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**Subject:** Ambient Heat Exposure Rulemaking  
**Date:** Monday, August 15, 2022 4:22:37 PM  
**Importance:** High

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External Email

Dear Ms. Shute:

Kindly accept the following comments regarding the Department of Labor and Industries' Ambient Heat Exposure permanent rulemaking:

1. We appreciate the opportunity to submit comments on the recent draft of proposed rules on ambient heat exposure; however, we would be remiss if we did not likewise address the issue of reasonableness in relation to time allotted for stakeholder and/or public comment on such an impactful and complex permanent rule. Allowing only four business days to provide comment (August 4-10), especially during summer vacation and harvest season for most farmers, is unreasonable. Even though the Department extended the comment period by three days, the extension is nonsensical if the Department sincerely desires thoughtful feedback from those potentially affected by the proposed rules.
2. The proposal presented is clearly a substantial change in rules, and the changes contemplated need to be subject to a small business impact statement. Accordingly, the Department should conduct such a study.
3. The Department has not sufficiently demonstrated the need for additional Ambient Heat Exposure rules beyond those implemented in 2008. Based upon data provided during the stakeholder meeting, an average of about one HRI claim per week was accepted between 2006 and 2017 – an extremely low incidence rate considering the millions of hours worked in all industries throughout the state during that twelve-year period. The current rules seem to be very effective when viewed in terms of hours worked versus claims accepted.
4. The acclimatization standard of 14 days is too long and of arbitrary length. Most workers performing agricultural labor either live in or come from areas typically known for high heat. Employers and employees should be constantly vigilant in observing and assessing symptoms of heat stress, but the acclimatization standard contemplated by the Department is an unnecessary overreach.

5. The new proposed “trigger temperatures” are arbitrary and unnecessarily low, especially for those wearing “all other clothing.” The current emergency rule’s trigger temperature of 89 degrees seems to be effective, whereas a trigger temperature of 80 degrees for all except those in non-breathable clothing is overreaching, especially when substantiated by a national standard instead of local geographic climate. A temperature of 80 degrees in eastern Washington would be considered a refreshingly cool day during most of the summer. The Department loses credibility among employers and employees when proposing such trigger temperatures.
  
6. Our company has concerns about the length of the mandatory cool-down rest periods presented in the proposal. The requirement for ten minutes every two hours has already brought up many questions about these breaks versus existing mandatory rest periods for agriculture. The proposal to move from 10 minutes every two hours up to 30 minutes per hour as the temperature increases presents an inflexible standard. We believe an approach that values and encourages proper training and monitoring is better than such mandatory standards.

We thank you for your consideration of the foregoing comments regarding this proposal. Our company would be happy to meet with Department staff to further discuss and/or clarify any comments. As the rulemaking process moves forward, we also anticipate the submission of additional comments as questions or concerns arise.

Sincerely,  
Kristi

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