

NEWSALERT



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Workplace Safety

Cal/OSHA Making Changes to Heat Illness Rules

CAL/OSHA has released draft language that would require employers of outside workers to take additional steps to ensure their safety when working in high heat conditions.

The proposed rules were written to implement legislation – AB 2243 – signed into law in 2022 to address heat and wildfire smoke protections for workers. The draft rules, which address only heat, will complement existing heat illness prevention regulations that employers of outdoor workers are already required to follow.

The draft would require some employers to implement extra high heat illness prevention steps when temperatures reach 80 degrees for both indoor and outdoor employers. Under current rules, employers must provide shade for outdoor workers when temperatures reach 80 degrees, but additional high heat protections aren't required until the mercury reaches 95 degrees.

Acclimatization

One part of the draft heat rules revises acclimatization procedures. Under current rules, a supervisor or designee must closely observe all employees during a heat wave, and workers who are newly assigned to a high-heat area must be closely observed during their first 14 days on the job. The draft language changes the term “high heat area” with “an area where the temperature equals or exceeds 95 degrees Fahrenheit.”

The draft also would require employers to either implement high-heat procedures for five working days or adopt a proposed work schedule for new and returning employees assigned to an area where the temperature is at least 80 degrees.

If an employer chooses the work schedule option, an employee's heat exposure would be restricted for the first four days.

Work schedule option

Under this option, an employee's heat exposure would be restricted for the first four days, as follows:

- 20% on day one,
- 40% on day two,
- 60% on day three, and
- 80% on day four.

Employers would not need to implement these acclimatization procedures if they can prove that the new employee has consistently worked under the same or similar conditions in the prior 14 days.

Additionally, the proposed rules would require employers to distribute a copy of their heat illness prevention plan:

- To new employees upon hire,
- During heat illness prevention training, and
- To every employee at least once a year.

An employer is not required to furnish a copy of the HIPP more than twice a year.

See 'Remind' on page 2



Your Workplace Violence Prevention Obligations

AS THE one-year anniversary of California’s workplace violence prevention law approaches, employers will need to take steps to ensure their continued compliance.

The law requires all California employers with 10 or more staff to have a workplace violence prevention plan, provide training and revisit their plan every year.

Cal/OSHA is actively enforcing all aspects of it during its standard workplace safety inspections. Noncompliance with SB 553 can result in fines ranging from \$18,000 to \$25,000 per violation.

Updating the plan

Employers should revisit their workplace violence prevention plan annually to make sure it’s up to date. Pay close attention to parts that identify a certain individual to whom employees are required to report as well as new threats that you have identified.

Prevention Plan Basics

- Identifies who is responsible for implementing and managing the plan.
- Includes details for communicating with employees regarding workplace violence matters, including how to report a violent incident, threat or other workplace violence concern; effective ways to alert employees to the presence of a workplace violence emergency; and how to obtain help from staff assigned to respond and/or law enforcement.
- Includes procedures for post-incident response and investigation.
- Requires the employer to identify, evaluate and correct workplace violence hazards. This may need to be updated if a new hazard is identified.
- Requires the employer to post incident response and investigations.

Don’t forget annual training

Training must be conducted upon hire and once a year thereafter. Training must include:

- An overview of the plan and how to participate in implementing it.
- How to report workplace violence incidents.
- Job-specific violence hazards and preventive measures.
- Explaining the the violent incident log and how to obtain related records.

A final word

Employers are required to keep up-to-date records, including any incidents in the past year, and retain them for at least five years.

While we are only one year into the law, it’s important that employers foster open communication and encourage employees to report potential hazards and concerns without fear of retaliation.



Continued from page 1

Remind Workers to Drink Water and Take Cool-Down Breaks

Current rules refresher

For outdoor workplaces, shade must be present when temperatures are greater than 80°F. When temperatures are less than 80°F, shade must be available upon request.

Shade and cool-down areas must be:

- Blocked from direct sunlight.
- Large enough to accommodate the number of workers on rest breaks so they can sit comfortably without touching each other.
- As close as possible to the work areas.

Encourage workers to take preventive cool-down rest periods and allow those who ask for one to take it.

When the temperature reaches 95°F, employers are required to implement high-heat procedures which must include:

- Observing and communicating effectively with workers.
- Reminding workers to drink water and take breaks.

Employers are also required to:

- Establish, implement and maintain an HIPP.
- Provide first aid or emergency response to any worker showing signs or symptoms of heat illness.
- Closely observe new workers and newly assigned workers in hot areas during a 14-day acclimatization period, as well as all employees working during a heat wave.
- Provide training on the HIPP to workers and supervisors.

How Tariffs Affect Construction, Insurance Costs

PRESIDENT TRUMP'S far-reaching tariffs are starting to bleed into building costs as many of the main materials used in construction are now subject to import taxes.

And as construction costs increase due to tariffs, so does the cost of repairing or replacing materials if damage occurs during construction.

Rising repair and replacement costs make claims more expensive, and, in turn drive up the cost of property and casualty insurance for contractors.

Inputs for construction have already been on the rise for the last six years – particularly in 2020-2022, when the COVID-19 pandemic devastated global supply chains – and now many materials used in building or to build equipment and tools have been hit with hefty tariffs.

Recent material tariff hikes

- **Aluminum** – 25% tariff as of March 12.
- **Lumber and timber** – There is a 14.58% tariff on Canadian lumber, a rate that could rise to nearly 35% in the coming months. The administration is studying whether to impose a 25% tariff on lumber from all nations.
- **Steel** – 25% as of March 12.

Prices for building inputs may rise even higher if tariffs start snarling supply chains, which is a possibility.

Higher tariffs can make imported goods harder to source and more expensive, forcing contractors to find new suppliers or wait longer for deliveries.

That can slow down a construction project, which costs money and increases exposure to a number of risks, including:

- Fire,
- Weather damage,
- Theft, and
- Vandalism,.

Effects on insurance

These policies' premiums are tied to the cost of materials and the length of a project. If building materials like lumber and steel cost more due to tariffs, the insured value of the project increases.

Example: A contractor is constructing a \$25 million office building. If the tariff on imported steel and lumber increases the project cost by 10%, the insured value would increase by \$2.5 million. The insurer accounts for that higher replacement value in its premium calculation, which will result in a larger premium.

Another factor that could result in higher claims costs is snarled supply chains – builders will have to wait longer for materials. That, in turn, can increase the building timeline, requiring the contractor to extend their builder's risk policy.

That will cost more as well, as the insurer will charge for the extension due to the longer exposure it will face.

General liability coverage extension – If delays occur, so will the exposure to increased worksite injuries, damage or third party claims. For each additional day a project takes to complete, the risk of an accident also increases.

Example: If a project extends past its deadline, the general liability policy would need to be extended for the additional time. And it's unlikely that extension will be priced at the same rate as the original liability policy. Insurers will often reprice the policy extension based on the extended exposure and the kinds of subcontractors or equipment that will be on site.

The takeaway

Higher cost of materials and insurance costs will make their way into project budgets, bids and profit margins. Another risk is that insurance certificates may be delayed or found to be noncompliant, which can slow down payments, result in expensive work stoppages and breaches of contract.

With all this in mind, you will need to work closely with your broker well in advance of new projects to ensure that your coverage reflects the reality of higher material costs, the possibility of delays due to procurement issues and more.



Staying Vigilant

Business Growth Can Lead to Increased Risk

GROWING COMPANIES often overlook the importance of properly managing their risk.

Increased activity can result in additional losses. For example, more trucks driving more miles may result in more accidents. However, other kinds of risk can increase more than the jump in business activity. We look at three such areas here.

Workplace safety

Typically, when employers expand their workforce to meet growing demand for their products and services, the number of workers' compensation claims tends to rise disproportionately.

New employees with less experience are more likely to sustain a workplace injury, and overworked experienced staff may also overlook safety or cut corners to get the job done.

What you can do: One option is to hire a temporary-staffing firm to fill positions. But under OSHA's "dual employer doctrine," the hiring employer and the temp agency are both responsible for temporary workers' safety.

Check to make sure the temp agency has workers' compensation insurance.

Litigation

Your workers may be putting in extra hours due to production pressure, but fatigued workers are more prone to making mistakes that can injure third parties or result in shoddy workmanship. In both cases, that opens your firm up to being sued.

What you can do: Conduct thorough interviews, check references and carry out background investigations when appropriate to avoid hiring people with known problems. You are responsible for the actions of your employees.



Also, make sure to provide regular breaks, especially in jobs that require attention and strength.

Labor law violations

As you grow, you have more employees to keep track of, which means a greater chance of failing to comply with labor laws.

In addition, many state governments have cracked down on wage and hour law violations.

As well, some companies may try to add to their worker pool by using more independent contractors to avoid hiring new workers.

You will need to ensure that you comply with the U.S. Department of Labor's rules on independent contractors or with your state's laws, if any.

What you can do: Pay close attention to your payment systems and audit them to make sure you comply with wage and hour laws as well as meal and rest break laws.

The takeaway

Growing companies need to be vigilant about managing risk and should review their existing risk management strategies for gaps due to business growth.

Tips for Avoiding New Claims

- Maintain high standards when hiring new employees, such as conducting thorough interviews, checking references and, where appropriate, investigating backgrounds;
- Properly train and supervise new employees during a growth phase;
- Consider your current policies on temporary workers and weigh the benefits of a flexible workforce against liability issues that temporary workers pose;
- Revisit your policies about independent contractors;
- Ensure you pay workers properly for overtime work to ensure compliance with the law; and
- Keep shareholders informed as much as possible about any mergers or acquisitions, including terms of the transaction.

If you have any questions regarding any of these articles or have a coverage question, please contact your broker at:

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