

California Industrial Hygiene Council

Comments for OSHSB Monthly Meeting, August 7, 2020

RE: 8 CCR 5141.1, Protection from Wildfire Smoke – proposed permanent regulation

Chairman Thomas and Board Members –

This is Pamela Murcell, current president of the California Industrial Hygiene Council. I have general comments on behalf of the CIHC regarding the proposed new section 5141.1 that is open for comment and consideration until 5:00 pm today. We understand that there have been revisions in the language of this new regulation (aka the proposed permanent regulation) when compared with the emergency regulation language that went into effect in July 2019. CIHC does not have any specific comments regarding the proposed language as it is substantially similar to the emergency regulation in regards to the issues that CIHC has previously addressed. CIHC has participated in the process with verbal and written comments and advisory committee participation on this important issue from the beginning in March 2019, and we support adopting 5141.1 version 2.0.

However, there are two general concerns that CIHC would like to highlight.

1. First, how will COVID-19 respiratory protection measures impact employers' ability to implement the respiratory protection portion of this regulation? Current difficulties in procuring N95 filtering facepiece respirators due to their use against the COVID-19 virus raises serious concern on availability of the N95 respirators during the quickly approaching California wildfire season. Will Cal/OSHA be providing some guidance on acceptable alternatives? Will Cal/OSHA be lenient in regards to enforcement of the requirement to provide N95 respirators when such may not be available? CIHC, and presumably many other organizations, hope this is a transitory issue, but it is, under current circumstances, one that needs to be addressed.
2. Secondly, how will Cal/OSHA be handling the comments received on this version of the regulation as a permanent standard given that it is substantially similar to the emergency regulation? It is CIHC's understanding that this "new" regulation is intended to be a first cut at a permanent regulation on Protection from Wildfire Smoke, and further, that Cal/OSHA will convene an advisory committee to discuss the regulation further with an opportunity to explore alternative language. Is it Cal/OSHA's intent to follow through with this advisory committee, and if yes, what is the time frame? Once action is taken on this new regulation, there will no longer be any deadlines driving the process. It is CIHC's concern, assuming that the permanent regulation is adopted, that further action on the permanent regulation version 3.0 will be placed on a back burner.

Thank you for the opportunity to participate in this process.

Submitted by:

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