
From: Joani Woelfel <joani@fweda.com>
Sent: Friday, February 22, 2019 1:42 PM
To: DIR RS
Subject: RE: Indoor Heat Regulations Comment by Feb. 22

Importance: High



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February 22, 2019

State of California
Department of Industrial Relations

Comments submitted electronically: rs@dir.ca.gov

SUBJECT: HEAT ILLNESS PREVENTION IN INDOOR PLACES OF EMPLOYMENT COMMENTS ON DISCUSSION DRAFT – JANUARY 29, 2019

Far West Equipment Dealers Association (Far West) appreciates the opportunity to submit comments on the most recent proposed text of draft revisions dated 1/29/19 for the “Heat Illness Prevention in Indoor Places of Employment.” Far West represents more than 100 agricultural equipment dealers, all of which have made the safety and health of employees a top priority due to the unique circumstances of those repairing and maintaining agricultural equipment in a variety of locations and weather conditions. We appreciate the revisions that have been accepted, but strongly urge further revisions to this proposal so that employers in our industry have definitive standards to follow in order to achieve the proposed goal of maintaining worker safety.

1) Incorporate by Reference the Chamber of Commerce Coalition Letter.

We express our support for the comments submitted by the Chamber of Commerce on 2/22/19 and incorporate those comments into our comments by this reference.

2) Clarification of “Infeasible” Demonstration.

The draft regulations would require equipment dealers to install temperature measuring devices in all shop buildings, shade structures, service vehicle cabs and tractor cabs. This is not only burdensome, but ineffective. Equipment dealer employees work in a variety of locations when repairing and maintain equipment. This can be inside a shop, which may have large doors that open and close, cabs of tractors located outdoors and vehicles of employees traveling to farms to repair equipment. Because of this, we are concerned with the implications of **section (e)(2)** of the regulation,

specifically with the requirement of **section (e)(2)(A)**, which requires an employer to demonstrate engineering controls are infeasible before the employer is allowed to use other control methods.

As the Chamber of Commerce letter states, dictating the controls to utilize in a specific order in which to utilize the controls is inappropriate. Tractor cabs, shops, vehicle cabs and other related protected structures are unique and employers in the equipment dealer industry have a better understanding of the work area, the conditions of the work area, and what controls may be effective in the situation.

Further, we are concerned with how an employer will demonstrate engineering controls are “infeasible”. What must the employer submit to demonstrate infeasibility? How will this be approved? Must infeasibility be demonstrated on a regular basis and what will that schedule of proof be? Will there be an appeal process if an employer’s demonstration of infeasibility is denied? If infeasibility must be demonstrated and approved, and the employer cannot maintain “both the temperature and heat index to below 87 degrees Fahrenheit or the temperature to below 82 degrees Fahrenheit where employees wear clothing that restricts heat removal or work in high radiant heat work areas” during that period, what is expected of the employer?

For example, in the summer months, equipment dealers utilize swamp coolers and fans to mitigate the effect of the heat in repair shops. In humid conditions, swamp coolers become less effective in reducing the temperature or heat index. Air conditioning would be more effective when shop doors are closed, but this is not a common occurrence, making air conditioning ineffective and at a prohibitively high cost. Equipment dealer shop areas are designed to accommodate the repair of large equipment. Shop doors are opened frequently for the entry and exit of the large machinery. Under these conditions, we believe that air conditioning would be infeasible. However, we are unclear under the draft regulation if this common practice would meet what is necessary to demonstrate infeasibility.

Therefore, we respectfully request the deletion of the language in this section that requires the employer to administer controls in a certain order and instead allow the employer discretion regarding which controls to utilize and in which order.

3) Scope and Limitations of the Regulation.

We agree with the Chamber of Commerce letter and reiterate that the scope and application of these regulations should only apply to indoor structures that do not have a cooling system and where the temperature is 95 degrees or higher. This change would make the regulation consistent with the outdoor heat illness regulations and would make it clearer for employees and employers which protection measures apply in each situation.

Further, there should be a clear exemption from the indoor heat illness proposal for any motor vehicle, equipped with air-conditioning, similar to the outdoor heat illness regulations. Requiring indoor heat illness measures for vehicles with air conditioning would make the record keeping required by the regulation extremely burdensome. The logistics of this requirement are near impossible as our equipment dealers’ service trucks and equipment could easily be over 100 miles from a dealer’s home base at any time and are also constantly on the move. A driver who is performing work away from the main physical location of the employer, who has independent discretion to set the temperature within the vehicle, should not be covered under this proposal. An employer cannot comply with the various mandates of taking temperatures with a thermometer or implementing administrative or engineering controls for individuals who are outside the main physical location of the employer in air-conditioned vehicles.

We appreciate the requested changes that were accepted, however, we are very concerned with the significant issues that remain with this proposal and uncertainty these issues create. We believe that instead of moving forward with this proposal, another in person Advisory meeting may be the best way in which to resolve these outstanding concerns. Again, we appreciate the opportunity to provide this input and your thoughtful and serious consideration of our recommendations.

Best Regards,

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