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May 8, 2026

Cal/OSHA Research and Standards
1515 Clay Street Suite 1901
Oakland, CA 94612
Attn: Eric Berg, Deputy Chief
VIA ELECTRONIC MAIL to: RS@dir.ca.gov

RE: Discussion Draft – §3397 Indoor Heat Illness Prevention in Correctional and Detention Facilities

Dear Mr. Berg,

The California Nurses Association/National Nurses United (CNA/NNU), representing more than 100,000 registered nurses, appreciates the opportunity to comment on the discussion draft “§3397 Indoor Heat Illness Prevention in Correctional and Detention Facilities” developed by the California Division of Occupational Health and Safety (Cal/OSHA, hereinafter “Division”). We would also like to thank the Division staff for the comprehensive and informative Advisory Meeting held on this issue on May 7, 2026, and for their work in extending indoor heat illness protections to carceral and detention facilities.

Protecting workers, including incarcerated populations, from exposure to heat-related injuries and illnesses is important. As clinicians and patient advocates, nurses see firsthand the importance of implementing strong regulatory and administrative protections to shield our patients against heat hazards. We are concerned, however, that the discussion draft does not go far enough to protect workers in these settings. CNA/NNU urges the Division to strengthen the discussion draft by aligning the temperature and heat thresholds in §3397 with those established by §3396 Heat Illness Prevention in Indoor Places of Employment, amending the exemptions for cool-down areas, and fully implementing the hierarchy of controls, as set forth below.

I. The Division should align the temperature and heat thresholds in §3397 with those established by §3396 (general industry standard) to avoid an unjustifiable two-tier standard.

The discussion draft unjustifiably requires a heat threshold of 87 degrees Fahrenheit, which is higher than the 82-degree threshold established by §3396 for workers in general industry. Heat hazards impact bodies the same, regardless of workplace. The 5-degree disparity in heat thresholds creates an unfair two-tier standard. Even a few degrees of additional heat can quickly translate into the difference between life and death, particularly for vulnerable populations.

Nurses and other workers in carceral and detention settings often wear several layers of uniform while constantly moving from one unit to another, sometimes for 16-hour shifts when workers

are forced to work mandatory overtime due to understaffing. Carceral and detention workers perform a wide variety of work,¹ including janitorial, laundry, kitchen, and facility maintenance where they face significant heat stress from radiant heat sources, like ovens and other equipment, on a frequent basis. However, under the discussion draft, employers are not required to implement measures whenever employees wear clothing that restricts heat removal or work in high radiant heat – unlike the general industry standard.

Moreover, the discussion draft does not require heat index measurements, which is an important metric for measuring how the temperature feels to the human body, estimating worker risk, and activating heat risk reduction measures – unlike the general industry standard. Occupational heat stress can quickly escalate into a medical emergency, so removing heat index measurements means employers will fail to act promptly, endangering the health and safety of workers. The same temperature and heat thresholds established by §3396 for workers in general industry should be applied for workers in carceral and detention settings.

II. The Division should limit the overly broad exemptions for cool-down areas and other controls that would provide employers loopholes to avoid compliance, endangering the health and safety of workers.

Providing access to cool-down areas and other controls are important for protecting workers and allowing workers to rest and recover from heat exposure. However, current exemptions to cool-down areas and other controls in the discussion draft are so broad that they would nullify any protections that the standard would create. As currently written, employers can deny access to cool-down areas and other protections if such measures imperil safety or security or disrupt services or programming. The discussion draft would also allow understaffed carceral and detention facilities more lenience on compliance, which drives incentives the wrong way.

Overcrowded housing units within California’s carceral and detention facilities combined with high heat, especially during extreme heat events in the summer, can also significantly increase the risk of workplace violence.^{2,3,4} According to the National Bureau of Economic Research, daily temperatures reaching an average of 80 degrees Fahrenheit were associated with a 20

¹ University of Chicago Law School - Global Human Rights Clinic. (2022). *Captive Labor: Exploitation of Incarcerated Workers*. Global Human Rights Clinic. <https://chicagounbound.uchicago.edu/ghrc/4>

² Duara, N. (2024). *California’s jail population will rise due to Prop. 36. So will inmate deaths, advocates say*. CalMatters. <https://calmatters.org/justice/2024/12/california-jails-prop-36/>

³ Martin, B., & Lofstrom, M. (2024). *Falling Jail Populations Have Eased Overcrowding in Most County Jails*. Public Policy Institute of California. <https://www.ppic.org/blog/falling-jail-populations-have-eased-overcrowding-in-most-county-jails/>

⁴ Harris, H., & Cremin, S. (2025). *How Does the California Prison Population Compare to Other States?* Public Policy Institute of California. <https://www.ppic.org/blog/how-does-the-california-prison-population-compare-to-other-states/>

percent increase in violent acts.⁵ Controlling heat exposure protects workers from heat illness and can help reduce workplace violence.

Creating broad exceptions creates loopholes that employers can exploit to avoid action, endangering the health and safety of workers in carceral and detention facilities. Instead, Cal/OSHA should make sure that employers covered by the discussion draft are required to create plans to protect workers from heat exposure that incorporate other considerations and safety and security concerns.

III. Conclusion.

In closing, CNA/NNU urges the Division to strengthen the discussion draft, similar to the protections provided for other workers in §3396, to meaningfully protect workers in carceral and detention settings. All workers deserve strong protections from heat and other workplace hazards. Thank you for your consideration of CNA/NNU's comments on these important issues. Please contact Jane Thomason at jthomason@calnurses.org with any questions.

Sincerely,



Jane Thomason
Assistant Director for Health & Safety
California Nurses Association/National Nurses United

⁵ Mukherjee, A., & Sanders, N. J. (2021). *The causal effect of heat on violence: Social implications of unmitigated heat among the incarcerated* (No. w28987). National Bureau of Economic Research.