

Cal/OSHA Prepares Drafts of Heat Illness Prevention in Indoor Places of Employment Regulation

By Matthew Thomas Deffebach | March 22, 2018

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In October 2016, Governor Brown signed and approved California Senate Bill 1167, which went into effect on January 1, 2017. That Bill added California Labor Code section 6720 to state, “By January 1, 2019, the division shall propose to the standards board for the board’s review and adoption, a standard that minimizes heat-related illness and injury among workers working in indoor places of employment. The standard shall be based on environmental temperatures, work activity levels, and other factors.”¹

To fulfill this directive, the Division of Occupational Safety and Health (DOSH) convenes advisory meetings from time to time to develop a proposed regulation. The first advisory meeting took place about a year ago on February 28, 2017, where stakeholders and the public had an opportunity to provide input on occupational health issues and practical issues to be considered in controlling employee exposure to indoor heat. After each meeting, minutes and comments are posted [online](#). The current proposed draft of the regulation is also posted at the same web address. Two additional advisory meetings have taken place since the February 2017 meeting: one on May 25, 2017 and another on February 8, 2018.

Current Status

Although the minutes from the February 8 meeting have not been posted yet, the firm understands that a primary focus of that meeting was whether to propose a standalone regulation or propose new language to be added to Section 3395 of the General Industry Safety Orders, which provides standards applicable to outdoor heat illness.²

At the February 8 meeting, both the labor and employer interests favored a standalone version of the regulation (known as “Option B”). In response to these interests, on February 15, 2018, DOSH issued a revised draft of the standalone regulation. The current draft of the Proposed Regulation, which is attached to this memorandum, contains four key revisions:

1. Exemption of professional and administrative office settings where temperatures are less than 85 degrees Fahrenheit
2. Elimination of a “light work” exception, which labor interests claimed was a loophole for employers
3. Elimination of the need for a contingency plan that was triggered when temperatures exceeded 90 degrees Fahrenheit in exempt workplaces
4. Revision of the definition of “Indoor”³

The Proposed Regulation is currently in the first step of the approval process (during which DOSH conducts preliminary work to prepare proposed text for a new or updated standard”). DOSH is

expected to propose the Regulation to the Cal/OSHA Standards Board by January 2019. It is unclear if there will be additional advisory meetings, but if it turns out that there are no additional meetings, there will be at least two comment periods open to the general public during which employers will have an opportunity to weigh in on the Regulation.⁴

¹ California Labor Code section 6720. This is an entirely new section that only addresses the Division's responsibility to propose a new indoor heat illness standard to the Standard's Board.

² California Code of Regulations, Title 8, Section 3395.

³ It is difficult to determine the full significance of these revisions beyond their plain language until the February 8 minutes are released by the Division. Future updates will provide further analysis as additional information becomes available.

⁴ Information related to the Proposed Regulation including [agenda and minutes](#) for advisory meetings.