

The Amendments to the Heat Illness Prevention Plan

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On February 20, 2015, the California Occupational Safety and Health Standards Board voted on new changes to the Heat Illness Prevention regulation. The Standards Board voted 5-1 to approve the proposed amended statute. Marley Heart, Executive Director of the Standards Board, requested the Office of Administrative Review to allow for an early effective date. The Office of Administrative Law is responsible for reviewing administrative regulations proposed by the Standards Board to ensure that they are compliant with the California's Administrative Procedure Act. The Office will transmit this amendment to the Secretary of State for publishing in the California Code of Regulations. We expect that the new regulation will be rolled out at the beginning of the heat season, in May of this year.

Employers should promptly update their heat illness prevention plans and train their employees for compliance with the new regulations. What follows below is a quick summary of the amendment to help you revise your plan and get ready for this year's heat season.

Potable Water Requirements

The heat illness regulation previously stated that employers had to provide employees with access to potable drinking water that was clean and maintained through individual dispensers, faucets, or drinking fountains. The Division of Occupational Safety and Health previously cited employers for not providing continuous water to employees and for failing to ensure that the employees have properly marked dispensable cups or bottles to obtain clean water. The regulation also provided that where the employer cannot otherwise continuously supply or replenish employees' water (e.g. with a mobile crew that is located off-site), that it shall provide water in sufficient quantity at the beginning of the shift. The employer must provide each employee with a minimum of one quart of water per hour for the entire shift. The amendment now also states that the water must be fresh, pure, suitably cool, and provided free of charge to employees. Additionally, the water must be located as close as practicable to the areas where employees are working, unless the employer can demonstrate infeasibility.

Shade Requirements

Prior to the amendment, employers were obligated to provide shade to at least 25% of the employees on shade

only when the temperature exceeded 85 degrees.

Now the amendment requires that the employer provide shade when the temperature exceeds 80 degrees and so that it can accommodate the total number of employees on recovery or rest periods. The employer must provide enough shade during meal breaks to accommodate the total number of employees that remain outside. In addition, the shaded area has to be located as close as practicable to the areas that employees are working.

Preventative Cool-Down Rest Periods

The heat illness regulation requires employers to allow and encourage employees to take a minimum of five-minutes for a cool-down rest period if they feel they needed to protect themselves from overheating. Now in addition to allowing and encouraging employees to take cool-down rest periods, employers are required to monitor and ask employees taking rest periods whether he or she is experiencing symptoms of heat illness. Employers are to encourage employees taking a rest period to remain in the shade. Employers are prohibited from ordering employees to work until signs or symptoms of heat illness have been abated.

High-Heat Procedures

Employers have to implement high-heat procedures when the temperature equals or exceeds 95 degrees Fahrenheit. Employers have to ensure that there is effective communication between supervisors and employees. Employers are also obligated to observe employees for alertness and signs or symptoms of heat illness.

In addition to these procedures, the amendment requires that employers assertively monitor employees by instituting: a one supervisor to twenty or fewer employee ratio, a mandatory buddy system, a regular communication through electronic device routine with each employee, or another effective means of communication. Employers are also obligated to designate one or more employees on each worksite as authorized individuals for emergency medical services. If there is no designee on shift, employers must instruct other employees to call for emergency services when required.

The amendment requires pre-shift meetings that must take place before the commencement of work on each shift during high heat conditions. The shift meetings should: review high heat procedures, encourage employees to drink plenty of water, and remind employees of their right to take a cool-down rest break when needed.

Agricultural employers now have additional requirements such as providing employees with ten minute cool down rest periods every two hours. The amendment also clarifies cool-down rest breaks and their impact on the mandatory meal and rest breaks required under the California Industrial Wage Orders and California Labor Code Section 226.7.

Emergency Preparedness Requirements

High-Heat emergency response preparedness requirements now must include: (1) an effective communication with employees by voice, observation, or electronic means; (2) an effective response with first aid measures; and (3) procedures for contacting emergency responders to help stricken workers.

Acclimatization

Employers are to assign supervisors to closely observe and monitor employees during a heat wave. A heat wave is defined as temperatures over 80 degrees Fahrenheit or anytime the temperature is ten degrees higher than the average high daily temperature in the preceding five days. Employers must closely monitor a new employee for the first 14 days of his or her employment in a high heat area.

Training

In addition to all of the previous training requirements, the amendment now specifically requires employers to train employees in: (1) the employer's responsibility to provide water, shade, cool-down rests, and access to first aid; (2) the employees' right to exercise their rights under this standard without retaliation; (3) first aid and emergency response procedures; and (4) concepts and methods of acclimatization.

Heat Illness Prevention Plan

The amendment increased the requirements of heat illness prevention plans. The employer must establish, implement, and maintain an effective heat illness prevention plan in both English and in any language understood by the majority of the employees. The plan must be made available to employees at the worksite and to representatives of the Division upon request. The Heat Illness Prevention Plan may be included as part of the employer's Illness and Injury Prevention Program but must specifically include procedures for the provision of water and access to shade, high heat procedures, emergency response procedures, and acclimatization methods and procedures.

The voluminous changes to the heat regulation are sure to create a large wave of citations this spring and summer. There are tips that you can follow to protect your companies.

10 Tips for Compliance:

1. Review your heat illness and prevention plan and amend it so that it reflects the new requirements including potable water requirements, shade requirements, preventative cool-down rest periods, high heat procedures, acclimation, and training policies and procedures.
2. Review your employee handbook for cool-down rest periods and make sure it is consistent with the new regulations.
3. Review or create new policies and procedures for monitoring employees taking cool-down rest periods.
4. Review or create new plans to monitor employees in high heat conditions by instituting a one supervisor to twenty or fewer employees ratio, a mandatory buddy system, or a consistent practice for supervisors to check in with employees.
5. Review your emergency preparedness plan and make sure it has a designed individual who can call for emergency services when needed.
6. Make sure your emergency preparedness plan includes an effective communication with employees by voice, observation, or electronic means, an effective response with first aid measures, and procedures for contacting emergency responders to help stricken workers.
7. Closely monitor temperature changes to ensure that you are following the amendment's acclimatization requirements.
8. Conduct a site inspection at each of your California facilities to ensure that shade and water is being provided as close as practicable to the areas employees are working.
9. Train your employees and supervisors on the revised heat illness plan and procedures, cool-down rest breaks, and monitoring procedures. Retrain your employees on how to prevent heat illness.
10. Call your attorney for advice on how to revise your plan and procedures.

You can read the text of the amendment at

https://www.dir.ca.gov/oshsb/documents/Heat_illness_prevention_txtbrdconsider.pdf

