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Submitted via email to: jay.withrow@doli.virginia.gov and princy.doss@doli.virginia.gov

RE: Regulatory Advisory Panel Member Comments on the Proposed Heat Illness Prevention Standard

Dear Mr. Withrow,

I appreciate this opportunity serve on the Regulatory Advisory Panel for the draft proposed Heat Illness Prevention Standard (16 VAC 25-210) and would like to thank the Virginia Department of Labor and Industry (DOLI) and the Safety and Health Codes Board for the opportunity to submit these comments. The opinions expressed here are my own.

It is imperative for this rulemaking to proceed in a timely manner to protect workers in Virginia from extreme heat, a serious occupational hazard that can result in heat-related illness or death, traumatic injury, and decreased productivity. Background information provided to the Regulatory Advisory Panel shows that the general duty clause offers insufficient protection, and that the toll of heat illness among Virginia's workforce has been substantial, including lives lost. Moreover, it is widely recognized that heat-related illnesses and deaths are undercounted. There is no guarantee that a federal heat standard will be enacted, a process that could take many years. Waiting for a federal heat standard puts Virginia's workers at risk, when a state-based standard could be put in place much sooner. Effective heat illness prevention measures are known and have been adopted by other states, demonstrating their feasibility. The ability to draw upon existing state standards is beneficial. DOLI should ensure that the standard adopted in Virginia is at least as protective as other state standards.

16VAC25-210-40. Drinking water. Hydration is a cornerstone of heat illness prevention. Fluids lost through sweat must be replaced frequently to allow the body to cool itself. The provisions in this section are appropriate and are essential to retain.

16VAC25-210-50. Employee access to cool down areas. Provisions in this section are critical to retain. The requirement to allow and encourage employees to take a preventative cool-down rest in the cool down area when they feel the need to do so to protect themselves from overheating is important because workers may experience significant physiological strain before they feel the need to report symptoms of heat illness and seek relief. An additional provision requiring potable water to be present in or near cool down areas should be considered.

16VAC25-210-60. Acclimatization. Provisions in this section need to be stronger and more specific to ensure that acclimatization plans are effective in preventing heat illnesses, which often occur during the first week of work involving potential for heat stress. Employers must be required to develop an acclimatization plan that allows employees to gain heat tolerance and physiologically adapt to working in hot conditions. This can be achieved by gradually increasing physical demands and/or the amount of time spent working in the heat over a period of at least

4 days, although full acclimatization takes 7 to 14 days. Employers should be permitted to tailor acclimatization plans to their jobsites, though it may be helpful to provide examples of acclimatization schedules, such as those used by the U.S. military or those found in guidance from NIOSH and ACGIH.

16VAC25-210-70. High heat procedures. Provisions in this section are essential to retain, although some changes are needed. High heat procedures should require hourly scheduled rest breaks, whereas scheduled rest breaks should be provided every two hours when the ambient heat index is between 80-90 °F. Frequency and/or length or rest breaks should increase as the risk of heat illness increases. Rest breaks are critical for preventing heat illness and should be paid, whether scheduled or preventative. High heat procedures should also be triggered when the ambient heat index is between 80-90 °F and heat stress is significantly elevated due to radiant heat exposure, clothing, physical work demands, or some combination of those factors. The 80 °F heat index threshold is an appropriate trigger for the written plan, training, provision of water, rest breaks, and shade, but it should also trigger a mandatory buddy system, when feasible, instead of making the buddy system a high heat procedure only. Given that 19 of the 20 warmest years on record have occurred since 2000, DOLI might consider a third trigger level for additional safeguards during extremely hot days.

16VAC25-210-80. Emergency response procedures. These provisions must be retained and should emphasize, when severe heat illness is suspected, the importance of immediate first aid with rapid cooling and immediate transport to emergency medical care.

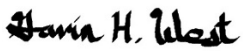
16VAC25-210-90. Heat illness prevention plan. Provisions in this section are essential to retain. The written plan should incorporate and emphasize the hierarchy of controls and should be developed with input from employees and their representatives.

16VAC25-210-100. Training. The training provisions are important and must be kept. DOLI should consider operationalizing what is meant by “effective training” in this section. For example, training needs to be provided in a language that employees understand.

16VAC25-210-110. Discrimination against an employee for exercising rights under this chapter is prohibited. Provisions in this section are essential and must be retained. Lives can be saved by empowering workers to exercise their rights and raise their concerns about heat illness hazards without fear of retaliation.

Thank you again for the opportunity to participate in the Regulatory Advisory Panel and to submit these comments. Please contact me if you have questions or for additional information.

Sincerely,



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