

Protecting employees from heat



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Tips and resources for employers to comply with Oregon’s new heat illness prevention rules

IN 2022, OREGON Occupational Safety and Health Division (Oregon OSHA) adopted permanent rules to protect workers from heat-related illness. As we approach the end of the second summer under the new rules, this article provides an overview of the rules and offers practical tips to assist agricultural employers with compliance.

Oregon’s heat illness prevention rules

The heat illness prevention rules for agriculture are found at OAR 437-004-1131.

The rule requirements are triggered when an employee performs work in conditions where the ambient heat index equals or exceeds 80 F or above (see Chart A, Page 20). The heat index in a

work area is also known as the “apparent temperature” and is calculated to determine what the temperature feels like to the human body when relative humidity and the air temperature are combined. The calculations are published by the National Oceanic and Atmospheric Administration’s National Weather Service.

The rules do not expressly place the onus of calculating the heat index on employers, but we believe that to be the case based on how the rules are written. Employers can determine the heat index by using the OSHA-NIOSH Heat Safety Tool App (<https://TinyURL.com/HeatSafetyApp>) or the online calculator available from the National Weather Service (<https://TinyURL.com/HeatIndexCalculator>).

Access to shade: When the heat index is 80 F or higher, employers must establish and maintain shade areas meeting the following criteria:

- Open to the air on three sides or have mechanical ventilation for



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cooling;

- Accommodate the number of employees on recovery or rest periods so that they can sit in a normal posture, fully in shade;

- Located as close as practicable to the work area;

- During meal periods, must be large enough to accommodate the number of employees on the meal period that remain on site; and

- If trees or other vegetation are used to provide shade, such as in orchards or forests, the thickness and shape of the shaded area must provide sufficient shadow to protect employees.

- If providing shade is not safe or feasible, employers must implement alternative cooling measures that provide equivalent protection.

Drinking water: Employers must provide ample opportunities to drink water

Summary of requirements

When heat index equals or exceeds 80 F

Enough shade provided to accommodate those on their heat illness prevention rest and meal breaks

Cool or cold drinking water; up to 32 ounces per employee per hour.

Acclimatization begins.

Emergency plans developed/updated to address employee exposure to excessive heat.

Develop and implement an acclimatization plan and procedures in writing.

Develop, implement, and maintain an effective heat illness prevention plan in writing.

Provide heat illness prevention training to all employees, including new employees, supervisory and non-supervisory employees.

Training must be documented.

When heat index equals or exceeds 90 F

Implement high heat practices (i.e., a communication system to identify employees that may be experiencing a heat-related illness; a system that allows designated and other employees to call emergency medical services; and a system for monitoring the indoor heat index).

Develop and implement a written heat illness prevention rest break schedule; employers must choose one of three options

Chart A

and ensure an adequate supply (32 ounces per hour for each employee) is “immediately and readily available” at all times and at no cost when the heat index in the work area equals or exceeds 80 F.

The temperature of the drinking water must be between 35 and 77 F.

Water should be replenished throughout the work shift. Employers can also provide electrolyte-replenishing beverages that do not contain caffeine (for example, sports drinks), but should not completely replace the required water supplies with the non-water substitutes.

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Rest break requirements

Heat index temperature	Rest break durations
90 F or greater	10 minutes every two hours
95 F or greater	20 minutes every hour
100 F or greater	30 minutes every hour
105 F or greater	40 minutes every hour

To be able to demonstrate compliance with this requirement, employers should maintain water logs documenting when and how water is provided, including documentation of regular intervals when water is replenished.

High heat practices: If the heat index is greater than or equal to 90 F, employers must implement additional safety measures. Again, documentation is key, including recording rest breaks and regularly training and circulating your Heat Illness Prevention Plan (described in more detail below):

- Employers must ensure effective communication so employees can contact supervisors when necessary and observe employees for alertness and heat-related illness by regularly communicating with employees working alone (radio and cell phone are acceptable), creating a mandatory buddy system, or implementing other equally effective means of observation or communication. Communication must occur in a language and vocabulary readily understood by all employees.
- One or more employees must be designated and equipped at each worksite to call for EMS and allow other employees to call for EMS.
- Employers must: (a) directly measure the temperature and humidity in buildings and structures without mechanical ventilation at the same time and location when occupied by employees to determine the current indoor heat index; or (b) use the NIOSH Heat Safety Tool app to determine the heat index outside of the building or structure and assume that it is the same inside; or (c) if the structure is designed or otherwise known to be affected by outdoor humidity (e.g. hoop houses and greenhouses), measure and use the actual humidity inside the structure.
- Employers must develop and implement a cool down rest-break schedule by choosing from one of three options listed in the rules (see Chart B above). This includes developing an employer-specific

plan that complies with the rule requirements, adopting the plan designed by NIOSH, or adopting the simplified schedule developed by Oregon OSHA set forth below:

Under the simplified schedule, the 10 minute break period is part of the two-hour interval (e.g., 110 minutes of work and 10 minutes of rest).

- Breaks are required only during the specified heat index. If the heat index is not above 90 degrees for at least two hours, no break is required.
- Employers can use different approaches for different groups of employees, as long as employees don't switch between groups.
- Piece rate employees must take the same break as hourly employees.
- The purpose of the heat illness prevention rest breaks is to allow the body to cool down and recover from working, so employers should mandate that the breaks be taken in the shade or an air-conditioned vehicle.
- Breaks may be provided concurrently with required meal or rest periods, except for unpaid meal breaks — the preventative cool down rest period must be compensated.

Emergency medical plan: Employers must adopt an Emergency Medical Plan that addresses employee exposure to excessive heat and must address the types medical situations that employees could encounter, including those conditions relating to excessive heat exposure.

Acclimatization plan: Employers must develop and implement a written acclimatization plan. Employers can either develop their own Oregon OSHA rule-compliant plan or adopt the NIOSH acclimatization plan. Document when employees begin and complete acclimatization, recording the specific measure used to acclimate the employee and

when and how the measures were implemented.

Heat illness prevention plan: Employers must develop, implement, and maintain an effective heat illness prevention plan in writing. The plan must be made available at the worksite to employees and to Oregon OSHA upon request. The plan must contain at least the following:

Chart B

- How employees will be trained on the hazards of heat exposure and the necessary steps to prevent heat-related illnesses;
- How to recognize the symptoms of dehydration, and how to respond to suspected heat-related illnesses in others;
- How sufficient amounts of cool, potable water in work areas will be provided;
- How employees will be provided frequent opportunities and encouragement to stay hydrated by drinking water;
- How employees will be provided sufficient space to rest in a shaded area or cool climate-controlled area, and where heat-affected employees may cool off and recover when signs and symptoms of heat-related illnesses are recognized;
- How the employer will implement the heat illness prevention rest break schedule when necessary to keep employees safe; and
- How the employer will implement heat acclimatization procedures for new employees or employees returning to work from extended absences of seven or more days.

If you have not already done so, do not neglect preparing and circulating a Heat Illness Prevention Plan as soon as possible. Jordan Ramis is available to offer any assistance you need to comply with this requirement and implementing an appropriate plan.

Supervisor and employee training: Employers must provide heat illness prevention training to all employees, including new employees, supervisory and non-supervisory employees in a language and vocabulary readily understood, and in a manner that facilitates employee feedback. The training must be provided ➡

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annually before employees begin work that should reasonably be anticipated to expose them to the risk of heat illness.

Oregon OSHA has imposed a number of specific requirements for that training found in OAR 437-004-1131(9). In addition, OSHA's website contains links to training materials. Do not neglect training for new employees and managers, particularly during periods of rapid hiring to meet seasonal demands.

Training documentation: Employers must prepare and maintain written or electronic training records that can be provided to Oregon OSHA upon request. The records must contain the name or identification of each employee trained, the date(s) of the training, and the name of the person who conducted the training.

The most recent annual training record for each affected employee must be maintained. Employees should also

be required to acknowledge, in writing, that they have been provided training and had an opportunity to ask questions and receive guidance.

Available resources

Oregon OSHA has made a number of heat-related resources available on its website, which is found at <https://TinyUrl.com/OSHAHeatStress>. The website includes detailed information on rule requirements, fact sheets and FAQs, worksite posters, and training materials in both written and video format (in English and Spanish).

Given the high priority Oregon OSHA has placed on these rules, employers should immediately begin implementing these practices, if you have not already done so. Jordan Ramis is ready to provide any assistance and guidance that may be helpful for implementation of the rules. ☺



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