

# California OSHA Standards Board Moves Closer to Vote on Indoor Heat Illness Standard

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On August 4, 2023, the California Occupational Safety and Health Standards Board (OSHSB) issued its notice to amend the existing Title 8 of the California Code of Regulations to add [section 3396, heat illness prevention in indoor places of employment](#). The Standards Board received [public comments](#) regarding the proposed regulation on May 19, 2023. On August 4, 2023, the Standards Board opened the [15-day notice comment period](#), which ends on August 22, 2023.

## Quick Hits

The Cal/OSHA Standards Board issued its newest proposal to add section 3396, heat illness prevention in indoor places of employment, to the existing Title 8 of the California Code of Regulations.

If enacted as currently proposed, the proposal would require employers to institute and enforce comprehensive heat illness prevention measures in indoor employment spaces where the temperature equals or exceeds 82 degrees Fahrenheit.

The proposed regulation resembles the existing regulation on heat illness prevention in outdoor places of employment under Title 8, section 3395.

The Standards Board will receive public comments on the proposed Section 3396 from August 4 to August 22, 2023.

## Background and Public Comments at Hearing

Currently, California has an Outdoor Heat Illness Regulation for all outdoor places of employment. That regulation has been in effect for over a decade, and California's Division of Occupational Safety and Health (Cal/OSHA) regularly and aggressively enforces it throughout California. The May 19 public comments session included many employer-side representatives including the California Chamber of Commerce whose representatives spoke about the need for clarity and consistency with the current outdoor heat regulation. Employer representatives requested an exception for brief exposures such as those less than fifteen minutes and requested clarity regarding the application to vehicles.

Labor representatives—including unions, labor coalitions, and individual workers from fast food, warehouse workers, logistics, and delivery drivers—urged the board to approve the regulation or lower the trigger temperatures. Employee representatives also requested expanded training, greater recordkeeping, and expanded rest breaks. Employees offered anecdotal information regarding water availability in warehouses, hot vehicles, and overheating during the summer months.

## Proposed New Indoor Heat Illness Regulation

The proposed regulation will cover all indoor work areas where the temperature equals or exceeds 82 degrees Fahrenheit when employees are present, with exemptions for employees working from home. Section 3396's proposed comprehensive requirements are similar to the current outdoor heat illness regulation and would include:

Providing fresh, pure, suitably cool potable drinking water to employees free of charge, including providing at minimum one quart per employee per hour, and maintaining an effective replenishment procedure;

Maintaining one or more cool-down areas, which must be large enough to accommodate all resting employees and cooler than 82 degrees Fahrenheit, at all times while employees are present, as well as allowing, encouraging, and observing employees taking preventative cool-down rests;

Under certain work conditions, measuring the temperature or heat index and recording whichever is higher; identifying and evaluating all other environmental risk factors for heat illness; and using engineering, administrative, or personal heat-protective equipment control measures to minimize the risk of heat illness

Implementing effective emergency response procedures, such as effective communication means at the worksite for employees to contact supervisors or emergency medical services, response measures to possible heat illness signs and symptoms, and contact methods for emergency medical services at the worksite

Closely observing all employees during a heat wave where no effective engineering controls are in use to control the outdoor heat's effect on indoor temperatures or for the first 14 days of employment of employees in certain work conditions;

Providing effective training on all topics to all supervisory and nonsupervisory employees, including specialized supervisor training for work that can reasonably be anticipated to expose workers to heat illness risks;

Maintaining an effective, written heat illness prevention plan both in English and the language understood by the majority of the employees, which must be available at the worksite to employees and Cal/OSHA representatives; and

Integrating the new measures into the existing written Injury and Illness Prevention Program (IIPP) as required under section 3203, the written Heat Illness Prevention Plan as required under section 3395(i), or in a separate document.

At the May 19, 2023 meeting, Cal/OSHA representatives indicated that the Standards Board will likely vote on the proposed regulation in the first quarter of 2024 to implement the new regulation by the summer of 2024.

Ogletree Deakins will continue to monitor developments with respect to heat illness prevention in indoor place and will provide updates on the firm's [California](#) and [Workplace Safety and Health](#) blogs as additional information becomes available.

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