

Minutes of the Advisory Committee on the Heat Illness Prevention Standard:
Stakeholders' Discussion and Recommendations for Possible Changes
Monday, July 8, 2013 Elihu Harris State Building Room 1 meeting room on the 2nd floor 1515
Clay Street Oakland, CA

Attendees

<u>Name</u>	<u>Affiliation</u>
Chris Badger	City of Santa Rosa
Lupe Quintero	California Rural Legal Assistance
Lisa Morehouse	KQED & Latino USA
Ambar Tovar	UFW Foundation
Giev Kashkooli	UFW
Tricia Geringer	AG Council
Howard Rosenberg	U.C. Berkeley
Jim Rucker	Safeway, Inc.
Charity Nicolas	Pasma-North; Contra Costa County
Lilia Herrera	Heritage Vineyard Management
Monique Zepeda	
Shane Gusman	
Brian Oatman	UC Ag & Natural Resources
Amy Wolfe	AG Safe
Vince Lamaestra	Pacific Maritime Association
Tyler Nguyen	County of Santa Clara
Mitch Smith	Ferma Corporation
Melody Zemliske	Bothwell Construction
Gail Bateson	Worksafe
Brenda Coleman	CA Association of Wine Grape Growers
Dana Lahargoue	Roebbelen/CEA
John Robinson	CAPA
Christine Lintz	Atlas vineyard Management
Bruce Wick	CALPASC
Greg Drayton	Bothwell Construction Corporation
Tim Valadez	Conestoga-Rovers & Association
Lisa Prince	Walter & Prince
Kara Bush	California Restaurant Association
Mike Meuter	CA Rural Legal Assistance
David Flores	Grimmway Farms
Kevin Thompson	COR
Jason Resnick	Western Growers
Guy Bjerke	Western States Petroleum Assoc
Roger Isom	CA Cotton Growers/ West. Ag Proc
Elda Brueggemann	CCGCA/WAPA
Guadalupe Sandoval	Calif. F.L.C. Assn.
Robert Jones	Ogletree Deaking

Michael Harris
Jose Canta
Larry D. Williams
Cindy Sato
Jennifer Bonilla
Cynthia Rice
Joel Sherman
Nick Gleiter
Marti Fisher
Mitch Seaman
Barry Bedwell
Carl Borden
Robert Harris
Lorena Martinez
Bryan Little
Norma Ventura
Annabel Balderas
Kate Smiley Crawford
Jeremy Smith
Gloria Bell
Sherry Yang
Santiago Martin, Jr.
Juan Zaldivar
Joe Del Bosque
Jay A. Weir
Ray Avila
Ron Hutton
Russ McCrary
Edward Calderon
Beverlie Franzen
Robin Nicola
Ron Shanoian
Alex Garza
Steve Johnson
Chuck Herrin
Matthew Allen
Matt Andonucci
Anne Katten
Mirabel Strunk
Aimee Brooks
Manuel Cunha, Jr.
Morena Tumiati
Larry Pena
Chris Walker
Tim Schmelzer
Mike Falasco

Pacific Gas & Electric
J.G.Boswell Co.
Hall Management
CEA
CRLA
CRLA
Grimmway Farms
Cal/OSHA Consultation
Cal Chamber
CA Labor Federation
CGTFL
CA Farm Bureau
CWA Local 9588
CRLA
Cal Farm Bureau
CRLA, Inc.
Atlas Vineyard Management
AGC - CA
State Building Trades
Driscolls

Grower
AT&T
Jaguar FLC
Mercer EHS Networks
Ironworkers ADR
Shea Homes
Fetzer Vineyards
Nicola Health & Safety
J.G. Boswell Company
Hall Ag
Assoc. Roofing Contractors Bay Area
Sunrise Farm-Labor
Western Growers Assoc.
AMPTP ICSATF
CRLAF
IUOE Local #3/Director of Safety
CECCA/WAPA
Nisei Farmers League
Caltrans
So. Cal. Edison
Cal SMACNA
Wine Institute
Wine Institute

Carol Hardy
Robert Villalovos
Jodi Blom
Marley Hart
Monica Marquez

AT & T Telecommunications

CFCA
OSHSB
Driscoll Strawberry Assoc.

Amy Martin opened the meeting at 1005, made general announcements and then introduced Ellen Widess.

Ellen Widess, Chief of DOSH welcomed all attendees and thanked them for participating. She said that everyone wants California to have the best standard, yet the Division continues to see cases of heat illness and death. She noted that the governor acknowledged this issue with AB 2676 last year but preferred to seek improvements by regulation, not statute. In keeping with this goal, the Division convened this meeting to get input from the regulated community, specifically about the effectiveness of the current heat standard, to see what issues or areas in the standard could be improved and to hear about specific changes and recommendations. Ms. Widess noted that she would not be able to stay for the entire meeting.

A Martin noted there were a lot of people and that the speaking procedure would be done less formally, via raised hand. She said that Nick Gleiter would take the microphone to the speakers. She noted that the agenda and a copy of standard were in the back of the room for reference. She said that the goal was to talk about various things and to keep to the topics as listed. Issues outside of the agenda, like high heat, could be covered at the end of the day.

The first topic was: Provision of Water:

Mike Meuter commented that there are unsafe conditions that are not covered in the standard. He noted that with respect to water, there are employers who are charging employees for water at worksites. He said that the regulation needs to have specific language in the standard to prohibit charging, and that the water is to be provided at no cost to the employees. Also, the quality of the water is often poor such as odorous, and not cool enough to drink. He said that the regulation should say fresh, pure, and suitably cool to be consistent with the field sanitation regulation. He added that the regulation must state no foul odor or foul taste and that the water needs to be readily accessible. Currently the regulation does not state that water must be readily accessible. Mr. Meuter noted that the current wording lacks clarity and needs a clear demarcation on where water should be. CRLA proposes that the water be within ten feet of workers unless demonstrated that is not possible, then as close as practicable. Water also should be provided in shade areas and at meals and breaks. He said that to carry out the frequent drinking encouragement, there needs to be a statement in the IIPP about how the employer will comply.

A Martin asked that if the water should be in the shade, then would shade have to be within ten feet.

M Meuter replied no, and asked to add water to the shade area.

A Martin asked if there were other comments about this or about the practical aspects.

Guadalupe Sandoval said he didn't know of anyone selling water, and that it is clear with all their associates that the water is supposed to be free. They provide it. He does his own taste test, and sees water that is pure, fresh, suitably cool, etc. It is as good as at home, though sometimes there can be chlorine from local water treatment, depending on the area. He added that the water is accessible, at the end of each row, maybe not ten feet, but that they have it as close as they can make it. Usually water is near the shade, not always in it. Mr. Sandoval said that frequent drinking is in the content of most training. They often tell them to drink a cone of water every 15 minutes, to meet the quart per hour. He doesn't know if employees comply and noted that they can't force employees to drink.

Ambar Tovar said that there is need for water at all times, not just in high heat and that the regulation doesn't cover lower temperatures. She added that there needs to be cups or canteens for each employee and that they have noticed canteen and cup sharing. The location to the water is not expressed, though it says a quart per hour, but said that location should be ten feet. The quality should be cool, defined as 70 or lower at all times. Each employee should be given a 32 ounce canteen or 8 ounce cup. There should be no penalty for taking a water break, particularly for employees doing piecemeal work. She added that there is a special problem during high heat periods like the one in the central valley which caused two fatalities.

A Martin pointed out that the field sanitation standard has the phrase about water, and sees no problem putting in that. She moved to the need for canteens or cups, and asked if there was a problem.

Ambar said that if employers are complying, it is okay. She added that there is a problem with individual use cups, but that the biggest issue was distance.

Giev Kashkooli said that they object to cups when the distance is an issue.

Jennifer Bonilla said that what ties them together directly is 3395c; under which employers are required to encourage frequent consumption; but that the main problem is when the water is too far. She noted that if they do not have canteens, then the water needs to be within 10 feet. Even if workers are not on piece rate, there is some stringent production requirement, so distance affects drinking frequency.

Jason Resnick agreed that if the water is too far, no one would go there. But said that the solution to that is not a distance requirement. He noted that it would not work to make it ten feet for every person in a field, so it needs to be more central, and that access needs to be reasonable; ten feet is too stringent, it has to be more practicable. Using a tape measure is not practical. He said that they want it reasonable, practical, but not an impediment to use. As to terminology, it should be as close as practicable, avoid using the term possible. He commented that earlier there was mention of employers charging for water, but it is already required because in California, safety equipment and measures must be provided at no cost. Mr. Resnick said that the water taste is subjective; that he sometimes prefers bottled water over the local water which is fine if the water is available to the public or otherwise potable. We probably don't want to go down the path of saying that if water tastes funny, then employers have to get bottled water.

A Martin said that the comment was that as close as practicable is not clear. She asked in regards to specifying a number, if ten feet is impracticable and what distance would they recommend.

J Resnick deferred to people with field crews, but said that it should probably be at the side of a field, or maybe the width of it.

A Martin noted that a field could be two blocks wide and that there should be a reasonable choice between 10 feet and half a mile.

J Resnick said ¼ mile.

Larry Pena said another part of the issue was protection. If someone is 100 feet in the air, you can't make shade and someone would have to hoist water. Or in a tree, it would not be reasonable to do the same thing as in a field. He noted that one size does not fit all.

Lorena Martinez said that for the conditions in the Coachella valley, they set water at 10 feet based on the high heat, humidity, and long hours and that a quarter mile is too far. She noted that they have had heat waves, and that people have been getting sick because the water was not close enough.

Vincent Lamaestra said that getting water to employees is no problem, but trying to apply the 10 foot rule cannot be done well. He noted that it could be put close enough on a case by case basis. He has ships, cranes and blockhouses, they understand what reasonably accessible is, and they provide water in those areas. He agrees that quarter of a mile is ridiculous, but there needs to be some optimum distance.

Morena Tumiati shares the same concern as Lamaestra, and said that being forced to place water very close to employees could create a hazard for the public.

Rudy Avila said that making one specific requirement would be too restrictive. For example, in the Napa wine country they have a jug for each crew and in hotter areas in the Central Valley they have 6 jugs for 60 people. He noted that his town is chlorinated and that small towns have this problem. With tomato rows, it would be very difficult to have water within 10 feet, lettuce also because it is hard to get across the rows. He asked if the employers issue canteens, who will clean them. He commented that with bottles, there would be a waste problem, and that the regulation should just make it as close as possible.

Ron Shanoian said employers try to comply, but all over state the commodities are not the same. He noted that the trees and crop fields were different. If everyone is spread out working, getting water within 10 feet is impractical. Each area has water issues, sulfur smell for example. If they have to buy bottled water, it is city water that has been filtered. He commented that there needs to be a practical requirement for placement and source. Other regulations cover some issues of water quality.

Cynthia Rice said that there is a practical standard but that they are still having heat stress illnesses. The problem here is setting the framework. She noted that with the current regulation, the total number of cases are not captured because the workers are sent home when they don't feel good. Also, people need to realize that the total distance is twice the placement, because

they walk to and from, so its twenty feet and not ten, so there is a disincentive many times. Water needs to be accessible and employers need to make sure drinking is encouraged. She said that they hear that workers have access to coolers with water too hot, that water that tastes bad, or that they can buy water from the foreman. They need a prohibition on selling water and that this issue needs to be addressed in training and the IIPP.

Chris Badger said that their employees work in trucks and that if employees are in a long truck with water at the back of the truck, they are already over ten feet away. That would be too stringent. He commented that maybe a specific distance isn't the way to do it. Maybe something like how far it takes to walk in a minute, something that shouldn't be too hard. The specific number of feet would make them out of compliance. He noted that the clean water act has requirements for potable water, that some people can smell the plastic from a cooler and that it should just use the term potable.

Manuel Cunha Jr. said he wants DOSH to have publications as in 2008, that billboards should be up again and that he'd like to see more publications. He raised that at the April meeting and 800 workers were there. He commented that if the work is in vineyards, there is no way to put a cooler out and that the buyers don't want anything in the field for sanitation reasons. Also workers would have to climb under wires to reach the water. He noted that everything should not be in the regulation; that they provide water that is clean and potable. They also have water on tractors, and in trees. He said that workers can dump a load in the bin and get water at same time. But with the change, they might have to have an igloo in every tree.

A Martin said that the only quantitative suggestion is one minute as a walking distance, which might be about 264 feet. Need to have more suggestions. Most people are saying something between 10 feet and a quarter mile.

Barry Bedwell commented that most things have been said about trees and that it is important to keep in mind other outdoor occupations other than agriculture. The parameters of other occupations should be addressed. After six years with the regulation, he would hope that they would have some facts about the causes of deaths. He said that the suggestions of ten feet seemed like a wish list. Can't get 100 percent prevention, but if you make it too stringent, you will get less compliance. He asked if the Division can identify the actual reason that people don't drink and detail how many deaths occurred because the water jug was too far away. He noted that as for piece rate, that requires paying the minimum wage at least, so there is not a total disincentive. He said that they need to make the regulation better, and need tangible comments.

Roger Isom agreed with Barry Bedwell and said that they should stick to the facts and proof. Ten feet won't work. He commented that improvement should be tied to compliance with the standard. In cases where there is compliance, there is no illness. The distance to the water is not the problem.

Carol Hardy agreed with Badger and others. ATT has people in utilities operations and that 10 feet won't work.

Brian Little said that it was not necessary to include in the heat regulation requirements that are in other standards. Also, anything required by Cal/OSHA must be provided to workers free, so selling water should be already prohibited.

Lupe Quintero said that their office in Imperial County is on the border near Mexico, and that for the last two weeks there have been excessive heat warnings. They've had temperatures of 120° and noted that you can't get used to that kind of heat. He is the director of the heat stress training initiative and that they train about shade and water, but that people still got sick: two women got sick and one went to the hospital. Ten feet is doable, but even that might not be adequate, as he has seen an orchard with water provided that close but even then, people had gotten sick.

Dana Lahargoue said that with the regulation as stringent as it is, DOSH needs to look at employers who are not complying. There are ways to work around the heat, like different time shifts. She said that they've been known to pour concrete at 3 AM to avoid the heat.

A Martin said she was glad to hear from construction, especially because construction is now one of the areas where there are cases of illness and death.

Anne Katten said she is concerned that a one minute standard would be too far—that is one minute there and 1 minute back and noted that 2 minutes out of work is bad for workers and employers. She added that there is no scientific sense to not having water in proximity to the work.

A Martin said she knows there are lots of employers who have the water in the middle of the field.

Beverlie Franzen said that their winery has various workers and that they do not see problems of illness, death or poor access. She noted that they tried having employees carry water bottles and little igloos but employees don't like them. Paper cups are good. But changing the standard will not improve compliance. They have a lot of access to water. She added that in Hopland it has a smell, but is potable.

A Martin stopped discussion, moved on to the next issue, shade.

She noted that access to shade has more nuts and bolts, that Cal/OSHA does not enforce wage orders, and that paid breaks are not part of this regulation. She asked for comments.

Jennifer Bonilla said that shade is not a problem except for outliers, but that there was an issue with clarity. CRLA wants shade to be within a one minute walk. She commented that recently CRLA met with people from DOSH concerning a situation in which tree shade was a little over a five minute walk but were informed they could not cite when the shade was further than stated in the Q&A. Also there is a need to not consider grapevines or tomato plants as shade since there can be other problems like snakes. Also, shade should not be located next to the field toilets. For the Coachella Valley, CRLA also wants to have shade present all year, and shade up above 75 degrees for the rest of the state. This would also incorporate other factors such as radiant heat load and work intensity that add to heat illness risk and which needs to be addressed. Also the shade requirement should specify no contact with the bare ground, seating preferable. With regard to trees, there may be too long a time to reach the shade or water. Also want to have the shaded area large enough to accommodate as many as needed for the shift. And there is a requirement for 85 degrees for shade to be up. She added that the current requirement is not dealing with the amount of shade that is provided. They want to have it mandatory for employees at all times. And there should be enough shade for all the employees at once.

A Martin said she can tell that there will be lots of comments.

A Tovar proposed that the 85 degree trigger for shade be lowered to 80 degrees and that shade should be provided within five minutes of the request. Shade should be sufficient to accommodate 100% of the workers, and insulated from the ground. She noted that employers are going to say it is impractical to provide shade for 150 workers, and asked if staggered work breaks would work.

Melody Zemliske said that wireless communications have workers all over who climb cell phone towers. They already have a lot to prepare, like the fall protection, so it would be hard to have them meet new requirements for shade and water.

G. Sandoval said that the contractors are not hoping to step back; many of their people go above and beyond with best practices. One problem especially in Salinas is shade that is attached to the porta-potties which is legal, but unpleasant. The current shade requirement for 25% can be applied easily enough, it is not crowded for 6 workers under a 10x10 pop up shade, but he sees that some people do not use the shade. He commented that you can regulate, but you can't force workers, as some workers still rather sit under trees. G Sandoval noted that if you went to 100 percent under the shade or stagger breaks, there could be more problems created by tracking when people take breaks and then there would be wage issues. So it's better to just put the shade up starting in May, then it doesn't give Cal/OSHA a reason to stop. He added that a lot of what is seen are behavioral issues, but that the bigger issue is immigration reform.

L. Pena said that agriculture is different from utilities. He noted that you cannot put shade on a tower or a pole, and you cannot have shade all the time for mobile crews. Air conditioned vehicles area a fair alternative. He commented that certain specifics like being in a helicopter, need to be judged differently and that the differences in industries need to be considered. A Martin asked about the exceptions and if they are enough. L Pena said that they are acceptable but he has heard of other areas as well, where it gets more subjective.

A Martin noted that the current standard has shade exceptions and asked if these were enough or whether they could lead to interpretation problems.

B Bedwell commented that for the trigger and amount of shade, if it can be improved, fine. But said that DOSH should not exclude natural shade. He sees that some crews rather sit under vines than have the shade put up. They took out a thermometer and found some shade structures were about 5 degrees warmer than the natural shade next to it.

V Lamaestra said that he doesn't know how that break issue would be affected by the currently negotiated contracts. He noted that the industries here before in 2009 were the growers and construction, and that again, maritime is getting pulled into it. He added that the growers should probably be dealt with separately, as growers have bad employers who don't follow the rules.

Mitchell Smith said he was here six years ago too, and that the problem still is the culture difference. He noted that the top companies pay attention to the standard and meet or exceed it but some outliers need more training, etc. He agrees that construction is different from agriculture.

L Martinez said that workers using vines for shade can have exposure to pesticides, spiders, snakes and scorpions. She noted that in the Coachella Valley, there are some who provide shade but it is not used because there is no place to sit. Whereas another employer provides shade and also has a lot of trees. There are also washing facilities, so it is very comfortable. She commented that if this employer is doing a good job, and is not a big employer, then bigger ones could do that too. She added that vines have other hazards and that tomatoes have snakes.

Steve Johnson said that it has taken a long time for the roofers in their association to absorb and understand the regulation. They are at a point with members finally understanding the regulation, and it is more or less working, and most are in compliance. So he is resistant to any change because they've only just gotten there.

Larry Williams said that they provide shade trailers that are hooked to porta-potties, but that they are supposed to be separated at the job sites. He noted that even though they provide the shade, with seats, some employees don't use it and prefer to go to natural shade. He added that changing the regulation may upset compliance for some employers.

Chuck Herrin said they have shade and water, that they put up shade in the morning, and that sometimes water gets further away if the pace of work is faster than normal, up to a quarter mile. He noted that they will keep it closer if they have to. He commented that they have to educate, educate, educate so people understand that they are not going to escape the heat. He said that the current regulation is adequate, that there is better compliance. He added that medical conditions also cause heat illness; that they have taken workers to a doctor where they find out there is a medical problem such as diabetes and that no one wants deaths to occur.

Joel Sherman said they have been working with the regulation since the start and that changes have been dealt with. They have operations from the border desert to the Napa coast and they discovered that training at the start of the season didn't work well, so they now do a five minute reminder every day. He commented that to have a realistic goal, there is a need to reduce probability, not eliminate the possibility. DOSH needs to assess probability. He added that the biggest thing is that people do not follow the rules in some cases. So what they really want to see is not a change to the details and specifics, the regulation they have is okay. He noted that if someone doesn't feel well, there are other regulations that apply.

A Martin asked him, in Ag, if there was any reason not to always put up shade in the morning.

J Sherman replied that it needs to be seasonal. He said that they meet at the start of the heat season and tell people to get the shade up. But that there are some crews who are hot shots (mobile)crews that work on valves, etc., and they've adopted some of the practices of S. Cal Edison and other utilities who use running vehicles for shade since workers on such crews are only at a location for 15 minutes. He asked how one would put these workers ten feet from water. He added that they are doing well with the current regulation and that compliance is fairly successful compared to other regulations. He stressed that they need to see the data on the effect of the standard and the enforcement before they changing it. He commented that it's working for Grimmway.

A Martin said that they are doing more, which suggests that it might work elsewhere. She asked about crews for large areas starting in April and whether that would be good for all Ag.

M. Cunha said that the Grimmway concept is okay, that Nisei puts the shade up at 5:30 AM in March, but that in October, they watch for temperature rising, and have it around. Since 08, he has seen more shade, and trailers, than ever before. Not as much shade hooked to trailers, but they still see workers going into the shade trees, and found workers preferred it. He commented that it is not always practical to put up shade in the middle of a field. Pointing at Ag is wrong and noted that there is a lot of training being done. He said that his dad was in construction, could not put up shade in all places. The shade issue alone is working well. If employers are not complying, cite them. He noted that everyone has been talking about employees' health, that he sees a lot diabetics, and one problem is seeing more alcohol. Once someone has a lot of alcohol, it affects heat susceptibility.

Charity Nichols said there are three areas with enforcement problems and that this should not focus only on Ag. Mobile operations, like when resurfacing roads, constantly moves, and they have shade in vehicles. But putting up shade will not work. She asked how long did emergency workers had before putting up shade and whether firefighters could put up shade or provide water. She commented that options were needed for things like that. She further inquired about solo employees, like police directing traffic or inspectors, where there is no feasible shade up.

John Robinson said that theme parks have concerns about expanding requirements outside of agriculture. He noted that shade for all their workers would be difficult and that when the high heat requirements apply, the ten feet would be very difficult. He asked that this be kept in mind if revising the requirements.

Jay Weir said that it is hard for someone climbing poles to get water, shade, etc., to climb down off a 60 foot pole in five minutes. He was present at the original heat illness regulation meetings, at which time he had said that Ag regulations is the area that needs changes, as utility companies like ATT have had heat illness prevention for 25 years, and the regulation did not have an impact on their industry. He added that if changes were necessary they should be in the Ag regulations because the other industries have very different needs.

G Kashkooli said that the UFW is comfortable with having a lot of other Ag specific regulations and that the educational effort should be applauded. He noted that last week, two people died. In one case, there was no shade for 110 degrees, but there are other deaths where things were not violated. They are skeptical that penalizing Ag would help and said that there is a need to have the basic concepts enforced.

Santiago Martin Jr. said that for them the standard has been more than adequate and that it is safe for their employees now. He noted that it was difficult and discouraging to keep up with the changes that have already been done, and it would be hard to follow more changes. Complying with the current regulation is very effective, as they've been inspected multiple times with no citations.

Meeting recessed for lunch and resumed at 13:21PM.

High heat provisions:

A. Martin noted these were not new and have been in effect since 2009 or so.

Mike Meuter said that their position is that these provisions are critical to protecting workers, and should be done at all times. He noted that these things were common sense, and that at a minimum, the temperature trigger should be at 80 degrees. He added that to protect workers there should be more breaks, in duration and frequency when the temperature is over 85 degrees, and when it is over 90, there should be 10 minutes per hour of cool down breaks. He said that there is a need to stagger workshifts to avoid the heat, and suspend all non-essential work from noon to sunset when the temp is over 100 degrees.

G Kashokooli said that there was reference to what has been done, based on research, that the requirement should be taking breaks every two hours for 15 minutes, and to use a buddy system for reminding about water. He noted that a supervisor needs to refer people for help when symptoms start and that there needs to be more training. The presumption should be that if it is above 90, the employer violated the standard if they didn't send a worker for medical attention when showing signs of heat illness. He added that the way it is currently done is not adequate.

V Lamaestra said that what works for agriculture, especially in high heat, does not work for maritime operations.

A Martin noted that maritime is not covered by the high heat requirements.

V Lamaestra said agriculture is the industry with the big problem.

A. Martin said there are illnesses and fatalities in construction; illnesses and injuries in amusement parks: everywhere where people are exposed to heat, and that should be the focus.

G Sandoval said the HH requirements made sense, but that caution should be taken in some applications. It would be bad to restrict work hours when crops are ripe at certain temperatures because it could stop a lot of jobs and this would have an impact on the State's economy. He added that shutting down work in the Coachella Valley at 100 degrees would put people out of work; since it is 100 degrees by 10 AM.

Bruce Wick said in his group and AGC, there are about 300,000 contractors in California. He noted that the 8th anniversary of the standard was coming up soon, but that there are still gaps in knowledge about what the real problems are regarding all the inspection data from DOSH.

A Martin next asked about electronic devices and communication issues.

C. Rice said that employers could do some things like testing the reception in the area before sending crews. She added that there should be some specific requirements in the IIPP to cover emergency procedures, and to set up with the nearest emergency responder so they can be found.

A Katten said that the current level is at the high heat hazard range, but that the temperature trigger should be 80, which is the lowest threshold for National Weather Service alerts—especially if someone is not acclimatized.

L Pena said that the requirement on communication was clear. Employers need to have good communications planned out, especially where reception is bad and that it is also good to find a good weather forecast.

A Martin said forecasts may be part of the story, but that the chief concern was effective communication with emergency medical services.

G Sandoval said that most contractors are working on compliance and that it seems that there are a few problems, even working with it set at lower temperatures, and he noted that he has no problem with it being triggered at 85.

M Cunha said that their crews have walkie talkies and continually check in. He commented that if there are groups who don't have communications that they should be cited. He added that phones are used for a lot of places but they have to test them, so use walkies instead.

A Martin asked if there was a reason to not use the high heat procedures at lower temperatures.

M Cunha said that making changes based on new requirements was tiresome and difficult. He noted that they have asked members about uses, and that one place has applied high heat to other types of situations. He commented that they do heat safety every day and he thinks that there are enough people who have phones so that this is not a problem. He said that a buddy system is important also. He added that having work stop at 11 or noon would cause workers to leave to work at another site.

A. Martin asked about subsection (e)(2).

B Bedwell remarked on expanding the heat procedures, that it would be good to have meetings to review that if the heat increases it is important to take more precautions. On (e)(2), they think of that as closing the loop between the foreman and the medical responder. He said that employers should go over procedures with emergency first responders as well. He agreed that the idea of cutting the work day would probably make workers unhappy.

Joe Del Bosque, a grower, said that the current regulation was adequate. He noted that California has 7200 different crops; and that different conditions do not lend themselves to the broad brush approach. He recommended that DOSH find the bad actors and use enforcement procedures. He said that there should also be more training of employers and employees. He commented that a few weeks ago, in his case, there were shade structures, but that most people didn't use them. He found that workers liked the trees, but they had to force them into it because of the food safety rules. He added that some of those regulations conflict, e.g., they can't carry water into the fields.

Amy asked for someone to send her those regulations about water carried into the fields.

M Cunha said they are the grower rules about sanitation, not a law.

J Del Bosque added that there are a lot of rules to meet but they are not in conflict with the shade, water, and rest requirements. He commented that on his farm, in high heat, there is a 5 minute break every hour starting at 1, but not the ten minutes. He noted that the melon industry needs more awareness about what causes that kind of heat illness, more information about how that happens, and how to recognize them as they aren't doctors. They support a lot more education of their industry.

C Rice said that it seems that they are saying that they want to incorporate the best practices in the regulation, which would tend to drive out the bad actors. She added that the buddy system is very important, and that there is a problem when workers are isolated. She said that in addition to the buddy system, every crew needs to have someone medically trained about high heat problems.

A Martin said there are often employees who work alone and asked how one would implement that without a supervisor.

C Rice said that there should be a general requirement with break out exceptions. That the regulation should state that isolated workers are trained and have an effective communication device.

J Weir said that ATT has a lot of lone workers, under telecom, and that they need to have them first aid and CPR trained. He added that sometimes there are crews for construction that have two or more.

A Martin asked how they would consider a solo worker that might get ill and how they would deal with that.

J Weir said they have some telecom things other employers don't have, like they have contact with supervisors and can find them with GPS. He added that they also have satellite phones.

Roger Isom said that there should be evidence indicating that the regulations in place are not working before making changes, otherwise, they would oppose revisions.

V Lamaestra said that for training they tell employees if they feel a certain way to report in to supervisors, but noted that talking "medical training" was of concern.

A Martin suggested moving on to acclimatization.

L Pena says that it would be very difficult to do that, for example southern California is going into the Santa Ana season. He noted that one can't say when it will get hot and that there are some situations that are very difficult to prepare for.

V Lamaestra said that given the way they have workers agreements, that this would be hard. He noted that under contracts, workers have a right to go to another dispatch center for one day and that this circumvents acclimatization.

A Katten said that High Heat needs to be addressed in cooler areas; and in response to the call for evidence, that there were cases at 80 or below.

A Martin explained that every study she sees shows that illness occurs where there is lack of acclimatization. She stressed that it is known that acclimatization is a key issue, but asked how one would do that in lower temperature areas.

A Katten said that there needs to be more training about this issue so workers know that they are more vulnerable and sensitive if they are not used to the heat.

Bob Moll said that they recognize the importance, but as for shutting down at certain temperatures, this can't be done with construction.

G Kashkooli said that some have said that training about water is done every morning and asked if there was evidence that it seems to help.

A Martin asked employers what they were doing about acclimatization.

G Sandoval said that in every training program that he has observed, acclimatization is covered. Workers are always told to let supervisors know if they feel ill and that their production will drop off at higher temperatures. But he commented that they can't tell a worker that they can only work 4 hours; as the workers will go somewhere else or lie. He noted that in construction jobs he saw that new guys wore red hats so supervisors could see them and identify them. He added that he sees clients putting visibility vests on workers and that these could be used to identify unacclimatized workers.

M Cunha said that they started doing that in April and that they have done the four hour limit. He added that there is a labor shortage, that they don't get too many workers from other labor sources, as this work is too hard. They still do a lot of training about acclimatization anyway, and tell them to slow it down and drink a lot of water. He commented that people lie about their experience and if they are questioned, they leave. So dropping it way down would be a big problem. A Martin said that the hard hat idea was interesting and asked if the supervisors monitored more closely. M Cunha replied yes, that they do watch the new person for the next several days. Even with piece work. A Martin asked if there was special training for the watcher. M Cunha replied that yes, crew bosses get more training.

Mitch Smith said that in construction they pull people from the halls and someone goes to a hot area from a cooler one. A Martin asked about the buddy system. M Smith replied that they always do that and that it's done by the whole crew. A Martin asked if they did anything else, like breaks. He answered yes, that in higher heat situations, they have more breaks, and more water. That workers are told more than the basic requirements.

A Martin asked for comments about requirements for emergency response.

G Sandoval said with a lot of the training they do, that they tell them they could be dead soon after collapse. He noted that the trouble is the crews move a lot and supervisors have a hard time keeping track. Some supervisors use the central location and put the address on top of the work orders. His concern is that they don't always have the needed information. Most know if they have no cell coverage, that they should use radios or maps with cell coverage.

A Katten said that under training, there is a need for more specifics about first aid and emergency response, and paying for medical care. She noted that a lot of workers don't understand that the employer is responsible for heat-treatment. And that Cynthia meant first aid for remote areas, not medical training. She said that the supervisor should have first aid training.

V Lamaestra said that made sense. A Katten added that the regulation needs to have a separate subsection to show what an employer is responsible for, shade and someone with first aid training while assistance is on the way, and that an ambulance should be used, not the employer vehicle. She said that employees should never be sent home without a medical evaluation.

C Herrin said that they have been training for 15-20 years, and that they have maps of every workplace (ranch). Also, that there are multiple emergency work locations and that emergency protocols are explained weekly. He noted that people can fall apart in an emergency so they should have crew bosses trained in CPR. He added that there should be more training for employers who need it.

Larry Williams commented that Halls is doing what Herrin said. That supervisors are trained in first aid and CPR and train the trainer. He added that shelters have information about high heat and emergency procedures. Everybody gets trained on new assignments.

C. Nichols said that there is already a first aid and CPR requirement that addresses small crews in remote areas. They can't force employees to use the training. She noted that the training section of the regulation should be more clear and specific on what the training should include, like acclimatization. She commented that it is expensive to have CPR or first aid training and asked if all solo employees should be CPR trained.

C Rice said that so much is included in the training, that they anticipate that industry would rise to the challenge and develop best practices solutions that are reasonable, but that this has not been true for all employers. So they see a need to put these practices into a requirement so everyone can do the basic things better. As to data, she noted that there is no way to see all the cases. There should be a reporting requirement, and that all cases should be sent for medical evaluation. And the breaks should be increased without penalization.

M Zemlske said about training, that her position is about safety. For heat illness you should never leave anyone alone and that probably no one should work alone. She added that all their people are CPR trained and that they use color coded hats, red, to green, to white, as identifiers of time on the job and acclimatization. She commented that something that is frustrating is that as they try to meet the industry requirements, clients will push her to move their employees to work unsafely, and that the employer will not pay change orders, and will not hire them since competitors don't include safety costs in their bids.

Robin Nicola, a consultant, said that one thing they do is a drill, to see who actually knows the material.

J Sherman said that he was troubled by the comment about transporting an ill employee only by ambulance since the ambulance may not be able to find them. Regulation should not say ambulance only. As for specific directions to a field, crossroads checkpoint where ambulance can meet them should be used or GPS coordinates. Point by point directions may be wrong. He said that they have an EMT in a central location, so they can bring their own employees there, closer than an emergency room and that training has to be useful for the work they are doing and to recognize the symptoms. He noted that is better to spend a few minutes every day and that they do have crews that involves solo work. He commented that employees contacted someone when they didn't feel good and that the response is set up with their own plan. He added that the people there do not need more training and that DOSH needs to find the ones not complying.

A Martin said that there are heat illness cases every year, where someone gets worse because a supervisor drives aimlessly with no plan.

J Sherman said that if there is no plan, they missed the point.

A Martin said that maybe they should do both; as most people said they do all of that.

Lisa Prince said that regarding the data, an important piece missing was the date of citations. She added that inspection and appeal data should be available to help determine if it is a compliance issue or enforcement.

A Martin said that the Division has seen that compliance has increased but that deaths still continue. She added that information is on the website.

R Shanoian said that the Cal/OSHA website has lots of training materials and that employers need a written program and to train on each element. They should have mapped locations with emergency contacts. He noted that if the requirements are made too specific, they would not work. He added that one can't prevent every illness or death, and that there are often other circumstances. He said that the training needs to tell employees to take care of themselves, and that they need to hear that from DOSH. In his experience, some condition like gas in hot weather has been attributed to heat illness and that one of the deaths was a failure to comply with the current regulation. He noted that the Division was preaching to the choir.

G Kashkooli said that in regards to heat illness, he agreed that there is a lot of ignorance. He agreed that the current regulation doesn't spell out emergency procedures sufficiently or how medical services will be contacted or be provided; or how to get an employee to the emergency medical service, or how to transport within 5 minutes by car or ambulance to receive emergency medical assessment. They should have daily training. The regulation should require that outdoor work not be started until employees have the training. He wanted to emphasize the importance of cooperative training. He recommended that to set good companies aside, they should be recognized, that their training should be certified; that this should include verification that an employee has been trained, and a penalty if there is fraud.

J Bonilla, said with reference to section 3, written procedures, that the employer should keep a log of when training was given. She noted that workers sometimes appear not to know what they have been trained on.

Break

A Martin said that the last topic was application of the abatement provisions and repeat citations.

G Kashkooli said on repeats, that the core problem was neglect, and that many fatalities occurred among repeaters. He recommended changing the definitions to 5 years, and that it cover the whole state, and that there be liability for the owner and employer. This meant farm operator and employer responsibility. He added that this section or others in these orders should apply two or more days for a 5 year period and that this language came from AB 2676.

M Cunha did not agree with joint liability and said that the Department of Labor nails him for everything wrong the contractor did, even though they had all the documents and he had done his due diligence. He noted that for a contractor that continues to violate, he could go along with the state pulling the license, but said that they can't do that. He commented that they can agree with some things, except for making the landowner jointly responsible. He added that the landowner may not know about the violations and that taking the license of the labor contractor is really the best way.

J Resnick said that he supports going after repeaters. The regulation itself is adequate but said that the real problem is with employers who don't comply. He recommended that DOSH increase compliance with more education and outreach and find out where the lapses are. A Martin asked how bad actors should be treated. She asked if it should be 5 years and not 3. J Resnick replied that he was not really opposed to changing penalty structures and asked if there were cases of multiple repeats. He added that if the answer was yes then they should take away the license and there should be a study to see the causes of heat illness or death. He said that the proponents for change have the burden of proof.

Carl Borden asked if Cal/OSHA has jurisdiction over groups who were not employers.

A Martin said yes, under the Labor Code.

G Sandoval said that it would be challenging for a lot of employers if they were responsible for a widespread operation who happens to get a citation for example, not training each employee, and if that is repeated in 5 years; he could lose his license.

A Martin clarified that when they talk about repeats, it didn't include revocation of the license. She noted that it's a different set of rules under the Licensing Board.

J Sherman asked what was the significant to separate out this type of violation for a longer time period for repeats from other repeats. B Bedwell said that the Division should go back to the goal of protecting employees. Every industry should look at how compliance has responded and noted that for agriculture, they have gone from 30% to 80%, and dropped to 75%. It is important to find out why. He commented that this proposal seemed punitive, not helpful and that at some point a bad actor should go, but not in every case. He added that the real issue was to find out why is there a drop in compliance and that He opposes putting that proposed legislation into regulation.

G Kashkooli responded that it is not difficult or complicated to prevent heat deaths. He said that the basic things are water, shade, and training and that there is no reason for a violation like that to happen, so if they don't have those things, somebody is at risk. That has contributed to recent deaths. He added that landowners should know if there are multiple citations on the record of a prospective contractor, and that they should be held liable if they ignore that record.

C Rice said that an employer has some responsibility when there is a more complicated relationship of shared profits and that the real point is to make sure there is accountability. So the employer should see if the contractor has had multiple violations. She noted that many plans developed by the contractor are generic, so it makes sense to have repeat violations. As for abatement, providing shade etc. should happen immediately. She added that there should not be a credit for abatement for no water, shade or rest periods.

B Wick asked with regards to abatement, is failure to abate was a 15K a day penalty. He said that it seemed to him that Cal/OSHA is using the OPU and going back in two days.

A Martin explained that a sanitation violation should be abated in one day per Labor Code 6712, the field sanitation law. And asked if this was a problem for water and shade.

B Wick said that they expect to be told that they have to fix it right away or it will be shut down, and an OPU issued.

A Martin said that for an OPU it is pretty hard to establish an imminent hazard and asked what if it is not 105 degrees.

B Wick said that if someone is cited for no water, then someone needs to go back the next day if it is suspected that they will not comply. He noted that enforcement varies with individuals and that if a citation is going to be issued, abatement needs to be declared right away.

M Cunha said that if there is no water or shade, there should be an OPU. But if they are to verify that the contractor is okay, then this needs to be put on the website, so farm owners can see that the contractor has been cited and is not good. But in a case where someone runs out of water or has not enough shade, they should get until the next day to make corrections. If someone doesn't have enough water, he said that citation and abatement needs to happen without destroying the contractor each time, but that he wants the workers to go home until the condition is abated.

A Martin asked for clarification, did he say if the OPU is not needed, then tell them to abate. M Cunha said yes. Amy asked if the license website showed violations.

Robert Villalovos replied no, not on the DLSE website.

M Cunha said the new licensing site may be able to link to DOSH's or OSHA's.

D Gold said that maybe this is something IT can fix.

Jeremy Smith said that if this requires Cal/OSHA to do it all, only 200 inspectors would be available and that this could probably be the root of all those bad actor issues. They can review the whole citation process, but that the bottom line is the data of dead workers. He noted that there needs to be a level playing field and that everyone here should help Cal/OSHA get more resources.

B Little said in regard to the comment about the agency not having enough people, that Federal OSHA used targeted enforcement to solve the problem and that the data for inspections since 2005 needs to be looked at and analyzed.

L Martinez said that they have heard from workers; that there are hundreds of workers under a production system where the contractors set production levels and quotas that workers have to meet or lose their jobs. She noted that this is why people don't take breaks. She said that they also need to think about how the workers are treated since there are employers who are complying but are still forcing the workers to meet production levels.

A Martin said that this closes the meeting and that this was not an official rulemaking meeting. She clarified that if there was going to be rulemaking, there will be another more formal meeting in the future, and it would be announced.

ATTENDANCE ROSTER

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CHAIRPERSON: Amy Martin LOCATION Rooms 1, 2nd Floor, 1515 Clay Street, Oakland

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NAME AND AFFILIATION	E-MAIL ADDRESS (for notices of future meetings)	PHONE & FAX NUMBERS	MAILING ADDRESS (optional)
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<p><i>Jupe Quintero</i> <i>California Rural Legal Assistance</i></p>	<p><i>lquintero@crla.org</i></p>	<p><i>(760) 353-0220</i> <i>Fax: (760) 353-8026</i></p>	<p><i>449 Broadway</i> <i>El Centro, CA</i> <i>92243</i></p>

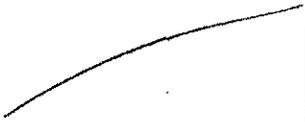
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Michael Harris Pacific Gas & Electric	MH8@pge.com		

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BARRY BENWELL CETFL	BBENWELL@CETFL.COM	559 226-6330	

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NAME AND AFFILIATION	E-MAIL ADDRESS (for notices of future meetings)	PHONE & FAX NUMBERS	MAILING ADDRESS (optional)
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Lorena Martinez CRLA	lmartinez@crla.org	760) 398-7261	1460 SIXTH ST COACHELLA, CA 92236
Bryan Little Cal Farm Bureau	blittle@cfbf.com	916-561-5622 x-5676	2000 River Plaza Dr. Sac. 95833
Norma Ventura CRLA, Inc.	nventura@crla.org	(559) 441-8721	2115 Kern St, Ste 370 Fresno, CA 93721

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Jeremy Smith	State Bldg Trades	916-443-3302	
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Sherry Yancy	SYancy@Caltrans.org	916 375 3248	

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CHAIRPERSON: Amy Martin LOCATION Rooms 1, 2nd Floor, 1515 Clay Street, Oakland

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NAME AND AFFILIATION	E-MAIL ADDRESS <small>(for notices of future meetings)</small>	PHONE & FAX NUMBERS	MAILING ADDRESS <small>(optional)</small>
RUDY AVILA JAGUAR FLC	Rudy.avila@jagflc.com	(661) 909-1527 (661) 792-9004	P.O. box 1820 Delano, CA 93216
Ron Hutton Mercer EHS Networks	rehutton777@aim.com	(949) 331-2732	28931 Paseo Picasso Mission Viejo, CA 92692
Russ McCrory IRONWORKERS ADR	iwadrmccrory@comcast.net	(925) 719-0324	P.O. BOX 2270 SAN RAMON, CA 94583
Edward Calderon Shea Homes	Edward.Calderon@sheahomes.com	925-245-3600	2580 Shea Center Dr., Livermore CA 94551
Beverlie Franzen Fetzer Vineyards	Beverlie.Franzen@fetzer.com	707-744-1208	

ATTENDANCE ROSTER

MEETING NAME Cal/OSHA Advisory Heat Standard Meeting DATE Monday July 8, 2013

(16)

CHAIRPERSON: Amy Martin LOCATION Rooms 1, 2nd Floor, 1515 Clay Street, Oakland

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NAME AND AFFILIATION	E-MAIL ADDRESS (for notices of future meetings)	PHONE & FAX NUMBERS	MAILING ADDRESS (optional)
Robin Nicola Nicola Health & Safety	NicolaSafety@gmail.com	707-974-9258	1385 Avenida Sebastiani SONOMA, CA 95476
Ron Shandian J. C. Boswell Co.	rshandian@jg boswell.com	559-762-3514	P.O. Box 877 CORCORAN CA 93212
ALEX GARZA HALL AG.	GARZAALX66@YAHOO.COM	559-341-4688	759 MADEIRA AVE KERNAN, CA 93630
Steve Johnson Assoc. Roofing Contractors of the Bay Area Co.	safety@arcbac.org	(925)879-5694	on file
Chuck Herrin Sunrise Farm Labor	chuckherrin@worth frms.com	(559)281-6566	376745. Buffalo Ave Coalinga CA 93210

ATTENDANCE ROSTER

(17)

MEETING NAME Cal/OSHA Advisory Heat Standard Meeting DATE Monday July 8, 2013

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NAME AND AFFILIATION	E-MAIL ADDRESS (for notices of future meetings)	PHONE & FAX NUMBERS	MAILING ADDRESS (optional)
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Matt Antonucci AHP/T/CSATF	Mantonucci@csatf.org		
Anne Katten CRLAF	aKatten@crlaf.org		
WIKIEI STRAK JULIE HEALING 3 DIRECTOR OF SAFETY	WISTRAK@DE3.026	(916)993-2655	
Aimee Brooks CCLCA/WAPA	aimee@csa.org	559 916 4903	

ATTENDANCE ROSTER

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MEETING NAME Cal/OSHA Advisory Heat Standard Meeting DATE Monday July 8, 2013

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NAME AND AFFILIATION	E-MAIL ADDRESS (for notices of future meetings)	PHONE & FAX NUMBERS	MAILING ADDRESS (optional)
Manuel Cunha. In nisei Farmers League,	mcunha@niseifarmers league.com	509-251-8468	
Morena Tumietti Caltrans	morena.tumietti@ dot.ca.gov	916 227 2644	
LARRY PENA So Cal Edison	PENALN@SCE.COM	760 413 1944	
CHRIS WALKER CAL SMACNA	Cwalker@rossaman.com	(916) 442-8888	
Tim Schmelzer Wine Institute	tschmelzer@ wineinstitute.org	916 441 6974	

ATTENDANCE ROSTER

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MEETING NAME Cal/OSHA Advisory Heat Standard Meeting DATE Monday July 8, 2013

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NAME AND AFFILIATION	E-MAIL ADDRESS (for notices of future meetings)	PHONE & FAX NUMBERS	MAILING ADDRESS (optional)
Mike Falasco Wine Institute	mfalasco@wineinstitute.org	(916) 441-6974 (916) 441-7890	_____
Carol Hardy AT&T Telecommunications	ch8316@att.com	cell 925-548-5066 " 823-3560	
Robert Villalons	rvillalons@dir.ca.gov	916-263-2918	
Jodi Blom CFCA	jodie@hutechgroup.com	408-505-8373	
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