 injuries per year in the period 2001-2005, versus approximately 4250 injuries per year in the period 2006-2018, suggesting a significant decline of approximately 30 percent. At the same time, these estimates also illustrate the persistent impact of temperature on workplace safety, despite targeted policies.” Park, *supra* note 6, at 26-27, Fig. 14.

<sup>44</sup> State of Cal. Dep’t of Indus. Rels., CAL/OSHA, *Advisory Meetings: Heat Illness Prevention in Indoor Places of Employment*, <https://www.dir.ca.gov/dosh/doshreg/heat-illness-prevention-indoors/> (last updated Apr. 22, 2019).

- Require that workers who are exposed to high heat have paid breaks in cool environments, access to water for hydration, and include limitations on how long workers can be in extreme heat areas.
- Create emergency response procedures for employees suffering from heat illness.
- Provide training for employers and employees on heat stress illness and prevention.
- Include acclimatization plans to ensure workers can adjust to their working conditions.
- Ensure engineering and administrative controls are used to limit heat exposure, i.e ventilation and/or protective clothing.
- Require employers to maintain records on heat-related illnesses and deaths, and other heat data.
- And prohibit retaliation against a covered employee for reporting violations of this standard or exercising any other rights under this bill.

Requiring restaurant employers to integrate these requirements into a comprehensive heat safety plan will protect millions of workers across America.

### ***Conclusion***

We request that OSHA promulgate a rule to provide restaurant workers relief from unbearable heat and unsafe working conditions through the creation of federal heat safety standards. If you have any questions or would like to discuss the information in this comment, please contact Robin Thurston, Democracy Forward Foundation, counsel for ROC United, at 202-701-1775 or [rthurston@democracyforward.org](mailto:rthurston@democracyforward.org).

Respectfully submitted,

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