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## Understanding the New California Indoor Heat Illness Prevention Regulations

Kacey R. Riccomini & Cara Strike

### Introduction

For decades, California has experienced prolonged periods of high temperatures due to climate change, posing heightened risks of heat illness to workers across the state as temperatures continue to rise. To provide employees additional protections against these high temperatures, the California Division of Occupational Safety and Health (Cal/OSHA) passed new regulations to prevent heat illnesses in indoor work environments.<sup>1</sup>

Employers were already required to protect outdoor workers from excessive heat exposure.<sup>2</sup> These new regulations take it a step further, requiring most employers to protect workers from heat illness in indoor work spaces as well, when the indoor work space reaches 82 degrees Fahrenheit when employees are present.<sup>3</sup> The regulations went into effect immediately on July 23, 2024.<sup>4</sup> Employers should work with their counsel to take prompt steps to ensure compliance.

<sup>1</sup> CAL. CODE REGS, TITLE 8 (hereinafter 8 C.C.R.) at § 3396.

<sup>2</sup> 8 C.C.R. § 3395.

<sup>3</sup> The narrow exceptions to this section include: 1) employees working remotely from a location not under the employer's control; 2) incidental exposure to heat between 82- and 95-degrees Fahrenheit for less than 15 minutes in a 60-minute period; 3) emergency operations directly involved in the protection of life or property; and 4) prisons, local detention facilities, and juvenile facilities. 8 C.C.R. § 3396(a)(1)(B-E).

<sup>4</sup> News Release, *California Indoor Heat Protections Approved and Go into Effect*, State of California Dep't of Industrial Relations, Release Number 2024-59 (July 24, 2024), available at <https://www.dir.ca.gov/DIRNews/2024/2024-59.html>.

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# Understanding the New California Indoor Heat Illness Prevention Regulations

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## **Key Requirements of the Regulations**

### **Water Access**

Employers must provide employees with fresh, pure, suitably cool drinking water. If the water is not continuously supplied, for instance through a drinking fountain, then the employer is obligated to provide employees with sufficient quantities of water so that each employee can drink at least one quart of water per hour. Employers are also required to provide employees with access to water located as close as practicable to the employee's work areas, and to provide water in the indoor cool down areas, described below.<sup>5</sup>

### **Cool Down Areas**

Employers must maintain one or more "cool-down" areas for employees. The area(s) must be able to accommodate all employees during their rest periods, as well as all employees who remain on site during their meal periods, so that each employee can sit in a normal posture without touching any other employee. The cool-down area must maintain a temperature less than 82 degrees Fahrenheit, unless the employer can demonstrate that maintaining a cooler temperature is infeasible.<sup>6</sup>

Employers must also allow and encourage employees to take preventative breaks in the cool-down area when an employee needs to do so to protect themselves from heat illness.<sup>7</sup> Employees who exhibit signs of heat illness must be afforded at least five minutes of rest time, and employers must provide appropriate first aid or emergency response when appropriate.<sup>8</sup>

### **Measurement and Recording of Temperature and Heat Index**

When employers suspect the heat exposure is the greatest, they must measure and record the temperature and heat index of indoor workspaces, and record whichever is greater between the two, including the date, time,

and specific location of all measurements. Employers must maintain these records for at least twelve months and, upon request, provide the records to employees or appropriate state representatives.<sup>9</sup>

### **Using Controls and Establishing Emergency Response Procedures**

Employers are required to maintain appropriate controls to reduce the indoor temperatures and protect workers from heat-related illnesses. Employers are required to reduce the temperature and heat index to below 87 degrees Fahrenheit, or 82 degrees Fahrenheit if employees wear clothing that restricts heat removal, unless the employer can prove it is infeasible to reduce temperatures to this level.<sup>10</sup>

Moreover, the regulations differentiate controls into two categories: engineering and administrative controls. Engineering controls refer to mechanisms employers can use to reduce and maintain lower temperatures, such as using air conditioning, cooling fans, or natural ventilation systems.<sup>11</sup> Administrative controls refer to ways that the employer can minimize workers' exposure to the heat, such as by adjusting work procedures or scheduling work during times of the day that are cooler.<sup>12</sup> When employers cannot feasibly reduce temperatures below 87 degrees Fahrenheit, employers should use administrative controls to minimize employee's risk of heat illness.<sup>13</sup>

Employers must also implement emergency procedures to respond to employee's heat-related illnesses. These procedures must include effective communication measures, information about how to contact emergency services, and clear direction about how each specific worksite must respond in the event of an emergency heat-related illness.<sup>14</sup>

<sup>5</sup> 8 C.C.R. § 3396(c).

<sup>6</sup> 8 C.C.R. § 3396(d)(1).

<sup>7</sup> 8 C.C.R. § 3396(d)(2).

<sup>8</sup> 8 C.C.R. § 3396(d)(3).

<sup>9</sup> 8 C.C.R. § 3396(e).

<sup>10</sup> 8 C.C.R. § 3396(e)(2)(A).

<sup>11</sup> 8 C.C.R. § 3396(b)(5).

<sup>12</sup> 8 C.C.R. § 3396(b)(2).

<sup>13</sup> 8 C.C.R. § 3396(e)(2)(B).

<sup>14</sup> 8 C.C.R. § 3396(f).

### Acclimatization Measures

The regulations describe the concept of acclimatization (i.e., that individuals adjust to warmer weather when gradually exposed to the heat).<sup>15</sup> Thus, employers have heightened obligations to supervise workers who are suddenly in a high risk, warm area, including new workers for at least 14 days after their hire, and all employees during a heat wave.<sup>16</sup>

### Written Indoor Heat Illness Prevention Plan

Employers must develop and implement a detailed written Indoor Heat Illness Prevention Plan (IHIPP). The plan is not required to be a standalone document. For instance, employers may integrate the IHIPP under plans currently required, such as the employer's Injury Illness Prevention Plan (IIPP)<sup>17</sup> or their Heat Illness Prevention Plan (HIPP).<sup>18</sup> The regulations require that the IHIPP include many specific provisions, including procedures to abide by the new regulations for employee access to water, access and procedures to use the cool down areas, how the employer will measure the temperature and heat index, emergency response procedures, and the employer's acclimatization procedures.<sup>19</sup>

### Training and Education

The regulations also require that employers train both supervisory and nonsupervisory employees regarding these new regulations and heat-related illness risks.

Before a non-supervisory employee begins to work, the employer must train the employee on:

- Environmental and personal risk factors for heat illness and the importance of consuming water.<sup>20</sup>
- The employer's procedures for compliance with the IHIPP, including the employer's medical emergency response procedures, acclimatization methods, and the worker's right to exercise their rights under the IHIPP without retaliation.<sup>21</sup>

- Different types of heat illnesses, appropriate first aid response, and the importance of reporting signs of heat illness.<sup>22</sup>

Before a supervisor begins to supervise employees who may be at risk of heat illness, the employer must train the supervisor about the following:

- The categories of information that are required to be included in employee training pursuant to these regulations.<sup>23</sup>
- The supervisor's required actions pursuant to the IHIPP plans, including what to do when an employee exhibits signs or reports symptoms of possible heat illness.<sup>24</sup>
- When the work area is impacted by high temperatures, instructions regarding how to monitor weather reports and respond to hot weather advisories.<sup>25</sup>

### Conclusion

Cal/OSHA's new indoor heat illness prevention regulations promote a safer work environment. Employees who are dehydrated, dizzy, or otherwise incapacitated as a result of heat illness are likely less productive and more prone to commit mistakes in the workplace. Creating cooler indoor work environments may create a better work environment for the employer and employee. As California continues to see record-high temperatures year after year, these regulations are likely not the last to ensure employee safety in hot environments. California employers should work with their counsel to implement the new regulations, monitor for future regulatory developments, and take steps to keep workers safe in a changing climate.

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<sup>15</sup> 8 C.C.R. § 3396(b)(1).

<sup>16</sup> 8 C.C.R. § 3396(g). Heat wave is defined as any day where the "predicted high outdoor temperature for the day will be at least 80 degrees Fahrenheit and at least ten degrees Fahrenheit greater than the average high daily outdoor temperature for the preceding five days." 8 C.C.R. § 3396(b)(10).

<sup>17</sup> 8 C.C.R. § 3203.

<sup>18</sup> 8 C.C.R. § 3395(j).

<sup>19</sup> 8 C.C.R. § 3396(i)(1-5).

<sup>20</sup> 8 C.C.R. § 3396(h)(1)(A and C).

<sup>21</sup> 8 C.C.R. § 3396(h)(1)(B), (D), (G-I).

<sup>22</sup> 8 C.C.R. § 3396(h)(1)(E-F).

<sup>23</sup> 8 C.C.R. § 3396(h)(2)(A).

<sup>24</sup> 8 C.C.R. § 3396(h)(2)(B-C).

<sup>25</sup> 8 C.C.R. § 3396(h)(2)(D).