

July 10, 2019

The Honorable Judy Chu
U.S. House of Representatives
2423 Rayburn House Office Building
Washington, DC 20515

The Honorable Raul Grijalva
U.S. House of Representatives
1511 Longworth House Office Building
Washington, DC 20515

Dear Representative Chu and Representative Grijalva:

We, the undersigned organizations, write to express our support for introduction of the Asuncion Valdivia Heat Illness and Fatality Prevention Act, legislation that directs the Occupational Safety and Health Administration (OSHA) to issue a standard on the prevention of excessive heat in the workplace for outdoor and indoor workers. We are part of a nationwide network that is raising awareness around the dangers of the climate crisis on workers, by advocating for occupational heat protections. We appreciate your leadership on this bill, in partnership with House Education and Labor Committee Chairman Bobby Scott.

Heat is the leading weather-related killer, and it is becoming more dangerous as 18 of the last 19 years were the hottest on record.ⁱ Excessive heat can cause heat stroke and even death if not treated properly. It also exacerbates existing health problems like asthma, kidney failure, and heart disease. Workers in agriculture and construction are at highest risk, but the problem affects all workers exposed to heat, including indoor workers without climate-controlled environments. This threat is projected to intensify with global heating, yet, the U.S. does not have a federal heat stress standard for workers.

The National Institute for Occupational Safety and Health (NIOSH) issued criteria for a heat standard in 1972, updating it in 1986 and 2016. Last summer, more than 130 organizations and former OSHA administrators petitioned OSHA for a heat stress standard that builds upon the NIOSH criteria.ⁱⁱ At the time of this bill's introduction, OSHA has yet to issue a formal response to the petition. Meanwhile, California, Washington, Minnesota and the U.S. military have issued heat protections. Absent a federal standard, OSHA currently polices heat-related injuries and deaths only by enforcing its "catch all" general duty clause that requires employers to provide safe workplaces. Enforcement is scarce and, by definition, reactive rather than preventive. Notably, from 2013 through 2017, California used its heat standard to conduct 50 times more inspections resulting in a heat-related violation than OSHA did nationwide under the general duty clause.ⁱⁱⁱ

Protecting workers from heat also has economic benefits. In high heat, people work less effectively due to "diminished ability for physical exertion and for completing mental tasks," which reduces productivity, increases the risk of accidents, and drives up medical expenses.^{iv} The costs of lower labor productivity under rising temperatures is estimated to reach up to \$160 billion in lost wages per year in the U.S. by 2090 according to the 2018 National Climate Assessment.^v These impacts can be mitigated by heat protections. For instance, in 2011 a central Texas municipality implemented a heat illness prevention program for outdoor municipal workers that not only resulted in a significant decrease in heat-related illnesses, but a decrease in worker's compensation costs by 50% per heat-related illness.^{vi}

The Asuncion Valdivia Heat Illness and Fatality Prevention Act is named after a farmworker who died of a heat stroke in 2004, after picking grapes for 10 hours straight in 105-degree temperatures. Unfortunately, Mr. Valdivia's story is not unique, and yet heat-related fatalities, injuries and illnesses are completely preventable. This bill will direct OSHA to develop a heat stress standard for indoor and outdoor workers to prevent further heat-related tragedies. Specifically, it will require employers to develop a heat-illness prevention plan that includes the following commonsense requirements:

- Develop and implement the standard with meaningful participation of covered employees, and their representatives when applicable, and tailor it to the specific hazards of the workplace;
- Ensure it is written in a language understood by the majority of the employees;
- Require that workers who are exposed to high heat have paid breaks in cool environments, access to water for hydration, and include limitations on how long workers can be in extreme heat areas;
- Create emergency response procedures for employees suffering from heat illness;
- Provide training for employers and employees on heat stress illness and prevention;
- Include acclimatization plans to ensure workers can adjust to their working conditions;
- Ensure engineering and administrative controls are used to limit heat exposure, i.e. ventilation and/or protective clothing;
- Require employers to maintain records on heat-related illnesses and deaths, and other heat data; and
- Prohibit retaliation against a covered employee for reporting violations of this standard or exercising any other rights under this bill.

We look forward to working with your offices and the Committee to advance this vital health and safety measure to protect workers from extreme heat and the climate crisis.

Sincerely,

Alianza Nacional de Campesinas, Inc.
American College of Occupational and Environmental Medicine
American Public Health Association
Amigas Unidas
Association of Farmworker Opportunity Programs
Center for Progressive Reform
Center for Worker Justice of Eastern Iowa
Centro de los Derechos del Migrante, Inc.
Community, Faith & Labor Coalition
CREA
CRLA Foundation
Earth Action, Inc.
Earthjustice
Empire State Consumer Project, Inc.
Fair Farms
Farmworker Association of Florida

Farmworker Justice
Food & Water Watch
Food Empowerment Project
Government Accountability Project
Greater New York Labor Religion Coalition
Interfaith Worker Justice
Interfaith Worker Justice San Diego
International Brotherhood of Teamsters
International Chemical Workers Union Council (ICWUC)
International Safety Equipment Association (ISEA)
Labor Network for Sustainability
League of Conservation Voters
Lideres Campesinas
Medical Advocates for Healthy Air
Multicultural Efforts to end Sexual Assault (MESA)
National Council for Occupational Safety and Health
National Employment Law Project
Natural Resources Defense Council
NJ Work Environment Council
Northwest Forest Worker Center
Northwest Workers' Justice Project
Physicians for Social Responsibility, AZ Chapter
Progressive Democrats of America
PSR/Florida Chapter Corp
Public Citizen
RI Committee on Occupational Safety and Health
SafeWork Washington
Service Employees International Union
Sierra Club
South Florida Interfaith Worker Justice
Union of Concerned Scientists
UNITE HERE!
United Farm Workers
United Farm Workers Foundation (UFWF)
Virginia Clinicians for Climate Action
Washington Physicians for Social Responsibility
WeCount!
Workers' Center of Central NY
Worksafe

Cc: Members of the House Education and Labor Committee

ⁱ*Severe Weather Awareness – Heat Waves*, NATIONAL WEATHER SERVICE (viewed on Jul. 8, 2019), <https://bit.ly/2CQ3X6u>; *It's Time to Protect Millions of Workers from Extreme Heat*, CITIZENVOX (viewed on Jul. 8,

2019), <https://bit.ly/2uPafwL>; John Schwartz and Nadja Popovich, *It's Official: 2018 was the Fourth-Warmest Year on Record*, THE NEW YORK TIMES (Feb. 6, 2019), <https://nyti.ms/2HX8s2t>.

ⁱⁱ Petition from Public Citizen et. al. to Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor (Jul. 17, 2018), <https://bit.ly/2wjJSzy>. Press Release, Public Citizen, *As Climate Heats Up, Government Must Protect Workers From Heat* (Jul. 17, 2018) <https://bit.ly/2LjHloD>.

ⁱⁱⁱ CA has over 14 years of experience with a heat standard, confirming the practicality and effectiveness of such a standard. Its standard resulted in greater compliance by more employers and prevention of heat illness and death among workers in CA. Petition from Public Citizen et. al. to Loren Sweatt, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor 17 (Jul. 17, 2018) <https://bit.ly/2wjJSzy>.

^{iv} *Climate Change and Labor: Impacts on Health in the Workplace*, UNITED NATIONS DEVELOPMENT PROGRAMME (viewed on Oct. 15, 2018), <https://bit.ly/2dGd79p>; SIDNEY SHAPIRO & KATHERINE TRACY, PUBLIC LAW AND CLIMATE DISASTERS OCCUPATIONAL HEALTH AND SAFETY LAW (Rosemary Lyster et al. eds., 1st ed., Edward Elgar Pub, 2018), <https://amzn.to/2QTBWxJ>.

^v U.S. Global Change Research Program, *Fourth National Climate Assessment, Volume II* (Nov. 2018), <https://bit.ly/2r3WZ5S>.

^{vi} Ronda B. McCarthy et. al., *1536 Occupational Heat Illness in Outdoor Workers Before and After Implementation of a Heat Stress Awareness Program*, 75 BMJ JOURNALS OCCUPATIONAL AND ENVIRONMENTAL MEDICINES (2018) <https://bit.ly/32j3XFA>.