09/03/2024 OSHA Heat Injury and Illness Prevention section 1910.148

OSHA has finally issued a proposed rule for heat injury and illness prevention. The proposed rule was published in the Federal Register on August 30, 2024. The purpose of this article is to provide a summary of the requirements of the new standard. The proposed rule will become effective sixty days after the final rule is published in the Federal Register. Employers will be required to comply with all requirements of the new standard no later than 150 days after the date of publication of the final rule in the Federal Register. Comments on the proposed rule may be filed with OSHA by December 30, 2024. While the new rule has been published under the general industry standard, 29 CFR 1910.148, it will also be enforced in several other enumerated specific industries .For example, it will be enforced for shipyard employment under standard 29 CFR 1915.95 and it will also be enforced in the construction industry under 29 CFR 1926.67. Beyond this, it will also be enforced under the standards for marine terminals, longshoring, and agriculture.

The new standard will not apply to work activities for which there is no reasonable expectation of exposure at or above the initial heat trigger, which has been defined as 80°F. It will also not apply to short duration employee exposures at or above the initial heat trigger of fifteen minutes or less in any sixty minutes. And it will not apply to work activities performed in indoor work areas or vehicles where air conditioning consistently keeps the ambient temperature below 80°F. Finally, it will not apply to telework activities or sedentary work activities that only involve some combination of sitting with occasional standing and walking for brief periods of time and occasional lifting of objects weighing less than ten pounds.

Section 1910.148(c)(1) will require every employer to develop and implement a worksite-specific heat injury and illness prevention plan (HIIPP) with site-specific information. This plan will have to include a comprehensive list of the types of work activities that are covered by the plan, all policies and procedures which are necessary to comply with the requirements of this standard, and it will have to identify the heat metric that the employer will monitor to comply with the required procedures to identify heat hazards. By metric, the standard refers to either the heat index or the wet bulb globe temperature. If the employer has more than ten employees, the HIIPP must be written. The standard is not clear whether the ten employee requirement refers to total number of employees in the Company or the number of employees on the site affected by the plan. In developing the plan, the employer is required to seek input and involvement of non-managerial employees and their representatives, if any. While it is not stated, you should document whatever efforts you have undertaken to comply with this requirement. You must have your plan available to all employees performing work at the work site. Also, you must review and evaluate the effectiveness of your HIIPP whenever a heat-related illness or injury occurs that results in death, days away from work, medical treatment beyond first-aid, or loss of consciousness, but at least annually.

Under section 1910.148(d), requirements are identified for the employer to monitor heat conditions at outdoor and indoor work areas. For outdoor work areas, the

employer must monitor heat conditions by tracking the local heat index forecasts provided by the National Weather Service (NWS) or other reputable sources, or as close as possible to work areas by measuring the heat index or the wet bulb globe temperature. This monitoring must be done with sufficient frequency to accurately determine your employees' exposure to heat. For indoor workers, you must identify each work area where there is a reasonable expectation that employees are or may be exposed to heat at or above the initial heat trigger (remember, the initial heat trigger refers to a heat index of 80°F or above). You must also develop and implement a monitoring plan covering each work area which you have identified to determine when employees are exposed to heat at or above the initial and high heat triggers. The high heat trigger has been identified as 90°F or higher.

You must seek the input and involvement of non-managerial employees and their representatives when evaluating the work site to identify work areas with a reasonable expectation of exposures at or above the initial heat trigger. This requirement applies whenever there is a change in production, processes, equipment, controls, or a substantial increase in outdoor temperature which has the potential to increase heat exposure indoors. The indoor work area rules do provide for an exemption from monitoring when you can assume that the temperature at a work area is at or above both the initial heat and high heat triggers instead of conducting on-site measurements or tracking the local forecasts. In such cases you must provide all control measures which are outlined for work in areas above the initial heat trigger and work in areas above the high heat trigger.

Requirements for employees who are exposed to heat at or above the initial heat trigger (80°F) include placing drinking water at locations readily accessible to the employee which is suitably cool and in sufficient quantity to provide access to 1 quart of drinking water per employee per hour. You must also provide one or more areas for employees to take breaks that can accommodate the number of employees on break and make the break areas readily accessible to the work area. These areas must provide artificial shade (such as tents or pavilions), natural shade (such as trees), air-conditioning in an enclosed area, but not shade from equipment.. For indoor work sites, the break areas must be provided in areas that are air-conditioned or have increased air movement and, if appropriate, de-humidification, and can accommodate the number of employees on break and are readily accessible to work areas. Also, for indoor work areas, you must ensure that there is increased air movement such as fans or air-conditioned work areas. If you are using fans and the ambient temperature is above 102°F, you must evaluate the humidity to determine if fan use is harmful. If you determine it is, you must discontinue the use of fans. Finally, if your work area is above the initial heat trigger, you must provide for acclimatization for new employees, as well as for returning employees who have been away on vacation or sick leave for more than fourteen days. For those returning employees, acclimatization must be provided for their first week back. You must also allow for rest breaks and encourage employees to take paid rest breaks in the break areas you have established. You must also maintain a means of effective two-way communication with employees and regularly communicate with them regarding your HIIPP. If you provide cooling PPE for employees, you must

ensure that the cooling properties of the PPE are maintained at all times during use by employees.

The requirements of the standard state that if employees are working in areas at or above the high heat trigger (90°F), you must provide them a minimum fifteen-minute paid rest break at least every two hours in the established break areas. The time for employees to walk to and from the break area is not included in the time they are required to rest in the break area. Also, you must provide methods for observation of employees for signs and symptoms of heat stress. These include either a mandatory buddy system or observation by a supervisor or heat safety coordinator (with no more than twenty employees observed per supervisor). For employees who are alone at a worksite, you must maintain a means of effective, two-way communication with those employees. Prior to the work shift, or when you determine the high heat trigger has been met or exceeded, you must notify employees of the importance of drinking plenty of water; their right to, at their election, take rest breaks if needed (as well as or in addition to the rest breaks required by the standard); and how to seek help in the event of a heat emergency. Again, for mobile work sites, you must advise employees of the location of break areas available to them at each new site.

Finally, in excessively high heat areas where the ambient temperatures regularly exceed 120°F, all warning signs must be legible, visible, and understandable to all employees entering those areas.

In addition to the preceding, you must develop and implement a heat emergency response plan in your HIIPP. That plan must include a list of emergency phone numbers; a description of how employees can contact a supervisor and emergency medical services; individuals designated to ensure that heat emergency procedures are invoked when appropriate; and a description of how to transport employees to a place where they can be reached by an emergency medical provider. You must also include clear and precise directions to the work site and procedures for responding to an employee who is experiencing signs and symptoms of heat related illness. If an employee is experiencing signs and symptoms of a heat related illness you must relieve him/her from duty; monitor him/her; ensure they are not left alone; offer them on-site first-aid or medical services before ending monitoring; and provide them with a means to reduce their body temperature. If employees are experiencing signs and symptoms of a heat emergency, you must take immediate actions to reduce their body temperature before emergency medical services arrive. You should contact emergency medical services immediately in addition to the activities noted for a heat related illness.

Your initial training for employees must ensure that each employee is trained and understands heat stress hazards; heat related injuries and illnesses; and the risk factors for heat related injuries or illnesses, including the contributions of physical exertion, clothing, personal protective equipment, lack of acclimatization and personal risk factors such as age, health, alcohol consumption, and the use of certain medications. They must also understand the signs and symptoms of heat related illness; the importance of removing PPE that may impair cooling during rest breaks; the importance of taking rest

breaks to prevent heat related injuries; the importance of drinking water to prevent heat related illness or injury; the location of break areas; the location of employer-provided water; the importance of employees reporting any signs or symptoms of heat related illness in those they observe and their co-workers; all policies and procedures that are applicable to their duties; the identity of the heat safety coordinators on site; the requirements of the OSHA standard; and how they can access the worksite's HIIPP. They must also be advised that they have a right to the protections required by the OSHA standard such as rest breaks and water and that you are prohibited from discharging or in any manner discriminating against any employee who exercises his/her rights under the standard.

The new standard also sets out requirements for supervisor training. You must ensure that each supervisor who is responsible for supervising employees performing any work at or above the initial heat trigger, as well as every heat safety coordinator, receives training on and understands the policies and procedures developed to comply with the standard and the procedures the supervisor or the heat safety coordinator must follow if an employee exhibits signs or symptoms of heat related illness. The employer must also ensure that each employee receives annual training on and understands all subjects required for initial training. You are also required to provide supplemental training promptly to employees whenever changes occur that affect the employee's exposure to heat at work; you change the policies and procedures addressed in your program; there is an indication that the employee has not retained the necessary understanding; or a heat related illness or injury occurs at the work site that results in death, days away from work, medical treatment beyond first-aid or loss of consciousness.

Finally, you are required to maintain records of any on-site measurements at indoor work areas pursuant the standard. You must have written or electronic records of those indoor work area measurements and retain those records for six months.

As you can see, the new standard codifies much of what OSHA has been expecting from employers through enforcement of heat illness prevention under the General Duty Clause. However, codification has a price. I believe that price is a more rigid set of requirements that all employers will have to follow to be in compliance with the heat injury and illness prevention standard. Among these requirements is the requirement that you have a site-specific HIIPP for each site on which you are performing work. Also, you must have specific requirements for employees who are exposed to working at a location or in a facility which meets the initial heat trigger of 80°F. If you look at the OSHA heat tool app, a work area with a temperature of 80°F and 41% humidity is just barely in the warning area, yet because the temperature is 80°F, the employer must meet the minimum requirements for a HIIPP. Because heat illness and injury prevention is a very publicized issue today, in both the local and national media, I feel that this new standard, which will begin to affect many employers in the spring and summer of 2025, will get quite a bit of attention from OSHA.