

African American Farmers of California  
Agricultural Council of California  
American Pistachio Growers  
California Apple Commission  
California Blueberry Commission  
California Citrus Mutual  
California Cotton Ginners & Growers Association  
California Fresh Fruit Association  
California Wild Rice Advisory Board  
Farm Bureau of Ventura County  
Fresno County Farm Bureau  
Grower Shipper Association of Central California

Merced County Farm Bureau  
Milk Producers Council  
Nisei Farmers League  
Olive Grower Council of California  
Olive Oil Commission of California  
Raisin Bargaining Association  
Stanislaus County Farm Bureau  
Tulare County Farm Bureau  
Ventura County Agricultural Association  
Western Plant Health Association  
Western Tree Nut Association

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June 27, 2025

Mr. Eric Berg  
Deputy Chief of Health  
Division of Occupational Safety and Health  
California Department of Industrial Relations (DIR)  
2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833

***Delivery via email to [eberg@dir.ca.gov](mailto:eberg@dir.ca.gov)***

Re: ***Proposed Revisions to Title 8, CCR § 3395 – Heat Illness Prevention in Outdoor Places of Employment and Title 8, CCR § 3396 – Heat Illness Prevention in Indoor Places of Employment. Proposed Revisions to Title 8, CCR § 5141 – Protection from Wildfire Smoke***

Dear Mr. Berg,

On behalf of the listed organizations, we want to thank you for the opportunity to comment on the proposed revisions to Title 8, CCR § 3395 – Heat Illness Prevention in Outdoor Places of Employment and Title 8, CCR § 3396 – Heat Illness Prevention in Indoor Places of Employment. We also wish to provide comments on the proposed revisions to Title 8, CCR § 5141 – Protection from Wildfire Smoke. With regards to the changes on the heat illness regulations our concerns center on the phased in acclimatization schedule and the impracticality of the proposed regulation. Under the changes to the wildfire smoke we are concerned that the agricultural workforce is unfairly and inappropriately being singled out.

Pursuant to California labor law (Industrial Welfare Commission Order No. 14-2001 (5) (A)), each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his or her usual or scheduled day's work, he or she must be paid for half the usual or scheduled day's work, but in no event for less than two hours nor more than four

hours, at his or her regular rate of pay. Under the proposed revisions, employees will be limited to 20% of their work schedule on day one and 40% of their work schedule on day two, meaning employers will have to pay employees for work they cannot perform. This creates several questions and issues. For example, a worker who depends on his/her rideshare will have to figure out how they return home after working 20% because the driver is working 100% of the shift, or they may be asked to stay overtime. Will the employer be responsible for providing a place for the worker to wait until the end of the shift or someone comes to pick them up? Who replaces the worker that is being acclimated? If it is only 2 or 3 hours, where does the employer get that person? It should be noted that widespread industry compliance with existing heat illness regulations has led to a workplace that is safer than ever. The agricultural industry has not observed any issues under the current acclimatization requirements and sees no reason to change these provisions.

Regarding wildfire and smoke exposure, Cal/OSHA is proposing to lower the mandatory requirement for masks from 500 AQI to 300 AQI for agricultural workers and no one else. We have several questions and concerns on this new requirement. It appears agricultural workers are being singled out, though no other outside workers face the same requirements. If there is a health concern at 300 AQI why aren't all workers subject to this requirement? Smoke is not the only contributor to the Air Quality Index as ozone can also play a role. How will the requirement to wear an N95 mask provide any protection in the case where ozone is the primary contributor? We encourage Cal/OSHA to not change this standard as no basis exists to solely change the standard for agricultural workers.

In closing, we wish to thank you again for this important opportunity to provide our thoughts and concerns on the proposed changes to Cal/OSHA's heat illness and wildfire smoke regulations.

Sincerely,

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