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SENT VIA EMAIL to: aneidhardt@dir.ca.gov

Amalia Neidhardt, MPH, CSP, CIH
Research and Standards
Division of Occupational Safety and Health
California Department of Industrial Relations
1515 Clay Street
Oakland, CA 94612

Dear Ms. Neidhardt:

Southern California Edison (SCE) appreciates the opportunity to provide input and recommendations to the proposed Heat Illness Prevention in Indoor Places of Employment. After careful review of the latest proposed standard, we see and appreciate the effort put forth in working with stakeholders on this issue. Our objective is to collaborate with you and Cal/OSHA to provide a safe workplace for all workers.

Specific comments, suggestions, and requests related to areas of proposed regulation within the latest draft are included below. Recommended insertions are shown in underlined font and proposed deletions are shown using strikethrough font (i.e., <u>underlined</u> and ~~strikethrough~~). Some of the edits shown are those presented by you in your most recent draft document. We retained those edits to either show support, or to allow for discussion around further proposed improvements. Additionally, to provide clarity between SCE's proposed edits and those existing in previous documents, **bold** font is used to show those edits recommended by SCE.

SCOPE AND APPLICATION:

Current Draft Language with Proposed Language Revisions:

(a) Scope and Application

(1) This standard applies to all indoor work areas ***where the typical ambient temperature equals or exceeds 85 degrees Fahrenheit*** *in the following* ***industries*** ~~*,*~~ ***operations, or locations*** ~~*where the temperature equals or exceeds 80 degrees Fahrenheit when employees are present.:*~~

(A) Agriculture;

(B) Commercial and institutional kitchens; (C) Commercial and institutional laundries; (D) Construction;

(E) Manufacturing;

(F) Mining;

(G) Oil and gas extraction;

(H) Steam plants, geothermal plants, steam tunnels, and boiler rooms;

(I) Warehousing and storage.

(2) Conditions under which an indoor work area is subject to all provisions of this standard, including subsection (e):

(A) ~~*The*~~ ***When the typical ambient*** *temperature equals or exceeds 90 degrees Fahrenheit; or*

(B) ~~*The*~~ ***When the typical ambient*** *heat index equals or exceeds 90 degrees Fahrenheit; or*

(C) ***When*** ~~*Employees*~~ ***employees*** *wear clothing that restricts heat removal; or*

(D) ***When*** ~~*Employees*~~ ***employees*** *work in a high radiant heat work area.*

SCE requests that the above text that was stricken in the recent Cal/OSHA draft, in (a)(1), be restored in final version of this regulation. Regulations must address high risk work activities and industries. The current emphasis in safety is hazard and risk mitigation. Crafting a regulation based upon risk is consistent with OSHA enforcement, targeting specific industries that are high risk. It is not helpful to create administrative burden on businesses and industries where there is not a risk to the health and safety of workers. Not only does it not add benefit in the current subject area, but it degrades overall safety efforts, as workers clearly see that they are performing tasks in the name of safety that do not benefit their health or well-being. SCE requests that these regulations be focused on those work environments that present a risk to workers. It is important to note that limiting this indoor heat illness prevention to high risk work environments does not limit protections to workers, as workers in high heat settings would be

protected by either the outdoor heat illness prevention or indoor heat illness prevention standards.

DEFINITIONS:

Current Draft Language with Proposed Language Revisions:

(b) Definitions

"High radiant heat work area" means a work ***where the employee works at least 25% of their time****, and the globe temperature is at least* ***15*** *degrees Fahrenheit greater than the "temperature," as defined in this subsection.* ~~*that has an indoor radiant heat source and is found in one of the following: "*~~

Since this definition is relative to the definition of "temperature", the time of worker exposure in the high radiant heat area and the radiant work area needs to be defined with its relationship to the work area mentioned in the definition of "temperature". In addition, 5 degrees is too low. For example if the bulb temperature was at 82 degrees, a "high radiant heat work area" would be at 87 degrees and kick the area into section (e) assessment. Entire areas are not section (e) areas until 90 degrees is hit per *(a)(2)(A). To structure this temperature similarly to the Heat Illness Prevention regulation, CCR Title 8 3395*, SCE recommends that "High Radiant Work Area" temperature should be 15 degrees greater than 82 degrees as mentioned in the definition of "temperature". This is comparable to the temperature differential utilized by Cal/OSHA for Outdoor Heat Illness Prevention for high heat procedures.

"Indoor" refers to a space ***designed for continuous human occupancy*** *that is under a ceiling or overhead covering; and is enclosed along its perimeter by walls, doors, windows, dividers, or other physical barriers, whether open or closed,* ***and is not a vehicle****. All work areas that are not indoor are considered outdoor and covered by section 3395.*

The Cal-OSHA definition is too broad. Using this definition would include areas that are occupied intermittently and for short durations. For example, electrical rooms, boiler rooms, vaults, utility basements, etc. In addition, various types of semi-trailers and cargo containers would need to be evaluated for periods of inspection, loading and unloading. Every confined space would need to be evaluated. This would also include truck, passenger vehicles, and equipment cabs. Perhaps, including some verbiage in the "Scope and Application" section to exclude these from consideration as indoor places would better balance compliance with actual risk. Those work areas not considered to be indoor places would be governed by the outdoor heat illness prevention regulations, providing complete coverage for workers.

ASSESSMENT AND CONTROL MEASURES:

Current Draft Language with Proposed Language Revisions:

(e) Assessment and Control Measures (1)

(1) As specified in subsections (e)(1)(A) through (e)(1)(D), the employer shall ***include in their assessment the*** ~~***measure and record***~~ ***measurements of*** *temperature or heat index, whichever is greater, and shall identify and evaluate all other environmental risk factors for heat illness.*

~~***NOTE: The records shall be retained and made available in accordance with section 3204.***~~

Cal/OSHA's rewording of this requirement is implying an ongoing recording and retention of measurements. Recording temperature measurements alone are inadequate to assess risk. An assessment is a much more comprehensive approach and is in line with the consideration of other factors included in this regulation, such as clothing. In addition, an initial assessment should be valid for as long as no significant change occurs in the factors considered in the assessment and the verbiage should be modified accordingly.

Additionally, the definition for "Employee Exposure Record" in 3204 is "(5) Employee Exposure Record. A record containing any of the following kinds of information concerning employee exposure to toxic substances or harmful physical agents:" There are no "toxic substances or harmful physical agents" under consideration in the proposed indoor heat illness prevention regulation. Therefore, the requirement in the proposed regulation is confusing as some may interpret that it means to collect all heat/humidity temperature records without a direct relationship to "toxic substances or harmful physical agents". Clearly, such an unnecessary collection of records is not targeted by 3204. Furthermore, requiring corporations to maintain these records for thirty years, when there is no valid scientific reason to do so, is an undue burden without benefit to the health and well-being of workers.

(1)(B) 2. ~~***Measurements shall be taken again when they are reasonably expected to be 10 degrees or more above the previous measurements.***~~ ***Applicable work areas shall be reassessed when significant changes occur in the factors considered in the assessment.***

An initial assessment should be valid for as long as no significant change occurs in the factors considered in the assessment. There are more factors to consider in an assessment than just temperature.

(*1)(D) The employer shall have effective procedures to* ***~~obtain the active involvement of~~ communicate to*** *employees and their union representative* ***of the results of the assessment. ~~.in designing and conducting the assessments. performing the following:~~***

~~1. Designing, conducting, and recording the measurements of temperature or heat index, as applicable.~~
~~2. Identifying and evaluating all other environmental risk factors for heat illness.~~

A number of issues surface with the inclusion of this requirement:

1) Not all employees have a union representative;
2) Very few employees or their union representatives have the training or technical expertise to accomplish or meaningfully contribute to much of the listed tasks, which are typically functions of safety professionals or industrial hygienists;
3) The requirement is outside the scope of the IIPP regulation, which requires an active "system for communicating" to employees/union and not mandating employee/union involvement;
4) Mandating the involvement of the union may confound the collective bargaining process on safety issues with compliance to the proposed regulation, and infringe upon the union's right to not participate;
5) If the employer's procedure is unsuccessful in obtaining the active involvement of the employee and/or union in these tasks, it could be argued that the employer's procedures are ineffective and are not compliant with the regulation, which seems to be unequitable, given a good faith effort;
6) It is the employer who has responsibility and liability under the general duty clause to provide the safe work environment, not the union. As such, it is requested that the language be modified to require communication of assessment results and elimination of the requirement to jointly design and conduct the assessments.

~~(1)(D)(2)~~ (2) The employer shall use control measures as specified in subsections (e)(2)(A) through (e)(2)(C) to minimize the risk of heat illness. The selection of control measures shall be based on the ***~~environmental~~*** *risk factors for heat illness present in the work area.*

This change is requested as not all risk factors that impact heat illness are environmental in nature.

ASSESSMENT AND CONTROL MEASURES – (2)(A):

Current Draft Language with Proposed Language Revisions:

(e) Assessment and Control Measures (2)(A)

(A) Engineering controls. Engineering controls shall be used to reduce the temperature or heat index, as applicable, ***~~to the lowest temperature or heat index possible~~ to minimize the adverse effects of heat stress,*** *except to the extent that the employer can demonstrate that such controls are not feasible. Engineering controls include, but are not limited to, ~~-~~isolation of hot processes, isolation of employees from sources of heat, air conditioning, cooling fans, cooling mist fans, natural ventilation when the outdoor temperature is lower than the indoor temperature, local exhaust ventilation, shielding, and insulation of hot surfaces.*

It may be feasible to lower the temperature to below that which is necessary or comfortable. Maybe rewording to say "…to minimize the adverse effects of heat stress…" in place of "…to the lowest temperature or heat index possible…"

(B) Administrative controls. Where engineering controls are not feasible or do not reduce the temperature or heat index, as applicable, to below 90 degrees Fahrenheit or to below 82 ~~80~~ degrees Fahrenheit where employees wear clothing that restricts heat removal or work in high radiant heat work areas, administrative controls shall be implemented, except to the extent that the employer can demonstrate that such controls are not ***~~feasible~~ practicable****. ~~—~~Administrative controls include, but are not limited to, acclimatizing employees, rotating employees, scheduling work earlier or later in the day, using work/rest schedules, reducing work intensity or speed, changing required work clothing, and using relief workers.*

(C) Personal heat-protective equipment. Where engineering controls are not feasible or do not reduce the temperature or heat index, as applicable, to below 90 degrees Fahrenheit or to below 85 ~~80~~ degrees Fahrenheit where employees wear clothing that restricts heat removal or work in high radiant heat work areas and administrative controls are not ***~~feasible~~ practicable****, personal heat-protective equipment shall be used to reduce the risk of heat illness, except to the extent that the employer can demonstrate that use of such equipment is not* ***~~feasible~~ practicable****. Personal heat-protective equipment that can reduce the risk of heat illness includes, but is not limited to, water-cooled garments, air-cooled garments, cooling vests, wetted over- garments, heat-reflective clothing, and supplied-air personal cooling systems.*

In order for the meaning of when to use "Administrative Controls" to be consistent with Cal/OSHA's regulation defining engineering controls, administrative controls, and PPE hierarchy, the word should be "practicable". If "feasible" is used, it will be conflicting and unclear whether the regulatory intent was to impose a new requirement. See 8 CCCR 5141. Control of Harmful Exposure to Employees, below:

> (b) Administrative Controls. Whenever engineering controls are not feasible or do not achieve full compliance, administrative controls shall be implemented if practicable.

CLOSE OBSERVATION DURING ACCLIMATIZATION:

Current Draft Language with Proposed Language Revisions:

> *(g) Close Observation during Acclimatization*
>
> *(1) ~~Where the work area is affected by outdoor temperatures, a~~All employees shall be closely observed by a supervisor or designee when the temperature **experienced by** **the employee** is ~~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 10 degrees Fahrenheit higher than the average high daily temperature the employee experienced during the preceding five days.*

From a practical standpoint for indoor locations, the temperature changes should be relative to what the employee experiences instead of what changes occur in a particular work area. For example, if a worker is transferred to work on the loading dock from the refrigerated section of the warehouse, the change that the employee experiences is more relevant than the change in temperature of the dock from day to day.

HEAT ILLNESS PREVENTION PLAN:

Current Draft Language with Proposed Language Revisions:

> *(i) Heat Illness Prevention Plan*
>
> *(2) Procedures, in accordance with subsection (e), to~~ **measure and record the temperature or heat index, as applicable**~~ **assess work areas for heat illness risk factors**, and to implement control measures. ~~The procedures to assess environmental risk factors for heat illness and implement control measures referred to in subsection (e).~~*
>
> *~~(5) Applicable procedures under section 3203 to identify, evaluate, and correct indoor heat hazards not already addressed in this standard, where one or a combination of environmental risk factors can still cause heat illness in employees.~~*

The focus should remain on assessment of hazards and any potential changes that could impact the level of hazard to workers.

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 and to the implementation of a regulation that provides important protections for workers and is reasonable and prudent in its design and implementation.

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.

Sincerely,

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