

**PROPOSED REGULATION OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R131-24

July 15, 2024

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1-12, NRS 618.295, 618.315 and 618.383.

A REGULATION relating to occupational safety and health; imposing certain duties on employers of employees who are exposed to certain hazardous conditions that may cause heat illness; requiring an employer to provide certain employees with training relating to the hazards of heat illness; exempting the applicability of certain requirements for employees who work in certain climate-controlled environments; imposing certain duties on an employer of an employee who shows signs of possible heat illness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Industrial Relations of the Department of Business and Industry to adopt such regulations as are necessary to provide safe and healthful employment in those employments within its jurisdiction. (NRS 618.295) Under existing law, employers with more than 10 employees and employers, other than employers in the mining industry, who have employees engaged in the manufacture of explosives are required to establish a written safety program. (NRS 618.383) **Section 5** of this regulation: (1) requires an employer who is required to establish a written safety program to perform and prepare a one-time, written analysis of the hazards associated with a job to assess the working conditions that may cause occupational exposure to heat illness; and (2) sets forth certain items which must be included in such an analysis.

Section 6 of this regulation provides that, if, based on the analysis performed pursuant to **section 5**, the employer determines that an employee is exposed to hazardous working conditions that may cause occupational exposure to heat illness, the employer is required to: (1) designate a person who is authorized and able to perform certain functions, including the coordination of emergency medical services for an employee; and (2) address, in the employer's written safety program, potential hazardous working conditions that may cause heat illness for employees. **Section 6** also specifies certain items which must be included in a written safety program that addresses potential hazardous working conditions that may cause occupational exposure to heat illness.

Section 7 of this regulation: (1) requires an employer to provide a training program for employees who are employed in job classifications having certain occupational exposures relating to heat illness; and (2) establishes certain requirements of such a training program.

Section 8 of this regulation requires measures implemented by an employer to prevent or mitigate the risk of occupational exposure to heat illness to reasonably mitigate that risk for affected employees.

Section 9 of this regulation provides that certain provisions of this regulation do not apply to employees who work indoors in a climate-controlled environment, including a motor vehicle with a properly functioning climate control system. **Section 9** also imposes certain duties on an employer if a climate control system becomes nonfunctional or does not effectively address the hazard of heat illness.

Section 10 of this regulation sets forth certain actions which an employer is required to take when an employee shows signs of possible heat illness.

Section 11 of this regulation: (1) provides that an employer is not precluded from providing protections that exceed the requirements of this regulation; (2) prohibits a collective bargaining agreement from waiving or reducing the requirements of this regulation; (3) provides that the provisions of this regulation do not relieve an employer from its contractual obligations under a collective bargaining agreement; and (4) requires a copy of a collective bargaining agreement to be made available upon request by the Division of Industrial Relations of the Department of Business and Industry.

Section 12 of this regulation provides that the provisions of this regulation do not affect the applicability of existing law governing industrial insurance and compensation for workplace injuries and occupational diseases.

Section 3 of this regulation defines the medical conditions that constitute “heat illness” for the purposes of this regulation, and **section 4** of this regulation defines certain working conditions that create a risk of “occupational exposure to heat illness” for the purposes of this regulation.

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Heat illness” means a medical condition resulting from the inability of the body to cope with a particular heat load and includes, without limitation, heat cramps, heat rash, heat exhaustion, fainting and heat stroke.*

Sec. 4. *“Occupational exposure to heat illness” means any working condition that creates the reasonable likelihood that heat illness could occur, including, without limitation:*

- 1. Air temperature;*
- 2. Relative humidity;*
- 3. Radiant heat from the sun or other sources;*
- 4. Conductive heat from the ground or other sources;*
- 5. The movement of air;*
- 6. The severity and duration of workloads; and*
- 7. Protective clothing and personal protective equipment worn by an employee.*

Sec. 5. *1. Except as otherwise provided in section 9 of this regulation, an employer who is required to establish a written safety program pursuant to NRS 618.383 shall perform and prepare a one-time, written job hazard analysis to assess working conditions that may cause occupational exposure to heat illness. Such a job hazard analysis must be performed:*

(a) Before a task for a job is undertaken for the first time by an employee of the employer; and

(b) Whenever a task for a job performed by an employee of the employer materially changes.

2. A written job hazard analysis performed pursuant to subsection 1 must include, without limitation:

(a) A list of all job classifications of the employer in which the majority of employees in those classifications have occupational exposure to heat illness for more than 30 minutes of any 60-minute period, not including breaks; and

(b) A list of all tasks and procedures, or groups of closely related tasks and procedures, performed by employees of the employer:

(1) In which occupational exposure to heat illness may occur; or

(2) Which are performed by employees in job classifications that are included in the list required by paragraph (a).

3. In conducting a job hazard analysis pursuant to this section, the employer shall assess the working conditions of a job without consideration of whether or not an employee in the job being analyzed would have access to water, rest or shade.

Sec. 6. 1. If, based on the job hazard analysis performed pursuant to section 5 of this regulation, an employer determines that an employee of the employer is exposed to hazardous working conditions that may cause occupational exposure to heat illness, the employer shall:

(a) Designate a person to perform the functions set forth in subsection 2; and

(b) Include in the written safety program required by NRS 618.383 provisions that address potential hazardous working conditions that may cause occupational exposure to heat illness.

2. The person designated by an employer pursuant to paragraph (a) of subsection 1 must be authorized and able to perform the following functions or designate another employee of the employer to perform the following functions:

(a) If an employee of the employer is experiencing signs or symptoms of heat illness that require an emergency response:

(1) Contact emergency medical services or ensure that emergency medical services are contacted;

(2) Provide, as promptly as possible, all information necessary to enable a provider of emergency medical services to reach the employee, including, without limitation, contact

information and directions, or ensure that such information is provided as promptly as possible; and

(3) Ensure that, if necessary and appropriate, the employee is transported to a location where a provider of emergency medical services is able to reach the employee.

(b) Monitor the working conditions that could create occupational exposure to heat illness; and

(c) Carry out the provisions of the written safety program that address occupational exposure to heat illness.

3. A written safety program that addresses potential hazardous working conditions that may cause occupational exposure to heat illness must include, without limitation:

(a) The provision of potable water, as described in 29 C.F.R. § 1926.51(a)(1). As used in this paragraph, “potable water” has the meaning ascribed to it in 29 C.F.R. § 1910.141(a)(2).

(b) The provision of a rest break for an employee who exhibits signs or symptoms of heat illness.

(c) The provision of means of cooling for employees.

(d) Except as otherwise provided in this paragraph and to the extent practicable, monitoring by the person designated by the employer pursuant to paragraph (a) of subsection 1, or the designee of that person, of working conditions that may create occupational exposure to heat illness. Such monitoring is not required when an employee of the employer is loading or unloading a motor vehicle which operates on public highways of this State.

(e) Identification and mitigation of any work process that may generate additional heat or humidity.

(f) Training of employees of the employer as necessary to reasonably mitigate the risk of occupational exposure to heat illness.

Sec. 7. 1. *Except as otherwise provided in section 9 of this regulation, an employer shall provide a training program for each employee who is employed in a job classification identified in paragraph (a) of subsection 2 of section 5 of this regulation.*

2. A training program provided pursuant to subsection 1 must:

(a) Provide information to enable each employee receiving the training to recognize the hazards of heat illness; and

(b) Train each employee receiving the training in the procedures to be followed to minimize the hazards of heat illness.

Sec. 8. *Any measure which an employer implements pursuant to section 5, 6 or 7 of this regulation must, at a minimum, reasonably mitigate the risk of occupational exposure to heat illness for the affected employees.*

Sec. 9. 1. *The provisions of sections 5 to 8, inclusive, of this regulation do not apply for employees who work indoors in a climate-controlled environment, including, without limitation, a motor vehicle with a properly functioning climate control system.*

2. If a climate control system for an environment described in subsection 1 becomes nonfunctional or does not effectively address the hazard of heat illness, the employer shall:

(a) Make a good faith effort to reestablish an effective climate control system as soon as practicable; and

(b) Until the climate control system is rendered effective, implement measures that address potential hazards that could cause heat illness for employees.

Sec. 10. *If an employee shows signs of possible heat illness, his or her employer shall:*

1. *Carry out the measures in the written safety program of the employer as required by subsection 3 of section 6 of this regulation; and*
2. *Require the person designated by the employer pursuant to paragraph (a) of subsection 1 of section 6 of this regulation, or a designee of that person, to monitor the employee to determine whether medical attention is necessary.*

Sec. 11. *1. An employer, on its own or under a collective bargaining agreement with a labor union, is not precluded from providing protections that exceed the requirements of sections 2 to 12, inclusive, of this regulation.*

2. A collective bargaining agreement must not waive or reduce the requirements of sections 2 to 12, inclusive, of this regulation.

3. Nothing in the provisions of sections 2 to 12, inclusive, of this regulation relieves an employer from its contractual obligations under a collective bargaining agreement.

4. A copy of a collective bargaining agreement must be made available upon request by the Division.

Sec. 12. *The provisions of sections 2 to 12, inclusive, of this regulation do not affect the applicability of chapters 616A to 616D, inclusive, or chapter 617 of NRS.*