California Rural Legal Assistance, Inc.

WORKSAFE

California Rural Legal Assistance Foundation
Advocates For Justice

From: California Rural Legal Assistance, Inc., Worksafe & California Rural Legal Assistance Foundation

To: Eric Berg (eberg@dir.ca.gov) & Johnna Landaverde (jlandaverde@dir.ca.gov), California Division of Occupational Safety and Health ("Cal/OSHA")

July 7, 2025 *Submitted via email*

RE: Assembly Bill 2243 Heat Illness Prevention Rulemaking

California Rural Legal Assistance, Inc. ("CRLA"), Worksafe, and California Rural Legal Assistance Foundation ("CRLAF") submit the following comments in support of implementing—with some additions and modifications—Cal/OSHA's initial proposed changes to Title 8 of the California Code of Regulations in response to the mandates of Assembly Bill 2243, as codified in California Labor Code section 6721(b)-(d).

I. Statements of Interest

CRLA is a non-profit civil legal aid organization which has provided representation to low-income Californians in rural areas since 1966. As part of its decades-long efforts to protect the health and safety of agricultural workers,[1] CRLA established a first-of-its-kind field monitoring program, wherein CRLA staff observe agricultural workplaces throughout the state and report health and safety violations—especially related to heat illness and injury prevention—to Cal/OSHA. CRLA also regularly represents agricultural workers in matters concerning workplace health and safety conditions, including heat exposure.[2]

Worksafe is a non-profit legal services support center that advocates for worker health and safety protections through the state legislature and agencies and assists with legal services for California's most vulnerable low-wage workers. Worksafe believes that all workers deserve a safe and healthy workplace and seeks worker-centered and community-based solutions for protecting health and safety. In the early 2000s, Worksafe helped develop and update California's first outdoor occupational heat safety standards.

[1] *See, e.g.*, Douglas L. Murray, *The Abolition of El Cortito, the Short-Handled Hoe: A Case Study in Social Conflict and State Policy in California Agriculture*, SOCIAL PROBLEMS (Oct. 1982) at 32-38 (detailing the efforts of CRLA to abolish the use of a tool which crippled generations of agricultural workers).

[2] *See, e.g.*, *Rincon v. West Coast Tomato Growers*, 2018 U.S. Dist. LEXIS 22886 (S.D. Cal. Feb. 12, 2018) (settling, among other causes of action, claims brought by CRLA for insufficient heat recovery periods on behalf of a class of California agricultural workers).

CRLAF is a non-profit civil legal aid organization which has provided legal services and policy advocacy for low-income Californians in rural areas since 1981. CRLAF has actively helped develop and update California's outdoor ("Section 3395")[3] and indoor ("Section 3396")[4] occupational heat standards (together, "California Heat Rules"). CRLAF also has extensive experience assisting agricultural and other workers in filing complaints with Cal/OSHA and informing Cal/OSHA offices about hazardous work conditions.

II. Comments

The following comments are based on past work by CRLA, Worksafe, and CRLAF; scientific articles; journalism; advocacy reports; other states' occupational heat regulations; and the proposed federal OSHA heat standard ("Proposed Federal Rule").[5]

CRLA, Worksafe, and CRLAF staff have witnessed firsthand how the California Heat Rules have benefited millions of workers, especially agricultural workers in the Central Valley.[6] Still, violations of workers' heat protection rights remain commonplace,[7] and Californians continue to get injured, fall ill, and die as a result.[8] We commend, therefore, the efforts of the California State Legislature and Cal/OSHA to improve the California

[3] 8 CAL. CODE REG. § 3395 (Heat Illness Prevention in Outdoor Places of Employment).

[4] 8 CAL. CODE REG. § 3396 (Heat Illness Prevention in Indoor Places of Employment).

[5] Docket No. OSHA-2021-0009, *Heat Illness and Injury Prevention in Outdoor and Indoor Work Settings*, OCCUPATIONAL SAFETY AND HEALTH ADMIN. (Aug. 30, 2024), https://www.federalregister.gov/documents/2024/08/30/2024-14824/heat-injury-and-illness-prevention-in-outdoor-and-indoor-work-settings.

[6] Liza Gross & Peter Aldhous, *Dying in the Fields as Temperatures Soar*, INSIDE CLIMATE NEWS (Dec. 31, 2023), https://insideclimatenews.org/news/31122023/california-farmworkers-dying-in-the-heat/ ("The San Joaquin Valley is the most productive agricultural region in the world. But rising temperatures and chronic air pollution make it an increasingly dangerous place to work.").

[7] As of 2024, Section 3395 was still the second-most cited standard by Cal/OSHA. *Top 10 Most Frequently Cited Standards by Calendar Year*, STATE OF CALIFORNIA DEP'T OF INDUSTRIAL RELATIONS (last checked June 10, 2025), https://www.dir.ca.gov/dosh/statistics/Frequently-cited-standards.html; *see also* Suhauna Hussain, *Van Nuys landscaper fined for 'serious' and 'willful' heat violations*, L.A. TIMES (Dec. 13, 2024), https://www.latimes.com/business/story/2024-12-13/van-nuys-landscaping-company-fined-for-serious-and-willful-heat-violations (reporting a recent Cal/OSHA citation for $276,425 following an employer's repeated violations of Section 3395); Paul Brown, Edward Flores & Ana Padilla, *Farmworker Health in California: Health in a Time of Contagion, Drought, and Climate Change*, UC MERCED COMMUNITY AND LABOR CENTER (Aug. 2022) at 35 (finding, e.g., more than one in ten California agriculture workers lack consistent access to clean drinking water at work and nearly one in four do not consistently have access to cups).

[8] *See, e.g.*, Teniope Adewumi-Gunn & Juanita Constible, *Feeling the Heat: How California's Workplace Heat Standards Can Inform Stronger Protections Nationwide*, NATURAL RESOURCES DEFENSE COUNCIL (Aug. 2022), https://www.nrdc.org/resources/feeling-heat-how-californias-workplace-heat-standards-can-inform-stronger-protections at 10 (finding that the agricultural sector accounts for the largest share of fatal and catastrophic heat cases in California and the most serious and willful violations of Section 3395).

Heat Rules and believe that Assembly Bill 2243 presents a vital opportunity to further protect all Californians from the effects of increasingly brutal high temperatures at work.[9]

Several of our comments below are motivated by the Occupational Safety and Health ("OSH") Act's requirement that occupational safety and health rules promulgated by state plan agencies, such as Cal/OSHA, must be "at least as effective" as comparable federal rules.[10] This means that, were the Proposed Federal Rule adopted, Cal/OSHA would need to ensure that the requirements of California Heat Rules are up to par with the federal standards. To date, it is unclear when or if the Proposed Federal Rule will be implemented. Nonetheless, since Cal/OSHA is under a statutory mandate to update the California Heat Rules,[11] it would be wise to take this opportunity to ensure our state's regulations are at least as effective as the Proposed Federal Rule, so as to not waste scarce rulemaking resources in the future. Cal/OSHA's initial proposed changes show the agency is already mindful of this issue, but we suggest scrutinizing all areas where promulgation of the Proposed Federal Rule might cause California to fall out of compliance with the OSH Act.

a. Acclimatization

CRLA, Worksafe, and CRLAF support most of the suggested additions to the acclimatization provisions of Sections 3395 and 3396, with a few caveats for consideration.

First, the proposed addition to subsection (g)(2) in Section 3395 might be read to apply only when the temperature equals or exceeds 95 degrees Fahrenheit at the time of an employee's assignment to a new area. Section 3395(g)(2) should instead mirror language in Section 3395(h)(1) to make clear that close observation is required in newly assigned areas where the temperature *should reasonably be anticipated to equal or exceed* 95 degrees Fahrenheit *at any time* during the next 14 workdays.[12]

Second, the proposed additions of subsections (g)(3) in Sections 3395 and 3396 should provide beneficial flexibility to employers and employees—and indeed track the Proposed

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[9] *Explore projected long-term (30 year) Annual Average*, CAL-ADAPT (last checked June 13, 2025), https://cal-adapt.org/tools/maps-of-projected-change (projecting continued substantial increases in average temperature throughout California in the coming decades).

[10] 29 U.S.C. § 667(C)(2).

[11] CAL. LABOR CODE § 6721(B) ("The division, before December 1, 2025, shall submit to the standards board a rulemaking proposal to consider revising Section 3395 of Title 8 of the California Code of Regulations and Section 5141.1 of Title 8 of the California Code of Regulations.").

[12] This change would also reflect language in the Proposed Federal Rule at subsection (d)(3) ("At indoor work sites, the employer must identify each work area(s) where there is a reasonable expectation that employees *are or may be exposed* to heat at or above the initial heat trigger." (emphasis added)).

Federal Rule—but may be difficult to adhere to without some clarification. In particular, the reference to subsection (e)(2) in subsection (g)(3) of Section 3396 may be confusing, since Section 3396 differs from both Section 3395 and the Proposed Federal Rule in that it does not utilize initial and high heat triggers.[13] Cal/OSHA should add a Note or additional language to Section 3396(g)(3) to make explicit that subsection(e)(2) must be followed for 5 days, irrespective of the conditions in subsection(a)(2), i.e., at any temperature.

Finally, the existing subsections (g)(1) in Sections 3395 and 3396 require close observation during heat waves. Section 3395(g)(1) and Section 3396(b)(10), in turn, both define "heat wave" as "any day in which the predicted high temperature for the day will be at least 80 degrees Fahrenheit and at least ten degrees Fahrenheit higher than the average high daily temperature in the preceding five days." The California Office of Environmental Health Hazard Assessment recently launched a tool, CalHeatScore, which may be easier to use and more accurate in determining when and where workers are at heightened risk from extreme heat.[14] Cal/OSHA should accordingly explore expanding the definitions of "heat wave" to include when the zip code of a worksite is assigned a CalHeatScore Value and Impact Level of 3 (High) or 4 (Severe).

b. Language Access

Many Californian workers still do not receive required heat illness and injury prevention training.[15] This may, in part, be because subsections (h)(1) in Sections 3395 and 3396 do not define what makes for "effective training," and Section 3395(e)(5) is likewise silent on how high heat pre-shift meetings should be conducted. The Proposed Federal Rule, by contrast, would require that training "be provided in a language and at a literacy level each employee, supervisor, and heat safety coordinator understands," and that "[t]he employer must provide employees with an opportunity for questions and answers about the training materials."[16] The California Heat Rules contain no such language access provisions and

[13] We understand it may prove too much to use this rulemaking to entirely revamp the recently promulgated Section 3396, yet urge Cal/OSHA to consider implementing a provision like subsection (f)(5) from the Proposed Federal Rule, requiring employers to "place warning signs at indoor work areas with ambient temperatures that regularly exceed 120 [degrees Fahrenheit]."

[14] CALIFORNIA OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT, *CalHeatScore*, https://experience.arcgis.com/experience/7fe16481f14646b4a167861962ab57a7/page/Homepage/.

[15] Paul Brown, Edward Flores & Ana Padilla, *Farmworker Health in California: Health in a Time of Contagion, Drought, and Climate Change*, UC MERCED COMMUNITY AND LABOR CENTER (Aug. 2022) at 33-34 (finding that nearly one third of California agricultural workers received no annual heat training, as required by Section 3395).

[16] Proposed Federal Rule at subsection (h)(5).

thus risk falling behind the federal standard, as well as similar state laws.[17] Cal/OSHA should, therefore, update the training provisions of the California Heat Rules to be at least as effective as the Proposed Federal Rule and ensure that non-dominant language speakers have equitable access to knowledge of their rights at work.[18]

Similarly, CRLA, Worksafe, and CRLAF support Cal/OSHA's proposed additions to subsections (i) in Sections 3395 and 3396. We are concerned, however, that heat illness prevention plans still need only be provided "in both English and the language understood by the majority of the employees," since many California workers do not understand the non-English language understood by the majority of their colleagues, e.g., many agricultural workers are monolingual Indigenous language speakers. The Proposed Federal Rule is stronger, requiring plans to "be available in a language each employee, supervisor, and heat safety coordinator understands."[19] Cal/OSHA should, at least, require that heat illness prevention plans be made available upon request in the preferred written language(s) used by 5% or more of employees[20] and that translations of heat illness prevention plans be completed by qualified human translators.[21]

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[17] *See, e.g.*, CAL. LABOR CODE § 1684(A)(8)(B) ("Sexual harassment training for each agricultural employee *shall be in the language understood by that employee*. The person may comply with this language requirement either by providing the training in that language or by having the training interpreted for the employee in the language that he or she understands." (emphasis added)).

[18] Worksafe, CRLA, and CRLAF propose Cal/OSHA use the following language and definitions in updating the subsections referenced above: "Training should be provided orally in the preferred spoken or signed languages and linguistic variants of all employees, either through the use of multilingual employee(s) who provide the training directly in the languages of employees or through collaboration with qualified human interpreters."

a. *Linguistic variant*: a distinct form of a language used by people from a specific community or region.

b. *Multilingual employee*: an employee who is proficient in two or more spoken, signed, and/or written languages as determined by a formal language assessment.

c. *Qualified human interpreter*: a person with advanced oral or signing proficiency in their working languages, knowledge of professional practices, and adherence to an interpreter's code of ethics, who has been determined to be qualified by a formal certifying body such as the California Judicial Council or the Certification Commission for Healthcare Interpreters, or based on experience, education, and references.

[19] Proposed Federal Rule at subsection (c)(9). Cal/OSHA should further consider adopting the heat plan requirements of Proposed Federal Rule subsections (c)(5), (c)(6), (c)(7), and (d)(3)(iv) which also go beyond what is currently required by the California Heat Rules.

[20] We additionally recommend, with reference to the definitions in the note above, that for employees with limited literacy, the employer be required to provide an oral explanation of the heat illness prevention plan in the employee's preferred language and linguistic variant upon request, either through a multilingual employee proficient in the employee's language or via collaboration with a qualified human interpreter.

[21] We additionally propose the following definition of *Qualified human translator*: a person with advanced written proficiency in their working languages, knowledge of professional practices, and adherence to a translator's code of ethics, who has been determined to be qualified by a formal certifying body such as the American Translators Association or based on experience, education, and references.

c. Shade and Water

CRLA, Worksafe, and CRLAF have noted increased compliance with the shade provisions of Section 3395 over time, though some employers still provide insufficient shade to cover all employees on break,[22] or fail to provide shade altogether.[23] Further, some employers rely on shade from plants which do not fully block the sun, or provide shade under or near equipment which radiates or reflects heat, despite the definition of "[s]hade" in Section 3395(b) discouraging such usages. Oregon has directly addressed the former issue by requiring: "If trees or other vegetation are used to provide shade, such as in orchards or forests, the thickness and shape of the shaded area must provide sufficient shadow to protect employees." [24] And the Proposed Federal Rule would prohibit "shade from equipment" altogether.[25] To better accomplish the purposes of Section 3395(d)(1), Cal/OSHA should similarly prohibit shade from equipment and clarify that shade from plants must be equivalent or better to shade provided by an artificial covering.

As with shade, although many employers in California now provide their employees with water, CRLA, Worksafe, and CRLAF still regularly hear reports that water containers are empty; that employees are discouraged from drinking water (either explicitly or implicitly, e.g., by attaching water jugs to foul-smelling restrooms); that the water provided is warm or tastes bad; and that workers are not provided with enough clean, single-use cups, all violations of subsections (c) in Sections 3395 and 3396. On top of continuing to enforce the water provisions of the California Heat Rules, Cal/OSHA should explore requiring that employers make electrolytes available to employees to add to their water, given growing scientific evidence that regular electrolyte consumption helps prevent long-term heat-related illnesses and injuries, especially damage to the kidneys.[26]

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[22] 8 CAL. CODE REG. § 3395(D)(1) ("Shade shall be present when the temperature exceeds 80 degrees Fahrenheit.").

[23] *Id.* ("The amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other.").

[24] OREGON ADMIN. CODE 437-002-0156 § 3(E). Note that a different Oregon regulation, OREGON ADMIN. CODE 437-004-1131, governs agricultural workplaces, but it contains identical provisions and thus is not cited, here or below.

[25] Proposed Federal Rule at subsection (e)(3)(i).

[26] *See, e.g.*, Roxana Chicas et al., *Hydration Interventions Among Agricultural Workers: A Pilot Study*, J. OCCUPATIONAL ENVIRON. MED. (May 2022) 64(5) (finding, in line with other research including from the National Institute for Occupational Safety and Health, that drinking water with electrolytes may lower the risk for developing acute kidney injuries); Rodrigo Assuncao Oliveira et al., *Impact of Hot Environment on Fluid and Electrolyte Imbalance, Renal Damage, Hemolysis, and Immune Activation Postmarathon*, OXIDATIVE MEDICINE AND CELLULAR LONGEVITY (Dec. 2017) (indicating similar in a study of athletes).

d. Exemptions

The Proposed Federal Rule, like all state heat rules, contains several reasonable exceptions to its applicability, e.g., in firefighting and other emergency response contexts.[27] Section 3396(a) takes the same approach, laying out only the indoor work environments in which heat protective rules do *not* apply. Section 3395(a)(2), however, limits outdoor high heat protections to *only* certain enumerated occupations (agriculture; construction; landscaping; oil and gas extraction; and certain transportation jobs). Cal/OSHA should align Section 3395 with Section 3396 and the Proposed Federal Rule by listing only a limited set of occupations which should be excluded—not included—in its full scope.

Along the same lines, neither the Proposed Federal Rule[28]—nor the heat rules in Maryland,[29] Oregon,[30] and Washington[31]—contain any limitations on which industries are subject to high heat trigger rest break requirements, whereas Section 3395(e)(6), limits such breaks only to agricultural workers. Cal/OSHA should align Section 3395 with other states and the Proposed Federal Rule by guaranteeing high heat recovery periods to all outdoor workers.

e. Breaks

Finally, CRLA, Worksafe, and CRLAF urge Cal/OSHA to use this rulemaking proposal to strengthen and clarify several provisions governing breaks in the California Heat Rules.

i. Initial Heat Trigger

Section 3395(d)(3) allows for preventative cool-down breaks in the shade of at least five minutes to prevent overheating when over 80 degrees Fahrenheit. CRLA, Worksafe, and CRLAF staff consistently find, however, that such optional breaks are neither encouraged by employers nor taken advantage of by employees. Section 3396(d)(2) similarly allows for preventative cool-down rests in indoor workplaces. This provision, in contrast to Section 3395(d)(3), is strengthened by Section 3396(d)(3), which makes explicit that "preventative cool-down rest period has the same meaning as 'recovery period' in Labor Code subsection 226.7(a)."[32] This language tracks Section 3395(e)(6), the agricultural

[27] *Id.* at subsection (a)(2)(iii).
[28] *See id.* at subsection (f)(2).
[29] *See* CODE MARYLAND REG. 09.12.32 § .08.
[30] *See* OREGON ADMIN. CODE 437-002-0156 § 5.
[31] *See* WASHINGTON ADMIN. CODE 296-62-09547 § 1.
[32] We propose minor edits here for consistency: "For the purposes of this section, preventative cool-down rest ~~period~~ has the same meaning as 'recovery period' in Labor Code ~~subsection~~ section 226.7(a)."

worker high heat breaks provision. Labor Code section 226.7(c), in turn, mandates that "[i]f an employer fails to provide an employee a … recovery period in accordance with state law, including an … applicable regulation … of … the Occupational Safety and Health Standards Board, … the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation." Thus, as currently applied to Sections 3395 and 3396, Labor Code section 226.7 makes clear that an employer's denial of preventative cool-down rest periods in agricultural work settings during high heat, or preventative cool-down rest periods in indoor work settings at any temperature, are forms of wage theft. There is no reason to treat Section 3395(d)(3) any differently, and indeed to do so would contradict the text and legislative history of Labor Code section 226.7(a), which was created when only Section 3395(d)(3)—and not Section 3395(e)(6) or Section 3396(d)(2)—existed.[33] Cal/OSHA should make clear that the same logic and remedial purpose of Labor Code section 226.7 applies to outdoor work performed between 80- and 95-degrees Fahrenheit by also connecting Labor Code section 226.7(a) to the guarantees of preventative cool-down rests in Section 3395(d)(3).

ii. High Heat Trigger

Turning to the heightened high heat requirements for outdoor work settings, we first note that the Proposed Federal Rule makes clear that "[t]he time for employees to walk to and from the break area is not included in the time provided for rest breaks,"[34] and that high heat rest breaks must be in shaded break areas.[35] Section 3395(d)(3) and Section 3396(d)(2)(C) likewise make explicit that the time spent accessing a break area does not count towards the time spent in heat recovery. Section 3395(e)(6) should also make clear that preventative cool-down rest periods at high temperatures are to be taken in shaded break areas, and that the time spent accessing the break areas shall not be included in the time allotted for the break.[36]

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[33] *See* CALIFORNIA REGULATORY NOTICE REGISTER 2015, NO. 14 (Cal/OSHA amendment, operative 05/01/2015, updating Section 3395 and introducing, for the first time, Section 3395(e)(6), including the language referencing Labor Code section 226.7(a)). We believe these 2015 amendments unintentionally introduced an ambiguity as to whether Labor Code section 226.7(a) still applied to Section 3395(d)(3), which was the only provision for cool-down rest periods that Labor Code section 226.7(a) could have referred to when it was added in 2013 (*see* 2013 Cal SB 435).

[34] Proposed Federal Rule at subsection (f)(2)(iii).

[35] *Id.* at subsection (f)(2).

[36] This point is already established through the California Supreme Court's interpretation of state wage and hour laws, *see, e.g.*, *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004*,* 1036 (finding that employees must be free of any duties during breaks), but it would still be helpful for Cal/OSHA to make clear that time spent walking to a break area is not time spent on break.

Finally, the high heat trigger temperature and mandatory break provisions of Section 3395—while once the strongest in the nation—have fallen behind the standards set by other states and federal OSHA. Recent research underscores the urgent need for revisions, finding that "[s]pecifications of rest minutes in current [California] policies and field practices may not adequately account for the adverse effects of heat stress, long exposure to the sun, and physical exertion in agricultural settings."[37] Such research is in line with recommendations from the National Institute for Occupational Safety and Health ("NIOSH"), which has influenced heat stress standards in several states, as well as the Proposed Federal Rule.[38] One key recommendation from NIOSH is that occupational heat stress standards should feature graduated rest-break requirements, in recognition of ample research demonstrating that, as temperatures increase, more breaks are needed.[39] Maryland,[40] Oregon,[41] and Washington[42] have done exactly that, and California should, too.[43] At a minimum, though, it is high time that California align with other states—and the Proposed Federal Rule[44]–in lowering its high heat trigger temperature in Section

[37] Sagar P. Parajuli et al., *Heat-related rest-break recommendations for farmworkers in California based on wet-bulb globe temperature*, COMMUNICATIONS EARTH & ENVIRONMENT (2025) 6:359 at 2 (going on to recommend breaks ranging from 2 to 32 minutes every hour for agricultural workers, depending on temperature, other climatic factors, season, time of day, and level of exertion). This study—and most work in the field—examines heat stress not just as a function of thermometer "dry bulb" temperature but as resulting from the interplay of multiple factors—including ambient temperature, humidity, radiant heat, and air movement—often combined into a "wet bulb" globe temperature ("WBGT"). While the California Heat Rules do not currently utilize the WBGT (unlike the Proposed Federal Rule), Section 3396(b)(9) references the National Weather Service's heat index, which "takes into account the dry bulb temperature and the relative humidity," and we recommend Cal/OSHA consider how Section 3395 might also take advantage of the WBGT, heat index, or other measures that account for the deleterious effects of humidity.

[38] *See* Proposed Federal Rule at subsection (b) (defining *Recommended Alert Limit* and *Recommended Exposure Limit* with reference to NIOSH-recommended heat stress standards).

[39] *See* Table 6-2. Work/rest schedules for workers wearing normal work clothing, *Criteria for a Recommended Standard: Occupational Exposure to Heat and Hot Environments*, NAT'L INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (Feb. 2016), https://www.cdc.gov/niosh/docs/2016-106/default.html (recommending, for example, 30 minutes of rest for every 30 minutes of heavy work at 100 degrees Fahrenheit); *see also* Zachary J. Schlader et al., *A Rest-Shade-Hydration-Hygiene program reduces acute kidney injury and increases production at a sugar mill in Nicaragua, an economic analysis*, https://doi.org/10.1101/2025.02.19.25322486 (forthcoming 2025).

[40] *See* CODE MARYLAND REG. 09.12.32 § .08(C).

[41] *See* OREGON ADMIN. CODE 437-002-0156 § 5(E).

[42] *See* WASHINGTON ADMIN. CODE 296-62-09547 § 1.

[43] Though this would go beyond the Proposed Federal Rule, we encourage Cal/OSHA to consider implementing a 15-minute hourly break requirement at or above 100 degrees Fahrenheit, or when employees are wearing clothing that restricts heat removal, as defined in Section 3396(b)(3).

[44] *See* Proposed Federal Rule at subsection (b) (defining *High heat trigger* as "a heat index of 90 [degrees Fahrenheit] or a wet bulb globe temperature equal to the National Institute for Occupational Safety and Health (NIOSH) Recommended Exposure Limit (REL)").

3395(e)(6) from 95 to 90 degrees Fahrenheit, and increasing the minimum required breaks every two hours during high heat from 10 minutes to 15 minutes.[45]

III. Conclusion

Worksafe, CRLA, and CRLAF support most of Cal/OSHA's initial proposed changes to the California Heat Rules but urge the agency to take into consideration the comments above, with particular attention to keeping our state's standards at least as effective as federal rules. Doing so will save the state resources down the line and better ensure that California remains a leader in protecting workers from heat-related illnesses and injuries.

Respectfully submitted,

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[45] *See id.* at subsection (f)(2); CODE MARYLAND REG. 09.12.32 § .08(C)(1)(B); OREGON ADMIN. CODE 437-002-0156 § 5(E)(A); WASHINGTON ADMIN. CODE 296-62-09547 § 1.