



# PREVENTION OF HEAT-RELATED ILLNESSES

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As we move into the summer months, all contractors should consider implementing a heat-illness prevention program. Reports of heat-related illnesses in the workplace are increasing, and employees who work in a high-heat-index environment are vulnerable to them. At their worst, heat-related illnesses can result in death.

In 2011, the Occupational Safety and Health Administration (OSHA) instituted a program to make employers aware of the dangers of working in a high-heat-index environment. Since then, OSHA has issued numerous citations to employers for heat-related illnesses. The increase in reported cases can partially be attributed to new OSHA rules that require reporting the hospitalization of even *one* employee for treatment (the old rule applied when *three* employees were involved). Prior to this change, reports of heat-illness injuries were largely limited to fatalities, but with the change of rules employers must report employees who are hospitalized for treatment of heat-related illnesses.

Numerous decisions related to heat-related illnesses in the workplace have been reported, but the leading decision by the Occupational Safety and Health Review Commission (OSHRC) was made by Judge Patrick Augustine in March 2012 in *Secretary of Labor v. Post Buckley Schuh & Jernigan, Inc.* In his decision Judge Augustine upheld a general-duty-clause violation against the employer related to the death of an employee from heat stroke. Augustine listed five criteria for heat-illness prevention from the National Institute for Occupational Safety and Health (NIOSH) deemed essential for compliance with OSHA's general-duty clause.

Augustine's decision provides a practical checklist for employers to follow to ensure a safe workplace for employees regarding the prevention of heat-related illness. Note that the steps covering these areas need to be taken by the employer and implemented and enforced by the site supervisor. You should not rely on employees' taking responsibility for compliance.

- 1. Acclimatization.** An acclimatization program for employees should be established upon their initial assignment to a work site in a high-heat-index environment. Such a program should also be used for an employee who is returning to the high-heat-index environment after a period of time away. The program should gradually expose the employee to the high-heat-index environment. Many employers start their employees with 1–2 hours of labor in the high-heat-index environment and extend the work hours in the environment over a period of 5–10 work days. I recommend discussing your program with your company physician to get an opinion on the best way to acclimatize your employees. As I emphasize to all employers, the acclimatization period as well as the actions taken to comply with the requirements in the next two areas will vary according to the heat index at the job site.
- 2. Work-and-rest regimen.** The site supervisor should establish a work-and-rest regimen based on the heat index on the job site. If the heat index is in the low-caution range, at the start of the work the site supervisor might schedule rest breaks every 90–120 minutes. As the heat index increases into the caution range and higher, the rest periods may become longer and more frequent.

**3. Hydration.** The NIOSH document suggests that employees drink 5–7 ounces of water every 15–20 minutes, but the quantity and frequency will vary as the heat index varies. In a 2015 OSHRC decision involving the Sturgill Roofing Company of Dayton, OH, Judge Carol Baumerich stated that the employer should proactively monitor the water consumption by employees and remove any employees from the site who fail or refuse to comply. Such a requirement places a tremendous burden on the employer. Judge Baumerich’s decision is effectively on appeal to the full OSHRC, and no decision on that appeal has yet been reached. At this time, the original language of the NIOSH document is in effect.

**4. Cooling-off areas.** The employer must provide cooling-off areas in close proximity to the job site for use by employees as needed. NIOSH has indicated that a cooling-off area should have an ambient temperature of approximately 75 degrees Fahrenheit. Using umbrellas for shade in a 95-degree heat-index environment will probably not be sufficient.

**5. Training on heat-related illnesses.** Employees should be trained to recognize illnesses that can be caused by working in a high-heat-index environ-

ment, know their symptoms and be able to recognize them in themselves and others, and know the first aid actions to be taken when those symptoms are observed.

Taking these five steps will protect your employees and ensure that you have a compliant program for preventing heat-related illnesses on the job site. I highly recommend that every site supervisor download the free OSHA-NIOSH Heat Safety Tool app to their smart phone or tablet. This app will provide an immediate heat-index level at the location where the app is used and will provide the OSHA recommendation for steps to protect your employees.

Remember, you are the employer, and the responsibility for the safety of your employees, including their compliance with all safety programs, is yours. All violations of the general-duty clause are serious, and OSHA will not negotiate them down to a less serious category. If your company is cited for lacking an effective heat-illness prevention program, you will have just two choices. You may choose (1) to litigate it, or (2) to accept it as a serious violation and attempt to negotiate for a lower penalty. In the latter case, you are required to report the violation on ISNetworld and on any prequalifying documents you may have to complete before bidding on new jobs.