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SENT VIA EMAIL to: [aneidhardt@dir.ca.gov](mailto:aneidhardt@dir.ca.gov)

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Dear Ms. Neidhardt:

Southern California Edison (SCE) appreciates the opportunity to make recommendations to the proposed Heat Illness Prevention in Indoor Places of Employment. This opportunity allows us to share information with our peer companies, as well as communicate and gather input from internal SCE workers in an effort to gain a better understanding of the proposed requirements and its potential impacts. Our objective is to collaborate with Cal/OSHA to help provide a safe workplace for all workers. We reached a level of consensus with other companies and industry groups on several areas where we are providing recommendations for changes in wording, but there are still some topics that we believe merit further review and discussion. Comments, suggestions, and requests related to these areas of proposed regulatory change include:

**(a) Scope and Application**

Generally speaking, the vast majority of indoor places of employment do not reflect a hazard or an injury/illness rate associated with heat illness that would warrant such an onerous set of regulatory requirements. Therefore, it seems that regulatory oversight should be applied proportionately based on risk of heat illness for the indoor work and not solely on temperature. As an example, although many indoor facilities (e.g., offices, medical/dental facilities, electronics fabrication) are designed with building HVAC, these may occasionally fail. It would be without significant benefit and burdensome for employers to fulfill many administrative regulatory requirements based on such unpredictable occurrences. Also, this proposed regulation does not appropriately reflect the concept of regulatory balance and consistency with previously vetted and similar regulations (i.e., 8 CCR 3395).

In a report that describes findings from a review of 2012–2013 Federal OSHA enforcement cases resulting in citations under the general duty clause for heat related injuries, "most of the affected workers were outdoors and performing heavy or moderate work. In addition, most deaths occurred in the first 3 days of working, with four of them occurring on the worker's first day." Seven cases occurred in indoor facilities. All seven of these involved an indoor local heat source (e.g., laundry equipment, combustion engines). (Source - <https://www.cdc.gov/mmwr/pdf/wk/mm6331.pdf>).

In another report, the 2010 BLS statistics covering heat-related deaths showed "The largest number of workers (18) died in the construction industry, followed by 6 deaths in natural resources (including agriculture) and mining, 6 deaths in professional and business services (including waste management and remediation), and 3 deaths in manufacturing." (Source - <https://www.cdc.gov/niosh/docs/2016-106/pdfs/2016-106.pdf>).

These statistics would indicate that the most frequent problem of heat-related illness and death occur in outdoor places of employment. To maintain balance and consistency, the regulatory controls imposed on places of indoor employment should not exceed those imposed on outdoor places of employment. In addition, the statistics would indicate a very narrow focus in developing the indoor regulations involving two major areas:

- 1) Industries with significant indoor heat sources (e.g., radiant heat sources) and
- 2) Acclimatization of employees in industries involving significant indoor heat sources.

All other work places should be excluded from the scope of these regulations.

The scope and application also does not indicate where and when the temperature would need to be measured. The time of day and temperature in a building may vary depending on the type of heat sources and availability of air flow. For the reasons listed above, we recommend focusing on specific industries that have high risk heat sources and acclimatization of employees in those areas.

Additionally, the exception given in this section does not fully address the problem for employers who have employees who work both indoor and outdoor and who don't qualify for the exception. For these employees in the area of training, for example, an employee would be receiving training twice – for the indoor and outdoor standards – that covers essentially the same content. The exception should be reworded to allow employers whose employees work both indoor and outdoor to determine which regulation (indoor vs. outdoor) is most applicable and protective of their employees and comply with that one, not both. Training should be transferrable between standards as well.

## **(b) Definitions**

**Heat index and Levels I, II, and III** create concerns and the potential for worker confusion. We recommend to simplify the regulatory scheme of differentiating between levels of high heat versus more moderate heat and corresponding procedures and requirements. The outdoor heat illness regulation, section 3395(e), high-heat procedures, contains an additional heightened set of procedures to follow when the temperature equals or exceeds 95 degrees Fahrenheit for the five specific industries listed in section 3395(a). Basic requirements such as shade are triggered at 80 degrees Fahrenheit (or upon employee request). Similarly, we recommend the creation of a two level approach for the indoor heat illness prevention standard. The first level provides procedures and protections for moderate heat levels at or above a heat index of 85 degrees Fahrenheit, and the second level contains additional heightened procedures and protections for high heat levels triggered at or above a heat index of 95 degrees Fahrenheit. Simplifying the determination of whether a work area is a moderate or high heat area also allows for simplifying controls required and greater worker understanding, which leads to a greater level of compliance.

**“Close Monitoring” and “Observation” of Employees not Acclimatized.** We recognize that these terms have been used in Section 3395 for years and are understood by employers who have been subject to the Outdoor Heat Illness Prevention Standard. However, employers who have never been subject to this standard because they have no outdoor environments do not understand the difference between monitoring an employee exhibiting signs or symptoms of heat illness and closely observing an employee newly assigned. These appear under the draft subsection (f)(6) under First Aid and Emergency Response and (g) under the Acclimatization section. We recommend defining the difference between these terms. Again, many more employers are expected to be subject to the indoor heat illness prevention rule, and it is essential that they understand the requirements.

In the definition of a **cool-down area** is the requirement for both water and cups. Most places of indoor employment have maintained drinking fountains. Plumbed supplies of water delivered in a fashion for direct consumption should not require a supply of cups.

In addition, employers need more information on performance criteria to measuring heat as well as providing a validated sampling and analytical method so employers know what constitutes acceptable levels of accuracy, precision, and repeatability for dry bulb and globe thermometer measurements.

The definition of **indoor** includes **“the space inside a vehicle”**. However, vehicles are not defined in the regulation. This leaves a question of whether forklifts, cranes, and other off-road vehicles are considered vehicles under this regulation. By including vehicles, an operator of earthmoving equipment may be subject to indoor regulations and, at the same construction site, others would be covered by the outdoor regulations. This will be very confusing for workers and challenging to manage. When initially getting into a vehicle, temperatures might be extreme, but may quickly cool. It is not clear how this common situation with vehicles fits within the proposed regulation.

### **(c) Heat Illness Prevention Plan**

A heat illness plan does not provide a significant benefit to those businesses with a low risk of heat-related illnesses. If low risk work places are not excluded from the scope of this regulation, they should not be required to have a written heat illness plan. A written heat illness plan seems to be appropriate for the industries identified as high risk.

In (c) (1), we recommend adding “or” to “Effective procedures to obtain the active involvement of employees and/or their representatives in developing and implementing the Plan”. Additionally, in section (c) (1), the term “representative” is used. SCE recommends clarifying this term as a union bargaining unit representative, as it is understood that is the intent behind inclusion of that additional party in the process.

### **(d) Assessment of Heat Illness Risk**

We recommend the addition of a performance-based approach to this risk assessment in addition to the consideration of heat index measurements. This proposed approach would allow employers to consider

other factors such as work activity levels, controls, exposure frequency and duration, Personal Protective Equipment (PPE), clothing, or scheduling.

The purpose of an assessment should be to identify areas within an indoor facility where risk is high, such as radiant heat sources. Through this risk assessment based approach, known low risk industries should be *exempt* from the assessment requirement.

The assessment of heat illness risk requirement seems to imply that employers need to wait so that they can measure high temperature and high humidity conditions. This should be reworded so that the assessment can be done on what is reasonably anticipated.

All areas should not be posted. Only areas that present high risk, such as those involving radiant heat sources, should be posted with a warning, and not measurements. The recordkeeping requirement in (j)(3) already requires the employer to provide documents and measurements to employees upon request.

SCE recommends the requirement to reassess heat illness risk in section (d)(3) be simplified to state, "A reassessment is required for any area where a change in conditions significantly increases the heat illness risk in that area." This would address situations such as adding a new piece of heat emitting machinery, removal of an HVAC system, or other situations that could significantly increase worker risk for heat illness. Alternatively, SCE recommends the deletion of subsection (D), as the situations described in subsections (A) – (C) are sufficient to appropriately mitigate these risks. SCE does not believe that a mandatory annual review provides added benefit that would exceed the administrative impacts.

#### **(f) First Aid and Emergency Response**

If the requested changes to remove lower-risk industries from the scope of this regulation are not accepted, SCE requests that subparagraphs (2) and (3) only apply to high risk industries to constructively align with the high heat procedures for high heat identified industries of 8 CCR 3395.

#### **(g) Acclimatization**

SCE asserts that acclimatization should apply only to areas with heat sources in high risk industries.

#### **(h) Control Measures**

As discussed in the comments above, use of Levels I, II, and III will likely lead to worker confusion and challenges in implementing these procedures. SCE recommends simplifying this process and ensuring consistency with the approach applied in the outdoor heat illness regulations.

Additionally, pre-shift meetings should only apply to high risk industries to constructively align with the high heat procedures for high heat identified industries of 8 CCR 3395. As it relates to PPE, we recommend revision of these provisions to qualify that an employer is not obligated to provide PPE if control measures are able to reduce the heat index to below a certain threshold, such as below 90 degrees Fahrenheit. This aligns with the overarching safety philosophy and hierarchy of controls that considers engineering controls ahead of personal protective equipment. The language could be revised to state:

“Personal protective equipment, such as water cooled garments...shall be made available to employees if other control measures are not sufficient to reduce the heat index to below 90 degrees Fahrenheit.”

**(i) Training**

Training should be aligned with the Outdoor Heat Illness Prevention training requirements. Operating on differing training frequencies would lead to worker confusion and logistical challenges for companies. Additionally, when mitigating comparable hazards, there does not appear to be sufficient rationale for mandating varying training requirements and frequencies. As such, annual training requirements should be removed.

**(j) Recordkeeping**

SCE recommends subsection (j)(4) be removed from the revised draft. As discussed previously, there are concerns about the accuracy and performance ability of instruments that are used to take temperature and humidity level readings. Adding subsection (j)(4) without also adding guidance and procedures for employees who wish to take such measurements would likely be problematic and create undue complication without corresponding benefit. Draft section (c) already provides for the active involvement of employees and their representatives in developing and implementing a heat illness prevention plan, which includes developing effective procedures to assess heat illness risk including measuring the heat index. This employee involvement successfully meets the desired outcomes of this section and removes any need for subsection (j)(4).

Again, we are thankful for your willingness to hold meaningful dialogue that will lead to the improvement of this proposed regulatory language and the successful implementation of these changes across the state of California. We look forward to continued partnership in these efforts.

If you require further information on the comments listed above, please do not hesitate to contact me at 626-633-7120 or at [James.Mackenzie@sce.com](mailto:James.Mackenzie@sce.com).

Regards,



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