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September 10, 2014

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Re: Proposed Changes to 8CCR§3395 — Heat Illness Prevention

Dear OSHSB:

The California Industrial Hygiene Council (CIHC) respectfully submits the following comments regarding the latest proposed changes to Section 3395, the regulations regarding Heat Illness Prevention. CIHC believes that the Heat Illness Prevention regulation has merit in California and we applaud Cal/OSHA for its continued effort in the prevention of heat illness. Below are our comments specific only to the proposed changes.

(b) Definitions: Shade.

The addition of, “and that does not discourage access” has been proposed. We find the phrase “discourage access” to be vague and not defined. Even if defined, we find the phrase to be unclear as to discourage access by whom? Lastly, we find the phrase to make no meaningful addition to the intent of the regulation.

(c) Provisions of Water

The addition of “The water provided shall be fresh, pure and suitably cool, and shall be provided to employees free of charge” has been proposed. We agree with the addition of “shall be provided to employees free of charge”. We also agree with the addition of “cool” to define the temperature of the water. We, however, do not understand what added benefit there is to the use of the terms “fresh” and “pure” since the subsection clearly states that the water must be potable and therefore by definition the water would be fresh and pure.

Another proposed change to this subsection is to require that the water be placed “at a distance of not greater than 400 feet walking distance from any employee at any time...” We do not understand the basis for distance rather than the time to reach water (similarly to other Cal/OSHA regulations, e.g., emergency shower access). We do not understand the basis for the designated distance. More importantly, we believe that stating a distance may pose a safety hazard for some workers, e.g., electrical work, work in trenches, work on sloped terrain. We therefore suggest a change to the verbiage, “as close as practical so as not to cause a safety hazard.”

(d) Access to Shade

(1) The proposed trigger temperature for access to shade is being lowered from 85 degrees to 80 degrees. We do not understand the scientific basis for the change. We

are unaware of any illnesses that have occurred with the lack of shade at temperatures less than 85 degrees, with no other environmental factors considered, e.g., wind speed, humidity, cloud cover, etc.

It is also unclear why the deletion of “25%” which is to be replaced with “number of employees on meal, recovery or rest periods.” We find the prior language to be more inclusive and easily determined. It also prevents a problem for the employer attempting to establish shade for 100% of his workforce simply because they have a single lunch break. For example, under the newly proposed language, if an employer had a 300 person workforce, there is likelihood that the employer would be mandated to provide shade at any one time for all 300 persons. The intent of the regulation is to accommodate those feeling the need to protect themselves from overheating and as proposed, the intent is lost.

There is another requirement that shade be located “no farther than 700 feet walking distance”. Our comments (above) regarding water apply here as well, i.e. distance is a meaningless requirement. Time is more appropriate.

(3) The proposed addition of “cool-down rest” is a reasonable addition, but our concern is, as written, it is unclear what steps an employer must take regarding cool-down rest if the employee actively shows no signs or symptoms of heat illness.

(4) We are in agreement with the proposed wording and believe it is a meaningful addition to the regulation.

(e) High-heat Procedures.

We are unclear of the basis for lowering high heat provisions from 95 degrees to 85 degrees, with no other elements of climatic conditions defined, e.g., wind speed, humidity, etc.

(2) The addition of “effective” is not defined. Similar use of the term in other Cal/OSHA regulations (e.g., IIPP) poses a lack of clarity for the employer unless the term is defined. We believe the intent can be retained by the simple removal of the word “effective.”

Founded in 1990, the California Industrial Hygiene Council (CIHC) represents the occupational and environmental health profession in California and is affiliated with the American Industrial Hygiene Association (AIHA), a 10,000 member national organization, as well as the International Occupational Hygiene Association (IOHA), which represents the global community of Occupational Hygiene organizations in over 34 countries. Go to www.cihconline.com for further information about CIHC.

We appreciate the opportunity to comment. Should you have any questions concerning the above, please contact our representatives for this issue: Joel M. Cohen, MPH, CIH at (650) 349-9737 or Howard B. Spielman, PE, CIH, CSP at (714) 220-3922.

Sincerely,



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