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Administrator

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Deputy Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066

The following informational statement as required by NRS 233B.066 is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 618 as follows:

1. EXPLANATION OF THE NEED FOR THE ADOPTED REGULATION

The proposed regulations are necessary to mitigate occupational injuries and illnesses resulting from heat exposure in the workplace. From FY 2018 to FY 2024, there were an average of 79 workers' compensation claims per year in Nevada arising from heat issues. The number of heat stress complaints reported to Nevada OSHA has been rising over the past several years from 123 complaints in 2015 to a high of 467 complaints in 2024, through September 30, 2024.

Moreover, as pointed out in written comments provided by Nevada Environmental Justice Coalition, the Clark County Coroner's Office reported 402 heat-related deaths in Las Vegas since the beginning of 2024. It was pointed out that "Extreme heat kills more people than hurricanes, floods, and tornadoes combined each year making I the deadliest natural hazard in the nation. Reno and Las Vegas are the two fastest-warming cities in the United States. Nevada has been found to have some of the highest rates of heat-related workplace fatalities."

Further, written comments by Bluegreen Alliance shed additional light as to the need for the regulations which include "remediating even a margin of [the hundreds of victims of heat illness every year], will decrease the impact on Nevada's public health systems and workforce."

2. DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, A SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Copies of the proposed regulation, notices of workshop, and notice of intent to act upon the regulation were sent by e-mail to persons who were known to have an interest as well as any persons who had specifically requested such notice, if any. These documents were also made available at the Division's website, http://dir.nv.gov/Meetings/Meetings, with the notices also posted at the following locations:

The State of Nevada Website (www.notice.nv.gov)
The Nevada State Legislature Website (http://leg.state.nv.us/App/Notice/A/)

The Division of Industrial Relations Website (http://dir.nv.gov/Meetings/Meetings)

The information was also physically posted at the Division's offices, located at 1886 College Parkway, Suite 110, Carson City, NV 89706 as well as 2300 W. Sahara Ave., Suite 300, Las Vegas, NV 89102.

Prior to the public workshop required under NRS Chapter 233B, the Division held several informal meetings to discuss and engage with stakeholders preliminary opinions regarding the modifications to NAC Chapter 618 related to heat illness.

Thereafter, a Public Workshop was held to solicit comments on the proposed regulation on August 29, 2024. At the conclusion the August 29, 2024 Workshop, the Division invited members of the public wishing to submit written public comment. The Division received five (5) written public comments.

Then, the Division held a Public Adoption Hearing on October 22, 2024. Again, after the conclusion of the Public Hearing, the Division invited members of the public wishing to submit written public comment. The Division received five (5) written public comments.

A summary of the comments is below in Section 3 and may also be obtained by contacting Samantha O'Brien, Legal Research Assistant, Division of Industrial Relations, (702) 486-9070, or by writing to the Division of Industrial Relations, 2300 W. Sahara Ave., Ste. 300, Las Vegas, Nevada 89102.

3. THE NUMBER OF PERSONS WHO:

a.	ATTENDED AUGUST 29, 2024 WORKSHOP:	86
b.	ATTENDED OCTOBER 22, 2024 PUBLIC HEARING:	92
c.	TESTIFIED AT AUGUST, 29, 2024 WORKSHOP:	17
d.	TESTIFIED AT OCTOBER 22, 2024 PUBLIC HEARING:	8
e.	SUBMITTED WRITTEN COMMENTS RELATED TO AUGUST 29, 2024 WORKSHOP:	5
f.	SUBMITTED WRITTEN COMMENTS RELATED TO OCTOBER 22, 2024 PUBLIC HEARING:	5

4. FOR EACH PERSON IDENTIFIED IN PARAGRAPHS (d), (e), and (f) OF NUMBER 3 ABOVE, THE FOLLOWING INFORMATION, IF PROVIDED TO THE AGENCY CONDUCTING THE HEARING:

August 29, 2024 Public Workshop	
1	**Name**: Pesach Chananiah **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Blue Green Alliance **Summary of comment**: Regarding Section 5 – Expressed concerns relating to language consistently relying on employer to establish a written safety program and no mention of inclusion of workers in developing the written job hazard analysis. This results in a weaker level of protection. Requested that employees be involved in the job

	hazard analysis and written safety program. Requested more specific standards and benchmarks. Regarding Section 6 – Recommends that the person designated be part of the member of the job classification. Regarding Section 9 - Concerned that Section 9 exempts employees working indoor from regulation altogether. Thanked the Division for work on the regulation. Expressed that with regard to the Small Business Impact Statement, he believes there is a beneficial effect for the passage of the regulation.
2	**Name**: Misty Grimmer **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Restaurant Association **Summary of comment**: Regarding Section 5 – Wanted to clarify that as we do the job analysis, the determination is that once a job classification is considered "at risk", and therefore, the remainder of the regulation would apply to those job classifications. Regarding Sections 6 through 10 - if designated employee fulfills those processes, then employer should be deemed to comply with its requirements under the regulations. If employee refused medical treatment or to go home, but then later show signs of heat illness, wants to ensure that employer is deemed compliant with regulation. Thanked the Division for being so willing to hear everyone's input. She believes that the Division came up with a regulation that can work for everyone.
3	**Name**: Jackie Spicer **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Environmental Justice Coalition **Summary of comment**: Regarding Section 5 – Employees and workers should be involved in job hazard analysis. For the hazard analysis, wants to see more explanation for this. Wants review of hazard analysis under instances including environmental changes. Regarding Section 6 – If a person is already showing signs of heat illness, it may be too late – requested language to be modified to "as long as many rest breaks are needed to ensure person is okay". Regarding Section 7 – training program – would like to see supervisors of employees be included so that they are trained to see signs of heat illness. Regarding Section 9 – Echoed comments by Pesach Chananiah. Also inquired whether there any definitions of "good faith effort" for fixing climate control systems. Questioned that for supervisors who are employees, whose job would not fall under that classification.
4	**Name**: Ann Barnett **Telephone number**: None provided **Business address**: None provided

	Electronic mail address: None provided **Name or organization represented**: NCA **Summary of comment**: Regarding Section 5 - Wants a trial period in 2025 to ensure regulation is working.
5	**Name**: Peter Saba **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Restaurant Association **Summary of comment**: Expressed support for regulations.
6	**Name**: Jorge Macias **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Martin Harris Construction **Summary of comment**: Prefers to keep specific language out. There is already OSHA guidance regarding job hazard analysis, so he does not want to see it in this regulation.
7	**Name**: Paul Moradkhan **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Vegas Chamber **Summary of comment**: Regarding Section 5 – As drafted, the regulation is a fair and balanced approach. There is nothing in law that allows an employee to file a grievance if there is an issue with the process. Regarding Section 6 – comfortable with regulation as submitted – concerned regarding comment made by other individuals that supervisor be included especially for small businesses. As drafted, the regulation accounts for all business sectors. Need to take approach that is adaptable for all sectors, indoor and outdoor. Thanked the Division and stakeholders.
8	**Name**: Mac Bybee **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Associated Builders and Contractors **Summary of comment**: Supports regulation as drafted, but echoes comments by Ann Barnett for a larger grace period to get contractors compliant.
9	**Name**: Gene Houghton **Telephone number**: 702-429-8648 **Business address**: None provided **Electronic mail address**: None provided

	Name or organization represented: GSL Electric **Summary of comment**: Regarding Section 6 – Requested clarification whether regulation requires one person per job site or per company.
10	**Name**: Colin Vance **Telephone number**: None provided **Business address**: 4701 N. Torrey Pines **Electronic mail address**: colin.vance@usda.gov **Name or organization represented**: US Forest Service, USDA **Summary of comment**: Regarding Section 6 – Regulation is vague – do employers have to call any ambulance the minute an employee is showing heat illness? Heat cramps versus heat strokes are different. Recommended adding wet bulbs to regulation. Regarding the job hazard analysis, it would make more sense to have the job hazard analysis in place and to just supplement.
11	**Name**: Scott Marx **Telephone number**: 702-239-1005 **Business address**: 4660 S. Eastern Ave. **Electronic mail address**: None provided **Name or organization represented**: Xram Excavation LLC **Summary of comment**: Requested clarification on who decides what comments and language of the regulation is included in the final draft. Regarding Section 9 and comments from Pesach Chananiah – with language as written in Section 8, employer is responsible, and Section 9 only kicks in if employer's client control is out. Appreciates how the regulation is written for diverse groups. He expressed that he would like to see regulation be passed as written.
12	**Name**: Brian Reeder **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Ferrari Reeder PA NCA **Summary of comment**: Wanted clarification that if language of the regulation is modified, would there be a need for a second public workshop prior to the regulation being adopted.
13	**Name**: Anastasia Christman **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: National Employment Law Project **Summary of comment**: Regarding Section 6 – With regards to the requirement for training of employees of employer – temporary workers file workers' compensation claims 2 times as much as regular workers. Suggests that in this section, that it be specified that specialized training plan for temporary workers would look like be excluded in

	the regulation. Also suggested that one of the training elements include explicit mention that employees have whistleblower/retaliation protection. Underscored the point regarding workers who work alone and wanted to ensure they are protected, such as UPS drivers and farm workers. Pointed out that there is some good language in Oregon and California, including buddy systems, communications systems, cell phones.
14	**Name**: Erin Buchanan **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: City of Henderson **Summary of comment**: Regarding Section 6 – Requested more clarification regarding whether person needs actual physical eyes on the employees. Are electronic means of supervision able to meet the intent? Regarding Section 9 – Requested clarification regarding phrase "motor vehicle use" – what percentage would qualify.
15	**Name**: Jake Jarvis **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Performance Contracting Inc. **Summary of comment**: Inquired whether there is specific training for a heat safety coordinator or if it is basic training.
16	**Name**: Jose Perez **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Burke Construction **Summary of comment**: Believes that regulation should define supervisor roles.
17	**Name**: Paul Enos **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Trucking Association **Summary of comment**: Looking forward to the supplemental guidance in relation to the regulations.

Written Public Comment re: August 29, 2024 Public Workshop	
1	**Name**: Pesach Cananiah **Telephone number**: None provided **Business address**: None provided **Business telephone number**: None provided **Electronic mail address**: Pchananiah@bluegreenalliance.org

	Name or organization represented: Bluegreen Alliance **Summary of comment**: Thanked the Division for work put in to producing draft regulation and strongly supports the Division's efforts to facilitate a robust stakeholder engagement process. Strongly urges Nevada to honor OSHA's Recommended Practices for Safety and Health Programs. Believes there is a beneficial effect on the public as a result of the regulation – there are hundreds of heat illness claims a year and regulations will address that, thereby decreasing the impact on the public health systems and workforce, leading to financial stability and health and well-being for workers' families and communities. Regarding Section 5 – concerned with leaving it up to the employer to determine whether an employee is exposed to hazardous working conditions. Suggests including at least one worker in each job classifications to be included in developing the job hazard analysis and training program. Regarding Section 6 – recommend that the designee be a member of one of the affected job classifications. Also recommends more robust technical benchmarks by which an employer would demonstrate compliance. Regarding Section 9 – appears section exempts applicability for employees who work in climate-controlled environments.
2	**Name**: Erin Buchanan **Telephone number**: 702-267-2274 **Business address**: 240 S. Water Street, MSC 139, Henderson, NV 89015 **Electronic mail address**: Erin.Buchanan@cityofhenderson.com **Name or organization represented**: City of Henderson **Summary of comment**: Requested clarification on Section 6 and Section 9. Expressed concerns regarding Section 5 (job hazard analysis), specifically the time it would take to conduct the job hazard analysis, prepare it, distribute it, and the upkeep. Expressed concerns regarding Section 6 (lone workers) – if an employer cannot have lone workers, employers would need to hire additional people, which comes at an increased cost, productivity will go down.
3	**Name**: Anastacia Christman **Telephone number**: 509-739-7767 **Business address**: 2030 Addison St., Berkeley, CA 94704 **Electronic mail address**: achristman@nelp.org **Name or organization represented**: National Employment Law Project **Summary of comment**: Expressed appreciation for effects to draft a strong occupational heat illness prevention standard for Nevada. Regarding Section 4 – concerned that without definitional guidance as to temperatures and heat indexes that trigger implementation of safety measures, preventative tools like rest breaks come after a worker has suffered from heat-related illness rather than before. Recommended adopting practices of heat protection standards in Washington, Oregon, and California by adopting specific temperature triggers. Regarding Section 5 – Strongly supports requirement for a written plan but believes the best plans benefit from meaningful input from workers. Recommended that a meaningful employee role be included in drafting and

	refining the written plan and that the plan be revised and refined at least annually and after any Nevada OSHA investigation for heat exposure or employee suffers a severe heat-related illness or injury. Regarding temporary workers, Section 6 should explicitly include specialized training for temporary workers. Also recommends inclusion of whistleblower protections for filing complaints or participating in OSHA proceedings.
4	**Name**: Jackie Spicer **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: Jackie.spicer@maketheroadnv.org **Name or organization represented**: Nevada Environmental Justice Coalition **Summary of comment**: Expressed respect and appreciation to the Division to engage stakeholders and produce regulation draft. Expressed that the draft regulation could be improved. Without an initial temperature trigger or specific guidance, the regulation does nothing to change the status quo. Regarding Section 5 – workers and their representatives should be involved in the process to determine whether there is a heat risk. Regarding Section 6 – the break requirement in the regulation could be too late for some workers – the process is reactionary, not preventative. Recommend language be adjusted to allow as many breaks as necessary to cool the employee's internal temperature. Regarding Section 7 – would like to see training apply to supervisors in at-risk classes, even if they themselves are not considered at-risk. Regarding Section 9 – Would like language and guidance regarding how extreme heat can be properly mitigated to protect indoor workers.
5	**Name**: Ginger Bredemeier **Telephone number**: 702-414-4286 **Business address**: None provided **Electronic mail address**: ginger.bredemeier@VeneitionLasVegas.com **Name or organization represented**: The Venetian Resort Las Vegas **Summary of comment**: Venetian has no objection to the addition of heat hazard programs or with performing job hazard analyses regarding occupational exposure to heat that may result in heat illness. Primary concern with the regulation is that it takes an expansive definition of "heal illness" by adding the modifier "without limitation". Such language can create implementation impossibilities for large employers. Venetian proposes reference the CDC or NIOSH guidance to use when creating training materials, notices to employers, job hazard analysis, and policies and procedures. Expressed concern in Section 4 over the use of phrase "occupational exposure to heat illness". Suggested phrase "occupational exposure to conditions sufficient to cause heat-related illnesses" be used instead. Venetian agreed that job hazard analysis process is already required for all employers to perform and is duplicative and unnecessary. Suggests that Section 5 provide that employers required to establish a written safety program shall also include occupational exposure to conditions that may cause heat-related illness as part of their written safety programs. Regarding Section 6 – concerned that the language required a designated employee to make medical or health assessments that is outside their knowledge or skill set.

	Further concerned with language regarding rest breaks and "means for cooling" as those are not defined.

October 22, 2024 Adoption Hearing	
1	**Name**: Misty Grimmer **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: misty@theferrarogroup.com **Name or organization represented**: Nevada Resort Association **Summary of comment**: In support of the regulations, Regulation promotes safety for employes and is workable for employers.
2	**Name**: Pesach Chananiah **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: BlueGreen Alliance **Summary of comment**: Thanked the Division and OSHA for thorough work which is appreciated but still concerned with carve-out for indoor workers. Wants regulation to apply to indoor workers. Wants more meaningful participation for workers. Looking forward to finalization of the regulation despite gaps in opinion.
3	**Name**: Paul Moradkhan **Telephone number**: 702-810-9124 **Business address**: None provided **Electronic mail address**: pmoradkhan@vegaschamber.com **Name or organization represented**: Vegas Chamber **Summary of comment**: In support of the regulation as drafted. Focus of the regulations is heat illness for Nevada workers. Asked for regulations to be adopted with no further changes implemented.
4	**Name**: Alexis Motarex **Telephone number**: 775-813-8150 **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada AGC **Summary of comment**: echoed sentiment said by Ms. Grimmer and Mr. Moradkhan.
5	**Name**: Joanne Leovy **Telephone number**: 702-524-4802 **Business address**: None provided **Electronic mail address**: joanneleovy@gmail.com **Name or organization represented**: Nevada Clinicians for Climate Action **Summary of comment**: Strongly supports measures to protect workers. Has written comments – wants employees to be directly involved. Wants clear definitions. Important for regulation to specify that major source of exacerbation of current illnesses. Section 6 does not differentiate between heat illness vs. current

	illnesses. Rest breaks should be implemented. Recommend employee education include additional information, including medication and increases of heat risk. Facilities like kitchens and laundries should be included in the regulations.
6	**Name**: Jackie Spicer **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Environmental Justice Coalition **Summary of comment**: Represents state-wide network of non-profits. In favor of regulations but protections do not go far enough to protect workers. Regulations give too much discretion to employers. Requests DIR to issue statement of why overruling previously stated concerns.
7	**Name**: Peter Saba **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Restaurant Association **Summary of comment**: Supports regulations. Job safety analysis aligns with their procedures already.
8	**Name**: Ann Barnett **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Contractors Association **Summary of comment**: Thanked the Division. Requested a period of leniency for employers to comply. Looks forward to working with the Division.

Written Public Comment re: October 22, 2024 Adoption Hearing	
1	**Name**: Brock Young **Telephone number**: 775-327-5058 **Business address**: None provided **Electronic mail address**: brocky@unr.edu **Name or organization represented**: University of Nevada, Reno **Summary of comment**: Regulation is well-intentioned but presents more questions than it answers. Concerns regarding what metric should be used by employers to determine if a working condition is hazardous; how are designated employees to monitor working conditions; climate-controlled environment applicability. References other states who specify a temperature or a heat index as triggers.
2	**Name**: Emilyl Osterberg **Telephone number**: 702-565-8951 **Business address**: 400 N. Green Valley Pkwy., 2nd Floor, Henderson, NV 89074 **Electronic mail address**: None provided **Name or organization represented**: Hendeson Chamber of Commerce

	Summary of comment: Over the past year, the Henderson Chamber of Commerce has worked with members of the business community and OSHA to create regulations that mitigate heat illness without negatively impacting businesses throughout the state. Believes the proposed regulations will address the issue of heat illness in a manner that is reasonable and effective.
3	**Name**: Pesach Chananiah **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: Pchananiah@bluegreenalliance.org **Name or organization represented**: BlueGreen Alliance **Summary of comment**: Thanked Division for thorough and dedicated work into producing the regulations. Recommends the strongest regulation possible in the interest of the public. Areas of the regulation of concern: Section 9, as it relates to indoor workplaces. As written, regulation appears to preclude applicability to employers of employees who work indoors in a climate-controlled environment. Section 5 – language leaves the responsibility too completely with the employer to prepare a written job hazard analysis. Section 6 – deferring to an employer's discretion does not provide the same level of protection for workers as a regulation that depends on the involvement of such workers.
4	**Name**: Jackie Spicer **Telephone number**: None provided **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Environmental Justice Coalition **Summary of comment**: In favor of adoption of the proposed heat illness regulations in order for Nevada OSHA to have the authority to issue citations specifically related to extreme heat but still feel protections do not go far enough. Section 5 – Feels it necessary for workers and their representatives be involved in the process to determine whether there is a heat risk. Suggests explicit language indicating that he written safety program and job hazard analysis are produced in collaboration with the safety committee. Wants a triggering event to complete a hazard analysis due to changing environmental conditions. Section 6(3)(b) – providing breaks to an employee who is already experiencing heat-related signs and symptoms could be too late. Process is reactionary not preventative. Section 7 – prefer to see training apply to supervisors of employees in at-risk classes. Section 9 – excludes indoor workers from protections.
5	**Name**: Joanne Leovy, MD **Telephone number**: 702-524-4802 **Business address**: None provided **Electronic mail address**: None provided **Name or organization represented**: Nevada Clinicians for Climate Action **Summary of comment**: Applaud the Division for engaging in the process with stakeholders and are strongly in favor of enacting standards for protection and mitigation of heat illness in workers. Suggest employees be actively involved in development of job hazard analyses and written safety plans. Agree with comments submitted by BlueGreen Alliance and the National Employment Law Project that the regulation be implemented with clear recognition of public health

	benefits. Section 2(a) – determining whether a job involves occupational exposure to heat illness is n well-defined in the draft. Section 3 – definition of heat illness as currently drafted does not acknowledge that a major source of heat-related illness is exacerbation of existing disease and recommends addition of this phrase. Section 6 – recommend that heat safety plans differentiate between measure to prevent illness and those to respond to employees exhibiting symptoms. Section 6(3)(b) – provision needs to be clarified – recommend employees showing signs of heat illness receive intervention as stated in NIOSH recommendations. Requests clarification of "adequate cooling" Section 6 – draft contains no specific recommendation or requirement for non-acclimated employees. Section 7(2)(a) – recommend training about heat hazard to include information about health and physical conditions that place a person at particular risk and about chronic medications that may increase risk. Section 9 – urge the Division to limit indoor workplace exclusions to those workplaces without substantial heat risk. Indoor environments with heat exposure have a high heat illness risk and should be required to perform a job hazard analysis and written safety plan.

5. DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

To determine whether the proposed regulations were likely to have an impact on small businesses, the Division considered the purpose and scope of the proposed regulations. Those changes included 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; and imposing certain duties on an employer of an employee who shows signs of possible heat illness.

In addition, on July 25, 2024, the Division sent out a Small Business Impact Statement Questionnaire to interested parties on the Division's Listserv, which includes 4,141 recipients, as well as 96 recipients who participated in stakeholder meetings. The Questionnaire was also posted on the Division's website. The Questionnaire inquired from small businesses whether they believed there would be any economic effects, adverse or beneficial, direct or indirect, on their respective businesses from the proposed regulation. The deadline to return the questionnaire was August 2, 2024. The Division the Division received ten (10) responses as follows:

1. Paul Moradkhan, on behalf of Vegas Chamber

The Vegas Chamber does not believe the regulations would have an adverse economic effect on the employers and businesses that it represents because it does not require hiring additional staff to comply with it or contain an unfunded staffing mandate that would cause economic hardship. The Vegas Chamber believes it will have a neutral economic effect regarding cost savings. The Vegas Chamber does not anticipate any indirect adverse effects because the proposed standards are fair, balanced, and will allow compliance in a non-burdensome manner. The Vegas Chamber also anticipates it will provide an indirect beneficial effect via clear guidance for employers to comply and also informing employees regarding their job duties and providing guidance to employees.

2. Deborah Head, on behalf of American AVK Company ("AVK")

AVK indicated the regulations would have an adverse economic effect on its business due to increased estimated costs for creating and providing employee training and annual updating of polices/procedures and audits ($4,150); and possible unknown costs related to cooling specific work areas, quarterly maintenance of same, and increased energy costs. AVK further indicated that the regulations would have a beneficial effect on its business by keeping employees safe from heat-related illness and reducing time lost from work, but also stated it would not have a beneficial impact because it "ha[s] most of these practices in place already." AVK does not anticipate any indirect adverse or beneficial effects on its business.

3. Charles Tolbert, on behalf of Bio Logical, LLC ("BL")

BL indicated the regulations would have an adverse economic effect on its business because it may impose additional costs to its business and for its clients, such as mobilizing a designated employee outside of budgeted parameters and increased internal costs to establish and maintain additional programs and training. BL does not anticipate any beneficial economic effects or any indirect adverse/beneficial effects on its business.

4. Willy Avila, on behalf of Civil Werx ("CW")

CW indicated the regulations would have an adverse economic effect on its business due to "substantial administrative time vested" into editing all internal documents and training time, including the cost of same as well as costs for printing updated materials. CW indicated potential indirect adverse effects such as a small percentage of employees taking advantage of the new regulation and potential unwarranted fines from OSHA despite best efforts to comply. CW does not believe it would have any beneficial economic effect or indirect beneficial effects on its business.

5. Kurt Goebel, on behalf of Converse Consultants ("CC")

CC indicated the regulations would have an adverse economic effect on its business because it would impose an additional, but non-onerous, management requirement for creating and completing job hazard analysis and training, which will impose an estimated $8,000 cost. CC does not anticipate any beneficial economic effects because it already manages heat exposure via provision of fluids, shade, and working hours and believes it "requires spending more time on bureaucracy." CC anticipates an indirect adverse effect in that employees may use it as "a tool to avoid work they would normally complete." CC anticipates an indirect beneficial effect of a higher level of employee awareness and avoidance of heat sickness situations. CC also prefers state versus federal regulation because feds would promulgate "unrealistic regulations for our desert environments."

6. Kyle Call, on behalf of Maverik, Inc.

Kyle Cal indicated that the organization had 150 or more employees and was therefore not a small business as defined in NRS 233B.0382.

7. George Allen, on behalf of Saddle West Hotel Casino & RV Resort ("SW")

SW indicated the regulations would have not any adverse or beneficial economic effect on its business. SW does not anticipate it will any indirect adverse or beneficial effect on its business.

8. John Anthony, on behalf of Spaghetti On the Wall Hospitality ("SOWH")

SOWH indicated the regulations would have an adverse economic effect on its business, the cost of which is difficult to determine, but would include the hours spent performing the job hazard analysis, writing the safety program, and training staff. Cost is estimated to be $3,000 in labor and ongoing care. SOWH anticipates indirect adverse effects of causing staff to be more wary of working conditions that are already being efficiently cooled and monitored and also deterring cooks from hot environments thereby making it harder to find cooks who are willing to work. SOWH does not believe it would have any beneficial economic effect or indirect beneficial effects on its business.

9. Ken Lawson, on behalf of Sunshine Minting, Inc.

Ken Lawson indicated that the organization had 150 or more employees and was therefore not a small business as defined in NRS 233B.0382.

10. Carlos Zuluaga, on behalf of Tri Pointe Homes.

Carlos Zuluaga indicated that the organization had 150 or more employees and was therefore not a small business as defined in NRS 233B.0382.

Based on this review, the Division determined that this regulation would have no direct effect on small businesses, either adverse or beneficial, and will also have no indirect effect on small businesses, either adverse or beneficial.

A summary may be obtained by contacting Samantha O'Brien, Legal Research Assistant, Division of Industrial Relations, (702) 486-9070, or by writing to the Division of Industrial Relations, 2300 W. Sahara Ave., Ste. 300, Las Vegas, Nevada 89102.

6. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

After receiving the public comments during the public hearing held on October 22, 2024 but before adjournment of the hearing, William Gardner, Chief Administrative Officer of Nevada OSHA, Todd Schultz, Chief Administrative Officer for the Division's Safety Consultation and Training Section (SCATS), and Victoria Carreon, Division Administrator addressed the concerns brought up in public comment. Specifically, Mr. Gardner noted that OSHA would initiate a guidance document in conjunction with the regulations. Mr. Gardner express his desire for the process to be collaborative and felt that the regulation was the best solution to difficult questions. As for the items of concern, Mr. Gardner noted that the job hazard analysis is a one-time analysis, but there may be triggers if job materially changes, and per NAC 618.450 because the work safety program must be reviewed post-accidents. Additionally, Mr. Gardner stated that employee participation is expected as employers develop the job hazard analysis, the safety committee is a major component of the work safety program, and employee participation must be active or the job hazard analysis is insufficient. The job hazard analysis must be applicable to work actually being performed, and if corporate office drafts the job health analysis, it must reflect real world working conditions. Regarding training, the supervisor must be trained in same areas as employees and employers must make legitimate effort to mitigate. Mr. Gardner also stated that with regards to indoor employers, they can be held accountable via the general duty clause statute if the new

regulation does not apply.

Mr. Schultz noted that SCATS can help employers via consultation by request and can help via training (in-person, state-wide, and online). SCATS would provide help with the guidance document. There is also help via consultants, and it is confidential and employers can ask questions about how to comply, via phone and online.

Accordingly, the Division felt that the concerns brought up by members of the public were adequately addressed by the regulations as drafted.

7. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

A. ADVERSE AND BENEFICIAL EFFECTS

i. Effect on Businesses

The Division determined that this regulation may have a small direct adverse effect on small businesses. The possible direct adverse effect on small businesses may include the time and cost for non-exempt employers to perform and prepare a one-time job hazard analysis to assess working conditions that may cause occupational exposure to heat illness. Additionally, non-exempt employers may expend time and incur costs for developing, implementing, and training for the management of heat illness in their written safety program as required by NRS 618.383.

The Division believes that there will be direct beneficial effects on small businesses as the result of these regulations due to reduced employee injuries and lost time from occupational exposure to heat illness, as well as improved employee situational awareness of their job conditions.

ii. Effect on the Public

The Division anticipates no adverse effects, either direct or indirect, on the public as the result of these regulations. There will be no direct or indirect cost to the public.

The Division believes that there will be beneficial effects on the public as the result of these regulations. Specifically, there may be reduced employee injuries and lost time from occupational exposure to heat illness, as well as improved employee situational awareness of their job conditions.

B. IMMEDIATE AND LONG-TERM EFFECTS

i. Effect on Businesses

The Division believes there may be a small direct adverse effect on small businesses. The possible direct adverse effect on small businesses may include the time and cost for non-exempt employers to perform and prepare a one-time job hazard analysis to assess working conditions that may cause occupational exposure to heat illness. Additionally, non-exempt employers may expend time and incur costs for developing, implementing, and training for the management of heat illness in their written safety program as required by NRS 618.383. However, the long term effects would be beneficial, as the result of these regulations. Specifically, there may be reduced employee

injuries and lost time from occupational exposure to heat illness, as well as improved employee situational awareness of their job conditions.

ii. Effect on the Public

The Division believes that there will be beneficial effects on the public as the result of these regulations. Specifically, there may be reduced employee injuries and lost time from occupational exposure to heat illness, as well as improved employee situational awareness of their job conditions. There will be no direct or indirect costs to the public.

8. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION

There will be no additional or special costs incurred by the Division for enforcement of this regulation.

9. DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATIONS OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, THE NAME OF THE REGULATING FEDERAL AGENCY.

The Division is not aware of any similar regulations of other state or government agencies that which the proposed regulations overlap or duplicate.

10. IF THE REGULATION INCLUDES PROVISIONS WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISIONS.

The Division is not aware of any similar federal regulations of the same activity in which the adopted regulations are more stringent.

11. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

The proposed regulation does not include a new fee or an increase of an existing fee.

Dated this 28th day of October, 2024.

DIVISION OF INDUSTRIAL RELATIONS

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