I am interested in providing a comment in the opening session for the:

R053-20 618 DIVISION OF INDUSTRIAL RELATIONS OF THE DEPARTMENT OF BUSINESS AND INDUSTRY A REGULATION requiring employers to provide employees with certain protections against heat-related illness CONTACT Christopher Eccles (702) 486-9073 ceccles@dir.nv.gov

My testimony is attached and I would like it added into the record.

Please contact me when I will be able to speak as I am also running a business. Thank you.

Diane Hale, CEM, CHMM, CDGP, CEHSP, ASP

Best in the West Safety, Inc.

Submitted by Diane Hale, Best in the West Safety, Inc.

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Good afternoon, My name is Diane Hale CEO of Best in the West Safety and a 30 year Certified Environmental Manager and Certified environmental safety health professional serving our construction, manufacturing and mining industries. I wish to comment on the Health Illness regulations on proposed changes to Chapter 618 of NAC.

I appreciate the opportunity to make these comments to request supplemental language to the mandate to use a Temperature wet bulb glove meter. Specifically I will provide a viewpoint to the heat illness regulations based on the section listed for adverse effects of the standard and negative financial impact that was not realistically determined for the heat illness standard for temperature monitoring.

CONCERN #1

OSHA defines the work environment as **"the establishment and other locations where one or more employees are working or are present as a condition of their employment**. This interpretation leads to the definition applying to every trade and employee in construction, services location or home repair business working at what is LISTED in the standard as a **unique Workplace location.**

- Please note that Nevada OSHA's Compliance officers inspect **workplaces** for hazardous conditions and issue citations where violations of Nevada OSHA standards are found.

Under the adverse or NEGATIVE effects on page 2 of the proposed regulation: Small businesses with multiple workers will be required for each worker who independently provide a service, at a separate workplace or location will be required to purchase a wet bulb globe heat stress meter for each employee to take with them to monitor the temperatures of their workplace based on the standard as written.

This is the interpretation I made specifically due to the language that states it be required for each covered workplace. For example, a company that installs utilities or performs service repairs of mechanical equipment often sends out one worker to a site. They may have 100 employees. Then they will be required to have for each covered workplace a wet bulb glove temperature unit. At my business, my employees perform workplace inspections in all weather. So each of my safety workers would be required to have their temperature meter with wet bulb and globe functionality if the safety inspection is performed outside or in a warehouse that is not cooled.

CONCERN #2: Financial costs and liability to the business are as follows:

The standard claims the cost is $125 per temperature meter. Let me illustrate the actual costs of using this meter:

Unit cost $125 (more likely more), We use a calibrated analytical temperature meter that costs with an air flow meter over $2,000. We perform heat illness temperature monitoring and program solutions.

Using the standard cost of $125 there is also additional costs to using this device:

USB cable to transfer data $39

Field Tripod $35 Most meters must be setup and allowed time to stand before operation. Ours requires 10 minutes after set up before reading the data.

Data acquisition software $62

These numbers where taken from Sper Scientific and are used as an example. **Using SPER Scientific Temperature probe that meets the standard the actual per unit** INTIIAL cost is $401 without tax or shipping. More likely $450 per unit.

This does not include the cost of training workers to correctly use and interpret the data and coordinate the temperature readout with their company's safety program.

- **ACTUAL costs to a small business with employees for just the meter will be significantly more based on my interpretation of this PRESCRIPTIVE and not performance based standard.**

At the starting price listed by NV OSHA of $125, that comes down to a $12,500 Imposed Fee by the state of Nevada to monitor the temperatures if there were 100 employees every single day dispatched to separate "workplaces".

- Secondly, actual costs identified in the standard for the negative business impact did not include most are analytical meters will require an annual calibration to verify they are working properly and will provide an accurate readout. The annual calibration requirements that depending upon the manufacturer may range from $500-1500 for each unit not including shipping. That is quantified as another expense per **business of say 100 units times $1,000 or $100,000. The Sper unit's manufacturer suggestion annual calibration and they reinforce their ISO 9000 calibration method for accuracy of the equipment.**
- Third, I am assuming all workers are properly trained, know how to set up and leave the unit before beginning work. Also each business will have some liability and risk with these meters if the workers fail to properly figure out how to use the meters. Can their data and interpretation and documentation stand up in court to demonstrate their temperature probes were working properly.
- **If a worker drops and breaks his wet bulb Temperature meter, does that mean he has to stop work and immediately return to the office and get no work done. As an employer I would still need to pay for his time and would end up with unhappy customers because a one hour job did not get performed because the temperature meter broke and the worker has to have it on his job site.**

Based on these additional costs associated with how the regulation is written this standard will put a significant financial burden well beyond the standards listed $125 fee (which is for a bottom line

temperature meter). In actuality these costs are significant to a Small service businesses and small contractors.

- Finally The training costs associated with the regulation, that were not included in the total are already being provided by businesses as part of their heat stress education. Employers do this because workers are their #1 asset.

Businesses will need to cover the temperature meter's documentation, calibration and archiving all analytical data which is above and beyond what the regulation actually outlines in their adverse effects section. As a 30 year safety professional in S. Nevada and one that provides services to small businesses, I am often told wow that is too expensive for us can we find another equally effective method to protect workers.

I am also a small business owner with multiple employees whom are dispatched throughout the day to various workplaces for safety and environmental services. I have educated my workers on heat stress illness, I have monitored them and provided other means to verify temperature and its relationship to heat stress for each of my workers that range in age from 22 to 60 years old. I USE A PERFORMANCE based method and review the valley wide temperatures for the day based on weather service stations. I do not need to use temperature readout meter for every workplace when there are equally accurate temperature recording equipment located at weather stations throughout the state. I understand the intent of this prescriptive standard is to save lives and preserve worker health but there must be reasonable alternative methods added to the language.

However, I do believe that there should a performance-based method that includes best practices that are written into the standard. Do not rely on well we leave it up to NV OSHA to later interpret how to enforce the standard. Add the language now to add certainty to all businesses that have for years developed performance-based methods to protect workers and used alternative means for temperature monitoring that could also stand up in court.

After speaking with multiple employers, and using my professional experience, I would like to challenge all of the legislature to revise the standard to include alternative methods of documenting the workplace temperature and heat stress requirements to protect workers from heat. These alternative methods for example can include establishing as a safe work practices for their employee's physical needs and create a less prescriptive alternative temperature monitoring method that is still protective of workers health.

I do not believe MANDATING the use of specific types of equipment, one for each workplace or each physical site is appropriate. It is hard enough to have workers use equipment properly and with safeguards and we are now requiring them to utilize analytical equipment that most users do not have a thorough understanding of what is needed to keep them calibrated, maintained and in good working condition. The cost as listed in the standard is NOT $125, but significantly more.

Therefore in my professional opinion this prescriptive method should not be the only mandated method to obtain temperatures in the State of Nevada regulations, unless there is an alternative monitoring method available for small businesses to utilize that provides appropriate worker health safeguards on monitoring without the high costs and creation of analytical equipment experts. This

law as written may lead to litigation against business owners who did not properly maintain and monitor their equipment or keep it functional everyday while workers are using it. I thank you for allowing me to express my professional opinion and hope that you will temporarily put this on hold until updated language is added.

Good afternoon Jordan,

I was hoping to read the statement in the opening comments and can not stay on hold due to the fact I have a business to run. These comments are critical to small businesses and giving them the opportunity to meet the heat illness standard in a realistic method. AS I read the standard it requires the use for every worker, at every individual workplace to use, set up, monitor their temperature wetbulb glove meter.

In particular these are analytical equipment that are not just $125 each. Also as written the standard requires every worker at every unique workplace to use it to monitor their temperature. Please refer to the comments that all legislature members should read.

I request that they add another option for temperature measurement.

Thank you for your time.

Diane Hale, **CEM, CHMM, CDGP, CEHSP, ASP**

Best in the West Safety, Inc.