

May 7, 2026

Re: Indoor Heat Illness Prevention in Correctional and Detention Facilities (Proposed Section 3397)

Dear Cal/OSHA Research and Standards Unit:

I write in support of the Division's proposed Section 3397 governing indoor heat illness prevention in correctional and detention facilities. While I commend the Division for this important rulemaking, I urge the following revisions to ensure the standard delivers meaningful, enforceable protections.

1. Align the Triggering Thresholds with the General Industry Standard

The proposed rule triggers its core protections at 87°F—five degrees higher than the 82°F threshold established for general industry workers under Section 3396—with no scientific or legal justification for the disparity. The human body does not experience heat illness differently based on the type of facility in which a person works. A regulatory framework that affords meaningfully lesser protection to correctional workers than to workers in warehouses or factories is difficult to defend, whether on legal, public health or moral grounds.

The proposed rule also removes heat index—which accounts for both temperature and humidity—as an independent triggering measure. This omission is significant: a worker in a humid environment may face dangerous physiological heat stress at a dry bulb temperature the rule would not treat as actionable. I urge the Division to align both the temperature and heat index thresholds in Section 3397 with those in Section 3396.

2. Narrow the Cool-Down Area Exception

The proposed rule permits employers to deny cool-down rest whenever doing so “would imperil safety or security or disrupt services or programming.” This exception is fatally overbroad. “Safety and security” is an expansive, undefined concept that can be invoked to justify a wide range of operational decisions in correctional settings. Without guardrails, the exception grants employers effectively unlimited discretion to deny cool-down access on grounds that are difficult to challenge and nearly impossible to verify.

The exception also embeds a structural failure into the rule's own architecture: it is triggered by the absence of a relief employee, yet correctional facilities operate under documented, chronic staffing shortfalls. The more understaffed a facility, the more easily it qualifies for the exception—creating a perverse incentive that rewards precisely the conditions the rule is meant to address. The Division should revise Section (d)(2) to: (a) define “imperil safety or security” with objective, identifiable criteria; (b) impose a strict time limit on invocations; and (c) require employers to document each instance and make those records available to employees, their representatives, and the Division.

3. Restore and Strengthen the Engineering Controls Provision

The hierarchy of controls is a foundational principle of occupational safety: hazards must be addressed first through engineering controls that eliminate the hazard at its source. The proposed rule gestures toward this principle but undermines it in two ways. First, it permits departure from engineering controls based on the same undefined “safety or security” exception noted above. Second, it removes high radiant heat areas as an independent triggering condition for engineering and administrative controls—eliminating the obligation to deploy the most effective available controls in some of the most dangerous heat environments these workers face. This omission is particularly unjustifiable in facilities where the physical environment is fixed and the employer's choice of controls is the only meaningful variable available to reduce risk.

I urge the Division to restore high radiant heat areas as a triggering condition at the 82°F threshold and to define the safety and security exception in Section (e)(2) with the same specificity and documentation requirements recommended above.

Conclusion

Correctional and detention facilities employ two distinct but interconnected workforces—staff and incarcerated workers—who are exposed to the same dangerous heat conditions and are equally entitled to protection under

California's occupational safety framework. As currently drafted, Section 3397 imposes a lower standard of protection on these workers than on workers in general industry and creates exceptions broad enough to undermine the rule's core purpose.

I urge the Division to: (1) align temperature and heat index thresholds with Section 3396; (2) narrow and define the safety and security exception in Section (d)(2) with documentation requirements; and (3) restore high radiant heat areas as a triggering condition and apply the same definitional requirements to Section (e)(2). These revisions are necessary to ensure Section 3397 delivers the meaningful, enforceable protections its purpose demands.

Thank you for your efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Riley", with a stylized flourish at the end.

Kevin Riley, PhD MPH

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