

November 20, 2018

TO: rs@dir.ca.gov

FROM: Joani Woelfel, president and CEO, Far West Equipment Dealers Association

**SUBJECT: HEAT ILLNESS PREVENTION IN INDOOR PLACES OF EMPLOYMENT
COMMENTS ON DISCUSSION DRAFT – OCTOBER 24, 2018**

FWEDA represents 117 equipment dealerships large and small across diverse industries in California. The equipment industry supports nearly 60k jobs statewide that contribute \$4.4 billion in wages and nearly \$7 billion to the state's GDP. We agree the safety of employees is paramount.

Far West endorses comments from the California Chamber of Commerce Coalition regarding the subject discussion draft. We share and emphasize concerns about this draft regulation and encourage inclusion of the requested revisions to provide clarity for better compliance and employee safety and health.

We're especially concerned how this draft defines indoor, and references vehicles, drivers and shade. We underscore the need to harmonize indoor and outdoor heat illness prevention standards for consistency with real-world working conditions and to allow employers to maintain one standard that provides clarity for heat illness prevention regardless of whether indoors or out.

We agree with the coalition suggestion to include language in the definition of "indoor" as follows:

Inside vehicles and equipment cabs.

- a. **Space inside vehicles or equipment cabs, either with or without air conditioning, that are covered under subparagraph (a) (2) (E) of section 3395 are outdoor work spaces and remain covered under section 3395 and not under this section.**
- b. **Space inside vehicles and equipment cabs otherwise covered under section 3395 remain covered under section 3395 and not under this section.**
- c. **In accordance with subsection (a) (1) of this standard, vehicles and equipment cabs in which the temperature is below 82 degrees are indoor spaces to which this standard does not apply.**
- d. **Employees driving vehicles used for pick-up and/or delivery are covered by section 3395.**

The broad scope of this regulation relative to our industry is logistically impossible and unreasonably cost prohibitive to implement and enforce as proposed.

Working on equipment under shade structures and/or moving a single piece of equipment from one place to another on a lot or from one location to another the majority of months of the year would subject businesses to compliance that is confusing. It is not clear how shade or "cool

down” areas could be provided given the reality of our business operations and those of our customers who operate machinery.

This proposal has no provisions for business size related to implementing and enforcing these regulations. Equipment businesses will be required to develop and maintain special programs for ongoing measurement of temperatures in each piece of equipment that an employee would be present. Requirements to provide additional equipment/clothing, staff, record-keeping, etc., will significantly increase the cost of doing business in California, and for smaller dealers could prove a breaking point.

Like the Coalition, Far West and the industry we represent are very concerned that because of its complexity as written, this discussion draft will not result in increased employee protection. Employers need to be able to understand the requirements to comply with the regulation and to continue to keep employees safe and healthy.

We appreciate the opportunity to provide this comment and request your thoughtful and serious consideration of our recommendations. To discuss this subject further, please contact Joani Woelfel, Far West Equipment Dealers Association, 707.678.8859.

Copy: Louie Brown, APC and Kahn, Soares & Conway