Heat Illness Prevention

As we move into the summer months it is time for all contractors to consider implementing a heat illness prevention program. There have been increasing reports of heat illnesses in the workplace. Employees, who work in a high heat index environment, are vulnerable to various heat related illnesses. At their worse, heat illnesses can result in the death of the employee. Back in 2011, OSHA instituted a program to make employers aware of the dangers of working in a high heat index environment. Since then there have been numerous OSHA citations of employers for heat related illnesses. The increase in reported cases can partially be attributed to the new OSHA reporting rules that now require reporting the hospitalization for treatment of even one employee (the old rule was three employees) for treatment. Prior to this reports of heat illness injuries were pretty much limited to fatalities, but with the change of rules employers must report employees who are hospitalized for treatment of heat related illnesses.

While there have been numerous reported decisions, the leading OSHRC decision is by Judge Patrick Augustine in March of 2012 in his decision in the case titled 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 employer from heat stroke. Judge Augustine listed five components of the NIOSH criteria document for heat illness prevention as essential for an employer to be in compliance with the OSHA General Duty Clause. Judge Augustine’s decision makes sense, and provides a practical checklist for employers to follow to ensure a safe workplace for employees from a heat illness prevention standpoint.

The steps an employer should take are as follows (be aware that all of these steps need to be implemented and enforced by the site supervisor. You should not rely on employees taking responsibility for self-compliance):

1. Establish an acclimatization program for employees upon their initial assignment to a worksite with 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 from the high heat index environment. Such a program will have all of the remaining four steps, but will also gradually expose the employee to the high heat index environment. Many employers start their employees with one to two hours of labor in the high heat index environment, extending the work hour in the environment over a period of five to ten workdays. I recommend discussing your program with your company doctor to get their 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 steps will vary depending on the heat index at the job site. The point for each of these steps is that the steps taken to protect your employees will vary depending on the heat index to which your employees are exposed.
2. The second step is to have the site supervisor establish a work/rest regimen based upon the heat index on the job site. So, at the start of the work day if the heat index is in the low caution range the site supervisor might schedule rest breaks every 90 – 129 minutes. As the heat index increases into the caution range and higher the rest periods may become longer and more frequent. Again, to be absolutely sure you are doing what is necessary you should run the guidelines you provide to you supervisors by your company doctor.
3. This step involves hydration. Here the NIOPSH Criteria document suggests that employees drink 5-7 ounces of water every 15-20 minutes. Again, I suggest running a hydration schedule as to the quantity of water employees and the frequency over which they should consume it by your company doctor. Again, the quantity and frequency will vary as the heat index varies. In an OSHRC decision involving the Sturgill Roofing Company of Dayton, Ohio in 2015, Judge Carol Baumerich stated that she felt 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 would place a tremendous burden on the employer. Judge Baumerich’s decision is effectively on appeal to the full Review Commission and no decision on that appeal has yet been reached. So, at this time the original language of the NIOSH Criteria Document is still effective.
4. This step requires the employer to provide cooling off areas in close proximity to the jobsite for use by employees as needed. NIOSH has indicated that a cooling off area should have an ambient temperature of approximately 75 degrees Fahrenheit. I believe this is a guideline and you could vary a little from this temperature, especially if you pass the temperature you would like your cooling off area to be by your company doctor. However, as you can guess, sing umbrellas for shade on a 95 degree heat index environment will probably not be sufficient.
5. The final step addressed by Judge Augustine requires you to train your employees in the illnesses that can be caused by working in a high heat index environment, the symptoms of those illnesses, how employees can recognize those symptoms in themselves and others and the first aid actions that should be taken if those symptoms are observes.

The preceding summarizes what you need to do to protect your employees and to have a compliant heat illness prevention program. I highly recommend having at least every site supervisor download the free OSHA heat illness act onto their smart phone or tablet. This app will provide an immediate heat index level at the location at which the app is used and it will also state the OSHA recommendation for steps for you to take to protect your employees.

Remember, you are the employer and therefore the responsibility for the safety of your employees, including their compliance with all safety programs you have to provide for their safety) including heat illness prevention) is yours. Also you should be aware that all General Duty Clause violation as cited as serious violations and OSHA will not negotiate them down to an Other Than Serious. So, if you are cited for not complying with the requirement to have an effective heat illness prevention program you will get a serious citation and you will have just two choices. You will either be able to negotiate it for a lower penalty, but keep it as a serious citation, or litigate it. If you accept it as serious you will have to report it on IS Net World and as a serious on any pre-quals you may have to complete to bid new jobs.