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February 25, 2014

Honorable David Michaels, Ph.D., M.P.H.
Assistant Secretary of Labor for Occupational Safety and Health
Department of Labor
Occupational Safety and Health Administration
200 Constitution Avenue, NW
Washington, DC 20210

**Re: Recommended Standard: Occupational Exposure to Heat and Hot Environments
Revised Criteria [CDC-2013-0025; Docket: NIOSH-266]**

Dear Dr. Michaels,

Public Citizen, a non-profit public interest group based in Washington, D.C, with more than 300,000 members and supporters, is enclosing comments submitted today in support of the National Institute for Occupational Safety and Health's (NIOSH's) latest iteration of its criteria for a recommended heat standard.¹

As you know, in September 2011, Public Citizen, Farmworker Justice, the United Electrical, Radio and Machine Workers of America, and Dr. Thomas Bernard, a leading occupational safety expert in heat stress and an external reviewer of the current NIOSH recommendations, petitioned the Occupational Safety and Health Administration (OSHA) to adopt a heat stress standard based largely on NIOSH's 1986 criteria in addition to those published by the American Conference of Industrial Hygienists.²

Unfortunately, OSHA denied the petition the following June, instead opting to continue to rely on employer self-policing with its educational and outreach program initiated the previous summer.³ OSHA also suggested that its enforcement of dangerous occupational heat conditions under the General Duty Clause (GDC) would suffice in place of a heat stress standard. In its denial letter, OSHA claimed it that had recently "increased its focus on heat as a hazard during its [GDC] inspections."⁴

¹ National Institute for Occupational Safety and Health. Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments. Revised Criteria 2013. <http://www.cdc.gov/niosh/docket/review/docket266/pdfs/heatHotEnvironmentsCritDoc-ExtRev-120913.pdf>. Accessed February 24, 2014.

² Public Citizen. Petition for a Heat Standard. Sept. 1, 2011. <http://www.citizen.org/documents/Petition-for-a-heat-standard-090111.pdf>. Accessed February 11, 2014.

³ Public Citizen. Statement: With Hundreds of Workers Dying, OSHA's Denial of Petition for a Heat Stress Standard Is Shortsighted. July 3, 2012. <http://www.citizen.org/hrg2042>. Accessed February 24, 2014.

⁴ David Michaels, OSHA. Letter of denial of Public Citizen's heat petition. <http://www.citizen.org/documents/denial-of-heat-stress-petition.pdf>. Accessed February 24, 2014.

Unfortunately, since that letter, OSHA has not conducted a single inspection resulting in a GDC citation for unsafe heat practices and has performed only seven such inspections since Public Citizen's 2011 petition.⁵ This, despite the fact that, since our petition was filed in September 2011, at least 31 workers have died and 3,260 have been seriously injured by exposure to dangerous heat levels.⁶ Since 1986, OSHA has issued just 102 GDC heat citations, fewer than California issued in the first six months of 2011 alone under its first-in-the-nation heat stress standard for outdoor workers (two other states, Washington and Minnesota, also have heat stress standards).⁷

NIOSH's latest updates, once completed, will represent the third time since 1972 that NIOSH has issued criteria recommendations for a heat stress standard that, in its view, if adopted by worksites nationwide, would "... prevent or greatly reduce the risk of adverse health effects to exposed workers ...".⁸ OSHA's failure to adopt NIOSH's recommendations for over 40 years now, as the basis for a standard, together with its abysmal enforcement record under the GDC, has contributed to the deaths of at least 655 American workers and the serious injury of 53,000 others from serious heat exposure from 1992 through 2012 alone.

We implore OSHA to adopt NIOSH's new recommendations, once finalized, as the basis for a federal heat stress standard. Unless OSHA acts soon, millions of workers will continue to be needlessly exposed to avoidable risks of life-threatening heat injuries on a daily basis.

Thank you,

Sammy Almashat, M.D., M.P.H.
Researcher

Sidney Wolfe, M.D.
Founder and Senior Advisor

Michael Carome, M.D.
Director
Public Citizen's Health Research Group

⁵ Data on file with Public Citizen. Does not include citations that were subsequently "deleted" by OSHA. Based on a search of OSHA's General Duty Clause search website.

<http://www.osha.gov/pls/imis/generalsearch.html>. Last accessed February 25, 2014.

⁶ U.S. Department of Labor. Bureau of Labor Statistics. Occupational Injuries/Illnesses and Fatal Injuries Profiles. <http://data.bls.gov/gqt/InitialPage>. Accessed February 12, 2014.

⁷ Public Citizen. Petition for a Heat Standard. Sept. 1, 2011. <http://www.citizen.org/documents/Petition-for-a-heat-standard-090111.pdf>. Accessed February 11, 2014.

⁸ National Institute for Occupational Safety and Health Publication No. 86-113. Basis for the Recommended Standard: Occupational Exposure to Hot Environments (Revised Criteria 1986), p. 1. <http://www.cdc.gov/niosh/docs/86-113/86-113.pdf>. Accessed February 11, 2014.