



Statement of the  
California Farm Bureau Federation

TO THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON EDUCATION AND LABOR  
SUBCOMMITTEE ON WORKFORCE PROTECTIONS

FOR A HEARING ON

“From the Fields to the Factories: Preventing Workplace Injury and  
Death from Excessive Heat”

July 11, 2019

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Chairwoman Adams, Ranking Member Byrne, and Members of the Subcommittee, thank you for the opportunity to testify today on heat illness. My name is Bryan Little, and I'm here representing the California Farm Bureau Federation (Farm Bureau) as the Director of Employment Policy. I also serve as the Chief Operating Officer of the Farm Employers Labor Service (FELS), which is a subscriber organization affiliated with the California Farm Bureau Federation. FELS has assisted agricultural employers in complying with employment laws and regulations since 1970.

Farm Bureau is a non-profit, voluntary membership organization whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, representing nearly 36,000 members across 53 counties contributing to the largest agricultural economy of any state in the nation. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

Over a 14-day period in July 2006, California experienced a heat wave that caused 163 fatalities, an estimated 600 additional heat-related deaths, 1,200 hospitalizations, and 16,000 emergency-department visits among the state's overall population. Most of the deaths occurred in the hotter inland counties, while the highest number of illnesses occurred in the coastal counties, where residents are less-acclimated to heat waves. Recognition that outdoor workers are potentially vulnerable to extreme heat prompted our state's occupational safety and health agency,

Cal/OSHA, to adopt the first-in-the-nation Heat Illness Prevention (HIP) standard for employers of outdoor workers.

Some aspects of our standard are applicable at all times and seasons (particularly the requirements to provide water), and to all outdoor activity, with special requirements for certain industries like construction, landscaping and agriculture when the temperature exceeds 95° Fahrenheit.

The major requirements of the HIP standard for employers include the following provisions:

- Allow employees at all times to take a cool-down rest period to forestall heat illness. Employers are required to monitor for signs of heat illness, and employees shall not be returned to work for at least five minutes or until signs of heat illness have abated.
- Make shade for cool-down rest periods available at all times when the temperature is below 80° Fahrenheit.
- Shade must be provided (that is, shade structures, if used, must be erected) at all times when the temperature exceeds 80° Fahrenheit.
- Shade must be provided in amounts sufficient to allow any workers taking a heat illness recovery period to rest in shade and to sit in a natural posture without touching one another.
- Shade must be easy for employees to reach, and placement of shade should not deter access or use.
- Employees must not be required to encounter obstacles or hazards or unreasonably unpleasant conditions to reach or use shade.

- Shade must be provided to all employees on a rest or meal break, except those who choose to take a break elsewhere.
- Fresh, pure, and suitably cool water must be made available in enough quantities (replenishment is permissible) to allow each employee to drink one quart per hour;
- Water must be provided as close as practicable to location of work.
- Employees must be trained about heat illness and the HIP standard before they work in conditions where they might be exposed to heat.
- Supervisors must be additionally trained in HIP compliance procedures, emergency responses, and ensuring effective communication to facilitate emergency response.
- A written copy of the employer's HIP program in English and the language understood by the majority of the employees and be available to employees and Cal/OSHA inspectors on request.
- Close monitoring of employees for acclimatization to heat when changing seasonal weather conditions start to bring warmer days in the late Spring and Summer, and when employees are moved from cooler areas to hotter areas.
- When temperatures exceed 95° Fahrenheit, employers must implement "high heat" procedures, including:
  - A mandatory 10-minute break every two hours (meal and rest periods can serve as these breaks, but if employees work beyond eight hours or waive meal or rest periods, employers must still ensure the mandatory rest break occurs).
  - Continuous communication between workers in the field to a supervisor sufficient to allow communication in an emergency situation.

- Observing employees continuously for alertness and signs of heat illness.
- Authorizing an employee or employees to call emergency services when needed and making clear that any employee may do so.
- Pre-shift meetings to remind employees of high-heat precautions, to drink water frequently, and take a cool-down rest when needed.

Farm employers have worked in good faith to implement these requirements, and in most cases Cal/OSHA has engaged in enforcement aimed to help employers protect workers from heat illness. Farm employers and the organizations they are part of have responded to these requirements by undertaking training of employers, supervisors and workers before the beginning of the season. Of course, employers need to thoroughly understand the standards. Supervisors also need a thorough understanding of the regulation because, as the agents of employers, supervisors are responsible for aspects of implementation like close monitoring of employees for signs of heat illness; ensuring availability of adequate water and shade when and where it's needed; and monitoring the availability and effectiveness of emergency communications.

Workers need to understand what heat illness is, what it looks like and what it feels like, how to protect themselves, and what personal risk factors like obesity and diabetes may influence their vulnerability to heat illness.

California agriculture has been forthright and proactive in addressing heat illness, most especially in the following ways:

- We accept our responsibilities as producers and employers to take every action possible to ensure the health and safety of the agricultural workforce.
- We believe the greatest need is for workers, supervisors, farm labor contractors and employers/farm operators to understand the key steps to take to avoid incidents of heat illness and deal effectively and promptly with any incidents that occur. California agriculture has made great strides in this area and this is an ongoing process especially as each new heat season begins.
- We have worked each year to identify any gaps or weaknesses in training, prevention, and emergency response. Examples of this include our continuous efforts to push out to growers and supervisors information about heat illness and compliance with the Cal/OSHA standard, operating practices and systems to provide proper hydration, information and training on the importance of avoiding actions that can lead to dehydration, determining what constitutes adequate/useful shade, rest periods and established plans/procedures for contacting emergency medical assistance if incidents of heat illness occur, properly describing the work location, and established procedures for supervisors to follow.
- The industry has been proactive in many ways. For example, many growers already shift work schedules during hot weather periods – the work days typically start earlier, sometimes before daybreak, and so the open field work is then completed by early afternoon before temperatures reach their daily peak.
- The industry has also been proactive by creating and distributing information through pocket heat illness educational cards, Spanish-language radio advertisements and Public

Service Announcements, newspapers, our publications to our member/employers, etc. Each year there is need for new awareness of the warnings. The industry has been proactive in engaging Cal/OSHA on improvements to the regulation in 2010 and again in 2015. We have worked closely with the agency to better define the agency's expectations for compliance.

Some specific examples of what the industry has done:

- Major organizations representing the entire industry have worked cooperatively with the University of California Division of Agriculture and Natural Resources with support from the U.S. Department of Agriculture Western Extension Risk Management Education Center to produce and distribute thousands of pocket-sized heat illness educational cards in English and Spanish to remind workers about the dangers of heat illness and a listing of preventive measures they can take to avoid heat illness.
- Various organizations have provided training sessions for growers, supervisors, farm labor contractors and workers throughout the state. Fifteen organizations throughout California participated in organizing these trainings, including California Farm Bureau Federation, California Citrus Mutual, California Dairy Campaign, California Farm Labor Contractor Alliance, Fresno County Farm Bureau, Merced County Farm Bureau, Nisei Farmers League, Tulare County Farm Bureau, Western Pistachio Association, California Cotton Ginners & Growers Associations, California Grape and Tree Fruit League, Kern County Farm Bureau, Napa County Farm Bureau, Raisin Bargaining Association and the Ventura County Agricultural Association.

- FELS has provided heat training services to farm employers across the state since 2008. FELS field staff has provided this training for hundreds of farms across the state over the last ten years. In addition, FELS has worked with county Farm Bureau organizations to train growers and supervisors. Throughout this period, the monthly FELS Newsletter has provided its 850 subscribers with information on compliance and developments related to heat illness and compliance with the Cal/OSHA standard. FELS also publishes several resources available through our website on heat stress, including a heat stress training video aimed to train agricultural workers, titled “Heat Stress Prevention.”
- Farm Bureau’s Rural Health and Safety Department has been very active in educating both farm workers and farmers on heat stress. Rural Health and Safety has made statewide radio “buys” on Spanish-language radio stations for years throughout the rural areas of the state.
- FELS and CFBF worked closely with Fresno-based Nisei Farmers League and Igloo Products Corporation to develop and make available throughout California a “heat stress education” water cooler. Available in 5- and 10-gallon sizes, these coolers remind workers to drink water frequently, rest in the shade, dress properly for the conditions, watch for symptoms of heat stress, and to know emergency procedures in case of heat stress. Approximately 15,000 educational coolers have been acquired by farmers and ranchers for use at their farms and ranches since 2008. After all available coolers were distributed, FELS developed decals for existing coolers with the same information for workers.

The experience of the years since implementation of HIP shows the standard is coming a long way toward achieving its goal. We and the agency have been successful in protecting more than 450,000 employees who work in California agriculture every day during our peak seasons.

Compared to hundreds of fatalities that have historically accompanied heat waves in the overall population, the agency reports two heat-related deaths in agriculture between 2014 and 2016, one in 2017, and two deaths last year. Make no mistake, any work-related fatality is one too many, and it's hard to overstate what a disaster a workplace-related death can be for an employer. This is particularly true for agricultural employers who often employ members of the same extended families for decades. Members of these families commonly attend each other's important family related events like weddings, baptisms, quinceañeras, and funerals. Their children grow up and grow old together. These ties are often so deep that farmers I know personally who have taken over their parents' farm operations agonize over how to find an appropriate job for a loyal octogenarian employee with failing eyesight or hearing who was hired decades ago by that farmer's parents.

Should the Department of Labor Occupational Safety and Health Administration undertake a heat illness prevention program, we hope the agency will benefit from what we have learned in California in the creation and refining of our HIP standard:

- **Keep it simple:** Outdoor environments present huge challenges to protect employees from heat illness. Indoor environments are so diverse, from offices to factories, that a one-size-fits-all approach will fit almost no one. The scope of any heat illness regulation

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should be limited to very general, performance-based requirements, with more specific requirements for industries that can be identified as having higher risks, like outdoor or indoor employment. Any standard should require basic elements like the provision of drinking water, access to places to escape from heat temporarily, and training for everyone in the workplace to understand and cope with heat illness. Additional features serve only to complicate enforcement and compliance.

- **Adopt a collaborative, cooperative approach:** California’s efforts to protect employees from heat illness have been most successful when Cal/OSHA has adopted a collaborative approach, engaging in an open exchange with all stakeholders, including employer stakeholders. The result has been a relatively simple outdoor heat illness standard, non-regulatory guidance developed with significant input from employers, and cooperative educational programs to help the regulated community understand the enforcement agency’s expectations. More recently, the agency has been less collaborative in developing an indoor heat illness standard. The result has been an excessively complex regulation that will be difficult for the regulated community to understand. We are concerned about the lack of clarity on definitions distinguishing indoor from outdoor employments. This may seem straightforward, but it’s simply not clear how the agency intends to treat vehicle drivers, for example. This is a problem for defining when and where the regulation applies, and in specifying how vehicle drivers moving in and out of an air-conditioned environment where the employer will have no control over the area outside the vehicle and no practical means to determine whether any protective measures are actually being followed as intended.

- **Allow for employer innovation and proactivity:** Regulators should enforce regulations that condemn bad actors, however, they should allow the freedom of good actors to innovate and be proactive. Subsequent versions of the HIP standard have become more complicated, and the state's pending indoor standard is so complex that it will hamper efforts by employers to be proactive and compliant. This can be remedied by talking to and listening to those who will be required to implement the regulation.

Our HIP standard has succeeded in preventing heat illnesses and fatalities because it is relatively simple, limited in scope, and general in its requirements except for certain industries with specific risk factors. Our standard has achieved its goal of protecting workers because our regulatory agency engaged the regulated community both in the process of creating the regulation and in enforcing it. Federal OSHA should not engage in a similar effort without following a model that prioritizes simplicity, education, and collaboration with affected employers.

Thank you for the opportunity to testify.