

COVID-19 UPDATE



GUIDANCE FOR IMPLEMENTATION AND COMPLIANCE WITH DEFERRING EMPLOYEE SOCIAL SECURITY WITHHOLDINGS

The Department of Treasury and Internal Revenue Service issued guidance ([PDF](#)) implementing the Presidential Memorandum issued on August 8, 2020, allowing employers to defer withholding and payment of the employee's portion of the Social Security tax if the employee's wages are below a certain amount. Notice 2020-65, posted today on IRS.gov, makes relief available for employers and generally applies to wages paid starting September 1, 2020, through December 31, 2020. The employee Social Security tax deferral may apply to payments of taxable wages to an employee that are less than \$4,000 during a bi-weekly pay period, with each pay period considered separately. No deferral is available for any payment to an employee of taxable wages of \$4,000 or above for a bi-weekly pay period. Today's notice postpones the time for employers to withhold and pay employee Social Security taxes. Additional tax relief related to the COVID-19 pandemic can be found on [IRS.gov](#).

Further, the CA Fresh Fruit Association provided additional guidance on the implementation and compliance of this memo. This can be viewed at the following link:

<https://files.constantcontact.com/35cbbf3f001/f774862f-498c-492d-b36b-305e76aaf026.pdf>

CORONAVIRUS FOOD ASSISTANCE PROGRAM APPLICATION DEADLINE APPROACHING

As you may recall, in early July, the United States Department of Agriculture (USDA) issued a modification to its original Coronavirus Food Assistance Program (CFAP) ruling. Apples were initially left out of the program's component dealing with price declines, but have been reconsidered by USDA and growers will now be eligible for a payment rate of \$0.05/pound. However, it is important to note that the growers applying for these funds must demonstrate at least a 5% loss in sales during the eligibility time frame set by USDA from January-April 15, 2020. The application deadline for this program is September 11, 2020.

It is also important to note that while the USDA has not yet extended its eligibility dates, the CAC is now working with USDA and Members of Congress to urge them to extend these dates to include the California apple season. At this point, there have been discussions regarding a “CFAP 2.0” plan and it has been reported that analysts expect the next round of payments to compensate growers for losses between April 15 and August 15. We will continue to provide updates on this program as they become available.

WILDFIRE AIR QUALITY REGULATIONS

Earlier this spring, the Cal/OSHA Standards Board adopted Wildfire Smoke Regulations, which apply when employees in outdoor workplaces may be exposed to wildfire smoke. These regulations require employers to have N-95 or equivalent masks on hand when the Air Quality Index (AQI) for PM2.5 exceeds 151 and provide medical evaluation and fit testing. If the AQI exceeds 151, employees have the option of wearing an N-95 respirator but are not required to do so. If the AQI rises to 500 or higher, employees must be provided N-95 respirators.

If an employer cannot maintain a stockpile of these respirators for optional use at AQI 151 and above, outdoor worksites must shut down until the AQI has dropped below the threshold. In addition to providing masks and respirators, employers need to communicate the hazards of wildfire smoke to all employees in a readily understandable form and train employees on protective measures that are available, such as increasing rest time and frequency. Employers shall allow employees to seek medical treatment if they show signs of injury or illness due to wildfire smoke exposure.

The easiest way to find the current and forecasted AQI for PM2.5 is to go to www.airnow.gov and enter the zip code of the location where you will be working. For local updates, please locate your air district [click here](#).

More information about the Wildfire Smoke Regulations is available [here](#). The text of the regulations is can be accessed by [clicking here](#).

Additionally, the CA Fresh Fruit Association (CFFA) has reported that they have N-95 masks available on a first come, first serve basis. Please contact the CFFA office at 559-226-6630.

CALIFORNIA STATE LEGISLATURE BILL UPDATE

- **AB 685: Amended in Senate August 25, 2020. Introduced by Assembly Member Reyes. PASSED**
 - Deals with occupational safety and was amended to address how employers should proceed when an employee contracts COVID-19. Current law lacks clarity on an employers’ reporting requirements, including to their own workforce. Employers who receive notice of potential exposure to COVID-19 are required to provide written notice to all employees who were in contact with the exposed person as well as information regarding COVID-19 related benefits such as workers’ compensation or sick leave. Employers must also notify all employees on the disinfection and safety plan that will be implemented and completed per Disease Control guidelines. If an employer has number of cases that classifies as COVID-19 outbreak, within 48 hours they have to notify the local public health agency of the name, numbers, and occupation of positive employees.
- **SB 1102: Amended in Assembly August 25, 2020. Introduced by Senator Monning and Coauthored by Assembly Member Robert Rivas. PASSED**
 - Adds new required disclosures among employers to their employees employed under the H-2A farm labor visa program. Relevant to COVID-19: Adds that employers disclose to employees the existence of either a federal or state emergency or disaster declaration applicable to the county where the employee is going to work that may affect the health and safety of the employee. This written notice must be issued 30 days prior to their first day of work. A template will be made available for employers in January 2021 by the Labor Commissioner.

- **SB 1159: Amended August 30, 2020. Introduced by Senator Hill. PASSED**
 - Deals with Workers' Compensation as related to COVID-19. Notable section: If an employee has paid sick leave benefits available in response to COVID-19, these should be used before temporary disability benefits. If an employee does not have these sick leave benefits, temporary disability benefits should be applied to them with no waiting period.
- **AB 196: Amended in Senate August 25, 2020. Introduced by Assembly Member Gonzalez. WAS NOT BROUGHT UP FOR VOTE.**
 - The bill defines "injury" for essential employees who are employed in an occupation that was exempt from the Governor's stay at home orders. Injury can now include COVID-19 that was contracted during the period employment where employees were deemed essential. This bill shortens the investigatory time frame for denial or presumed acceptance of a claim to 30 days, rather than 90 days.
- **SB 1383: Introduced by Senator Jackson. PASSED**
 - Deals with unlawful employment practices in regards to family leave. This bill was amended to make it unlawful for an employer to refuse to grant a request by an employee to take up to 12 work weeks of unpaid protected leave during any 12-month period to bond with a new child or to care for themselves or a family member. Employees are defined as those who have 1,250 hours of service with the employer during the previous 12-month period.
- **AB 1659: Amended in Senate August 28, 2020. Introduced by several Assembly members with multiple coauthors. HAS NOT PASSED YET.**
 - Deals with wild fire mitigation. Establishes a Wildfire Prevention and Community Resilience Fund in the State Treasury. Money in the fund will be used to reduce wild fire risks. It shall be initially started with a loan of five hundred million dollars from the state's Surplus Money Investment Fund. The loan should be repaid within the 2020-2021 fiscal year. Each large electrical corporation must impose and collect a non-bypass able charge on ratepayers of the electrical companies to support the fund.
- **AB 6: Amended in Senate August 27, 2020. Introduced by Assembly Member Reyes. NOT BROUGHT UP FOR A VOTE YET.**
 - Deals with duties of the Attorney General. Recent amendments have to do with DIVISION 10.10 the Statewide Opioid Settlement Agreement Act. The state legislature intends to facilitate a statewide opioid settlement agreement. It will encourage government entities that filed a lawsuit before August 24, 2020 to participate in negotiations and to join the settlement. The state legislature will also provide legislative oversight of the use of state funds acquired by the Agreement related to the claims regarding the opioid crisis.
- **SB 54: Amended in Assembly August 25, 2020. Introduced by several Senators. FAILED.**
 - Deals with waste that derives from the packaging of products. The bill attempted to impose stricter regulations on single-use packaging and single-use plastic products. Producers of single-use products would have to ensure that all single-use packaging that are manufactured on or after January 1, 2032 are to be recyclable or compostable.