

CALCIMA

California Construction and
Industrial Materials Association

February 22, 2019

CalOSHA
1515 Clay Street
Oakland, CA 94612

Re: Heat Illness Prevention in Indoor Places of Employment – 1/29/19 draft

Dear CalOSHA:

Thank you for the opportunity to comment on the most recent draft of the proposed rule for Heat Illness Prevention in Indoor Places of Employment. We appreciate changes from the last version to allow inclusion of an indoor heat illness prevention plan in the outdoor heat illness prevention plan, clarify what union representation means, and specify the amount of time that records must be held.

As you may recall, members of CalcIMA produce aggregates, industrial minerals, and ready mixed concrete. Members' work places include surface mines, industrial plants for processing, production, and batching of materials, machine and mechanics shops, off-road heavy equipment, on-road ready mixed concrete mixer trucks, and on-road trucks hauling bulk construction materials, such as aggregates and cement.

We support the comments as submitted by the California Chamber of Commerce coalition, and want to emphasize a few key areas that particularly impact our industry.

First, we recommend the definition of "Indoor" be more precise. While the definition seems generally construed to address fully enclosed facilities, there is concern about how it could be interpreted in industrial settings. In particular, the terms "under a ceiling or overhead crossing," "enclosed," "other physical barriers," and "whether open or closed" in combination might lead to industrial facilities being unintentionally under the regulation. As the pictures submitted with our prior comments demonstrate, members have industrial plants that largely consist of posts, rails, screens, chain link fences, and grated walkways. In many instances, a space might be 20 to 30 feet high with the overhead being a grated catwalk and the sides a single rail. In all respects these are outdoor work places, exposed to the elements. However, if the terms mean *any* barrier, then it could be interpreted to include these facilities, even though the work is actually outdoors. As suggested in the coalition letter, we ask that clarifying terms be added such as "solid" ceilings and walls, or other clarification to ensure the rule does not inadvertently cover industrial work places primarily exposed to the elements.

Second, the draft rule may create a confusing situation for production facilities where workers may go in and out of machine and mechanical shops, bays, and garages to perform maintenance and other tasks. These often have large roll-up doors that are open much of the day; thus, meaning the space is not enclosed at all times. These workshops and bays may also be cool down areas for the outdoor rule. So, we recommend the rule be clear that where a work area has a significant part of the building open and/or is used as a cool-down area for the outdoor heat rule, it not be subject to the Indoor rule.

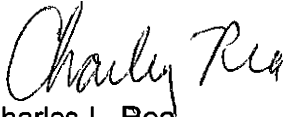
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Third, we encourage that the rule not include vehicles with air-conditioning. Most types of off-road mining equipment—such as scrapers, loaders, haulage vehicles, mechanics vehicles, crane vehicles, pick-ups, and water trucks—have enclosed cabs with air conditioning. Similarly, most ready mixed concrete mixer trucks that travel over public roads from batch plants to construction sites have air conditioning. For these activities, the work area is often remote or far removed from a plant or office, thus, making monitoring and observation difficult. We recommend that consideration be given that if an employer has an effective Injury and Illness Prevention Plans, Heat Illness Prevention Plans, and training, then there should be no need for the regulation to include air conditioned vehicles. Furthermore, many of these vehicles are already covered under the Outdoor Heat Illness Prevention rule, per Section 3395(a)(E) for “transportation or delivery of agriculture products, construction materials, or other heavy materials....” So, the rule should be clear that they are not also subject to the Indoor Heat Illness Prevention Rule.

We appreciate your consideration of our comments and would look forward to any opportunity for discussion or clarification.

Sincerely,



Charles L. Rea
Director of Communications & Policy