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# California Update – Indoor Heat Regulation Workplace Violence Prevention

Presented by:

Karen F. Tynan (Sacramento)

Robert C. Rodriguez (Sacramento)



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# Speakers



**Robert Rodriguez**

Sacramento

[robert.rodriguez@ogletree.com](mailto:robert.rodriguez@ogletree.com)



**Karen Tynan**

Sacramento

[karen.tynan@ogletree.com](mailto:karen.tynan@ogletree.com)

# Indoor Heat Illness Standard CCR Title 8, Section 3396



# Written Heat Illness Prevention Plan

- Must have written plan
- Can be integrated into the Injury and Illness Prevention Program (IIPP)
- Maintain the Heat Illness Prevention Plan on site or close to the site, so that it can be made available to employees and representatives of Cal/OSHA upon request
- The written plan should be in English and the language understood by the majority of employees

# California Indoor Heat Illness

- Elements
  - Access to water
  - Access to cool-down areas
  - Temperature Checks
  - Acclimatization
  - Assessment and Control Measures
  - Employee/supervisor training
  - Written procedures



*Practice Pointer – The plan must be provided to an inspector upon request.*

# California Indoor Heat Illness

- Section 3396 – Heat Illness Prevention in Indoor Places of Employment
- When does is regulation triggered?
  - Indoor places of employment
    - If it is not outdoor, it is indoor
  - Temperature triggered – 82 degrees/87 degrees (when employees present)



# Monitor the Weather

- Indoor places of employment impacted by weather
- Track predicted weather for worksite
- What procedures should employers have?
- What sources can be used?



# Access to Water

- Potable drinking water at no cost
- Sufficient quantities of pure and cool potable drinking water
- Enough to provide at least one quart per employee per hour for entire shift
- Must be fit to drink
- Prevent contamination
- Effective replenishment procedures
- Readily accessible

*Practice Pointer – This is the most frequently cited Heat Illness violation in CA.*



# SCENARIO #1

Frankie and Tony work together in the warehouse / distribution area. Frankie tells Tony that he is feeling hot and wants to go take a break in his truck with the AC running so he can listen to music and try to meditate a little to cool down. Frankie says that he will check in with the supervisor on the way to the truck.

What should Tony do?

What are the processes or procedures that the employer should be adhering to?

# Indoor Cool-Down Areas

- At least one cool-down area
- Maintained at less than 82 degrees (unless infeasible)
  - Open to the air or ventilation / cooling
- Blocked from direct sunlight / shielded from high radiant heat sources
- Large enough to accommodate employees in a normal posture
- As close as practicable to work area

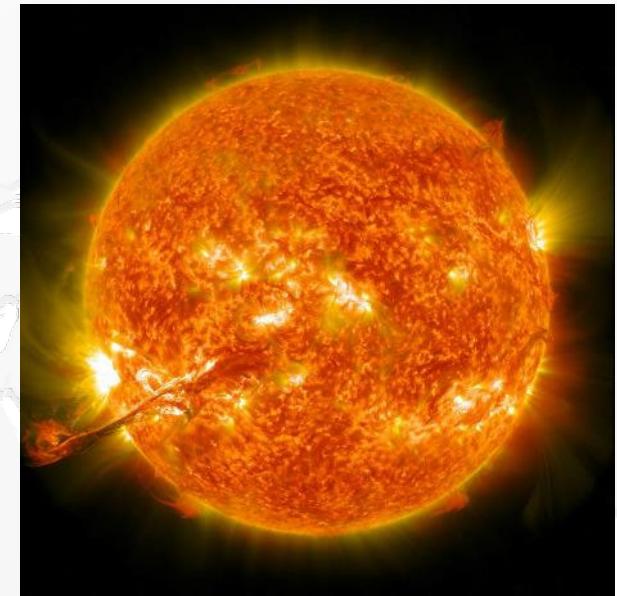
# Preventative Cool-Down Rest

- Must allow and encourage employees to take preventative cool-down rest, no less than 5 minutes plus time to access area cool-down area
- Monitored and asked if they are experiencing symptoms of heat illness
- Encouraged to remain in the cool-down area
- Not be ordered back to work until any signs or symptoms of heat illness have abated
- Access to cool-down areas “shall be permitted at all times”
- Labor Code 226.7(a) → Wage and hour issues

*Practice Pointer – Update your break policy. Incorporate these breaks in policy.*

# Assessment and Control Measures

- Triggered at 87 degrees (actually temperature or heat index)
- Two Choices:
  - Assume workplace is over 87 and applicable
  - Take very specific measurements → Where employees work and at times during the shift when employee exposure to heat is expected to be greatest, including having employees or union involved in taking the temperature



# Assessment and Control Measures (Indoor)

- If 87 degrees or higher, must take additional steps in a phased approach to get the temperature below 87 degrees:
- “Feasible” Engineering Controls → Administrative Controls → Heat PPE
- When assessing whether something is “feasible,” monetary the cost is not a factor that is considered → Variance

# Assessment and Control Measures

- “Engineering controls” to *reduce and maintain both the temperature and heat index to below 87 degrees.*
- An “Engineering Control” is defined as a “method of control or a device that removes or reduces hazardous conditions or creates a barrier between the employee and the hazard.” The proposed regulation provides the following non-exhaustive list of examples:
  - Isolation of hot, processes, isolation of employees from sources of heat, air conditioning, cooling fans, cooling mist fans, evaporative coolers (also called swamp coolers), natural ventilation, where the outdoor temperature or heat index is lower than the indoor temperature or heat index, local exhaust ventilation, shielding from a radiant heat source, and insulation of hot surfaces.

# Assessment and Control Measures

- “Administrative Controls” to minimize the risk of heat illness.
- An “Administrative Control” is a method to limit exposure to a hazard by adjustment of work procedures, practices, or schedules. The proposed regulation provides the following non-exhaustive list of examples:
  - Acclimatizing employees, rotating employees, scheduling work earlier or later in the day, using work/rest schedules, reducing work intensity or speed, reducing work hours, changing required work clothing, and using relief workers.

# Assessment and Control Measures

- “Personal Heat-Protective Equipment” to minimize the risk of heat illness. “Personal Heat-Protective Equipment” is equipment worn to protect the user against heat illness.
- The proposed regulation provides the following non-exhaustive list of examples:
  - Water-cooled garments, air-cooled garments, cooling vests, wetted over-garments, heat-reflective clothing, and supplied-air personal cooling systems.

# Emergency Response Procedures

- Effective communication – be able to contact supervisor
- Respond to signs and symptoms of possible heat illness
  - Supervisor to take immediate action
  - If serious heat illness indicated, implement emergency response procedures
  - Employees exhibiting or reporting signs or symptoms of heat illness should be monitored and not left alone – onsite first aid or appropriate emergency medical services should be offered
  - Contact emergency medical services and ensure that clear and precise directions to the site can be provided
  - Directions to worksite

# Acclimatization

- What is acclimatization?
- All employees shall be closely observed by a supervisor or designee during a heat wave
- Heat wave = any day in which the predicted high temperature for the day will be at least 80 degrees Fahrenheit and at least 10 degrees Fahrenheit higher than the average high daily temperature in the preceding five days
- An employee who has been newly assigned to a high heat area should be closely observed by a supervisor or designee for the first 14 days of the employee's employment
- Best practices?

# Acclimatization

- Best practices?
  - Be attentive to newer employees or ones that have been away
  - Consider lessening the intensity and/or shift length of the newly hired employees' work during a two or more week break-in period
  - Modify the work schedules during hot months



# Training

All employees and supervisors before beginning work that could reasonably lead to heat illness. Required topics -

- Environmental and personal risk factors for heat illness, as well as the added burden of heat load on the body
- Employer's indoor heat illness prevention plan procedures
- The importance of frequent consumption of small quantities of water, up to 4 cups per hour, when the work environment is hot and employees are likely to be sweating more than usual in the performance of their duties
- Acclimatization
- Types of heat illness and Importance of reporting heat illness for themselves or co-workers
- Response procedures and EMS procedures and procedures for communicating to emergency responders

# Additional Supervisor Training

- ✓ Same topics as employees
- ✓ The procedures the supervisor is to follow to implement the required procedures
- ✓ The procedures the supervisor is to follow when an employee exhibits signs or reports symptoms consistent with possible heat illness, including emergency response procedures
- ✓ How to monitor weather reports and how to respond to hot weather advisories

# Issue Spotting – Radiant Heat

## Regulation Requirements –

When employees work in high radiant heat areas, engineering controls shall be used to reduce the temperature and heat index to below 82 degrees F.

UNLESS

The engineering controls are infeasible. If infeasible, then use engineering controls to reduce the temperature or heat index to lowest feasible level; use engineering controls to otherwise minimize the risk of heat illness. Then, use administrative controls.

## SCENARIO #2

Gina is a manager for RCR Vineyards and Winery. Chris comes to Gina and explains that he and others are not able to take enough breaks on hot days. Chris says that he has to do both indoor and outdoor work, and it's a very long walk to the designated area for cool-down rest breaks, and he also says that the long sleeve clothing he's required to wear doesn't allow him to sweat. He says he feels overheated and exhausted on the hot days.

What should Gina do?

# What Will Cal/OSHA Do During a Heat-Related Inspection?

- ✓ Review and dissect your Plan!
- ✓ Review OSHA 300 logs and 301 incident reports for evidence of heat-related illnesses;
- ✓ Review training records
- ✓ Interview workers
- ✓ Document the existence of conditions, such as high temperature, that cause the heat-related hazards;

# Top Heat Illness CSHO Inspector Interview Questions

- Where is your written indoor heat illness plan?
- Do you know what acclimatization is? Have you been acclimatized?
- Where is the water? Is it cold?
- Where do you go to cool off or rest?
- What are the symptoms of heat illness?
- If you feel heat illness symptoms, what do you do?
- Who performs and how is the temperature and heat monitored at this worksite?



# SB 553: Workplace Violence Prevention Plan

# Workplace Violence Prevention Plan

- ✓ Establish, implement, and maintain an effective workplace violence prevention plan
- ✓ Plan must be in writing
- ✓ Accessible to all employees, authorized employee representatives, and Cal/OSHA
- ✓ Stand alone or part of IIPP

# Workplace Violence Prevention Plan

- “[S]pecific to the hazards and corrective measures for each work area and operation”
- What does this mean?
- Different areas may present different risks
  - Example: office area with public access vs. warehouse location
  - Example: winery tasting room vs. vineyard

# Important Definitions

- **Engineering controls** – “an aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the worker and the hazard”
- **Threat of violence** – “any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose”

# Important Definitions

- **Work practice controls** – “procedures and rules which are used to effectively reduce workplace violence hazards”
- **Workplace violence types**
  - Type 1 violence: workplace violence by person who has no legitimate business at the worksite
  - Type 2 violence: workplace violence by customers, clients, patients, students, inmates, or visitors
  - Type 3 violence: workplace violence against an employee by a present or former employee
  - Type 4 violence: workplace violence by person who does not work there, but has or is known to have had a personal relationship with an employee

# Does Your Plan Have These Elements?

- (A) **Names or job titles of the persons** responsible for implementing the plan. If there are multiple persons responsible for the plan, their roles shall be clearly described.
- (B) Effective procedures to obtain the **active involvement of employees** and authorized employee representatives
- (C) Methods the employer will use to **coordinate implementation of the plan with other employers**, when applicable, to ensure that those employers and employees understand their respective roles, as provided in the plan.
- (D) Effective procedures for the **employer to accept and respond to reports** of workplace violence, and to prohibit retaliation against an employee who makes such a report.
- (E) Effective procedures to ensure that supervisory and nonsupervisory employees comply with the plan in a manner **consistent IIPP regulations for ensuring compliance**.
- (F) Effective procedures to **communicate** with employees regarding workplace violence matters ...

# Does Your Plan Have These Elements?

- (G) Effective procedures to respond to actual or potential workplace violence emergencies,**
- (H) Procedures to develop and provide the training required in subdivision (e).**
- (I) Procedures to identify and evaluate workplace violence hazards, including, but not limited to, scheduled periodic inspections to identify unsafe conditions and work practices and employee reports and concerns.**
- (J) Procedures to correct workplace violence hazards identified and evaluated in subparagraph (I) in a timely manner**
- (K) Procedures for post incident response and investigation.**
- (L) Procedures to review the effectiveness of the plan and revise the plan as needed, including, but not limited to, procedures to obtain the active involvement of employees and authorized employee representatives in reviewing the plan.**
- (M) Procedures or other information required by the division and standards board as being necessary and appropriate to protect the health and safety of employees**

# PLAN FREQUENTLY ASKED QUESTIONS

- Can I buy an “off the shelf” plan and be compliant?
- Where should we keep the plan?
- Who can access the plan?
- Does a high ranking manager have to approve the plan?
- Can our plan have some parts that are “front facing” to employees, but also have some confidential information such as active shooter response?
- Should we put our workplace violence prevention plan in the handbook?

# Multi-Employer Worksites

- Coordination with other employers
- Multi-employer worksites
- Must communicate with other employers
- Who will be responsible?

*Examples of multi-employer worksites include construction sites, temp or agency employees assigned to a location, etc.*

# Employer Investigations

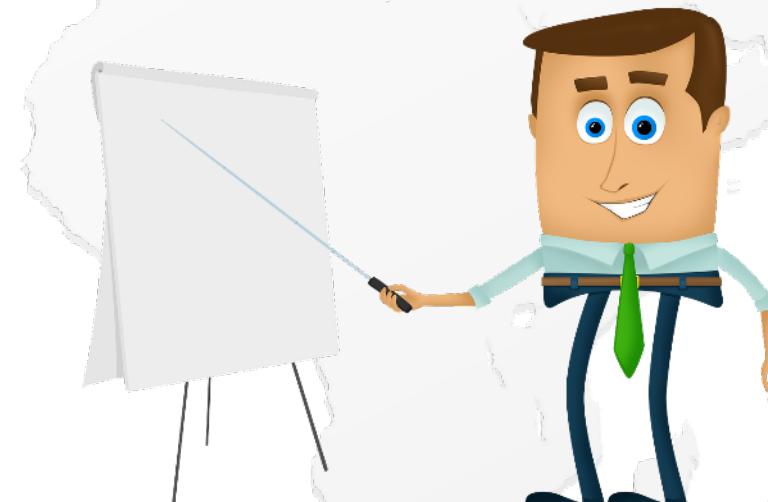
- Employee concerns
- Workplace violence incidents
- Tied to violent incident logs
- Inform employees of results
- Written investigation report – can create complex issues
- Privilege issues – can we protect the investigation with attorney work product?

You must have procedures for investigations.



# Training

- All employees
- Each employee must understand the plan, procedures, and their roles
- Training materials – content and vocabulary to the educational level, literacy, and language of employees must be used
- When first established
- Annually
- Previous unrecognized hazard



# Training Topics

- The employer's plan, how to obtain a copy of the employer's plan at no cost, and how to participate in development and implementation of the employer's plan.
- The definitions and requirements of this section.
- How to report workplace violence incidents or concerns to the employer or law enforcement without fear of reprisal.
- Workplace violence hazards specific to the employees' jobs, the corrective measures the employer has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm.
- The violent incident log required by subdivision (d) and how to obtain copies of records required by paragraphs (1) to (3), inclusive, of subdivision (f).
- An opportunity for ***interactive questions*** and answers with a person knowledgeable about the employer's plan.

# ARE YOU READY TO TRAIN?

- You have your platform / methodology?
- How will you handle the INTERACTIVE part of training?
- Do you have a method to track employee training?
- Is your training customized, including specifics regarding your plan?
- Who will answer the questions that come up during training and provide the answers to employees?
- Who will train the temp workers / contingent workers?

# Violent Incident Logs #1

- Employer must prepare a very detailed log of all workplace violence incidents → not a high-level summary
- Requirements similar to those in a police report
- Log entries based on investigation findings
- Privacy protection for witnesses
- Date, time, and location of the incident
- Types of violence (see definitions)
- Detailed description

# Violent Incident Logs #2

- Who committed violence (i.e., employee, customer, family/friend, stranger, spouse, etc.)
- Where the incident occurred (i.e., workplace, parking lot, etc.)
- Specifics about type of incident (i.e., physical/verbal, weapons, threats, sexual assault, animal attack)
- Date, time, and location of the incident
- Was law enforcement contacted?
- What actions did employer take?

# ARE YOU READY FOR RECORDKEEPING?

- Training records: Must be maintained for at least one year and include training dates, contents or a summary of the training sessions, names and qualifications of persons conducting the training, and names and job titles of all persons attending the training sessions.
- Workplace Violence Prevention Plan: Accessible to employees, employee representative and representatives of Cal OSHA
- Violent Incident Log: Maintain for 5 years
- Records of workplace violence hazard evaluation: Maintain for 5 years



# Q&A



# California Indoor Heat Illness Prevention

## **Model California Indoor Heat Illness Prevention Plan Template**

To help employers meet these new standards, we have prepared a model California Heat Illness Prevention in Indoor Places of Employment Compliance / Template Package. The templates include:

- Model California Indoor Heat Illness Prevention Plan
- Power point training deck
- Hazard assessment form
- Notice to employees
- Overview for stakeholders

Our comprehensive template package is available to clients for \$1,000.00.



[www.ogletree.com](http://www.ogletree.com)

The template package includes the following:

- ✓ A workplace violence prevention plan in Word format, which allows employers to tailor the plan to meet their business needs and specific locations.
- ✓ A training deck in PowerPoint format, which is easy to use and covers all topics required to be in the training for employees.
- ✓ A violent incident log, which the new law requires to be retained for five years.
- ✓ A workplace hazard assessment form for use by employers in addressing workplace threats and exposure.
- ✓ A high-level overview of Section 6401.9 for managers and stakeholders to understand the new requirements.
- ✓ A workplace violence prevention notice for bulletin boards, intranet systems, or other posting platforms to communicate the plan information.

Our comprehensive California Workplace Violence Prevention Plan template package is available to clients for \$1,000.

If you are interested in obtaining the California Workplace Violence Prevention Plan template package, please reach out to the Ogletree attorney with whom you work for additional information.

# RESOURCES and EVENTS

- Ogletree Blogs <https://ogletree.com/insights/>
- Ogletree Events – **ALWAYS SELL OUT!!! REGISTER EARLY!!!**
- California Workplace Safety Conference October 2024
  - Two Sessions: Oakland and Orange County
  - <https://ogletree.com/insights-resources/seminars/2024-10-03/california-workplace-safety-conference-2/>
- National Workplace Safety Symposium December 4-6, 2024
  - New Orleans Marriott Warehouse Arts District
  - <https://ogletree.com/app/uploads/events/seminars/national-seminars/2024-Workplace-Safety-Symposium.pdf>

# Thank you!

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Robert C. Rodriguez

Co-Chair Workplace Violence Prevention Practice Group

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

400 Capitol Mall, Suite 2800 | Sacramento, CA 95814

[robert.rodriguez@ogletree.com](mailto:robert.rodriguez@ogletree.com) | Phone: 916.337.6958

Karen F. Tynan

Co-Chair Workplace Violence Prevention Practice Group

Chair West Coast OSHA Practice

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

400 Capitol Mall, Suite 2800 | Sacramento, CA 95814

[karen.tynan@ogletree.com](mailto:karen.tynan@ogletree.com) | Phone: 707.508.8476



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Deakins