

## California Heat Illness Prevention Regulation Amended

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*The California Occupational Safety and Health Standards Board on February 20, 2015, adopted an amendment to the state Heat Illness Prevention regulation changing the requirements for potable water, shade, cool-down periods, high-heat procedures, emergency preparedness, acclimatization, training, and heat illness prevention plans. Employers should update their heat illness prevention plans and train their employees for compliance with amendment. The many changes to the heat regulation are sure to create a large wave of citations this spring and summer as employers comply with the amendment.*

The amendment likely will be effective at the beginning of the heat season, in May, after approval by the Office of Administrative Review and publication in the California Code of Regulations.

### Potable Water Requirements

Currently, heat illness regulation requires employers 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 has cited employers for not providing continuous water to employees and for failing to ensure employees have properly marked dispensable cups or bottles to obtain clean water. The regulation also provides that where an employer cannot otherwise supply or replenish employees' water continuously (e.g., with a mobile crew located off-site), it must provide water in sufficient quantity at the beginning of each shift. The employer must provide each employee with a minimum of one quart of water per hour for the entire shift.

The amendment adds that the water be fresh, pure, suitably cool, and provided free of charge to employees. Further, water must be located as close as practicable to the areas where employees are working, unless the employer can demonstrate infeasibility.

### Shade Requirements

Until the amendment takes effect, employers are obligated to provide a shaded area large enough to accommodate at least 25 percent of the employees when the temperature exceeded 85 degrees Fahrenheit.

The new regulation requires employers to provide shade when the temperature exceeds 80 degrees Fahrenheit and the shaded area must be large enough to accommodate all employees on recovery or rest periods. Further, employers must provide enough shade to accommodate all employees taking on-site meal breaks. In addition, the shaded area must be located as close as practicable to the areas in which employees are working.

### Preventive 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 are in danger of overheating.

The amended heat illness regulation also requires that an employer monitor and ask an employee taking a rest period whether he or she is experiencing symptoms of heat illness. Employers are expected to encourage employees on such breaks to remain in the shade, as needed. The new regulation also prohibits employers from ordering employees to work until signs or symptoms of heat illness have abated.

### High-Heat Procedures

The regulation requires employers to implement high-heat procedures when the temperature is at least 95 degrees Fahrenheit. Employers must ensure that there is effective communication between supervisors and employees and observe employees for alertness and signs or symptoms of heat illness.

Under the new regulation, employers also must monitor employees for signs of heat illness by instituting: (1) a one-supervisor-to-20-or-fewer-employees ratio, (2) a mandatory buddy system, (3) regular communication through electronic device routine with each employee, or (4) another effective means of communication. Employers also are obligated to designate at least one employee at each worksite as

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### Practices

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authorized individuals for emergency medical services. If no designee is on shift, employers must instruct other employees to call for required emergency services.

The amendment requires pre-shift meetings 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.

The new regulation imposes additional requirements on agricultural employers, such as requiring that employees be provided with 10-minute cool-down rest periods every 2 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 the California Labor Code.

### Emergency Preparedness Requirements

Under the amendment, high-heat emergency response preparedness requirements 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

The new regulation requires employers to assign supervisors to observe and monitor employees closely during a heat wave. According to the amendment, a “heat wave” means “any day in which the predicted high temperature for the day will be at least 80 degrees Fahrenheit and at least ten degrees Fahrenheit higher than the average high daily temperature in the preceding five days.” Employers must monitor a new employee closely 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 specifically requires employers to train employees about: (1) the employer’s responsibility to provide water, shade, cool-down rests, and access to first aid; (2) the employees’ ability 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 increases the requirements of heat illness prevention plans. Employers must establish, implement, and maintain an effective heat illness prevention plan in both English and in any language understood by the majority of their employees. The plan must be made available to employees at the worksite and to representatives of the Division of Occupational Safety and Health upon request.

The Heat Illness Prevention Plan may be included as part of the employer’s Illness and Injury Prevention Program, but it must specifically include procedures for the provision of water and access to shade, high-heat procedures, emergency response procedures, and acclimatization methods and procedures.

### 10 Tips for Compliance

1. Review your heat illness and prevention plan and amend it to reflect the new requirements, including potable water, shade, preventive cool-down rest periods, high-heat procedures, acclimatization, and training policies and procedures.
2. Review your employee handbook to see that it provides for cool-down rest periods and ensure it is consistent with the new regulation.
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 the required supervisor-to-employee ratio, a mandatory buddy system, or a consistent practice for supervisors to check in with employees.
5. Review your emergency preparedness plan and ensure it has a designated 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 work areas.
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. Contact your Jackson Lewis attorney for advice on how to revise your plan and procedures.

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