



Eric Berg  
1515 Clay Street, Suite 1901  
Oakland, CA 94612

November 3, 2021

Dear Mr. Berg:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary (Form DF-131) for the Indoor Heat Illness Prevention regulations as required in California Code of Regulations, title 1, section 200(a)(1) for major regulations. Proposed text of the regulations were not submitted, therefore comments are based solely upon the SRIA and other publicly available information.

The proposed regulations implement protections for workers exposed to different high indoor heat thresholds starting on January 1, 2023, including these requirements for employers whose workers are exposed to an indoor temperature of 82 degrees or higher: provision of water to workers, access to cool-down areas, emergency response procedures, close observation during acclimatization, heat illness awareness training, and a Heat Illness Prevent Plan. Validated by a national survey, the SRIA identifies industries with occupations that report exposure to high indoor heat at least once a week on average and estimates about 196,000 establishments and 1.4 million employees to be affected, however, 20 percent of those establishments are assumed to already be in compliance. The SRIA also assumes that businesses with outdoor workers and those with a history of hot processes such as manufacturing and restaurants already follow other related state and federal guidelines and only 20 percent of these establishments will incur compliance costs. The SRIA estimates compliance costs of \$215 million in 2023 and \$88 million ongoing annual costs with control measures, cool down areas, and training accounting for 89 percent of compliance costs. Local government compliance and state government enforcement are estimated to cost \$1.5 million in 2023 and no state entities are assumed to incur compliance costs. Increased productivity and avoided illness and fatalities are expected to generate benefits of \$362 million in 2023.

Finance generally concurs with the methodology with the following exceptions. First, the SRIA estimates exclude from the cost, benefit, and fiscal impact estimates industries and occupations where workers are exposed to high heat fewer than once per week on average, whereas the protections are triggered as long as the temperature threshold is

met on even one day out of the year. This results in underestimates of costs and benefits, including fiscal costs, as occupations utilized by state and local governments such as correctional officers, who report exposure more than once a year. The SRIA estimates must be revised to incorporate all affected entities as is consistent with the regulations.

Second, the SRIA must adequately justify the assumptions underlying the analysis. For example, the SRIA states that the cost to businesses of providing an indoor cool down area is a *de minimis* cost but it does not justify why it is appropriate to assume negligible opportunity costs of repurposing or adding indoor space. Another example is the assumption that 20 percent of enterprises in affected industries and 80 percent of manufacturing and restaurants will not need additional action to comply. Finance appreciates the sensitivity analysis around different compliance assumptions provided in the SRIA, however, the SRIA must disclose why the point estimate used in the baseline is adequate as costs and benefits are highly sensitive to those key assumptions.

These comments are intended to provide sufficient guidance outlining revisions to the impact assessment if a SRIA is required. The SRIA, a summary of Finance's comments, and any responses must be included in the rulemaking file that is available for public comment. Finance understands that the proposed regulations may change during the rulemaking process. If any significant changes to the proposed regulations result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,

Signature on file

Somjita Mitra  
Chief Economist

cc: Ms. Dee Dee Myers, Director, Governor's Office of Business and Economic Development  
Mr. Kenneth Pogue, Director, Office of Administrative Law  
Ms. Katrina Hagen, Director, Department of Industrial Relations Division of Occupational Safety and Health