

5 Steps for Employers to Take

By Gary Auman

In 2021, President Biden directed OSHA to develop a standard to cover heat illness prevention. Following this action, OSHA issued an Advance Notice of Proposed Rule Making (ANPRM) on October 27, 2021, and invited comments from the public. OSHA reportedly received 965 comments about this ANPRM. On May 3, 2022, OSHA held a virtual public stakeholder meeting and established a work group to move forward on a standard. On May 31, 2023, recommendations of the work group were passed on to OSHA. In August 2023, the Small Business Advocacy Review (SBAR) panel heard from Small Entity Representatives. As of May 2024, OSHA remained engaged in the rulemaking process, and Acting Secretary of Labor Julie Su predicted that a proposed standard would be available for public review by October 2024. She also predicted that a final standard on heat illness prevention would be in place by the end of 2024.

In the meantime, it is important to remember that OSHA has been mostly successful in enforcing heat illness prevention on employers

under the General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health Act, which requires all employers to provide their employees with a workplace free of recognized hazards causing or likely to cause death or serious physical harm.

Heat illness meets that criteria. In a decision in 2012, Judge Patrick Augustine of the Occupational Safety and Health Review Commission listed five parts of the criteria document that he felt were feasible steps for employers to take to prevent heat illness. Some locations may be confronted with heat illness issues year-round, but we are entering a part of the year with warmer temperatures for most U.S. locations. Recently, OSHA went on television in Texas and warned employers of their responsibilities to provide heat illness prevention steps for their employees. In this televised notice, the OSHA Representative emphasized providing water, rest, and shade for employees when working in a high heat index environment. I believe that is an oversimplification of the

problem. As I have reviewed safety programs in construction-related industries, many employers' heat illness prevention program provides water, some shade, and some rest (the latter two are undefined) for employees. I feel that employers need to go well beyond water, rest, and shade in developing their heat illness prevention programs. Employers must understand that it is their responsibility to prevent heat illnesses for their workforce—and not the responsibility of their employees. Heat illness prevention is taking a front-and-center position for OSHA's safety enforcement in 2024.

The five steps discussed by Judge Augustine begin with acclimatization and proceed through training. Remember that your heat illness prevention program is based on the heat index, not on temperature alone. I strongly suggest that you have your site supervisors download the OSHA–NIOSH Heat Safety Tool App (<https://www.osha.gov/heat/heat-app>) on their smartphones. This app will provide them with the heat index at their job site and reminders of actions they should take to prevent heat illness corresponding with the heat index they are experiencing.

Step 1: Acclimatization. Employers need to identify employees who are reporting to the high heat index environment for the first time or are returning to the high heat index environment after having been away from it for 1 or 2 weeks. Set a schedule for the gradual indoctrination of those employees to the heat index on the jobsite over a period of 1 to 2 weeks. With this step, as well as the others, you might want to consult with your company doctor for guidance on the best approach for your employees. If you are unsure about how to proceed in setting an acclimatization schedule, you should consult with your company doctor or an occupational medicine specialist for assistance.

Step 2: Establish a Work/Rest Regimen. This regimen will vary, depending on the heat index. For a low heat index, you might start with shorter rest periods with longer work periods between them. As the heat index increases, you will need to increase the length and frequency of rest periods. Again, guidance can be obtained from the OSHA–NIOSH Heat Safety Tool and/or from your company doctor or an occupational medicine specialist.

Step Three: Hydration. Employers need to be sure adequate cool water is provided on the jobsite. There should be sufficient water to provide up to a quart of water for each employee, each hour. Establish a hydration schedule at the start of the day and be prepared to modify it as the heat index increases. A rule of thumb is a cup (8 ounces) of cool water every 15 to 20 minutes in a moderate heat index. Again, consult the OSHA–NIOSH Heat Safety Tool and/or your company doctor for advice and ideas.

Step 4: Cooling-off Areas. Employers should establish cooling-off areas in close proximity to the jobsite. These should be available for use by employees during rest breaks, especially as the heat index climbs during the day. Cooling-off areas should also be available to employees anytime they begin to feel the symptoms of any heat illness. An employee who needs to use a cooling-off area should never be permitted to find their own way to the area, especially if it is somewhat remote or removed from the active jobsite. Ideally, the cooling-off area should have an ambient temperature of 76°F.

Step 5: Training. Employers should train employees on the different types of heat illnesses, the symptoms of each, and how to recognize those symptoms in themselves and others. They should also be trained in the first-aid steps to take whenever they see the symptoms in themselves or others. Training also should include such things as staying away from alcohol, highly caffeinated beverages, and energy drinks during the entire period of time they will be working in a high heat index environment. Employees should be warned that anyone with underlying medical issues such as heart disease, diabetes, high blood pressure, etc., and/or a history of prior episodes of heat illness (especially heatstroke) is more susceptible to heat illness than other employees. Other related discussions include appropriate clothing for a high heat index environment. As you can see, training employees on this topic cannot be accomplished in a 5- to 10-minute toolbox talk.

Employers need to document all training as well as the steps taken each day to protect employees in a high heat index environment. Finally, your program has to be supervisor driven. You must ensure that supervisors know that this is NOT something they only tell their employees once and then leave it up to the employees to comply or not. **Site supervisors must understand that they are 100% responsible for ensuring that employees working for them fully comply** with each part of all the steps. Start developing and implementing your heat illness prevention program now. When OSHA does finalize a heat illness prevention standard, you should see specific steps in the standard that you will need to take to be in compliance. Until then, you should follow the outlined steps, or steps close to them, to meet the requirements of the General Duty Clause.



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