



September 24, 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 Proposed Revisions to Emergency Regulation

On behalf of Street Level Health Project, we extend our appreciation to the Division for affording us the opportunity to provide comments both during the meeting on August 27th and in this comment letter. We are also grateful to the Division staff for their thorough and expeditious effort in drafting the temporary emergency standard. While the temporary standard is not perfect, we appreciate the fact that it (1) is based on the Air Quality Index (AQI), (2) clarifies employers' obligations and (3) provides basic protections for workers who are exposed to fine particulate matter (PM2.5) in wildfire smoke.

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Street Level Health is an organization that works with day laborers and recent migrants. These communities are very vulnerable to take any job offered, included, whether knowingly or not, those that put their life in risk. Your support is important to this community that will easily be the sickest of them all if not protected. 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 certainly appreciate the substantive proposed changes, however, we are deeply disappointed that these changes are only 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.

We believe that the key substantive changes that have been outlined by Worksafe and other allies, must 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 PM2.5 of 101 or greater;
- Eliminating the tiered protections for AQI for PM2.5 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 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 PM2.5 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 2.5 of 501 to PM 2.5 of 301.

Thank you for consideration of these comments.

Sincerely,

Abad Leyva
Immigrants' Rights and Empowerment Program Manager
Street Level Health Project