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Cal/OSHA's Indoor Heat Illness Regulation Now in Effect

BY MEGAN STEVENS SHAKED & ANDREA O. CHAVEZ

This morning, the California Department of Industrial Relations issued a press release stating that the Office of Administrative Law (OAL) approved the Cal/OSHA Indoor Heat Illness Regulation yesterday and that the regulation goes into effect immediately.

Indoor Workplaces Requirements

The new **Heat Illness Prevention in Indoor Places of Employment regulation** (Section 3396) applies to indoor work areas where the indoor temperature is 82°F or above when employees are present. The Indoor Heat regulation includes requirements for a written prevention program, employee and supervisor training, provision of water, cool-down rest/areas, assessment and control measures (only applicable when certain trigger temperatures are reached), emergency response procedures, and acclimatization. Note also that the regulation includes over 20 definitions, so careful review of the regulation is needed for compliance.

The regulation is the same as the version approved on March 21, with an additional exemption for prisons, local detention facilities, and juvenile facilities.

As in the prior version, the standard also does not apply to:

- Places of employment where workers are teleworking that are not under the control of the employer.
- Emergency operations that are directly involved in the protection of life or property.
- Incidental heat exposures where a worker is exposed to temperatures at or above 82 degrees Fahrenheit and below 95 degrees Fahrenheit for less than 15 minutes in any 60-minute period. This exception does not apply to:
  - Vehicles without effective and functioning air conditioning.
  - Shipping or intermodal containers during loading, unloading, or related work.

Indoor Heat Illness Prevention Plan

Employers must establish, implement, and maintain an effective written Indoor Heat Illness Prevention Plan that includes procedures for providing drinking water, cool-down areas, cool-down rest periods, acclimatization, heat measurements, emergency response, and control measures. The plan must be in English, and the language

understood by the majority of employees.

Cal/OSHA published a model combined written indoor and outdoor heat illness prevention plan.

Clean Drinking Water

Employers must provide potable water that is fresh, pure, suitably cool, and free of charge. The water must be located "as close as practicable" to work areas and cool-down areas. A sufficient quantity of water must be provided or there must be effective procedures for replenishment, as specified in the regulation. In addition, frequent consumption of water must be encouraged.

Cool-Down Areas and Cool-Down Rest Periods

Employers must allow and encourage workers to take preventative cool-down rests when employees feel the need to do so to protect themselves from overheating. Access to cool-down areas must be permitted at all times. Additionally, employers are required to monitor employees during these cool-down periods for symptoms of heat-related illness. Employees may not be ordered back to work until signs/symptoms of heat illness have abated (no less than 5 minutes in addition to the time needed to access the cool-down area). If an employee exhibits signs/symptoms or reports symptoms during a preventative cool-down rest, the employer must provide appropriate first aid/emergency response.

Cool-down areas must be 1) kept at a temperature below 82°F, 2) shielded from other high-radiant heat sources, 3) blocked from direct sunlight, 4) large enough to accommodate the number of workers on rest breaks, and 5) close as practicable to the work areas.

Assessment and Control Measures

If certain trigger temperatures are reached, employers must also comply with assessment and control measures requirements. Whenever the temperature or heat index reaches 87°F (or 82°F for workers wearing clothing that restricts heat removal or working in high-radiant-heat areas), employers must measure the temperature and heat index and record whichever is higher. The regulation provides specifics about how to take and record measurements, including having effective procedures for obtaining active involvement of employee and union representatives. Employers must also identify and evaluate environmental risk factors for heat illness.

There is an exception from the measurement/assessment requirements where an employer assumes a work area will meet the triggering temperatures (87°F or 82°F for workers wearing clothing that restricts heat removal or working in high-radiant-heat areas). In such a case, the employer may simply comply with the control measures. There is another exception from the measurement/assessment requirements for vehicles with effective and functioning air conditioning.

When the triggering temperatures are reached, employers must then implement control measures as specified in the regulation to reduce the temperature and minimize the risk of heat illness. The regulation contains specifics on the selection of controls measures based on environmental risk factors for heat illness and describes the requirements for engineering controls, administrative controls, and personal heat-protective equipment.

Emergency Response

Employers must implement effective emergency response procedures including, effective communications, responding to signs and symptoms of possible heat illness, contacting emergency medical services, and ensuring clear and precise directions in an emergency.

Acclimatization

Employers must observe employees newly assigned to work in specified high heat conditions during a 14-day acclimatization period and must observe all employees during a heat wave where no effective engineering controls are in use to control the effect of outdoor heat on indoor temperature.

Training

Employers must provide effective training to employees and supervisors before employees begin work that should reasonably be anticipated to result in exposure to the risk of heat illness.

Employees must be trained on a number of topics, including (not exhaustive):

- Environmental and personal risk factors for heat illness.
- Procedures for complying with the regulation.
- The importance of frequent water consumption.
- The concept, importance, and methods of acclimatization.
- Signs and symptoms of the different types of heat illness.
- The importance of workers immediately reporting signs and symptoms of heat illness.
- The employer's procedures for responding to signs and symptoms of heat illness, such as first aid.
- Emergency response procedures, including contacting emergency medical services with clear directions to the worksite.

Supervisors must be trained on additional topics, including for example, how to monitor and respond to hot weather reports (if the work area is affected by outdoor temperatures) and procedures to follow when an employee exhibits signs of possible heat illness.

Employers who are subject to both the Indoor and Outdoor Heat regulations are permitted to integrate training required by both section 3395 and section 3396.

Cal/OSHA Guidance

On June 21, Cal/OSHA published guidance and resources related to the new regulation, including a model combined written indoor and outdoor heat illness prevention plan, FAQs and fact sheets.

Outdoor Heat

The existing Outdoor Heat regulation (Section 3395) remains in effect and applies to outdoor places of employment. The Outdoor Heat regulation also has requirements for the development and implementation of a written program, employee and supervisor training, provision of water, access to shade and cool-down recovery

periods, weather monitoring, emergency response, acclimatization, and additional requirements in high heat (95 degrees F or above) for covered industries.

Additional Information

The new Indoor Heat regulation should be carefully reviewed for additional details regarding compliance.

The draft versions of the Indoor Heat Regulation, including the final version adopted by the Standards Board on June 20th and approved by OAL can be found here.

An overview of the Indoor Heat Regulation can be found in the January edition of Conn Maciel Carey's Cal/OSHA Webinar Series. Access to the webinar recording is available here. Since that webinar was recorded, Cal/OSHA issued its fourth modification of the regulation adding an additional exemption from the regulation for prisons, local detentions facilities, and juvenile facilities, as specified in the regulation. The fourth modification also replaced reference to the heat index equation with the heat index chart included in Appendix A to section 3396.

Please contact Megan S. Shaked, Rachel L. Conn or Andrea O. Chavez with any questions about the new regulation or for assistance with your heat illness prevention programs.

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