



To: Washington State Department of Labor and Industries via: Carmyn.Shute@Lni.wa.gov

Date: August 15, 2022

Re: Ambient Heat Exposure Rule

I am writing on behalf of Save Family Farming to comment on the proposed Ambient Heat Exposure rules. Save Family Farming represents the farming community and serves to protect Washington's family farming community through advocacy, outreach, and public education. There are several concerns that would make these rules impractical and unworkable for both our farmers and our farmworkers. We request you consider the following changes:

First, the proposed rule provides limited workers compensation claims data, and what was provided did not explain whether the current permanent or temporary emergency rules were even in force or being properly followed. Decisions can't be made on incorrect or incomplete data. Could these outcomes have been prevented through enforcement of the current emergency rules? This data is critical for determining whether department has any justification for moving forward with these new proposals.

Secondly, the department's presentation contains a table that shows heat and clothing variables that would limit work to anywhere from 5-45 minutes per hour. This action would cause all harvesting to grind to a halt. It is the department's obligation under RCW 19.85.030 to do a small business economic impact statement: "(i) if the proposed rule will impose more than minor costs on businesses in an industry..." Clearly the economic impacts of this proposed rule exceed the threshold. The department needs to conduct the economic impact study and allow time for stakeholders to comment on the study findings. It is critical that adequate time be provided for more thorough comments on the significant impacts of unlimited employee-initiated cool-down periods in the proposal.

Third, we have concerns about rulemaking surrounding temporary workers and the acclimatization process. The CDC research that is referenced does not say that workers who are already acclimated to extreme heat need to be acclimatized. We see no scientific reason to mandate a 14-day supervision period of newly assigned workers who are originating from locations of extreme heat more than the conditions they will be working in Washington state.

Fourth, many seasonal agricultural workers move between multiple employers in rapid succession during a year. Under your current proposal workers would need to go through trainings repeatedly each year. The option to provide proof of annual approved training from another employer should be allowed

to keep ineffective and redundant rules from negatively affecting farmers and farmworkers, while also maintaining high safety standards.

Fifth, the proposal to make the heat exposure rule effective year-round creates unnecessary confusion. The current rule provides a more basic understanding of the consequences of heat exposure by requiring it from May 1 to September 30. The proposed twelve-month rule as well as significant reductions in threshold temperatures will only increase the amount of redundant training for our seasonal workers.

Sincerely,

Fred Likkel,
Interim Executive Director, Save Family Farming