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*A Voice for Nurses. A Vision for Health Care.*

September 27, 2019

Eric Berg, Deputy Chief of Health  
Amalia Neidhardt, Senior Safety Engineer  
California Department of Industrial Relations, Division of Occupational Safety and Health  
Elihu Harris State Building  
1515 Clay Street  
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VIA ELECTRONIC MAIL TO: [eberg@dir.ca.gov](mailto:eberg@dir.ca.gov) and [aneidhardt@dir.ca.gov](mailto:aneidhardt@dir.ca.gov)

RE: Proposed Revisions to Emergency Regulation Section 5141.1

Dear Mr. Berg and Ms. Neidhardt:

California Nurses Association/National Nurses United (CNA/NNU), representing over 100,000 members in California, appreciates the opportunity to comment on the Proposed Revisions to Emergency Regulation Section 5141.1. We are also grateful to Division staff for their thorough and expeditious efforts in drafting the temporary emergency standard. We especially appreciate that the standard is based on the Air Quality Index (AQI), clarifies employers' obligations, and provides basic protections for workers who are exposed to fine particulate matter (PM2.5) in wildfire smoke.

The Division's work on a permanent standard to protect workers from wildfire smoke exposure is timely and imperative. As bedside registered nurses, CNA/NNU's members see firsthand the impact of wildfire smoke exposure – from short-term respiratory irritation, asthma exacerbation, and increased stroke and heart disease risk to the long-term impacts of anxiety and stress and carcinogenic exposures. As patient advocates, nurses strongly urge the Division to adopt the most comprehensive permanent standard possible to offer the most protection as soon as possible for those workers at highest risk.

Furthermore, while the majority of nurses work indoors in hospitals and other healthcare facilities, some nurses may be exposed to wildfire smoke in the course of doing their jobs. For example, nurses may be required to provide care outdoors during a wildfire event. During the 2018 Camp Fire, nurses and other healthcare workers had to provide care outside in the parking lot after the hospital was evacuated.<sup>1</sup> Employers must be prepared to protect employees' health and safety in such situations.

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<sup>1</sup> Rosenblatt, K. *Nurses fleeing fast-moving Camp Fire scramble to save patients- and themselves*, NBC News, Nov 11, 2018.

The Division's Proposed Revisions dated August 13, 2019 include two sets of proposed changes: (1) minor changes that would be made to the emergency regulation as part of the adoption of a permanent rule and (2) substantive changes that would be considered for later rulemaking with no specific deadline.

While we appreciate the proposed substantive changes, we are disappointed that these changes are only being considered for later rulemaking with no specific deadline. Delaying these changes indefinitely will leave workers vulnerable if their only protection lies in a temporary emergency standard or a temporary emergency standard with minor changes adopted as the permanent standard.

CNA believes the key substantive changes outlined by Worksafe and other allies should be made now rather than later in order to ensure that workers' health is prioritized and protected, and employers understand their duties. These changes include:

- Lowering the trigger for application of this standard to AQI for PM<sub>2.5</sub> of 101 or greater;
- Eliminating the tiered protections for AQI for PM<sub>2.5</sub> of greater than 100 and less than 151;
- Requiring employers to identify harmful exposures before the shift starts so that they are prepared to provide appropriate protection and training;
- Requiring employers to have clearer communication to employees such that workers understand the plan for evacuation and have prompt access to medical treatment, as detailed in Appendix B;
- Requiring that administrative controls include relocating work not essential to emergency response, requirements for hourly recovery periods, and where feasible, enclosed rest areas with effective filtration;
- Completing in-person training before an employee begins other work tasks where PM<sub>2.5</sub> air levels are higher than 101 due to wildfire smoke;
- Requiring pre-shift meetings for review each day modeled on the outdoor heat illness prevention regulation; and
- Lowering the threshold for respiratory control that triggers fit test and medical evaluation from PM<sub>2.5</sub> of 501 to PM<sub>2.5</sub> of 301.

In addition, CNA is concerned that the critical issue of respirator supply not be overlooked. The Division's draft requires employers to provide voluntary or required access to respirators at varying cut offs depending on the AQI, but it does not address the need for employers to prepare possibly tens of thousands of stockpiled respirators for a wildfire event that can—and very likely will—last many weeks.

CNA is also concerned about the exemption contained in section 5141.1(a)(2)(A) because it does not contain criteria regarding the design of building ventilation systems or their maintenance and

inspections. Some hospitals have ventilation systems that take in 100% outdoor air. While there may be filters in place, those filters are not made to deal with a wildfire smoke event. In fact, our nurses reported significant symptoms inside wildfire smoke-affected hospitals last year, and in some cases nurses reported their symptoms were worse indoors than outdoors.

Going forward, we would encourage the Division to ensure that workers are afforded their right to a safe and healthy workplace—both indoors and outdoors—and are fully protected by their employers from wildfire smoke exposures.

Thank you for your consideration of these comments.

Sincerely,

CALIFORNIA NURSES ASSOCIATION/  
NATIONAL NURSES UNITED

A handwritten signature in black ink that reads "Stephanie Roberson". The signature is written in a cursive, flowing style.

Stephanie Roberson  
Director, Government Relations