Heat Illness Prevention in Indoor Places of Employment
Advisory Committee Meeting
February 8, 2018
10:00 am – 3:00 pm
1515 Clay Street, Room 1
Oakland, CA

Panel: Amalia Neidhardt, Corey Friedman, Eric Berg, Juliann Sum, Christine Baker
Notes: Grace Delizo, Valerie Royo

MEETING ATTENDEES

NAME	AFFILIATION
Guadalupe Aguayo	MCTF Investigator
Hector Aguilar	ILWU Local 26
Efren Alarcon	IBT Local 853
Matthew Allen	Western Growers Association
Maria Ashley Alvarado	Teamsters Local 601
Veronica Alvarado	Warehouse Worker Resource Center
Don Anderson	CDCR
Lori Apodaca	CA Citrus Mutual
Dave Beal	Bickmore Risk Management Consulting
Jonathan Berry	Warehouse worker
Gail Blanchard-Saiger	CHA
Kevin Bland	Ogletree, Deakins, Nash, Smoak & Stewart
Robert Bonsall	Beeson, Tayer & Bodine
Carl Borden	CA Farm Bureau Federation
Elda Brueggemann	Western Ag Processors Association
Trina Caton	Keenan
Felix Chavez	Johns Manville
Kevin Christensen	SEIU USWW
Joel Cohen	California Industrial Hygiene Council
Patricia Cusicanqui	Sun World
Michelle De Castro	Georgia Pacific
Dirk Duchscherer	Leavitt Insurance Brokers
Ashley DuMonthier	EBASE
Victor Enriquez	MCTF
Marti Fisher	Cal Chamber
Jo Forchione	Pacific Gas and Electric Co.
Katie Garland	AgSafe
Deeg Gold	Industrial Hygienist
Luisa Gratz	ILWU Local 26

Maricela Gutierrez	ROC-The Bay
Marley Hart	OSHSB
Karen Heckman	San Francisco Department of Public Health
Jeremy R. Hoke	Cal-Cartage, Wilmington, CA
Trudi Hughes	CA League of Food Producers
Roger Isom	CA Cotton Ginners and Growers Association
Tom Jacob	Chemical Industry Council of CA
Bruce Jefferson	Dock worker
Adriana Jimenez	Not provided
Yolanda Jimenez	Teamsters Local 601
Paul Jordan	NBC Universal
Anne Katten	CRLAF
Laura Kiser	AT&T
Adam Kotin	Wine Institute
Rev. Kurt Kuhwald	Not provided
Amy Lara	DIR Communications
Terra Laverty	CSTC
Christopher Lee	United Contractor
Kathy Lynch	Lynch & Associates
Nicole Marquez	Worksafe
Maritza Martin	Nixon Peabody LLP
Nayantara Mehta	National Employment Law Project
Alicia Mendez	Not provided
Daniel Mercado	Johns Manville
Michael Miller	CA Association of Winegrape Growers
Michael Milligan	Not provided
Michael Musser	California Teachers Association (CTA)
Robert Nakamura	Industrial Hygienist
Veronica Pardo	CA Refuse Recycling Council (CRRC)
Doug Parker	Worksafe
Abraham Parra	Laborers Local 67
Perry Poff	Peterson Law Corporation
Caressa Quayle	CDCR
Alka Ramchandani	Jackson Lewis P.C.
Ana Ramirez	Teamsters Local 601
Alisa Reinhardt	CA New Car Dealers Assoc
Cynthia Rice	CRLA, Inc.
John Robinson	CA Attractions and Parks Association (CAPA)
Cindy Sato	Construction Employers' Association (CEA)
Don Schinske	WOEMA
Ken Smith	University of California
Mitch Steiger (Seaman)	California Labor Federation
Rodney Teeter	DWR
Kevin Thompson	COR

Jora Trang	Worksafe
Elizabeth Treanor	Phylmar Regulatory Roundtable
Edwin Varela	Consolidated Aerospace Manufacturing
Maria Villalvazo	Teamsters Local 601
Jay Weir	AT&T
Darrin Westmore	CWA 9423
Bruce Wick	CALPASC
D'Wayne Wilson	Forklift driver
Gil Wong	CDCR
Erik Wright	EBASE

Below are detailed notes of the advisory meeting. These notes do not represent a transcript of the meeting, and are simply a summary of the notes taken by the people conducting the meeting. Although every effort has been made to accurately reflect the opinions expressed in the meeting, they should not be considered to be a verbatim record of the proceeding.

Amalia Neidhardt, DOSH Senior Safety Engineer, welcomed attendees to the advisory committee (AC) meeting for heat illness prevention in indoor places of employment. She mentioned that there were two new handouts (also available online). Attendees that received an invite from the Division have an email with a link to the indoor heat AC meeting page. She reminded attendees to sign in and provide emails to keep everyone informed.

Amalia stated that this is the third AC meeting. A year ago, the initial meeting was in Oakland, and the subsequent May meeting was in Ontario, California. As a result of these meetings and the written comments received, the discussion draft was revised.

This meeting is being held in response to SB 1167, which mandates that the Division propose to the Standards Board a standard that minimizes heat illness among indoor workers. The Division uses an AC meeting to develop health standards. This is an open meeting, and the Division is open to comments and input. To provide comments, state your name and affiliation, and please be respectful of comments provided by other speakers. The meeting is being recorded to help create minutes.

Christine Baker, DIR Director, welcomed attendees and stressed the importance of good regulations to serve the public, protect workers, and ensure that employers can comply. She requested that attendees respect the participation process and said that DIR and the Division want to work collaboratively with labor and management to identify an appropriate standard.

Juliann Sum, DOSH Chief, said that she was glad for the strong participation, and expressed how eager she was to work closely with everyone. Juliann introduced all DOSH panel representatives and staff. This is not an easy standard. There are different types of work settings. Rules should work for all different work settings, which is a challenge. The Division is here to listen carefully to all stakeholders.

Amalia Neidhardt reviewed the handouts and agenda, and reiterated that the Division is soliciting input on different aspects of the draft, as well as on cost and feasibility issues. If there are comments specific

to the language on a particular aspect of the standard, please hold those comments to that point and then provide your comments on that subsection.

Corey Friedman, DOSH Staff Counsel, talked about the rulemaking process and the opportunities for the public to comment. This is the very preliminary step, not formal rulemaking. The Division wants to have a workable draft before starting the official formal rulemaking process. Stakeholders that provide an email will receive a notice once the formal rulemaking begins.

Eric Berg, Deputy Chief of Health, discussed the side-by-side comparison table and the draft language under option A and option B. He explained how the two compare, and how the Division will select one based on stakeholder's input. The goal is to make them similar to existing regulations in order to make it easier to comply.

Eric Berg asked for input on whether stakeholders would prefer option A or B.

- Option A blends the indoor requirements into the existing standard, section 3395 without changing the requirement for outdoor employers.
- Option B creates a separate standard and leaves the existing standard alone. It would be similar to section 3395, which would make it easier for compliance.

Michael Musser, California Teachers Association, talked about how there are employers who have both indoor and outdoor employees, and how two separate regulations won't be so convenient. He said that they are comfortable with making additions to the existing outdoor heat illness standard for employers who have both. For a standalone regulation, it would be beneficial for employers to have something to look at. He reiterated that for them, it would be better that it be included the outdoor standard.

Carl Borden, CA Farm Bureau Federation, commented that back when there was an emergency regulation covering outdoor places of employment, outdoor employers worked diligently on compliance. This resulted in the current standard and iterations of amendments. Even though they appreciate the intent of having a single heat illness prevention standard, the idea is not to affect outdoor employees. They are concerned that option A will open up issues under 3395 for outdoor employers and change requirements. He recommends to leave 3395 alone for those agricultural and other employers with exclusively outdoor work. There can be some benefits for having a single combined regulation, but from their standpoint, they are better off with option B, a standalone regulation.

Jora Trang, Worksafe, stated that they also support standalone regulation. Blending the two would needlessly weaken the outdoor standard and may confuse employers on how to address indoor and outdoor heat. Indoor and outdoor are different, and they deserve their own standards. Employers have more control over indoor settings, and there are administrative and engineering controls that are more amenable that aren't available in the outdoor settings.

Matthew Allen, Western Growers Association, said that they align with the Farm Bureau Federation for the standalone regulation. There tends to be some commonality with outdoor work settings, but blending would cause confusion in their industry. They've been educating their workforce and

employers on the outdoor standard, and believe that option A would conflict with that. They've talked to their membership, and by far, there are more negative connotations with option A.

Michael Miller, CA Association of Winegrape Growers, agreed with the Farm Bureau Federation on a standalone regulation. A standalone for indoor would be clearer.

Lori Apodaca, CA Citrus Mutual, echoed their comments and said that there needs to be a standalone standard for indoor employees. A combined standard will cause lots of confusion in agriculture. Indoor needs to be on its own, because they have separate work stations that don't need to be confused with four wall perimeter indoor spaces.

Don Schinske, Western Occupational and Environmental Medical Association, stated that they believe in a single standard. The defining principal hazard is heat. It makes sense to have it all in one place.

Adam Kotin, Wine Institute, said that they align themselves with other agriculture folks. They see the pros and cons of each approach, but the potential for confusion and need for re-education is too great. Option B is preferred.

Luisa Gratz, ILWU Local 26, said that they want an independent standard for indoor workers. With the outdoor standard, certain elements are not being addressed, such as people who work in loading docks. Workers in warehouses are indoor and outdoor constantly, with no ventilation in the docks or inside the warehouses. These places can be extremely hot and suffocating to workers. There is no reference to people who work for companies like Amazon, which conduct time and motion studies. There is no real opportunity to cool down, and many warehouses are turning to that Amazon style, which hire on a basis of having to meet quotas. This should not be union versus company, and they should figure out together how to make this work. They understand that cost matters, but money saved in workers' compensation will add up just as well.

Tom Jacob, Chemical Industry Council of CA, noted that there are critical positions in their industry, which include a number of them that are going to be indoor and outdoor. Maintenance people, engineers, supervisors, safety officers, etc. spend time indoors in offices, and in controlled rooms, but they also spend time out on the floor in larger facilities. There is potential to end up with standards that are going to be in conflict with each other and which will be difficult to interpret. On a sidebar, they don't see a provision for the recognition of emergency circumstances.

Kathy Lynch, Recycling Council, said that they don't have a formal position at this time, and acknowledged the work that has been done. The side-by-side is informative, and many people have stated that it depends on what kind of business they are in. There may be a requirement for partitioning; they are both indoor and outdoor, and they are already in compliance with outdoor. Training and compliance is much easier to do when it is streamlined, and they have both indoor and outdoor. They look forward to working with the Division in finding a pathway for our employees who are navigating both environments.

Bruce Jefferson, dock worker, said that from a worker's standpoint, if it's 95 degrees outside, it'll be 140 inside in a container. He carries a thermometer with him, and if it is 80 degrees outside, it's already 105 in the container. There should be a standard for working indoors. Heat may not affect him like it affects a coworker. He has seen people fall. There are no set standards, but containers have to be unloaded and reloaded. If he steps outside of that container for a break, he will be told to get back to work or not have a job.

Kevin Christensen, SEIU, said that they represent 3500 service workers, and they strongly support an independent unique indoor standard. Some of their members have experienced issues in airports like LAX and SFO. They are put in cabins on the tarmac during hot days and, on one occasion, an entire cleaning crew of five passed out because the cabin air was turned off. A person coming in to relieve them found passed-out workers due to the indoor heat. They strongly support Worksafe's recommendations.

Dirk Duchscherer, Leavitt Insurance Brokers, said that a separate standard would be most beneficial**.** What is most important is defining what is indoor and what is outdoor. An indoor standard would be a big hit with his clients, and noted that it is going to be tough to get ambient temperatures.

Kevin Bland, WSC, RCA, CFCA, agrees with the agricultural folks. Two distinct regulations may be the way to go. Most of his constituents can be both indoor and outdoor multiple times in a day. He feels that if an employer is in compliance with the outdoor, then they wouldn't necessarily have to do a different standard for the indoor (e.g. when building a house, workers are in and out, and eventually indoors when the sides are on it). If in compliance with the outdoor regulation and there is a nuanced language difference for the indoor regulation, the employer is still in compliance. If you're in compliance with the outdoor standard and your indoors, then you're cool.

Bruce Wick, CALPASC, agreed with Kevin's comments. A standalone regulation is probably the best thing. A couple million outdoor employees are covered by the outdoor regulation, and we don't want to interfere with a successful regulation. The indoor heat regulation will need adjustments down the road. We'll be better off having a separate indoor regulation, to make the adjustments easier in the next 10 to 20 years. In construction, members have an office, a shop, or a warehouse, and then a yard with overhangs. Employees are in and out all day long. Now, they can train employees under 3395 for both indoors and outdoors. 3395 will need to be amended if we do a separate indoor regulation. 3395 says outdoor places of employment, but in construction that doesn't work because employees are both outdoors and indoors at the same place of employment. When workers are in and out we'll have to have a way of covering it with one regulation cleanly one way or another. To have them covered by two regulations is not workable.

Abraham Parra, Laborers Local 67-Asbestos/Lead Abatement, said that he has heard complaints for indoor heat. The indoor regulation should come together with the outdoor regulation so that it blankets over everything. If employers are not in compliance with outdoor, they'll not be in compliance with indoor. He believes that these regulations should be combined. He goes out to job sites and these guys are working indoors but in containments with full Tyvek suits and respirators, doing extensive work, so

their body temperatures go up and the enclosure is really hot. These guys are working inside, then taking things outside, so it would be easier to have a single blanket standard and be easier for employers.

Marti Fisher, Cal Chamber, stated that the main issue is whether employers can comply, regardless if there's a combined or standalone regulation. They're supportive of a standalone standard.

Roger Isom, CCGGA, said that concerning their operations, a standard should be limited to the areas that have heat issues. They would like to see two separate regulations. They train and implement plans based on the outdoor standard, and they don't want to redo that. They are willing to work on an indoor standard, but it has to be limited in scope.

Rob Bonsall, Beeson, Tayer & Bodine-representing Teamsters, said that the vast majority of workers fall into either indoor or outdoor, so it is more prudent to have two separate regulations. Additional regulations could deal with transitional occupations. Regardless of option A or B, workplace transparency works and employers benefit greatly from input of workers or their representatives. Conducting heat illness risk assessments at work is a good thing, as is ensuring workers' rights by permitting workers to measure the temperature themselves to verify what is occurring in the workplace. Involving workers and representatives in developing and implementing the heat illness prevention plan is critical and helpful in keeping workers safe.

Cynthia Rice, CRLA, Inc., agreed with the approach of having two standards. They oppose any notion that compliance with one or the other would be a presumption of compliance in transitional work. There are different environments and to say that compliance with outdoor would mean compliance with indoor would undermine safety.

Luisa Gratz stated that to have an applicable and meaningful standard, one needs to recognize the variation in work environments. Kevin raises a valuable point. Construction is different from docks or warehouses. We don't want to create a regulation that can't be practicably applied to other situations. They like option B, but there could be subsections to recognize different kind of environments.

Elizabeth Treanor, Phylmar Regulatory Roundtable, said that in California, the small business administration has identified 696,000 employers that have fewer than 500 employees. To have them adopt this, it needs to be easy to apply so people understand what covers what. They don't have an opinion, either option can work, but ensure that employers that have had their programs since 2005 won't have to restructure their programs. Also clarify who is indoor and outdoor.

(a) Scope and Application

Corey Friedman requested input on the scope and application draft language.

Reverend Kurt Kuhwald stated that this is more than the temperature in the workplace. Human beings are exposed to stressful terms and conditions in the workplace. At the core, it is a moral issue, and issues raised today by workers. Is Cal/OSHA willing and capable to act with moral certitude to keep workers safe and protect workers from harm? This is beyond ease of compliance. Cal/OSHA needs to withstand

financial and political forces that disregard the moral responsibility to protect lives. There should be a forward direction towards never sacrificing workers' health and safety.

Jonathan Berry, warehouse worker, said that just by sitting in this room, he is burning up without lifting a muscle. Heat can kill you; and he has seen people pass out on deliveries. A new regulation can benefit workers and help them stay cool, so that they can continue to work.

Elizabeth Treanor said that they have concerns about the 80 degree trigger. When flex alerts are issued, there is a recommendation to set thermostats to 78 degrees or higher to prevent brownouts. There's a concern from employers that 78 is too close to 80, which is two degrees from being in violation. They ask to consider 85 degrees instead. CDC NIOSH for indoor environments is also 75-80.5, which is close to 80. Fed OSHA recommends 68-76 degrees, and a lot of employers have been using this as a guideline. Some employers here have not been using this, so they need enforcement with 85 as a threshold.

Ashley DuMonthier, East Bay Alliance for a Sustainable Economy, asked for as strong a standard as possible. They have done focus groups of warehouse workers, and extreme temperatures are the greatest threat to workers' safety. For workers, it's an inferno with no insulation or ventilation, and workers have passed out from heat. Workers also work near ovens while wearing PPE that make them hotter. Break rooms are highly air-conditioned, so workers are also having to deal with extreme conditions. They oppose new exceptions for 90 degrees for employees performing light work.

Nayantara Mehta, National Employment Law Project, low-wage immigrant worker advocate, said that California has a leadership role in protecting workers, and that this influences what other states do and what the national government does. Although Fed OSHA does not have a heat standard, it has borrowed from California. Regarding subsection (e), they're concerned that fans, air-conditioning, and PPE are not mandated until it gets really hot at 95 degrees. Workers are at risk at much lower heat indexes, so the control measures should be required at lower heat indexes. Regarding subsection (a), workers doing light work are also exposed and this leaves them vulnerable to heat illness, like workers in schools and call centers, etc. They feel that 89 degrees is still unsafe even during light work, so they strongly urge removal of that exception. The current version seems to have gone backwards from previous drafts, and hourly rest breaks are no longer required in subsection (e). Preventative cool-down rests are essential so they urge the return of the previous preventive measures. Posting, ensuring workers' rights, involving workers and their representatives, and better transparency have also been removed. That should be returned, and workers need to be involved.

Mitch Steiger (Seaman), California Labor Federation, said that the new draft makes some progress, and there are changes that are important. 80 degree threshold works and should stay, but they recommend that the exception be taken out. The exception overrides the 80 degree threshold and raises it to 89 degrees instead. In the newly legalized cannabis industry, they operate in 80-90 degrees, but the humidity can be up to 70%, that raises heat exposure, but almost all of this proposed language doesn't apply to them. That would allow working indoors in over 100 degrees over stretches of time, and that is not a strong standard if allowed. They are in support of an 80 degree threshold, but the exception needs to be rewritten or taken out. The fact that you can go up to 90 degrees compromises safety.

Corey Friedman asked if the exception as written was appropriate and added that the Division would appreciate specific language.

Lori Apodaca recommended that it be limited to employees in indoor work environments and that it preclude workers under outdoor working conditions.

Jora Trang echoed Mitch's comments in support of the 80 degrees threshold, and using the heat index. A temperature of 85 or a heat index of 85 is still too high. A heat index of 80 degrees would be appropriate. Worksafe opposes the light work exception, and requests that this standard apply equally to all workplaces. Workers engage in all kinds of duties, light, moderate and heavy so this exception is unnecessary. The National Weather Service cautions exposure at 80 degrees, so that should be kept.

Veronica Alvarado, Warehouse Worker Resource Center, shared the story of a student that was working part-time while sitting down and doing light duty accessory work but passed out because the heat became unbearable. She was given a form to sign stating that she opted to not call 911 and called her mother instead. Even if a worker is doing light duty work, they need to be protected. In addition, humidity needs to be taken into account.

Maria Ashley Alvarado, Teamsters Local 601, said that they represent 15,000 cannery workers in the food processing industry. There is frustration every summer because members, cannery workers, are working seven days a week, from July 4 – mid October, for 10-12 hours a day in extreme heat. As a union representative, she files grievance after grievance, but without results because she cannot hold a company accountable for breaking a law that does not exist. They have called Cal/OSHA, but they can't do anything either. She shared stories of cannery workers that became sick due to indoor heat. She opposes the light work exception and supports having two separate standards. She asks for a clear enforceable standard that can cover all indoor areas. The union has workers on the line, in the kitchen, where due to the kettles and the steam, it feels like it's 180 degrees. Sanitation crew members work in plastic overalls and very hot steam, and then afterwards go into a hot break room.

Juliann Sum stated that the Division is seeking input on what is and is not working with the proposed language. She asked participants to limit their comments to the actual provisions in the draft and to be mindful of the time limits needed to ensure every provision gets covered.

Nicole Marquez, Worksafe, interjected to say that some workers had taken time off to come to the meeting but needed to leave and return back to work. She introduced the following two workers to share their stories.

Guadalupe Aguayo, a Maintenance Field Investigator, stated that she is a maintenance field investigator that advises janitors about their rights. She said that janitors work in buildings and stores closed to the public where the air conditioning is turned off. In the summer, indoor temperatures reach 90 degrees, so the high-heat trigger of 95 should be lowered. Janitors clean small spaces that do not have good ventilation, and the use of strong chemicals at 95 degrees creates risk. Janitors are non-union, and

their employers don't comply with 10-minute breaks. Companies should be required to have cool-down breaks, and the cleaning industry should be included in this indoor heat standard.

Maricela Gutierrez, ROC – The Bay, said that for restaurant workers, overheating is a huge issue, especially among in dishwashers and employees working in kitchens. Machines, ovens, and stoves radiate heat. The indoor temperature could be 80 or 75, and it would still be unbearable because of the humidity aspect. Workers should be allowed to cool off, drink water, and have fans, especially in dishwashing stations. Employees should have their own thermometers; it would be wonderful if workers could check on their own. Please do not succumb to pressure from industries. They want to see something more protective, especially for dishwashers.

Maria Villalvazo, member of Teamsters Local 601, said that she works at Eckert Cold Storage in Manteca in the IQF processing area. She deals with 700 boxes every two hours. It is very hot, and they have talked to supervisors to do something about it. There are fans in their work areas, but the air is still very hot. They've called the unions, and the employers will fix it for two to three days, but it will go back to being unbearable. It is not fair to workers.

Yolanda Jimenez, member of Teamsters Local 601, said that she worked in the summer for seven days a week. She is not in the kitchen, but near it, and yet the heat is unbearable. They have asked their superintendents to help with this, but they say their budgets are low, that they don't have money for it. Cal/OSHA needs to change the laws.

Anne Katten, CRLAF, said that in the scope, the threshold of 80 should be the heat index to account for humidity. A temperature of 89 degrees can be a heat index of over 100 degrees, which is serious for even light work. They urge the Division to reconsider the exception.

Deeg Gold, Industrial Hygienist, said that she used to work for the Division, and did an inspection in San Mateo for light work in a hospital area that generated humidity. Two people had gone to the ER because of a heat wave. Offices did not exceed 90 degrees, and yet two people went to the ER. The exception is way too broad, and the definition of light work is so narrow that employers won't follow it. If it is incredibly important that the Division retain this exception, then training should be included. Those workers should have known symptoms of heat illness. If the exception is going to be kept, then use the heat index and lower it to 85 degrees, and include training.

Danny Mercado, Johns Manville, said that they would agree with a temperature of 85 degrees, but would not agree with using the heat index.

D'Wayne Wilson, forklift driver, said that the scope should stay at 80 degrees. Humidity can get unbearable for the elderly and for overweight workers. Everyone has different heat tolerances, and if it can kept at 80, to help save a life, then it would be worth it. The heat index should be taken into account for light duty. The heat and sun alone can cause someone to have a heat stroke.

Karen Heckman, San Francisco Department of Public Health, said that there are a large number of people who work in office buildings, and that in San Francisco, many of their buildings don't have air-

conditioning. They would like to have some kind of exception. They may have one day a year where the temperature will hit 80 degrees in the city. There should be an exception that wouldn't trigger the standard for one to two days a year.

Luisa Gratz said that they would like the exception to be removed; light work is extremely ambiguous and overly broad. The impact of the terminology for light work and repetitive work should be understood. There is deterioration and backsliding in this new draft. They don't want to compromise because of the huge impact it could have on their members who are struggling and getting injured in workplace. Enforcement has to be built in, so that when something is passed, it can be enforced.

Michael Musser said that they have 3,000 members dealing with all types of environments. They also have workers doing light duty work and collapsing on the job. He recommends deleting the mention of light duty work.

Bruce Wick said that people need clear details. In Southern California, there are contractors, but there are also a whole lot of workplaces where employees work in air-conditioning year round. The exception is geared more towards employees who are always under air conditioning in order to focus on areas that need to be addressed. The focus should be more about work areas versus different types of employees or whole places of employment.

Bruce Jefferson said that he walks the length of two and half football fields a day and inquired if that met the definition of light duty. Throughout the course of the day, he also does unloading and loading. The definition of light duty is not worded properly.

Juliann Sum stated that there appears to be no support for light duty except for places that are cool enough and only go up when heat waves happen. She inquired if cool places have to comply with the whole standard. She reiterated that the law requires us to go through this advisory process. Do places that are cool most of the time need to have a different kind of exception?

Maria Ashley Alvarado recommended that the Division be careful with the light duty criteria language. Just because members are sorting, it doesn't make it less hot. Please don't forget to take into consideration food processing workers.

Kevin Bland agreed that the light duty definition is ambiguous and recommended that the language on light duty be taken out. An air-conditioned building doesn't need to be regulated.

Marti Fisher said that some workplaces don't present the same kind of risk in terms of heat illness exposure, so they need to be treated differently. Air-conditioned workplaces should have less of a burden. A controlled office where workers are moving in a light duty manner needs to be looked at differently. It would be appropriate to use the IIPP (injury and illness prevention program) to cover these indoor workplaces.

Carl Borden noted that the language in paragraph 1 – the provision at the end where temperature is equal or greater than 80 degrees F "at least once a year," is needlessly broad. Employees might never be

exposed to that. Since the purpose is to protect employees at 80 or more, "at least once a year" should be replaced with "when employees are present." With regards to note # 1 – this standard should not change the format of the employer's outdoor program. While they have called for a separate standalone standard, there are still employers who have both indoor and outdoor work. They suggest that the indoor provisions be included in their existing outdoor heat illness prevention program. Stick to the simplicity of temperature and do not get into heat index. Heat index was not used in 3395 and it is working well.

Michael Miller said that the biggest challenge is applying a standard across the board for indoor occupations for people working in this building and for people working on the port. 80 degrees could apply to people in this building, but it shouldn't be applied the same way to people in the port. Those workers need a stronger regulation. Being specific to industries is the better approach in order to give workers the greatest protection.

Elizabeth Treanor agreed with previous comments made about light duty, and said that the intention was to apply it to people working in an air conditioned building. There are limited resources. They have a definition, in the comments they submitted back in June, that addresses climate-controlled environments.

Juliann Sum inquired as to what could be done about the inner bay area where air-conditioning isn't really needed, like in San Francisco, and whether or not they need to follow all of the provisions. **Elizabeth Treanor** replied that it would have to be more of a temperature than a trigger. "Office environment" is different from the other things that have been talked about.

Mitch Steiger (Seaman), said that according to the scope and application, if someone has a working HVAC system and it is set below 80 degrees, then they don't have to do anything because these office situations have already implemented controlled measures, so there is no need for an exemption. The proposed language already covers those "ivory towers." The argument that what we have under the existing law is enough, or that the IIPP requirements already protect these workers, conflicts with what workers have said today about how they must deal with severe heat dangers. These heat dangers aren't being presented as a known hazard to the employers. If you've got over 100°F all day long, it might seem like a known hazard; but if no one passes out, an employer can argue that it's not a known hazard. There is no guarantee that an employer is going to be cited because currently there is no temperature threshold in the law. The existing system is not enough, as evidenced by the workers testimonies heard today. Keep that in mind in the language.

Lunch Break 12:30 pm
Back from break 1:10 pm

(b) Definitions

Amalia Neidhardt reminded attendees of that they may submit written comments. She also requested that stakeholders restrict their comments to two minutes.

Mitch Steiger (Seaman), requested that the definition for "high radiant heat work area", include the words "such as" and list examples, similar to the initial draft. The list is helpful and for the most part is comprehensive, and would cover most of the places where this would be an issue. But radiant heat sources can exist in many places not listed. Just limiting it to the list arbitrarily excludes workers that can be facing hazards similar to the industries listed. Putting "such as" back in would help to not exclude workplaces.

Juliann Sum said that radiant heat sources are everywhere, they include humans; so the Division needs to make a distinction among the different sources of radiant heat. The Division needs more recommendations, because "such as" opens it up to include even lights in a room. **Mitch Steiger:** You can use the definition of radiant heat in the draft and the exception that it doesn't raise the temperature more than five degrees. **JS:** Radiant heat doesn't raise temperatures but passes heat, so a person is not getting it from contact with the air. **MS:** You're still getting heat. **JS:** But it's not raising heat. **MS:** What is the reason "such as" didn't work? **JS:** It is vague. It has to be clear. **MS:** We think other industries might be missed. **JS:** Please feel free to write us comments. Because of legislative time frame, we're asking for comments in two weeks.

Jora Trang, said that there are four definitions of concern: "radiant heat" – they echoed Mitch's comments and will provide language; "outdoor" – does not cover greenhouses; "cool-down area" – no temperature is specified, and they recommend no higher than 80 degree heat index; and "light work" definition – should be deleted. She also advocated for a definition for "representative" for non-unionized and unionized members.

Veronica Alvarado echoed Jora's comments and said that they were also advocating that the definition of "representative" include them as a nonprofit advocacy group. Their organization supports workers who are trying to improve their workplace situations, and they have participated alongside WOSHTEP (DIR's Worker Occupational Safety and Health Training and Education Program) to provide health and safety training. They want worker advocates to be included in the definition of "representative."

Anne Katten said that **"**cool-down area" should specify that it be cooled to a heat index of 80 degrees F. She is disappointed that drinking water and seating were removed from this definition, but glad that ventilation was added. "Globe temperature" – it is important to specify that the reading is not shielded, because if it's shielded is not going to be accurate. "High radiant heat areas" – it is important to include outdoor sources of radiant heat because it applies substantially to greenhouses, etc. Other indoor areas that are affected by outdoor elements need to be considered. She also agrees that the list should be examples and not exhaustive. The exception of 5 degrees is significant.

Luisa Gratz said that she is concerned with over-defining and categorizing, instead of talking about conditions and the variations of heat and the effects on working people. It should be about conditions as opposed to industries because even within industries there are many variables. Like in oil and gas extraction, there could be people working in an office or outside. The four categories (high heat procedures) exclude more than include, and it shouldn't be limited to just those categories. Recommends the use of language like, "If the conditions that you work in are as follows, then this standard should

apply." Go back to 80 degrees. Employees should be able to carry their own monitors. Also, this regulation should be controllable and enforceable in a timely manner.

Kevin Bland, said that paragraph 2 already gives the Division the ability to find something that isn't listed and address that.

Marti Fisher, said that the definition for **"**indoor" creates some confusion for the agricultural and construction industry. A different definition is needed, one that would allow for three-sided buildings, or where the walls are open, allows air flow for ventilation, and treats it as outdoor. In the FAQs for the outdoor standard, there is language that we can use to identify indoor versus outdoor. Vehicles and equipment, like a delivery driver, should not be considered all indoor. These need to be pulled out and fine-tuned some more.

Amalia Neidhardt asked if the issue is that some vehicles have air-conditioning or is it the length of time it takes them to move from one place to another. **MF:** All of that. For delivery drivers, some doors open and close. Or they can initially have a hot vehicle. There are a lot of areas that need to be looked into. **AN:** asked if a vehicle should be defined as outdoor. **MF:** It can be both, based on the configuration of the vehicle. **Corey Friedman:** asked about how one would distinguish that. **MF:** They will submit written comments.

Matthew Allen agreed with Marti's comments. They operate field equipment where configurations can change throughout the day. He is not really thinking of a vehicle as an indoor environment when it is out in the field. They agreed to work on specific language. **Amalia Neidhardt** asked if he was talking about different field equipment, but in the same operation. **MA:** Same equipment, but different operations. It can be harvesting, or it may be pulling. They don't know how they would comply in those situations.

Bruce Wick said that the Division needs to get away from the words "places of employment" since many places have both indoor and outdoor. Based on what the employee is doing, they should be able to know if they are indoor or outdoor. Vehicles are in 3395, these two have to connect cleanly. **Amalia Neidhardt** inquired if in his industry, there are many workers who do both indoor and outdoor, not just inside vehicles, and whether the word "wall" would help define it. **BW:** There are work areas that just have a roof and one wall, and are open-sided on one or two other sides. A container is different from an outdoor area with a roof and ventilation. **Amalia** asked for suggestions or recommendations on how to differentiate indoor and outdoor areas.

Alisa Reinhardt, CA New Car Dealers Association, said that in the definition of "temperature," they would like clarification on "immediate area where employees are located." That can mean a large area where car dealerships are concerned and it would be helpful to know where those temperature measurements need to be taken to adequately protect all the employees at the dealership.

Michael Miller agreed with the previous comments. Vineyards deal with the same things. Employees work predominantly outdoors but also transition from outdoors to indoors and back. Their growers are being asked to apply definitions that aren't applicable to their work. Indoor can be an open shed under

this draft, even though it's mostly outdoor. He suggested that if one is already complying with the outdoor standard, then that would suffice.

D'Wayne Wilson, asked if the language could be simplified so that workers with limited education could understand it better. These laws are their protection from the heat, so they need to be able to read and understand their rights. **Amalia** reiterated that if there are any suggestions and recommendations, to please submit them in writing.

Jeremy Hoke, Cal Cartage, said that he is not clear on what the definition of radiant heat sources means. It seems like it could be as big an issue as humidity. In a container, heat is held. Pallets are being moved in faster than anyone can step out, so he is looking for definitions that are in layman's terms. **Juliann:** The Division will work on educational materials once a regulation has been adopted.

Tom Jacob asked about walls that move and said that it's not unusual to have offices adjacent to an operating plant enclosed by four walls. That is a 24/7 year round production, and it is often the norm to have those facilities wide open to enable air flow. They are concerned about it being classified as indoor and ask for flexibility on that. **Amalia:** Inquired if those plants have climate control. **TJ:** There will be some ventilation in the roof, but they are not enclosed rooms. They are operating with machinery and chemical operations that are active, but they're not enclosed to create a workspace necessarily. Large volume with roof and walls, that is there to shelter the operation more so than individuals. These spaces have large doors at both ends to enable air flow. **AN:** So there's a large difference in temperature when the area is opened up. **TJ:** There is a large enough difference that it matters to them. Their members are concerned about having to pay a penalty in some manner for closing off that ventilation. It is regarded in context of enabling ventilation. These doors are almost always open. Also regarding the location where temperature measurements should be taken, their members are concerned about the rule being fairly precise (too prescriptive) about where devices should be located. One can get a tremendous variation around a radiant source versus being six feet away.

Kevin Bland said that the definition for "indoor" is too broad. He is concerned about the transition between indoor and outdoor. He gave the example of building a home, once a roof and four walls are up, employers are likely to find themselves suddenly not in compliance. He also asked for the definition of a "wall" and whether it includes a wall with a door or a window opened. He recommends that if an outdoor employer is in compliance with the outdoor standard, then they should be considered in compliance with the indoor one as well. **Amalia** asked whether there is a difference in temperature once they close the room. **KB:** It can be 5-10 degrees cooler.

Carl Borden said that the **"**cool-down area" definition does not allow employees to ask for shade or alternatives. There might be a situation where adequate cooling could be done by going outside in a shaded area. **Amalia** asked whether it's not already clear that shade is a cool-down area. **CB:** You can either add a sentence at the end to include shade, or clarify it by stating access to a cool-down area or shade. He agrees with Marti Fisher on the definition for "indoor." If a structure lacks one wall it should be treated as outdoors. In the May 2015 Heat Illness Prevention Enforcement Q&A document, there was a different interpretation for walls. That's a case by case situation. Trailers can also be covered under outdoor. They oppose the use of heat index and humidity.

Bruce Jefferson asked for clarification on vehicles and radiant heat.
Juliann: If you're in a vehicle with windows, if you have direct sunlight on you, that's radiant heat.

Michael Milligan noted that "radiant heat sources" is confusing and not well defined. It could mean hot objects or hot equipment.

Marti Fisher stated that she is concerned with the limited amount of time being allowed to submit comments, as they have written comments due on workplace violence in two weeks. They shared their concerns here verbally, and asked if they can supplement these oral comments with written comments. **Juliann** replied that the Division prefers to extend the workplace violence timeline because this is more urgent. **MF:** Requested that the department use what is being said here.

(c) Provision of water

Amalia asked if there were any comments on this item which is exactly the same as language in 3395.

Carl Borden stated that the language "as close to the employees as practicable" makes sense if there is no plumbed water available. Section 3363 deals with existing water in buildings and talks about having provision of drinking fountains or portable drinking water dispensers. The additional requirements of this new section will throw employers into confusion. It would give them the idea that just like agriculture, they have to have provide igloo coolers. He recommends that it be clarified that employers that comply with Section 3363 are in compliance with this provision.

Jora Trang stated that they would like clarification that water is free and that access is to be provided without retaliation. Workers have been penalized for drinking water during their shift, have been charged for it, or do not have access to bathrooms. Workers should be able to drink water and be able to go to the bathroom. That should be included.

Luisa Gratz echoed the previous comments and said that employers have told employees to go to the bathroom in a cup, have removed filtered water, or have told employees to bring their own water. Some workers can't bring water into their work areas and have to wait until their break.

Maria Ashley Alvarado agreed and requested that specific language be added to clarify that water must be clean, drinkable, good tasting and cool.

(d) Access to Cool-Down Areas

Corey Friedman asked for input and noted that subsection (d) is similar to language in 3395.

Jora Trang stated that clarification needs to be made to ensure access to shade is made available without fear of retaliation. Temperature should be based on the heat index. Cool-down area doesn't have provision for water, but it should state that. There was previously a section on assessment of heat illness, but it has been taken out. Please bring that back.

Luisa Gratz said that access to cool-down areas needs a better definition. It is currently too ambiguous. Some companies under contract are decent, but not every place of employment provides a cool-down area. "Cool-down" needs a clearer definition so people know what that means. **Juliann:** Please send us language or examples.

(e) High-Heat Control Measures

Eric Berg asked if there were any comments on subsection (e) high heat control measures.

Mitch Steiger (Seaman) said that the 95 degree threshold should be lowered. The heat index is really important to preserve. 90s are really high, and people will suffer symptoms of heat stress at that level. That should come down to 85 to 80 degrees. Additionally, it needs to clarify that control measures "shall be utilized to reduce to the greatest extent possible." It would be better to copy feasibility as worded in the outdoor standard. As it's written right now, this looks like a loophole. This is the heart of the standard, and it should be stronger, and employers need to show a written assessment or more of an analysis to prove that it is not feasible.

Jora Trang said that they had requested an initial heat illness assessment within 30 days of this standard. They ask that it be brought back. The heat index is way too high, so they agree with Mitch's comments. Any feasibility issues should be the burden of the employer, and currently this is too vague. Worker clothing and acclimatization should be reconsidered. It is missing now, along with mandatory rest breaks. This draft has taken a step back. Please add all of it back in.

D'Wayne Wilson said that workers should be allowed to keep their thermometers. It gives employees a sense of security when they can understand their risks. In the Ontario meeting, it was mentioned that the workers would find a way to heat their thermometers in order to take a break, but that is a small risk to take.

Anne Katten concurred with the comments made by the Labor Federation and Worksafe regarding assessment. She is Controls have been relaxed. Assessment requirements need to be more detailed, and representative area needs to be better defined. Control of radiant heat areas, should say "to control as far as practicable," and it shouldn't be limited to shielding. It should include ventilation, etc.

Luisa Gratz said that they cannot accept 95 degrees. It is impossible to sustain your health when working in 95 degrees. Acclimatization is needed for people going between different temperatures. There is no way to acclimatize the temporary workforce. Just the idea of accepting a 95 degree threshold is unacceptable.

Maria Ashley Alvarado, echoed Luisa and Jora's comments. If the standard is going to contain words such as "may" or "shall" or "if feasible" or "if possible," there might as well not be a standard because that language is not enforceable.

Tom Jacob said that the language reiterates the hierarchy of controls that begin with engineering, then goes on to administrative, and then on to PPE. But these options should be more open for employers to use. Controls should begin with administrative controls first. This could make a big difference in cost. **Juliann** said that this is based on 5141, which requires the hierarchy of controls.

Perry Poff, Peterson Law Corporation, said that with regards to high heat control measures, they are against the heat index. On subsection (d) for recordkeeping of the high heat assessments, they are against 3204 and advocate that these be kept in accordance with 3203. There should also be an exception for small employers.

Michael Musser said that they have issues with 95 degrees and asked if Cal/OSHA will provide guidance. **Juliann:** The Division will provide guidance when the standard is finalized.

Jeremy Hoke stated that they are very concerned to see the 80 degree threshold compromised. They want the threshold for high heat control measures to be between 80 to 85 degrees. Acclimatization takes a long time, and they have a lot of temp workers.

D'Wayne Wilson echoed these comments and said that the temperature should be dropped down to 80 degrees. Workers are already sweating at 85. At 95 degrees people are already fainting.

(f) Emergency Response Procedures

Amalia Neidhardt said that this subsection is very similar to language in 3395, and asked for comments.

Jora Trang said that they want a buddy system. They also want provisions for temporary workers, subcontractors, and dual employers.

Bruce Jefferson said that they currently don't have emergency response procedures and that no one but Cal/OSHA can force them to comply. They also would like someone medically trained to spot heat illness.

Jeremy Hoke agreed with Bruce Jefferson. Proper training should go hand in hand and would help workers recognize heat stress signs before it reaches an emergency.

Luisa Gratz said that there has to be another provision for people who have heat stress because some workers go home and are harassed for it. There are employers that wouldn't do that, but there has to be something in the regulations that allows workers to enforce their rights and not suffer retaliation. There are emergency procedures in OSHA's books that employers don't even use.

(g) Close Observation during Acclimatization

Corey Friedman said that this is similar to language in 3395, and that the comparison chart gives a quick summary of how things compare between indoor and outdoor.

Jora Trang said that they support this and would love to see provisions for gradual acclimatization similar to what Minnesota has. For temporary workers, new workers, subcontractors, intermittent workers, there should be some sort of gradual system to acclimatize safely.

Maria Ashley agreed. Canneries move people around. Sometimes, they're in a freezer, then a hot place, and vice versa. People get sick for this reason, so it needs to be addressed. In glass companies, it can get up to 140 degrees, and workers are required to stay there all day.

Bruce Wick said that this has language from the outdoor standard. They are opposed to the words "any change" because even a minor change, like from 81 degrees to 82 degrees inside would trigger the regulation.

(h) Training

Corey Friedman: Again, this is similar to language in 3395. Please provide your comments.

Jora Trang said that they have three additional suggestions. Language should be appropriate for workers and be available in other languages. There should be in-person training to that effect, and employee participation should be part of the creation of curriculum.

Maria Ashley Alvarado agreed with Jora. There needs to be protocols. Workers need to know what they need to do when someone gets sick. Training needs to be in Punjabi and other Asian languages as well, and trainings should be facilitated in languages that workers understand.

D'Wayne Wilson said that training should be engaging and include multiple-choice questions. Managers and supervisors also need to know what to do.

Bruce Jefferson stated that he was retaliated against when he helped a coworker. Workers' rights can't be limited. Training is important.

(i) Heat Illness Prevention Plan

Jora Trang asked that provisions for the active involvement of employees be added. Employees are the experts. Previously, there was a heat illness prevention plan that was more comprehensive, and now certain things like acclimatization are missing. Go back to the prior version and cover temporary employees. **Juliann:** The definition of employee covers permanent, temp, and subcontractor employees. If it gets spelled out in this regulation, then it weakens previous regulations that don't spell it out.

Maria Ashley Alvarado echoed Jora's comments.

(j) Contingency Plan

Eric Berg requested comments.

Marti Fisher said that this isn't a contingency plan but a complete plan. Limit the plan for employers that don't get these temperatures. The IIPP is a better approach.

Michael Musser said that the problem with the language is that it does not address outside contractors. If the employer has an employee do the inspection and it's not adequate, they may have to use an outside contractor. Annual inspections may not be properly done. The issue is "adequately inspected." **Corey Friedman:** These notes are references to existing requirements, so they are not new.

Elizabeth Treanor said that for low-risk work environments, they're astonished by the level of detail required. They want limited requirements to focus their resources on addressing actual hazards.

Bruce Wick agreed with the comments on low exposure environments like retail shops and offices with air conditioning. With cell phones and laptops, anyone can work from home. The wording can be clearer. If an employer rents an office, it's not really their own HVAC, then they would have to remind a building owner to do that.

Jora Trang said that they see an erosion on this draft because the recordkeeping section was taken out, and they advocate for it to go back in.

Ana Ramirez, Teamsters Local 601, said that she works in Manteca as a storage worker in a building that is like tin. From the months between May through September, the temperature can be three digits or higher. They have to wear plastic suits and googles, and deal with hot water. At the end of her shift, she is dizzy. All the people who work are Mexican, they work hard, and as long as they work hard the company will be successful. The standard should address PPE for jobs like hers. They need uniforms that have materials on the inside so that they're not drenched in sweat.

Additional Issues to consider

Juliann asked if there were any other issues to discuss. She inquired if the Division should use the heat index instead of regular dry temperature for certain environments, and whether it should be identified by operation. There is opposition to have all employers measure the same way.

Luisa Gratz said that heat index is very important, and that workers need to understand heat vs humidity and the combination of both. They want to encourage companies to use digital meters.

Maria Ashley Alvarado said that it is critical to use the heat index. In canneries, humidity is a huge problem. Tomatoes are cooking in the kitchens, and washing lines are full of hot water. The humidity makes it feel like a sauna.

Yolanda Jimenez echoed these comments. Please consider the heat index.

Bruce Jefferson said that companies won't comply and will cut corners otherwise.

D'Wayne Wilson said that this is a good example of why workers should carry thermometers. In places of concentrated heat, like kitchens and containers, they should be required to have thermometers.

Veronica Alvarado said that they support the use of the heat index. Inside warehouses, there is high humidity. In warehouses with canning or bottling, steam is produced by machinery, giving off humidity. Same with restaurants and hotels, especially laundry rooms.

Elizabeth Treanor said that for those employers of low risk, leave it to measuring with dry heat thermometers. For other industries, like canneries, kitchens, etc., the heat index would be appropriate.

Mitch Steiger (Seaman) cautioned that California has a reputation of having low humidity. It varies and the Division shouldn't pick industries where humidity is a problem. If it is a situation where it'll get hot enough that the standard applies, then it shouldn't be hard to do.

Anne Katten agreed and said that it is better to use the heat index across the board. Greenhouses and some packing houses can get quite humid because of plants and using water in processes.

Luisa Gratz said that it is common sense, that if it's humid outside, it can also get inside. In Southern California, they've had an abundance of humid days. **Juliann:** Humidity tends to go up when it gets cooler. The Division is trying to differentiate between the environments that need to measure the heat index versus dry heat. **Luisa Gratz:** Please don't create a superficial standard. People work in the harbor with vegetation so there is a lot of moisture other than just the climate.

Jora Trang said that the price of a heat index thermometer is 40 dollars. The heat index chart allows for situations where there is low humidity. **Juliann:** Costs also have to be taken into account, $40 x number of establishments. If it exceeds a certain dollar amount, it will have to be contracted out for an economic impact analysis.

Marti Fisher noted that the economic analysis could create delays, so the costs that are placed on employers should be looked at. **Amalia** requested information on costs of equipment, training, number of hours, etc.

D'Wayne Wilson said that humidity is everywhere, that one can't put a price on a human life.

Maria Ashley Alvarado agreed with the previous comment. Heat is heat, and humidity makes heat worse. Keep in mind every worker that is affected by heat. Everything has a price and she gets sick when talking about costs.

Tom Jacob said that hierarchy relates directly to costs, such as the need for more supervisors given the additional roles that would be commanded. This is something that would potentially add expense. **Amalia:** Please submit comments. **Corey:** The more specific about costs the better.

Luisa Gratz said that adding supervisors doesn't make a worker's life better or safer.

Doug Parker, Worksafe said regarding cost, there is a marginal difference between a thermometer and a device that measures humidity. Employers are going to have to purchase devices, they are starting from zero in terms of compliance. Worksafe doesn't think the cost difference will be significant.

Recap, next steps and adjourn

Amalia Neidhardt inquired if there were any other issues.

Maria Ashley Alvarado asked if there was a time period for compliance and whether or not employers will be given 24 hours to comply. **Juliann:** For compliance, if not mentioned specifically in the language, it goes into effect once it's been adopted.

Luisa Gratz asked about the next steps. **Amalia:** We will be reviewing all comments and preparing the minutes. Once those are approved, they will be posted online. That is why emails are needed, to keep everyone posted.

Elizabeth Treanor asked about the deadline for comments on Workplace Violence in General Industry. **Amalia:** written comments are due March 30th.

Don Anderson, CDCR. Has there been any consideration for a medical evaluation prior to people going into a high heat area. There are body changes after going to work in an area where there is high heat. People shouldn't go back into high heat until their body is back to normal. Cooling should be part of that. **Amalia:** Regarding cooling, please feel free to send in comments.

Meeting adjourned 3:00 pm