

AUGUST 7, 2023 | LEGISLATIVE & STANDARDS BOARD UPDATES

Latest Cal/OSHA Updates: Revised Indoor Heat Illness Standard Released and Advisory Committee Meeting Recap

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Revised Draft Indoor Heat Illness Standard Released

On August 4, 2023, the Standards Board issued its latest revised draft of the Indoor Heat Illness Prevention Standard. During the previous comment period, there was extensive discussion regarding lowering the temperature at which the regulation would apply. However, the latest revised draft maintains the 82 degrees Fahrenheit indoor temperature trigger. Nonetheless, there were notable changes:

- **Additional Exemption:** The Scope and Application subsection now includes an additional exception in (C). Specifically, the revised draft includes an exception for indoor locations that will be considered outdoors and subject to 8 CCR 3395 when they met *all* of the following criteria:  (1) indoor location is not normally occupied when employees are present or working in the area or at the worksite; and (2) indoor locations where employees are present for less than 15 minutes in any one-hour period; and (3) indoor locations not contiguous with normally occupied locations. 8 CCR 3396(a)(1)(C). Notably, this exception does **not** apply to vehicles or shipping containers.
- **Indoor/Outdoor Employee Clarification:** The Scope subsection also allows employers to comply with the Indoor Heat Illness Standard in lieu of the Outdoor Heat Illness Standard when employees go back and forth between outdoors and indoors. 8 CCR 3396 (a)(5).
- **"Cool-Down Area" Includes "To The Extent Feasible":** A cool-down area is now defined, in part, as "...an indoor or outdoor area that is blocked from direct sunlight and shielded from other high radiant heat sources *to the extent feasible...*" (emphasis added). 8 CCR 3396(b)(4).
- **Measurement & Recording Exemption for Air-Conditioned Vehicles:** When vehicles with "effective and functioning air conditioning" are subject to subsection (e) they will be exempt from the measurement and recording assessment and control measures in 3396(e)(1). 8 CCR 3396(e)(B).
- **EMS Clarification:** When an employee is exhibiting signs or symptoms of heat illness the employee cannot be left alone or sent home without being offered onsite first aid and/or provided with emergency medical services (EMS), including *contacting* 8 CCR 3396(e)(2)(C).
- **Integrated Indoor/Outdoor Training:** Employers are permitted to integrate indoor heat illness training into their outdoor heat illness training program. 8 CCR 3396(h).

- **Heat Index Chart Update:** The Heat Index Chart has been expanded to include rows for 80 degrees and 104-125 degrees. 8 CCR 3396, Appendix A.

The latest revised draft is now subject to a 15-day comment period. All comments are due by August 22, 2023. Accordingly, stakeholders should expect additional revisions and we will continue to monitor the development of this rulemaking.

Cal/OSHA's Summer Advisory Committee Meeting Highlights Additional Rulemaking and Enforcement Efforts

Cal/OSHA's summer Advisory Committee Meeting, held on July 27, offered insight into the agency's rulemaking and enforcement priorities. In addition, the Division noted that with a vacancy rate of 37%, hiring remains top of mind throughout the Division. By contrast, the Standard Board has reduced its vacancies to under 10%.

Rulemaking

Cal/OSHA offered updates on the following rulemaking efforts:

- Infectious Disease: Advisory committee meetings expected in 2024.
- Lead: The Division is reviewing the comments from the recent comment period to determine whether further changes are needed before issuing a final rule.
- Silica Emergency Temporary Standard: The first advisory committee meeting is scheduled for August 9th.
- Workplace Violence Prevention for General Industry: A new draft and advisory committee are planned for later in the year.
- Standards Board: Standards Board staff also highlighted their rulemaking priorities, including residential fall protection and a walking working surfaces update. In particular, updates to walking working surfaces were prompted by changes to the corollary federal standards and are necessary for California to remain at least as effective as federal OSHA. However, updates to the walking working surfaces regulation are expected to take years.

Enforcement

Division Enforcement is expanding with two new district offices (Santa Barbara and Riverside), a third High Hazard Unit, and a third Labor Enforcement Task Force (which focuses on combatting the underground economy). A new regional office will be located in Fresno.

The Division also noted that with federal OSHA's announcement about the National Emphasis Program targeting warehouses (see [here](#) for our blog article on the NEP), Cal/OSHA is retooling its own Special Emphasis Program addressing warehouses and expects to issue it soon.

A Final Note About Heat

Heat illness in the workplace is now being addressed through various avenues. In response to last year's Assembly Bill 1643, the Division is participating in the state's heat study advisory board, which is tasked with studying the impacts of heat on workers, businesses, and the economy. As discussed above, the Division continues to work on the indoor heat rulemaking. Then, on the enforcement front, the Division is addressing heat

hazards through its Special Emphasis Program, which covers both outdoor and indoor heat. With respect to indoor heat, the Division noted a significant increase over the last few years in inspections and citations stemming from indoor heat hazards. The Division noted that in 2021 there were only 2 complaints regarding indoor heat. In 2022, there were 204 complaints, resulting in 37 inspections. And in 2023, there were 206 complaints resulting in 74 inspections. Between the requirements of AB 1643, the indoor and outdoor heat illness prevention standards, and the Division's Special Emphasis Program, heat illness prevention will remain in the Cal/OSHA headlines for some time.

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