

OSHA Launches Heat Illness Campaign; Industry Braces For General-Duty Enforcement

OSHA has launched a new national push to make employers aware of heat exposure hazards in the workplace, which the agency says accounts for thousands of worker illnesses every year. While the agency is billing its new campaign as largely an educational drive, industry attorneys tell *Inside OSHA Online* they fully expect OSHA to ramp up enforcement using the OSH Act general duty clause — making the point that OSHA already made outreach on heat illness the priority of an earlier campaign.

The agency said Monday (May 7) it has kicked off the initiative to educate both workers and employers about the hazards of working outdoors in hot weather, building on what it calls last year's successful summer campaign to raise awareness about the dangers of too much sun and heat. OSHA chief David Michaels emphasized that while heat is frequently a concern in agriculture, it also affects workers in many other industries.

"It is essential for workers and employers to take proactive steps to stay safe in extreme heat, and become aware of symptoms of heat exhaustion before they get worse," Michaels said in a press release. "Agriculture workers; building, road and other construction workers; utility workers; baggage handlers; roofers; landscapers; and others who work outside are all at risk. Drinking plenty of water and taking frequent breaks in cool, shaded areas are incredibly important in the hot summer months."

If not quickly addressed, heat exhaustion can become heat stroke, which has killed — on average — more than 30 workers annually since 2003, OSHA said, adding that some activities can raise body temperatures beyond the level that normally can be cooled by sweating. Heat illness initially may manifest as heat rash or heat cramps, but quickly can become heat exhaustion and then heat stroke if simple prevention steps are not followed, OSHA said.

Michaels told reporters in a conference call Monday that if workers experiencing heat-related problems are "lucky" they are able to go into shade and cool down on breaks, but he said frequently that does not occur, leading to heat exhaustion and heat stroke. In many cases, he said, such cases are not reported as heat-related, so it can be difficult to track the actual number of cases.

The OSHA chief said this is an educational and awareness campaign that "doesn't have anything to do with our general duty clause," which he said could be used in appropriate cases "whether or not this campaign exists." As far as identifying and addressing a hazard goes, "this one couldn't be easier," he said. "We think it's an important lesson to get out to people."

Still, business interests are expecting a tougher enforcement push as OSHA continues to drive home the heat exposure issue. "It is actually a little surprising that OSHA would not want to state that the only enforcement mechanism for a 'heat stress' citation is the General Duty Clause, but perhaps OSHA is starting to realize that the General Duty Clause was not meant to be used to issue citations for, literally, everything under the sun," Michael Billok, an attorney with Bond, Schoeneck and King, tells *Inside OSHA Online* in an email, pointing out previous heat stress citations in OSHA's database.

"I've been banging this drum for some time, but OSHA cannot continue to use the same 20 words — 'free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees' — to issue citations for alleged hazards as widely varied as workplace violence, ergonomics, and the flu," he says. "And if it would like to regulate the maximum temperature and humidity during which work can take place, propose a rule. The General Duty Clause, unfortunately, has become a convenient tool for doing an end run around the rulemaking process."

Eric Conn, head of the OSHA Group at Epstein Becker & Green, says in an email that with regard to OSHA's campaign, "it is important to understand that last year was about publicity and this year will be about enforcement. Last year, leading into the summer, OSHA released a lot of public information about the threat of heat-related illness in the form of a YouTube video, public press statements, speeches by senior Department of Labor and OSHA officials, and even a Smartphone App regarding how to recognize heat illness, in what conditions it can become an issue, and how to treat it (e.g., provide breaks in the shade, drink water, etc.). The Smartphone App literally put information into the hands of employees and employers in the field."

Conn adds, "Now that OSHA has done a full year of talking about and producing public materials about heat illness, employers should expect a heavier dose of enforcement this summer."

Numerous resources are available as part of the campaign. OSHA said in preparation for the summer season, the agency has developed heat illness educational materials in English and Spanish, as well as a curriculum to be used for workplace training. Also, a web page provides information and resources on heat illness for workers and employers.

The agency also has released a free application for some mobile devices that enables workers and supervisors to monitor the heat index at their work sites. The app displays a risk level for workers based on the heat index, as well as reminders about protective measures that should be taken at that risk level.

OSHA says in developing last year's inaugural national campaign, the federal agency worked closely with Cal/OSHA, adapting materials from the state's campaign. Also, OSHA is partnering with the National Oceanic and Atmospheric Administration (NOAA) for the second year to incorporate worker safety precautions when heat alerts are issued across the nation. NOAA also will include pertinent worker safety information on its heat watch web page.

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