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May 5, 2026

Cal/OSHA Research and Standards Unit

RS@dir.ca.gov

Division of Occupational Safety and Health (Cal/OSHA)

1515 Clay Street, Suite 1901

Oakland, CA 94612

Re: Draft Cal/OSHA Language for Section 3397, **Heat Illness Prevention in Indoor Correctional and Detention Facilities**

Dear Cal/OSHA Research and Standards Unit,

The American Federation of State, County and Municipal Employees' 1.4 million members serve in hundreds of occupations, providing the vital services that make America happen. In California, AFSCME members staff corrections, detention and juvenile justice facilities, providing health care, counseling, emergency services and dietary support. AFSCME advocates to protect the lives and safety of all working people, and promotes fairness in the workplace, excellence in public service and freedom and opportunity for working families.

AFSCME members in California work for the Department of Corrections and Rehabilitation as physicians, dentists, podiatrists, audiologists, optometrists, psychiatrists, psychologists, clinical social workers, physical and occupational therapists and registered dietitians. Many California prisons lack air conditioning or cooling, and our members working in prisons experience the same temperature and humidity extremes as the incarcerated people they serve.

AFSCME strongly supports recent Cal/OSHA standards to protect outdoor and indoor workers from injury, illness and death caused by uncontrolled exposures to heat. We urge Cal/OSHA to provide effective occupational heat protections for members working in prisons, detention, rehabilitation and juvenile justice facilities.

The proposed *Heat Illness Prevention in Indoor Correctional and Detention Facilities*, (Draft Section 3397) will not effectively protect workers in these environments from heat exposure. Draft Section 3397 omits essential heat safety requirements that are clearly defined in Section 3396, *Indoor Heat Illness Prevention*. Section 3397 weakens employer responsibilities to assess risk, maintain documentation, protect lone workers or provide effective heat stress prevention education and training. Recommendations in Section 3397 contradict best practices published by Cal/OSHA in the Department of Industrial Relations' [Frequently Asked Questions Related to Indoor Heat Illness Prevention](#). Additionally, Draft Section 3397 requirements contradict consensus heat illness

American Federation of State, County and Municipal Employees, AFL-CIO

TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

and injury prevention standards published by NIOSH, ANSI/ASSP and ACGIH, and the [Heat Injury and Illness Prevention Work Group of the National Advisory Committee on Occupational Safety and Health](#).

Most concerning, Section 3397 removes references to the assessment of Heat Index as a measure of occupational heat exposure risk. The heat index measures how hot temperatures feel, combining relative humidity with temperature to assess true physiological risk. OSHA/NIOSH's [Heat Safety Tool App](#), the National Weather Service, NOAA and other reputable sources provide information that includes temperature and heat index; both of which are necessary to effectively plan for high heat events. Wet Bulb Globe Temperature measurements are the gold standard for measurement of risk. Barring access to this, temperature and heat index measurements are the minimum needed to protect workers from heat injury. At 82°F (the employer's heat control action threshold set for California indoor workers under Section 3396), higher humidity levels may create a real-feel heat index above 90°F. At 86°F, humidity exposures may lead to a heat index of 91° to 112°F. Yet the heat control action threshold proposed in Section 3397 is 87°F, not 82°F, with no justification for the change provided. Section 3397's heat control action threshold of 87°F will not assess the additional risk caused by humidity, radiant heat, metabolic workload, personal protective equipment (PPE) or heavy work clothing.

Section 3397 strips the 82°F heat control action threshold from employer requirements and removes heat index definitions, mandatory heat index measurements and recordkeeping. It removes safety information from worker training about the heat index and how that intensifies heat stress, weakening training effectiveness. Temperature assessments and 87° F action thresholds alone will not protect people from exposure to heat stress, injury and illness at work.

AFSCME urges Cal/OSHA to include heat index definitions, assessments and action requirements in Section 3397 to match those established in FAQs and Section 3396, so that workers laboring in prisons, jails, rehabilitation and juvenile justice centers will be protected from heat exposures at work.

Additional Section 3397 opportunities for improvement:

- Section 3397 removes definitions of high radiant heat areas, omitting hazards caused by radiant heat sources, such as kitchens, laundries or mechanical equipment areas.
- Section 3397 limits definitions of and training about heat illness, omitting information on early warning signs and symptoms of heat stress such as heat rash, profuse or no sweating, and removes mandatory discussion of warning signs including hyperthermia or hyperpyrexia, slurred speech, rhabdomyolysis, dark colored urine, confusion or loss of coordination.
- Section 3397 weakens vital components of the employer's responsibility to keep **accurate records of high-heat events and their connection to heat exposure injuries and illnesses** by removing responsibilities to measure, assess, monitor and record heat index levels in the workplace.
- Section 3397 removes requirements to mitigate high metabolic heat loads that are caused by **full body coverage clothing and PPE that restrict heat removal**.

- Section 3397 removes definitions of clothing that restricts heat removal, such as clothing that is waterproof, designed to protect the wearer from workplace hazards or contamination and including health care associated biological contamination.
- Section 3397 weakens responsibilities to implement heat engineering controls by removing requirements for prevention methods to counteract high heat index levels, humidity or radiant heat, in addition to lowering ambient indoor temperature.
- Section 3397 includes ineffective and limiting definitions of personal heat-protective equipment when referring to cooling methods and PPE:
 - Personal heat-protective equipment should not include “wetted overgarments.” Wetted overgarments are not PPE. Wet towels, wetted fabric or overgarments may serve as first aid options for workers showing signs and symptoms of heat stress. **Wetted overgarments cannot replace requirements for health monitoring, rest, hydration and cool-down areas.**
- Section (d) of Section 3397 deals with Access to Cool-Down Areas. Paragraph (d)(2) states, Employer shall allow and encourage employees to take preventative cooldown rest in a cool-down area when employees feel the need to do so to protect themselves from overheating, and such access to cooldown areas shall be permitted at all times. AFSCME supports this statement.

AFSCME strongly opposes the Exception to Paragraph (d)(2), Cool-Down Areas. Conditions of the Exception appear to remove employers’ responsibility to protect workers from heat stress, injury and illness when staffing levels are low and a relief employee is not easily available to allow the employee experiencing heat stress to access a cool-down area.

- Exception to subsection (d)(2): Where the employer can demonstrate that allowing an employee to take a preventative cool-down rest in a cool-down area would imperil safety or security or disrupt services or programming for the incarcerated, and a relief employee cannot be provided without imperiling safety or security or disrupting services or programming for the incarcerated, the employer shall implement the following until a relief employee can be provided or the rest can be taken, whichever occurs first, without imperiling safety or security or disrupting services or programming for the incarcerated:

In addition to hydration, workers’ right to immediately access rest and a cool-down area when experiencing heat stress symptoms is essential to minimize risk, injury and illness. Symptoms of untreated heat stress can escalate quickly into life threatening illness. The employer must have an effective response plan in place to protect all workers from heat stress; and the protective methods described in Exception to Paragraph (d)(2) are not effective.

- While Exception to Paragraph (d)(2) terms imperil safety or security for the incarcerated are clear as exemptions, the terms disrupting services or programming for the incarcerated are not defined. This language appears to allow the employer to deny impacted workers access to cool-down areas when staffing levels are low and inmate programming could potentially be delayed.

- **Communication and monitoring:** AFSCME has concerns about the communication and monitoring paragraphs in *Exception to Paragraph (d)(2): (A) Maintain an effective system of communication to monitor the employee and ask if they are experiencing symptoms of heat illness.* Effective systems of communication to monitor the employee are not described or defined. When workers experience advanced symptoms of heat stress, such as hyperthermia or hyperpyrexia, they may be unable to effectively communicate in the absence of another responsible employee who is present and has been trained to recognize heat illness, provide first aid and respond to emergencies. That is why a “buddy system” has been recommended for people working in high heat situations when they are not under direct supervision.
- **Cooling PPE and Emergency Response/First Aid:** AFSCME opposes the language in *Exception to Paragraph (d)(2): (E) Provide the employee with personal heat-protective equipment or a cooling towel that is always wet.*
 - **Wet cooling towels are not equivalent to PPE;** and do not replace the need for rest, hydration and access to a cool-down area. Wet cooling towels are a form of first aid. The use of the word or in *Paragraph (d)(2): (E)* suggests that a wet cooling towel is adequate to replace access to rest breaks and cool-down areas when workers experience heat stress. It is not.
 - **PPE cannot replace the need for rest and immediate access to a cool-down area with hydration when workers experience signs and symptoms of heat stress.** PPE is not a substitute for administrative controls and cannot effectively mitigate hazards of high heat exposure.

AFSCME strongly believes that the *Exception to Paragraph (d)(2)* in Draft Section 3397 potentially place California workers’ lives at risk during times of heat exposure.

We urge Cal/OSHA to update Section 3397, the *Heat Illness Prevention in Indoor Correctional and Detention Facilities*, to at least match minimum requirements established in Section 3396, *Indoor Heat Illness Prevention*, so that workers in prisons, detention centers and juvenile justice facilities are provided equal protection from heat exposure as other California indoor workers.

Sincerely,

/s/ Ellie Barbarash

Ellie Barbarash, MS, CPEA
Certified Professional Environmental Auditor/ Safety and Health
Senior Health and Safety Advocate
Department of Research and Collective Bargaining Services