

March 2, 2017

TO: Amalia Neidhardt via e-mail at [aneidhardt@dir.ca.gov](mailto:aneidhardt@dir.ca.gov) and [rs@dir.ca.gov](mailto:rs@dir.ca.gov)

Subject: Heat Illness Prevention in Indoor Places of Employment  
Comments on Option B: Standalone Indoor Standard - draft revisions 2/15/18

The organizations representing agricultural employers signing this letter (the ag coalition) submit these comments in response to the February 15<sup>th</sup> revisions of the draft Standalone Indoor Standard. Please also consider the comments we previously submitted on July 24, 2017 regarding the May 25, 2017 discussion draft.

We appreciate the revisions incorporated into the draft, however, we believe the draft regulation continues to be far too complex and overbroad, and therefore will lead to an inability to comply with and enforce.

Below is a list of our primary concerns:

- The proposal is far too broad and should be industry and occupation specific focusing on those indoor employees exposed to sources of high indoor radiant heat and at a temperature over 85 degrees.
- In writing a proposal that applies to all industries, Cal/OSHA is proposing an additional standard for agricultural employees already protected under the outdoor standard. This will create unnecessary costs for the industry while providing no additional protection for the employee whatsoever. Further, there is no record or evidence of injury to indoor agricultural employees. Employees will be better served if the regulation focuses on those scenarios and working conditions in which indoor employees are exposed to high radiant heat and high indoor temperatures that led to the need for the regulation.
- The proposal is unnecessarily complicated.

### **The Proposal is Too Broad**

Please appreciate that while it may make sense for an outdoor standard to apply across all industries, creating an indoor standard that applies to all industries is much more challenging and is frankly impractical.

Simply stated, regardless of industry, employers cannot do a lot to control the weather. Therefore, an outdoor standard can apply across all industries. However, the indoor work environment varies greatly from industry to industry, occupation to occupation and workstation to workstation.

The draft proposal would apply to all indoor employees regardless of whether they are working in a cool air-conditioned vehicle or in an unbearably hot container at a port. This creates the inevitable unintended consequence of the indoor standard failing to address heat issues unique to some industries, while at the same time creating unnecessary and costly requirements for

industries where there is no indoor heat risk and therefore providing no employee safety whatsoever.

This problem is easily avoided as an outdoor heat standard is already in place for outdoor employees. Those employees are already protected. Therefore, we recommend that Cal/OSHA identify the occupations that are exposed to sources of high radiant indoor heat and high indoor temperatures and then explore an indoor standard that is unique to each of those industries and addresses those potential dangers.

The author of SB 1167 contemplated this pragmatic approach as the law explicitly states, “*This section does not prohibit the division from proposing, or the standards board from adopting, a standard that limits the application of high heat provisions to certain industry sectors.*” We encourage Cal/OSHA to adopt this pragmatic approach.

### **Unnecessary Costs While Providing no Employee Protection**

While it is difficult to estimate the costs of complying with this proposal, as it is not yet final, we know that the proposal as drafted creates significant and unnecessary costs. These are costs associated with training, record keeping, monitoring, and other functions needed to demonstrate compliance. Again, keep in mind that there is no known risk to the employee and the employee is already covered under the outdoor rule and does not face the risk of heat illness in any indoor situation. Consequently, these costs are pointless as they are for no public purpose.

### **Proposal is Unnecessarily Complicated**

The ag coalition firmly believes it is fundamentally unworkable to create one indoor standard that applies to a wide spectrum of diverse industries and work places.

However, if Cal/OSHA must pursue this approach, please consider the following recommendations for the ag industry to make the proposal less complicated and more effective for ag employees and employers:

1. Avoid unnecessary duplication. If the employer is already in compliance with the outdoor standard, that employer should be exempt from the indoor standard.
2. The regulation should exempt indoor work environments that do not involve high radiant heat sources and that, at the same time, do not exceed 85 degrees.
3. Eliminate the requirements for monitoring and tracking the heat index. This would include eliminating the written assessment. In California, ag employees are not subject to high humidity. The heat index requirements will create unnecessary costs for ag employers while providing no additional safety for employees.
4. All terms must be clearly defined. For example, “shielding” is undefined. Does this mean shade?

We appreciate that much of these concerns in this letter are unique to the agricultural industry and recognize that Cal/OSHA is working diligently to create a workable solution. However, we respectfully suggest and firmly believe that this is best achieved by focusing this proposal on those indoor employees exposed to sources of high indoor radiant heat and at a temperature over 85 degrees.

Sincerely,

California Association of Winegrape Growers  
Agricultural Council of California  
American Pistachio Growers  
Association of California Egg Farmers  
California Agricultural Aircraft Association  
California Citrus Mutual  
California Farm Bureau Federation  
California Fresh Fruit Association  
California Grain and Feed Association  
California Pear Growers Association  
California Seed Association  
California Warehouse Association  
Family Winemakers of California  
Far West Equipment Dealers Association  
Milk Producers Council  
Western Growers Association  
Western Plant Health Association  
Western United Dairymen  
Wine Institute

cc: Steve Smith, DOSH  
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