

# REGULAR

## STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2014-0728-04	2015-0220-03S	

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE JUL 28 '14      AUG 08 '14  Office of Administrative Law	2015 FEB 20 PM 3:02  OFFICE OF ADMINISTRATIVE LAW
NOTICE	REGULATIONS

**ENDORSED - FILED**  
In the office of the Secretary of State  
of the State of California  
**APR 03 2015**  
1:47 PM

AGENCY WITH RULEMAKING AUTHORITY Occupational Safety and Health Standards Board	AGENCY FILE NUMBER (if any)
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### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Heat Illness Prevention Section 3395	TITLE(S) Title 8	FIRST SECTION AFFECTED 3395	2. REQUESTED PUBLICATION DATE August 8, 2014
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Marley Hart, Executive Officer	TELEPHONE NUMBER (916)-274-5721	FAX NUMBER (Optional) (916)-274-5743
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2014 322	PUBLICATION DATE 8/8/2014

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Heat Illness Prevention	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND Section 3395
TITLE(S) 8	REPEAL

3. TYPE OF FILING <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only
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4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
November 19, 2014 - December 8, 2014 and December 19, 2014 - January 5, 2015

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)  
 Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))     Effective on filing with Secretary of State     \$100 Changes Without Regulatory Effect     Effective other (Specify) May 1, 2015

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY  
 Department of Finance (Form STD. 399) (SAM 56650)     Fair Political Practices Commission     State Fire Marshal  
 Other (Specify) \_\_\_\_\_

7. CONTACT PERSON Marley Hart	TELEPHONE NUMBER 916.274.5721	FAX NUMBER (Optional) 916.274.5743	E-MAIL ADDRESS (Optional) mhart@dir.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

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**ENDORSED APPROVED**  
APR 03 2015  
Office of Administrative Law

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Marley Hart</i>	DATE 2/19/15
TYPED NAME AND TITLE OF SIGNATORY Marley Hart, Executive Officer	

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Subchapter 7. General Industry Safety Orders  
Article 10. Personal Safety Devices and Safeguards

*Amend Section 3395 to read:*

Section 3395. Heat Illness Prevention in Outdoor Places of Employment.

(a) Scope and Application.

(1) This standard applies to all outdoor places of employment.

EXCEPTION: If an industry is not listed in subsection (a)(2), employers in that industry are not required to comply with subsection (e), High-heat procedures.

(2) List of industries subject to all provisions of this standard, including subsection (e):

(A) Agriculture

(B) Construction

(C) Landscaping

(D) Oil and gas extraction

(E) Transportation or delivery of agricultural products, construction materials or other heavy materials (e.g. furniture, lumber, freight, cargo, cabinets, industrial or commercial materials), except for employment that consists of operating an air-conditioned vehicle and does not include loading or unloading.

(3) This section applies to the control of risk of occurrence of heat illness. This is not intended to exclude the application of other sections of Title 8, including, but not necessarily limited to, sections 1512, 1524, 3203, 3363, 3400, 3439, 3457, 6251, 6512, 6969, 6975, 8420 and 8602(e).

NOTE No. 1: The measures required here may be integrated into the employer's written Injury and Illness Program required by section 3203, or maintained in a separate document.

NOTE No. 2: This standard is enforceable by the Division of Occupational Safety

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and Health pursuant to Labor Code sections 6308 and 6317 and any other statutes conferring enforcement powers upon the Division. It is a violation of Labor Code sections 6310, 6311, and 6312 to discharge or discriminate in any other manner against employees for exercising their rights under this or any other provision offering occupational safety and health protection to employees.

(b) Definitions.

“Acclimatization” means temporary adaptation of the body to work in the heat that occurs gradually when a person is exposed to it. Acclimatization peaks in most people within four to fourteen days of regular work for at least two hours per day in the heat.

“Heat Illness” means a serious medical condition resulting from the body's inability to cope with a particular heat load, and includes heat cramps, heat exhaustion, heat syncope and heat stroke.

“Environmental risk factors for heat illness” means working conditions that create the possibility that heat illness could occur, including air temperature, relative humidity, radiant heat from the sun and other sources, conductive heat sources such as the ground, air movement, workload severity and duration, protective clothing and personal protective equipment worn by employees.

“Landscaping” means providing landscape care and maintenance services and/or installing trees, shrubs, plants, lawns, or gardens, or providing these services in conjunction with the design of landscape plans and/or the construction (i.e., installation) of walkways, retaining walls, decks, fences, ponds, and similar structures, except for employment by an employer who operates a fixed establishment where the work is to be performed and where drinking water is plumbed.

“Oil and gas extraction” means operating and/or developing oil and gas field properties, exploring for crude petroleum or natural gas, mining or extracting of oil or gas or recovering liquid hydrocarbons from oil or gas field gases.

“Personal risk factors for heat illness” means factors such as an individual's age, degree of acclimatization, health, water consumption, alcohol consumption, caffeine consumption, and use of prescription medications that affect the body's water retention or other physiological responses to heat.

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“Shade” means blockage of direct sunlight. One indicator that blockage is sufficient is when objects do not cast a shadow in the area of blocked sunlight. Shade is not adequate when heat in the area of shade defeats the purpose of shade, which is to allow the body to cool. For example, a car sitting in the sun does not provide acceptable shade to a person inside it, unless the car is running with air conditioning. Shade may be provided by any natural or artificial means that does not expose employees to unsafe or unhealthy conditions and that does not deter or discourage access or use.

“Temperature” means the dry bulb temperature in degrees Fahrenheit obtainable by using a thermometer to measure the outdoor temperature in an area where there is no shade. While the temperature measurement must be taken in an area with full sunlight, the bulb or sensor of the thermometer should be shielded while taking the measurement, e.g., with the hand or some other object, from direct contact by sunlight.

(c) Provision of water. Employees shall have access to potable drinking water meeting the requirements of Sections 1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge. The water shall be located as close as practicable to the areas where employees are working. Where drinking water is not plumbed or otherwise continuously supplied, it shall be provided in sufficient quantity at the beginning of the work shift to provide one quart per employee per hour for drinking for the entire shift. Employers may begin the shift with smaller quantities of water if they have effective procedures for replenishment during the shift as needed to allow employees to drink one quart or more per hour. The frequent drinking of water, as described in subsection ~~(f)~~(h)(1)(C), shall be encouraged.

(d) Access to shade.

(1) Shade ~~required to~~ shall be present when the temperature exceeds ~~85~~80 degrees Fahrenheit. When the outdoor temperature in the work area exceeds ~~85~~80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling. The amount of shade present shall be at least enough to accommodate ~~25% of the~~ number of employees ~~on the shift at any time~~ recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The ~~shaded area~~ shade shall be located as close as practicable to the areas where employees are working. Subject to the same

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- specifications, the amount of shade present during meal periods shall be at least enough to accommodate the number of employees on the meal period who remain onsite.
- (2) Shade ~~required to~~ shall be available when the temperature does not exceed ~~85~~80 degrees Fahrenheit. When the outdoor temperature in the work area does not exceed ~~85~~80 degrees Fahrenheit employers shall either provide shade as per subsection (d)(1) or provide timely access to shade upon an employee's request.
- (3) Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade for a period of no less than five minutes at a time when they feel the need to do so to protect themselves from overheating. Such access to shade shall be permitted at all times. An individual employee who takes a preventative cool-down rest (A) shall be monitored and asked if he or she is experiencing symptoms of heat illness; (B) shall be encouraged to remain in the shade; and (C) shall not be ordered back to work until any signs or symptoms of heat illness have abated, but in no event less than 5 minutes in addition to the time needed to access the shade.
- (4) If an employee exhibits signs or reports symptoms of heat illness while taking a preventative cool-down rest or during a preventative cool-down rest period, the employer shall provide appropriate first aid or emergency response according to subsection (f) of this section.

Exceptions to subsections (d)(1) and (d)(2):

- (1) Where the employer can demonstrate that it is infeasible or unsafe to have a shade structure, or otherwise to have shade present on a continuous basis, the employer may utilize alternative procedures for providing access to shade if the alternative procedures provide equivalent protection.
- (2) Except for employers in the agricultural industry, cooling measures other than shade (e.g., use of misting machines) may be provided in lieu of shade if the employer can demonstrate that these measures are at least as effective as shade in allowing employees to cool.
- (e) High-heat procedures. The employer shall implement high-heat procedures when the temperature equals or exceeds 95 degrees Fahrenheit. These procedures shall include the following to the extent practicable:

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- (1) Ensuring that effective communication by voice, observation, or electronic means is maintained so that employees at the work site can contact a supervisor when necessary. An electronic device, such as a cell phone or text messaging device, may be used for this purpose only if reception in the area is reliable.
- (2) Observing employees for alertness and signs or symptoms of heat illness. The employer shall ensure effective employee observation/monitoring by implementing one or more of the following:
  - (A) Supervisor or designee observation of 20 or fewer employees, or
  - (B) Mandatory buddy system, or
  - (C) Regular communication with sole employee such as by radio or cellular phone, or
  - (D) Other effective means of observation.
- (3) Designating one or more employees on each worksite as authorized to call for emergency medical services, and allowing other employees to call for emergency services when no designated employee is available.
- (4) Reminding employees throughout the work shift to drink plenty of water.
- ~~(4) Close supervision of a new employee by a supervisor or designee for the first 14 days of the employee's employment by the employer, unless the employee indicates at the time of hire that he or she has been doing similar outdoor work for at least 10 of the past 30 days for 4 or more hours per day.~~
- (5) Pre-shift meetings before the commencement of work to review the high heat procedures, encourage employees to drink plenty of water, and remind employees of their right to take a cool-down rest when necessary.
- (6) For employees employed in agriculture, the following shall also apply:

When temperatures reach 95 degrees or above, the employer shall ensure that the employee takes a minimum ten minute preventative cool-down rest period every two hours. The preventative cool-down rest period required by this paragraph may be provided concurrently with any other meal or rest period required by Industrial Welfare Commission Order No. 14 (8 CCR 11140) if the timing

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of the preventative cool-down rest period coincides with a required meal or rest period thus resulting in no additional preventative cool-down rest period required in an eight hour workday. If the workday will extend beyond eight hours, then an additional preventative cool-down rest period will be required at the conclusion of the eighth hour of work; and if the workday extends beyond ten hours, then another preventative cool-down rest period will be required at the conclusion of the tenth hour and so on. For purposes of this section, preventative cool-down rest period has the same meaning as "recovery period" in Labor Code Section 226.7(a).

(f) Emergency Response Procedures. The Employer shall implement effective emergency response procedures including:

(1) Ensuring that effective communication by voice, observation, or electronic means is maintained so that employees at the work site can contact a supervisor or emergency medical services when necessary. An electronic device, such as a cell phone or text messaging device, may be used for this purpose only if reception in the area is reliable. If an electronic device will not furnish reliable communication in the work area, the employer will ensure a means of summoning emergency medical services.

(2) Responding to signs and symptoms of possible heat illness, including but not limited to first aid measures and how emergency medical services will be provided.

(A) If a supervisor observes, or any employee reports, any signs or symptoms of heat illness in any employee, the supervisor shall take immediate action commensurate with the severity of the illness.

(B) If the signs or symptoms are indicators of severe heat illness (such as, but not limited to, decreased level of consciousness, staggering, vomiting, disorientation, irrational behavior or convulsions), the employer must implement emergency response procedures.

(C) An employee exhibiting signs or symptoms of heat illness shall be monitored and shall not be left alone or sent home without being offered onsite first aid and/or being provided with emergency medical services in accordance with the employer's procedures.

(3) Contacting emergency medical services and, if necessary, transporting

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employees to a place where they can be reached by an emergency medical provider.

(4) Ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders.

(g) Acclimatization.

(1) All employees shall be closely observed by a supervisor or designee during a heat wave. For purposes of this section only, "heat wave" means any day in which the predicted high temperature for the day will be at least 80 degrees Fahrenheit and at least ten degrees Fahrenheit higher than the average high daily temperature in the preceding five days.

(2) An employee who has been newly assigned to a high heat area shall be closely observed by a supervisor or designee for the first 14 days of the employee's employment.

(f) (h) Training.

(1) Employee training. Effective training in the following topics shall be provided to each supervisory and non-supervisory employee before the employee begins work that should reasonably be anticipated to result in exposure to the risk of heat illness:

(A) The environmental and personal risk factors for heat illness, as well as the added burden of heat load on the body caused by exertion, clothing, and personal protective equipment.

(B) The employer's procedures for complying with the requirements of this standard, including, but not limited to, the employer's responsibility to provide water, shade, cool-down rests, and access to first aid as well as the employees' right to exercise their rights under this standard without retaliation.

(C) The importance of frequent consumption of small quantities of water, up to 4 cups per hour, when the work environment is hot and employees are likely to be sweating more than usual in the performance of their duties.

(D) The concept, importance, and methods of acclimatization pursuant to the employer's procedures under subsection (i)(4).

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- (E) The different types of heat illness, ~~and~~ the common signs and symptoms of heat illness, and appropriate first aid and/or emergency responses to the different types of heat illness, and in addition, that heat illness may progress quickly from mild symptoms and signs to serious and life threatening illness.
- (F) The importance to employees of immediately reporting to the employer, directly or through the employee's supervisor, symptoms or signs of heat illness in themselves, or in co-workers.
- (G) The employer's procedures for responding to signs or symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary.
- (H) The employer's procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider.
- (I) The employer's procedures for ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders. These procedures shall include designating a person to be available to ensure that emergency procedures are invoked when appropriate.
- (2) Supervisor training. Prior to supervising employees performing work that should reasonably be anticipated to result in exposure to the risk of heat illness effective training on the following topics shall be provided to the supervisor:
- (A) The information required to be provided by section ~~(f)~~(h)(1) above.
- (B) The procedures the supervisor is to follow to implement the applicable provisions in this section.
- (C) The procedures the supervisor is to follow when an employee exhibits signs or reports symptoms consistent with possible heat illness, including emergency response procedures.
- (D) How to monitor weather reports and how to respond to hot weather advisories.

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(i)(3) Heat Illness Prevention Plan. The employer's shall establish, implement, and maintain, an effective procedures for complying with each requirement of this standard required by subsections (f)(1)(B), (G), (H), and (I)heat illness prevention plan. The plan shall be in writing in both English and the language understood by the majority of the employees and shall be made available at the worksite to employees and to representatives of the Division upon request. The Heat Illness Prevention Plan may be included as part of the employer's Illness and Injury Prevention Program required by section 3203, and shall, at a minimum, contain:

- (1) Procedures for the provision of water and access to shade.
- (2) The high heat procedures referred to in subsection (e).
- (3) Emergency Response Procedures in accordance with subsection (f).
- (4) Acclimatization methods and procedures in accordance with subsection (g).

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code