

Required Rest Break for Employees Who Work Outdoors

Summer Heat is Coming- Make Sure You're Complying with Recovery Period Requirements

Employers in California who have employees that work outdoors should evaluate their business' heat illness risks and prevention programs before the warmer months to ensure they decrease the likelihood of heat illness and are in compliance with California law.



Cal-OSHA requires all employers with “outdoor places of employment” to implement a heat illness prevention program that includes **providing workers five-minute “cooldown” rest breaks** in the shade as employees feel the need to do so. “Outdoor places of employment” is not specifically defined.

Beginning Jan. 1, 2014, under Labor Code Section 226.7, California requires employers to provide one hour of pay to employees for missed recovery or “cooldown” periods to prevent heat illness.

A “recovery period” is defined as “a cooldown period afforded an employee to prevent heat illness.” Employers cannot require an employee to work during a recovery period.

The number of recovery periods, unlike the meal-and-rest periods is not controlled by the length of the scheduled work time in a day. The regulations do not address whether an employer may limit the number of recovery periods in a single shift or work day. They also do not address whether the employer may limit the length of a recovery period to five minutes or some other period.

Thus, at a minimum, employers with outdoor places of employment (or with employees who work outside for part of the day) should consider taking the following steps:

- Revise meal-and-rest-period policies to include recovery periods or implement a separate, written policy providing recovery periods;
- Adopt a written heat illness prevention program or reevaluate written materials for existing programs to ensure compliance with all applicable requirements of Section 3395; and
- Implement procedures to pay employees for missed recovery periods.

Heat illness prevention regulations are not limited to employers in certain industries (such as construction). Under the California occupational safety and health regulations, all employers with outdoor places of employment must adopt and implement a heat illness prevention program.

The regulations apply to all outdoor places of employment regardless of the temperature. Therefore, even employers located in historically cooler areas are within the reach of the heat illness prevention regulations.

When outdoor temperatures exceed 85 degrees Fahrenheit, an employer must provide one or more areas of shade that are open to the air or have ventilation or cooling. When outdoor temperatures do not exceed 85 degrees Fahrenheit, the employer must “provide timely access to shade upon an employee’s request.”

An employer that fails to comply may be required to pay each affected employee one hour of pay, as well as being subject to Cal-OSHA citations and proposed penalties.

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