

# CALIFORNIA

## EMPLOYMENT LAW

### Worker Protection - Wildfire Smoke



California's [Protection from Wildfire Smoke Law](#) (PWFS) became effective on July 29, 2019. This law creates obligations for employers to ensure the safety of employees who work outdoors in proximity to a wildfire.

The PWFS is regulated by the [California Department of Industrial Relations \(DIR\)](#).

### EMPLOYER DUTIES

Under the PWFS employers must:

- Monitor the air quality of the environment of the location where their employees are present;
- Communicate potential wildfire smoke hazards to affected employees;
- Establish procedures for employees to be able to report the presence of or their exposure to wildfire smoke hazards;
- Implement engineering and administrative controls to reduce or eliminate employee exposure to wildfire smoke hazards; and
- Provide employee training and information on the duties mentioned above.

Employers that comply with these requirements are also deemed to comply with California's laws on control of employee harmful exposure and air contaminants for the limited purpose of exposures to a current AQI for PM2.5 of 151 or greater from wildfire smoke.

### AFFECTED EMPLOYERS

The PWFS applies to workplaces where:

The current air quality index (AQI) for PM2.5 is 151 or greater, regardless of the AQI for other pollutants



The employer should reasonably anticipate that employees may be exposed to wildfire smoke

The U.S. Environmental Protection Agency (EPA) uses the Current AQI method to report air quality on a real-time basis.

Current AQI is also known as "the NowCast." "PM2.5" refers to atmospheric particulate matter (PM) that have a diameter of less than 2.5 micrometers (roughly about 3 percent the diameter of a human hair. In general terms, a lower AQI is always preferable.

### STATE RESOURCES

**California Department of Industrial Relations**  
<https://www.dir.ca.gov/>

#### Protecting Outdoor Workers

The DIR [website](#) contains information on how to protect workers from wildfire smoke

#### AQI Monitoring

- [AirNow](#)
- [California Air Quality Tool](#)
- [California air pollution control districts](#)

#### Respiratory Protection

- [Practical Guide for Respiratory Protection](#)
- [Occupational Health Resources](#)

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However, the following workplaces, operations and individuals are **exempt** from the PWFS:

- Enclosed buildings or structures in which the air is filtered by a mechanical ventilation system and the employer ensures that windows, doors, bays, and other openings are kept closed to minimize contamination by outdoor or unfiltered air;
- Enclosed vehicles in which the air is filtered by a cabin air filter and the employer ensures that windows, doors, and other openings are kept closed to minimize contamination by outdoor or unfiltered air;
- Workspaces or operations where the employer demonstrates that the concentration of PM<sub>2.5</sub> in the air does not exceed a concentration that corresponds to a current AQI of 151 or greater by measuring PM<sub>2.5</sub> levels at the worksite in accordance with [Appendix A](#);
- Workspaces or operations where employees are exposed to a current AQI for PM<sub>2.5</sub> of 151 or greater for a total of one hour or less during a shift; and
- Firefighters engaged in wildland firefighting.

### MONITORING AIR QUALITY

Employers must monitor the air quality of the spaces where their employees are working. Through this monitoring, employers are expected to identify whether any harmful exposures exist in a workspace.

Employers must monitor air quality **before each shift** and **periodically** thereafter. Employers can satisfy this requirement by:

- Checking current and forecasted AQIs from federal, state or local sources, including:
  - The [EPA AirNow website](#);
  - The [U.S. Forest Service Wildland Fire Air Quality Response Program](#); and
  - The [California Air Resources Board](#);
- Obtaining AQI forecasts and the current AQI for PM<sub>2.5</sub> directly from the EPA, California Air Resources Board, local air pollution control district, or local air quality management district by telephone, email, text or other effective method; or
- Measuring PM<sub>2.5</sub> levels at the worksite and converting the PM<sub>2.5</sub> levels to the corresponding AQI in accordance with [Appendix A](#).

AQI	Health Concern
0 to 50	Good
51 to 100	Moderate
101 to 150	Unhealthy for Sensitive Groups
151 to 200	Unhealthy
201 to 300	Very Unhealthy
301 to 500	Hazardous

### COMMUNICATION

As required by [California's Injury and Illness Prevention Program](#) (IIPP), affected employers must establish and implement a system for communicating wildfire smoke hazards to all affected employees. The communication system must:

- Inform employees of the current AQI for PM<sub>2.5</sub> and protective measures available to employees to reduce their wildfire smoke exposure;
- Encourage employees to inform the employer (without fear of reprisal) of worsening air quality and any adverse symptoms that may be the result of wildfire smoke exposure such as asthma attacks, difficulty breathing and chest pain; and
- Offer messages that are readily understandable by all affected employees.

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### EXPOSURE CONTROL

The PWFS requires employers to implement engineering and administrative controls to eliminate or reduce employee exposure to wildfire smoke.

#### ENGINEERING CONTROLS

Engineering controls must be implemented whenever feasible to reduce employee exposure to PM2.5 to less than a current AQI of 151. If engineering controls are insufficient to reduce exposure to PM2.5 to less than a current AQI of 151, then employers must reduce employee exposure as much as possible.

Engineering controls are methods built into the design of a plan, equipment or process to minimize a hazard. Examples include providing enclosed buildings, structures or vehicles where the air is filtered.

#### ADMINISTRATIVE CONTROLS

If practicable, whenever engineering controls are not feasible or do not reduce employee exposures to PM2.5 to less than a current AQI of 151, employers must use administrative controls to reduce employee exposure to wildfire smoke.

Administrative controls focus on work policies and practices to eliminate or reduce hazards. Examples of administrative controls include relocating work to a location where the current AQI for PM2.5 is lower, changing work schedules, reducing work intensity and providing additional rest periods.

#### RESPIRATORY PROTECTIVE EQUIPMENT

Employers can provide and ask employees to use respirators where the AQI is between 151 and 499. Employee use of respirators in these situations is voluntary. If the AQI is 500 or greater, the use of a respirator is mandatory.

The respirators must be NIOSH-approved devices that effectively protect from inhalation of PM2.5, such as N95 filtering facepiece respirators. Respirators must be cleaned, stored, maintained, and replaced so that they do not present a health hazard to users.

#### EMERGENCIES

The requirements for engineering and administrative controls do not apply during an emergency. Instead, employers must comply with the requirements for respiratory protective equipment.

Emergencies include rescue and evacuation operations. Emergencies also include utility, communications and medical operations when these operations are directly conducted to aid firefighting or emergency responses.

### TRAINING AND INSTRUCTION

The PWFS requires employers to provide training in accordance with California's Injury and Illness Prevention Program (IIPP). At a minimum, these training materials must use the information contained in [Appendix B](#) of the PWFS.

Under the IIPP, employers must provide training and instruction:

- When the program is first established;
- To all new employees;
- To all employees who are given a new job assignment for which this training has not been received;

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- Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
- Whenever the employer is made aware of a new or previously unrecognized hazard; and
- To supervisors, so they can familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

### MORE INFORMATION

Please contact Western Growers Insurance Services for more information on California's employment laws.