

# UNITE**HERE!** LOCAL 11

3/1/2018

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Sent via Email: [rs@dir.ca.gov](mailto:rs@dir.ca.gov)

## **Re: Heat Illness Prevention in Indoor Places of Employment**

Dear Ms. Neidhardt,

UNITE HERE Local 11 respectfully submits these comments on the February 15, 2018, discussion draft of the proposed standard on Heat Illness Prevention in Indoor Places of Employment. UNITE HERE Local 11 represents 30,000 workers employed in hotels, restaurants, airports, sports arenas, and convention centers throughout Southern California and Arizona. Members of UNITE HERE Local 11 fight for improved living standards and working conditions in our industries. We appreciate the opportunity to comment on the development of this important standard. UNITE HERE Local 11 represents workers who regularly face hazardous heat conditions while working indoors. Among our members are food service, kitchen workers and cooks who spend entire shifts inside hot kitchens exposed to hazards. In addition to workers who prepare food in the kitchen, we represent driver helpers and assemblers in the airline catering industry at the Los Angeles International Airport (LAX). These workers assemble airline catering carts inside metal shipping containers installed on the tarmac without adequate ventilation, access to a shaded break area where they could cool down, or proper heat illness prevention training. During the hot summer months, the metal containers heat up, and some of the workers describe working there like "being in an oven". Food service, kitchen workers and cooks may be employed in hotels, restaurants, cafeterias, stadiums, sports centers, convention centers, and airports. Laundry workers in hotels or industrial laundries also face hazardous heat conditions while working indoors. We urge Cal/OSHA to establish a standard that uses the strongest possible measures to protect workers from hazardous indoor heat exposure.

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We are concerned that the latest version of the proposed language does not adequately protect workers' health and safety. Specifically, we are concerned about the following issues:

### **Critical Protections Not Required Until Temperature Reaches 90°F**

Many of the most effective protections against heat illness, such as using fans or air conditioning, slowing workloads, or providing protective equipment, are not mandated in this draft language until the workplace temperature (or heat index in certain facilities) reaches 90 degrees Fahrenheit. Workers are at risk for heat illness in much lower heat indices and temperatures. In some instances, workers' exposure to heat is combined with other factors that put them at risk. In one example workers who were unable to take regular or predictable breaks, ended up minimizing their water intake, which resulted in fatigue and other symptoms. Also, lack of breaks may mean that workers are unable to escape high heat conditions and take a break in cooler areas, *if* such areas exist at their workplace. The standard should require the control measures at significantly lower heat levels. Based on established evidence of the factors that can raise a person's core body temperature to dangerous levels, adequately protecting workers requires the trigger for risk assessment and other basic precautions to be as close as possible to a heat index of 80 degrees.

The standard should also utilize the **heat index** rather than temperature. The heat index is a more accurate indicator of the effect of heat on core body temperature. The current proposal, which only uses heat index at worksites with processes that involve water, ignores other sources of moisture that can increase workplace humidity, including human activity, livestock, standing water, or atmospheric moisture.

### **Revised "Indoor" Definition Weakens Worker Protections**

Revisions in the February 15, 2018, draft significantly weaken protections for workers by exempting employers who can demonstrate that any opening such as a window or door keeps the workplace temperature less than 5 degrees above the outdoor temperature. Such workplaces would instead be regulated under the outdoor heat standard.

This proposal is dangerous for many reasons, most importantly because adoption of the structure of the outdoor heat standard would mean workplaces meeting the "5 degree criteria" would be exempt from having any high heat procedures at all unless part of a construction, agriculture, or oil and gas operation. The outdoor heat standard is not suitable for indoor workplaces.

Warehouses, restaurants, laundries, factories and countless other workplaces contain substantial and unique heat exposure hazards, are where risk factors like humidity, radiant heat and heat-trapping clothing are most likely to occur, and where, critically, employers retain a significantly greater ability to control environmental conditions and heat exposure. Allowing employers in these industries such an easy loophole would leave workers vulnerable to heat illness.

As written, a warehouse or a metal shipping container with open windows that keep the indoor temperature at 104 degrees Fahrenheit on a 100 degree day would be exempted from critical protective measures such as engineering controls, administrative controls, and providing protective equipment. With only 40% humidity, that warehouse would feel like 109 degrees to a worker. This is a totally unacceptable loophole and a completely unacceptable risk. We urge the return to the prior definition of “indoor” without any exceptions for openings to the outdoors.

### **Inadequate Consideration of Heat Illness Factors**

This draft does not require specific adjustments in control measures for workers who must wear heavy clothing, are unacclimatized, exposed to radiant heat, or engaged in heavy work. These factors significantly affect heat illness risk. Food service and kitchen workers and cooks are potentially exposed to high heat conditions due to exposure to equipment they work with such as broilers, hot grills, and deep fat fryers; for laundry workers, pressers, dryers, and washers. Work at a heat index of even 80 degrees can be unsafe for workers with these added risks, and we strongly urge specific control measures in the standard that adjust for these factors.

### **Preventative Rest Breaks Not Required**

In a step backward from prior drafts, the latest language does not require mandatory hourly preventative rest breaks, even at the highest temperatures. In the airline catering sector workers face pressure from their employers to put the performance of their duties before their health because of high fines placed on the airline catering companies that cause flights delays. Because of fast paced nature of the airline catering industry, workers who service the flights work on unpredictable schedules often servicing delayed, or early flights. In extreme cases workers reported not being able to take a break the entire shift due to pressure from management to cater the flights. Mandatory hourly rest breaks are instrumental in high temperatures to reduce the risk of heat illness, and we urge their return to the control measures in this standard.

### **Weakened Transparency and Worker Engagement**

Basic requirements from prior drafts that promoted transparency have been left out of the current version. These include posting heat illness risk assessments in work areas, ensuring workers’ rights to measure temperatures with their own instruments, and obtaining the active involvement of workers and their representatives in developing and implementing Heat Illness Prevention Plans and measuring workplace heat indices.

Including worker involvement in this standard is important because workers are experts in their workplaces and can come up with the solutions to help assess, identify, and correct heat hazards in their workplaces. Workers and their union representatives should be encouraged to participate. Recent examples of worker and their union representatives exist in the recently adopted CalOSHA New Section 3345 Hotel Housekeeping Musculoskeletal Injury Prevention Standard.

Workplace transparency and worker engagement are critical to improving safety outcomes and we urge the reinstatement of the sections mentioned above.

**Exception for Office Settings**

We are pleased that Cal/OSHA removed references to a “light work” exemption from the proposed standard, but remain concerned about the use of broad carve-outs to the rule. Heat illness can impact workers who are sedentary, and so there should not be any broad exceptions for them. The use of a broad exception for office environments will leave workers at risk, including janitorial workers and others doing heavier work in office settings. A properly set heat index trigger for protections to apply will effectively take employers in climate-controlled environments out of the rule’s requirements while ensuring there are not gaps in coverage for workers who need protections.

California urgently needs a strong and comprehensive indoor heat standard to protect workers’ safety and health. UNITE HERE Local 11 urges Cal/OSHA to develop a standard that addresses the above issues and provides effective protections for workers, based on scientific guidelines and the experiences shared by workers who face indoor heat hazards firsthand.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yelena Zeltser', with a long, sweeping horizontal line extending to the right.

Yelena Zeltser

Research Analyst