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Wildfires and the Workplace: What California Employers Must Know to Ensure Safety and Compliance

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The devastating wildfires in Los Angeles area continue to profoundly impact our community, presenting complex challenges for employers and the workforce. As evacuation orders, curfews, and hazardous conditions persist, it is crucial for all to take proactive measures to ensure safety and compliance with regulations. Employers, in particular, should focus on effectively managing workplace safety, employee leave, and operational closures. Here are some key considerations:

Worker Safety and Cal/OSHA Wildfire Regulations

California's Cal/OSHA regulation, [Section 5141.1](#), establishes requirements for safeguarding employees from the health risks of wildfire smoke by mandating air quality monitoring and the implementation of protective measures when conditions become hazardous, particularly when the Air Quality Index (AQI) for PM2.5, the particulate matter in wildfire smoke, reaches 151 or higher.

- 1) **Air Quality Monitoring:** Employers must assess AQI levels through reliable sources, such as the [EPA AirNow website](#) or local air quality districts, or by using direct measurement instruments at the start of each shift and periodically throughout the day. When AQI levels exceed 151, employers must notify employees of the risks and available protective measures. Communication systems should be in place to ensure employees can report worsening air quality or symptoms of smoke exposure, such as breathing difficulties, without fear of retaliation.
- 2) **Training:** Employers should provide training on the health risks of wildfire smoke, symptoms of exposure, and how to use protective equipment effectively. Employers can access Cal/OSHA's training materials in [English](#) and [Spanish HERE](#)
- 3) **Control Exposure:** When the AQI exceeds 151, employers must implement engineering controls, such as providing enclosed, air-filtered spaces. When outdoor air impacts indoor spaces or filtration systems are insufficient, employers must implement administrative controls like adjusting work schedules or relocating employees to areas with better air quality. The regulation requires employers to provide and encourage the use NIOSH-approved respirators (e.g., N95 masks) when AQI is 151 or higher and mandates their use when AQI exceeds 500.

These protections apply to most workplaces but may not cover employees in enclosed spaces with filtered air systems that meet the required standards or those exposed to hazardous air for less than one hour during a shift. Employers in all industries—not just those directly in wildfire zones—are encouraged to take proactive measures to ensure compliance, address employee concerns, and maintain a safe and healthy work environment during wildfire conditions.



Emergency Action Plans (EAP)

Employers should regularly review and communicate their Emergency Action Plans (EAP) to ensure employee safety during emergencies. These plans should include clear evacuation procedures, effective emergency communication protocols, and methods to account for all employees during and after an incident. Proactively updating and training employees on these procedures helps minimize confusion, ensures compliance with safety regulations, and reinforces the organization's commitment to protecting its workforce.

Wage and Hour Issues

Wildfires can cause significant disruptions to business operations, posing challenges for employers in meeting wage and hour obligations under California law. The requirements differ for nonexempt (hourly) and exempt employees:

Nonexempt Employees: Even during workplace disruptions caused by wildfires, employers are required under California and federal law to pay nonexempt employees for all hours worked. California's reporting time pay rules generally require employers to pay workers for half their scheduled shift if they are sent home early. However, reporting time requirements do not apply if "an Act of God or other uncontrollable events cause the work disruption." ([IWC Wage Orders 1-16, Section 5\(C\)](#)). Nonexempt employees are only paid for hours worked during such closures.

Exempt Employees: Exempt employees must be paid their full weekly salary if they perform any work during a workweek, even if their physical workplace is closed or they are required to stay home and/or evacuate. However, if an exempt employee performs no work during the entire workweek, employers are not required to pay their salary for that week.

Employees experiencing income loss due to wildfires may apply for unemployment insurance benefits through the California Employment Development Department (EDD). The state waives the usual one-week waiting period during emergencies, as outlined in [Governor Newsom's emergency declaration guidance](#).

Leave Laws and Time Off

As of January 1, 2024, California's Healthy Workplaces, Healthy Families Act requires employers to provide at least 40 hours or five days of paid sick leave annually. During wildfire emergencies, employees may use accrued paid sick leave for the diagnosis, care, or treatment of an existing health condition, or for preventive care for themselves or a qualifying family member.

[Los Angeles](#) has more generous paid sick leave requirements. In Los Angeles, employees who work at least two hours in a particular week within the city for the same employer for 30 days or more within a year are entitled to paid sick leave. Employers can provide this leave by either front-loading 48 hours annually or allowing accrual at a rate of one hour for every 30 hours worked.

In [Santa Monica](#), employees who work at least two hours in a particular week within the city are entitled to paid sick leave. Employers with 26 or more employees must provide up to 72 hours of paid sick leave annually, while those with 25 or fewer employees must provide up to 40 hours. Employees accrue one hour of paid sick leave for every 30 hours worked.



Employers should also be aware of other leave entitlements during emergencies. For instance, employees may be eligible for unpaid leave under the California Family Rights Act or the federal Family and Medical Leave Act if they or a family member develop a serious health condition due to wildfires. Furthermore, employees with children may take up to 40 hours of leave per year to address school-related emergencies, including closures.

It is important for employers to communicate leave policies clearly and ensure compliance with state and local regulations, especially during emergencies like wildfires. Providing flexibility and support to employees during such times not only ensures legal compliance but also fosters a supportive work environment.

L.A.'s Fair Work Week Ordinance

The City of Los Angeles has clarified that retail store closures due to wildfires are exempt from the [Fair Work Week Ordinance](#). This ordinance generally mandates that covered employers provide employees with at least 14 days' advance notice of work schedules and permits employees to decline shifts if changes are made after this notice period. However, exceptions are made when employer operations are disrupted by force majeure events, such as natural disasters.

For detailed guidance, consult resources such as the [California Department of Industrial Relations](#) and Cal/OSHA's regulation to protect the workforce from wildfire smoke. Given the current wildfire activity and associated evacuations, it is imperative for California employers to implement comprehensive safety protocols, provide continuous training, and remain informed about regulatory obligations. Additionally, seeking legal counsel can help address specific legal obligations and mitigate risks during adverse situations. Buchalter's attorneys are available to assist in navigating these complexities.



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