



September 30, 2019

Eric Berg, Deputy Chief
Amalia Neidhart, Senior Safety Engineer
Division of Occupational Safety and Health
Department of Industrial Relations

Sent Via Email

**Re: Comments to the August 13, 2019 Proposed Revisions to Emergency Regulation
Section 5141.1**

Mr. Berg and Ms. Neidhart:

The Communications Workers of America (CWA), AFL-CIO appreciates this opportunity to submit comments regarding the proposed revisions to the Protection of Workers from Wildfire Smoke Emergency Regulation. CWA represents 700,000 workers in the U.S. in both the private and public sectors. In California, CWA's District 9 represents over 24,000 workers at companies including AT&T, Verizon, Frontier, and Comcast. Over 12,000 CWA members who work as telecommunications field technicians may be assigned to work in areas impacted by wildfire smoke or to rebuild the telecommunications network damaged by wildfires.

The Draft Language dated August 13, 2019 includes 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.

We believe substantive changes should be made now, without delay. As per the findings of the U.S. EPA, wildfires in California are increasing in frequency, size, and intensity and are not an aberration. This means that wildfires will continue to pose an acute and chronic health threat to workers and the most protective measures should be adopted as soon as possible to address this ongoing hazard. In 2019 YTD, 5,487 wildfires have been reported by the California Department of Forestry and Fire Protection and the U.S. Forest Service.

We support the following changes to the Emergency Regulation, which includes changes outlined by Worksafe and other allies:

- Lower the trigger for application of this standard to AQI for PM2.5 of 101 or greater;
- Eliminate the tiered protections for AQI for PM2.5 of greater than 100 and less than 151;
- Require employers to determine appropriate protections for their employees that can be implemented in the event of wildfires, proactively;

- Require employers to provide effective, comprehensive, instructor-led training proactively to all employees in areas reasonably anticipated to be impacted by wildfires or that have been impacted in the past. Ideally, training should be provided during the season(s) when the risk of wildfires is less likely to occur for a given area, based upon the California Department of Forestry and Fire Protection's fire season declarations for summer/winter preparedness. Where PM_{2.5} air levels are higher than 101, wildfire safety training sessions in areas currently being impacted by the wildfire smoke should supplement the more comprehensive, initial training and should be provided at the beginning of the work shift. Requiring pre-shift meetings for review each day should be modeled on the outdoor heat illness prevention regulation;
- Require employers to have clearer communication to employees such that workers understand the plan for evacuation and have prompt access to medical treatment if needed, as detailed in Appendix B;
- Require employers to determine appropriate employee protections based upon the Hierarchy of Hazard Controls. When engineering controls are not feasible, administrative controls such as relocating work not essential to emergency response, and hourly recovery periods in locations free from wildfire smoke, should be implemented;
- Workers who may have a medical condition as determined by their physician that may be triggered or exacerbated by any exposure to wildfire smoke and who may not be able to wear a respirator, such as an N-95 or N-100 respirator, should be offered a work transfer or an alternative work location where they will not be exposed to wildfire smoke. Workers who are provided with a medically necessary work transfer should not suffer any loss in wages or benefits;
- Lower the threshold for respiratory control that triggers fit testing, medical evaluation, and respiratory protection training from PM_{2.5} of 501 to PM_{2.5} of 301. When it is determined that respirators are required, the provisions of the Respiratory Protection Standard must be followed;
- Clarify the language in subsection (c)(3) and subsection (g)(4)(A) related to the replacement of filtering facepiece respirators, such as N-95 respirators. Filtering facepiece respirators are disposable respirators that should be replaced. They cannot be cleaned and cannot be repaired if they become wet or are damaged;
- Telecommunications/communications employers should not be exempted from the requirements of subsection (g) during an emergency. It is still necessary, and entirely possible, during an emergency to take measures to protect employees, including implementing some engineering and administrative controls in combination with appropriate personal protective equipment. Telecommunications/communications employees are performing telecommunications work repairing the damaged network during an emergency, not aiding firefighting. They are also likely to be working extended shifts of 12 hours or more. In emergency circumstances, when exposures to higher levels of wildfire smoke exist for extended work hours, it is even more important that telecommunications/communications workers are protected to reduce the short term and long term risk of health impacts from wildfire smoke exposure.

Thank you for consideration of these comments.

Sincerely,

A handwritten signature in black ink, reading "M. Siegel de Hernández". The signature is written in a cursive style with a large, sweeping initial "M".

Micki Siegel de Hernández
Deputy Director, Health and Safety
Communication Workers of America, AFL-CIO