

Legal Update Article

How to Beat the Heat, Or At Least an OSHA Citation

June 30, 2022

Related Services

Construction

Workplace Safety and Health

Heat is nothing new for the construction industry, but the Occupational Safety and Health Administration's (OSHA) [new National Emphasis Program \(NEP\)](#) on heat hazards for indoor and outdoor work environments certainly is.

With the arrival of summer, temperatures are high in much of the country and will remain so for months. Protecting workers from heat hazards is a top priority for the current administration. OSHA's new NEP on heat hazards is aimed at protecting workers and the agency is ramping up outreach and enforcement in an effort to eliminate heat hazards in the workplace.

Under the NEP, OSHA will prioritize on-site inspections for complaints and for all employer-reported hospitalizations (*i.e.*, severe injury reports) related to heat hazards, rather than use its informal rapid response investigations. OSHA will also generate random inspection lists and conduct inspections of employers on those lists without advanced warning.

The construction industry is particularly vulnerable to OSHA enforcement activity related to heat hazards. Outside work is in plain view and when the temperature and weather conditions are known to be a concern. OSHA Area Offices will be monitoring National Weather Service (NWS) heat warnings or advisories for the local area and targeting employers for heat inspections on those days.

Construction employers should conduct a job hazard analysis to determine the potential exposures to heat illness, draft a written heat illness and injury prevention plan, and train employees on all of the plan's components. For monitoring the forecasted and current heat indexes, OSHA and NIOSH have created a [Heat Safety Tool App](#).

As part of a heat illness prevention program, employers should:

- Ensure new workers or those returning from a break in employment or vacation are acclimatized, gradually building up to a full workday in the heat.
- Monitor ambient temperature and levels of work exertion at the worksite, categorizing physical exertion levels as low, moderate, and heavy.
- Provide access to cool water for hydration and ensure workers are drinking enough fluids.
- Ensure that workers have sufficient water and rest breaks.
- Provide access to shade for rest periods and air conditioning or other cooling systems if feasible.
- Consider using a buddy system to have workers monitor one another for symptoms of heat illness.
- Train workers to identify the signs and various stages of heat illness, how to report signs and symptoms, when first aid is required, and when and how to contact emergency personnel.

To learn more, or if you need compliance assistance related to heat injury and illness prevention, defense of an OSHA inspection or citations, please contact a member of the [Workplace Safety and Health Practice Group](#) or the attorney with whom you regularly work.

©2022 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.