

CALIFORNIA INDUSTRIAL HYGIENE COUNCIL

*Advancing public policy to improve the health and safety
of workers and the community.*

May 18, 2023

Via email: OSHSB@dir.ca.gov

Sarah Money
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

Subject: Comments on Proposed Indoor Heat Illness Prevention Regulation
(new 8 CCR 3396)

Dear Ms. Money:

The California Industrial Hygiene Council (CIHC) appreciates the opportunity to comment on the proposed new Cal/OSHA regulation on Indoor Heat Illness Prevention, specifically 8 CCR 3396. We appreciate the challenges this issue has presented, and the time from Board staff and DOSH staff on this issue.

CIHC represents occupational and environmental health professionals in California to advance public policy for the improvement of the health and safety of workers and the community.

Exposure to excess heat in the work environment (whether indoors or outdoors) has well-documented potential adverse health effects. Control of exposure is critical. CIHC understands that this proposed regulation is intended to ensure that employers with indoor places of employment implement protective measures to control the impact on workers, and that these measures include access to drinking water and cool-down areas, close observation during acclimatization, training, timely provision of emergency aid, and in situations of significantly higher heat exposure, mandatory assessment and control strategies. The goal with regulations should be to assure that requirements are effective for exposure control, are appropriately applied, and can be correctly implemented. CIHC is concerned that this regulation is taking a “one size fits all approach” that does not account for exposure to heat in indoor work environments that is as varied as the industries in which potential exposure is a concern.

CIHC has the following recommendations:

1. Adopt the ACGIH TLV[®] approach. The bill (SB1167, signed during 2016 legislative session) stated that the standard should consider the ACGIH TLV[®] for heat. This was also discussed during advisory committee meetings. The proposed language clearly does not incorporate the TLV[®] approach.
2. The standard sets an initial indoor trigger temperature, reference 3396(a)(1), without consideration of regional outdoor temperature differences in our state that may have impact on the indoor temperature, e.g., Fresno is typically subject to much higher outdoor temperatures from May through September as opposed to the much lower outdoor temperatures for San Francisco. Again, one-size fits all is not an appropriate approach. The outdoor temperature for the region as well as the associated indoor temperature for a specific work environment will contribute to the acclimatization of the workers.


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3. Consider incorporating a “heat wave” approach that would trigger implementation of certain control strategies when there is “excessive” heat given the work environment geographical location.
4. The proposed regulation does not consider work activity levels like NIOSH and ACGIH do in their recommended strategies. Work activity level is extremely important, particularly indoors, and needs to be accounted for in the proposed language.
5. The proposed language could require the employer to take action even when within the Heat Index acceptable range (when considering temperature and relative humidity) under many instances. An employer should be able to calculate a WBGT based on reported temperature and relative humidity or take a dry bulb temperature, as best suits their operations, to determine if action is required. And again, the activity level of the worker should be considered.
6. Time of exposure to temperature(s) of concern is not incorporated, and needs to be addressed. Duration of exposure is a key factor when considering potential for impact.
7. Regarding 3396(e)(1): “As specified in subsections (e)(1)(A) through (e)(1)(D), the employer shall measure the temperature and heat index, and record whichever is greater. The employer shall also identify and evaluate all other environmental risk factors for heat illness.” - CIHC recommends striking out "environmental" and simply state “other” risk factors. Not all risk factors are environmental. Same comment for item (e)(1)(D)2.
8. Regarding 3396(e)(1)(C): “Instruments used to measure the temperature or heat index shall be used and maintained according to the manufacturers’ recommendations. Instruments used to measure the heat index shall utilize NWS heat index tables.” CIHC recommends including the NIOSH Heat Illness app or similar apps as alternatives to the NWS heat index tables. Further, recommend clarifying whether NWS heat index tables are the same as information presented in proposed Appendix A “National Weather Service Heat Index Chart (2019)”.
9. CIHC recommends not including Appendix A with information that references a specific date. Alternatively, if an appendix is included, indicate whether the use of the appendix is mandatory or non-mandatory and whether other information sources/references with equivalent information are acceptable.

CIHC appreciates the opportunity to have participated in the advisory committee for this proposed regulation. Thank you for your time and consideration. If needed, please contact me on behalf of the CIHC at (916) 712-4547 or kwa-sacramento@att.net.

Very truly yours,
California Industrial Hygiene Council



Pamela Murcell, MS, CIH
President, CIHC