

CAL/OSHA RULES

As Wildfire Season Heats Up, Protect Your Workers

CAL/OSHA has issued a reminder to employers that they are required to protect their outdoor workers from unhealthy air due to wildfire smoke.

CAL/OSHA's Protection from Wildfire Smoke emergency regulation, put in place in August 2019, was made permanent in February 2021. For the safety of your workers and to comply with the regulation, it's important that you follow the rules and know when you will need to take action to protect them from outdoor smoke.

The regulation applies when the Air Quality Index (AQI) for airborne particulate matter 2.5 microns (PM2.5) is 151 or greater in an area where employees are working outdoors. Here are the details:

Identification

When wildfire smoke affects a worksite, employers must monitor the AQI for PM2.5.

Employers can monitor the index using the following agency websites:

- U.S. EPA AirNow
- U.S. Forest Service Wildland Air Quality Response Program
- California Air Resources Board
- Local air pollution control district websites or local air quality management district websites.

Communication

Employers must implement a system for communicating wildfire smoke hazards in a form readily understandable by all affected employees, including provisions designed to encourage employees to inform the employer of wildfire smoke hazards without fear of reprisal.

Training and instruction

Employers with outdoor workers need to provide training that covers at least:

- The health effects of wildfire smoke.
- The right to obtain medical treatment without fear of reprisal.
- How employees can obtain the current AQI for PM2.5.
- Possible actions they must take if the AQI exceeds 150 PM2.5.

Options for protecting workers

The regulation provides three ways employers can protect their workers:

1. Modifications – If possible, employers should implement modifications to the workplace, in order to reduce exposure. Examples include providing enclosed structures or vehicles for employees to work in, where the air is filtered.

2. Changes to procedures and schedules

– Another option is to change work procedures or schedules. Examples include changing the location where employees work or reducing the amount of time they work outdoors or exposed to unfiltered outdoor air

3. Respiratory protection – Employers also have the option to provide proper respiratory protection equipment, such as disposable respirators, for voluntary use without fit-testing if AQI PM2.5 levels are below 500.

To filter out fine particles, respirators must be labeled N-95, N-99, N-100, R-95, P-95, P-99 or P-100, and must be labeled as approved by the US National Institute for Occupational Safety and Health.

If the AQI PM2.5 is above 500, respirator use is required, and fit-testing and a medical examination prior to use are mandatory.

See 'Resources' on page 2

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WORKERS' COMPENSATION

New Premium Threshold Set for X-Mod Qualification

THE THRESHOLD for California employers to be eligible for experience rating has been reduced by order of the state insurance commissioner.

Commissioner Ricardo Lara in June approved the recommendation by the Workers' Compensation Insurance Rating Bureau to lower thresholds for determining eligibility for experience rating, which provides an "experience modifier" (X-Mod) to all qualifying employers as a way to gauge their claims history.

Starting Sept. 1, 2022, all employers in California with annual workers' compensation premiums of \$9,200 or more will be eligible for an X-Mod. That's down from the current \$9,500. The change was made to reflect wage inflation and the new expected loss rates.

If your firm will now be subject to experience rating, you should read the following.

Importance of the X-Mod

In order to price policies accurately, one of the most important tools in a workers' compensation carrier's arsenal is the experience modifier.

This is a unique "rating" for employers based on the number and amounts of claims they've had in relation to other companies in their same industry – or other employers that have the same Standard Industrial Class Code (or some derivative of it as in California).

These class codes do not only cover the industry you are in, but also your various employees.

After all, you should not have to pay the same workers' comp premium for a roofer in your company as you would for your accountant.

The most important element of your X-Mod is your claims history – how many claims you've had and how much your insurance company had to pay for (and reserve for these claims if they are still being paid out).

Once that's been determined, your X-Mod can be calculated. The number arrived at is an expression of your claims history in relation to other employers in the same class code.

If your X-Mod is 100, then your claims history is average for what's expected in your class code. If it's more than 100, then you have greater losses than what's expected, and if it's less than 100 you have fewer losses.

If you have an X-Mod of 70, it's expected that the carrier will

THE PREMIUM EFFECT

Think of the X-Mod as a percentage and 100 is average for your industry. If you start with a \$20,000 base premium...



80 X-Mod

You pay \$16,000



120 X-Mod

You pay \$24,000



discount the premium it would charge you by 30%. If it is 130, then you can expect the carrier to tack on another 30% to your premium.

X-Mod classifications run a little late to err on the side of caution. Workers' compensation is considered a "long-tail" insurance coverage because claims can remain open for many years – sometimes even a lifetime.

That's why claims costs are not evaluated until 18 months after your policy inception.

In other words, if your policy inceptioned Jan. 1, 2022 and you had a claim in June, the X-Mod wouldn't be calculated to include 2022 until July 1, 2023.

Claims costs include already-incurred outlays as well as expected future costs for which the insurance company has set aside reserves for medical care and indemnity payments.

X-Mods are calculated using three years of claims history. The essentials for calculating premium are:

- Class codes of your various employees.
- Claims history for three years.
- X-Mod. ❖

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Resources for Protecting Workers From Wildfire Smoke

Cal/OSHA

- [Training videos](#) on wildfire smoke protection and using N-95 respirators
- [Guidance for employers and workers](#) on wildfire smoke
- [Frequently asked questions](#) about N-95 masks
- [Training Academy](#) (free resources in English and Spanish)

Western Center for Agricultural Health and Safety

- [Checklists, training handouts and posters](#) on smoke health effects, monitoring AQI
- [Pocket cards](#) for respirator use
- [Checklist](#) for wildfire smoke exposure

Is Your Life Insurance Policy on Track?

FEW THINGS are as important as ensuring that your heirs will be in good financial shape should you die unexpectedly. Life insurance, and the death benefit it pays out, is critical for achieving that financial shape – albeit one that is often avoided because it elicits undesirable emotions. After all, most of us don't want to think about anything related to the death of a loved one.

Because of the unwelcome emotional component, some people opt to not review their life insurance policy but it should not be something you merely buy and then forget about.

Unfortunately, avoiding the topic can have consequences. In fact, it's advisable to review your life insurance policy every year during your annual financial checkup.

Coverage considerations

How much coverage you need depends on several factors, including your age, number of dependents, and the financial resources you have at your disposal.

Some financial publications say you need eight times your salary for the death benefit. But general numbers like that can be way off base in individual situations.

Instead, you should sit down with your financial professional and determine individual calculations. It comes down to a simple function: Resources subtracted from need gives you the amount of coverage you should get.

This may sound straightforward, but the calculation should also factor in Social Security benefits, pensions and any other income your heirs may generate.

In addition, a number of variables and unknowns can make absolute precision almost impossible. These projections are out 20 to 30 years, and using one inflationary assumption versus another, or one assumed return on investment versus another, can make a big difference.

Just a half-percentage adjustment can cause the needed death benefit to change wildly, which is why it is important to work with an experienced financial professional.

Regular reviews

Frequent insurance policy checkups are vital. At the very least, you should revisit your policies and death benefits whenever there is a significant life event, such as the birth of a child, the purchase of a new home or business, or an inheritance.

For instance, the birth of a child may necessitate a boost in your death benefits because most parents want to ensure that their child will have the resources necessary to attend college and otherwise be taken care of until they reach adulthood.

On the flip side, the benefits metric can also change should you come into an unexpected inheritance, which would likely reduce your coverage needs.

Depending on whether you have variable, universal or whole life insurance, there are other compelling reasons to review and update your policy frequently.

For instance, variable insurance enables policyholders to choose from a finite list of sub-accounts. Many of these sub-account investment choices can be in the stock market via a fund-type arrangement and therefore are directly impacted by those



investment choices. Because of this, variable insurance needs to be maintained like other investments through rebalancing and other methods.

On the other hand, whole and universal policies don't have sub-accounts, so they aren't affected by the performance of the financial markets. They are, however, impacted by the interest-rate environment, so you can't just ignore them entirely.

In general, it is best to be conservative when determining how much coverage your family needs.

For example, if calculations suggest that your family needs \$900,000 in death benefits, you may want to consider getting \$1,000,000. After all, an heir isn't going to complain if they've got too much life insurance, but they'll sure complain if they run out. ❖

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WORKERS' COMPENSATION

Commissioner Rejects Proposed Hike

FOR THE third year in a row, California Insurance Commissioner Ricardo Lara has rejected the Workers' Compensation Insurance Rating Bureau's proposal for a workers' compensation rate increase, and has ordered instead that benchmark rates remain the same.

Lara rejected the WCIRB's proposal that benchmark rates increase 7.6% for policies incepting on or after Sept. 1, saying that there was not enough data to support such a large increase. This means workers' comp rates will remain at their lowest level in 25 years.

That means the average benchmark rate will remain unchanged at \$1.45 per \$100 of payroll over the next year, compared to the \$1.56 per \$100 of payroll the Rating Bureau had recommended.

The commissioner also rejected a proposal to include a 0.008 cent add-on to account for costs of COVID-19 claims.

The benchmark rate – also known as the pure premium rate – is an average across all 500-plus class codes. The pure premium rate is a base rate that carriers can use as a guidepost to price their policies.

Pure Premium Rate Explained

The benchmark rate – or pure premium rate – is the amount needed to pay for adjusting and settling workers' compensation claims for each of the class codes. The insurance company then applies a loss cost multiplier to cover their expenses and profits.

Insurers are not required to follow the benchmark rate and they can choose to use it or not when pricing their policies.

That said, most carriers follow the rate closely, as evidenced by the continuing low pricing for workers' comp policies in California.

COVID-19 claims

Lara also rejected the Rating Bureau's proposal to start including COVID-19 claims in the computation of employers' experience modifications (X-Mods) for claims, starting Sept. 1.

In 2020, at the start of the pandemic, Gov. Gavin Newsom ordered that illness claims for COVID-19 infections contracted in the workplace be covered by workers' compensation and that those claims not be included when calculating an employer's X-Mod.

At the time, the reasoning was that employers had no experience in limiting transmission in the workplace and that COVID-19 infections among workers did not reflect a company's safety efforts.

The Rating Bureau recommended that COVID-19 claims be included in X-Mod calculations for all claims incurred on or after Sept. 1. It argued that "like many other workers' comp hazards, COVID-19 is now part of the ecosystem, and employers can take steps to mitigate the risk and protect their workers."

In rejecting the proposal, the Department of Insurance said that employers should not be penalized with higher premiums for failing to keep employees from contracting a disease that is spreading throughout society.

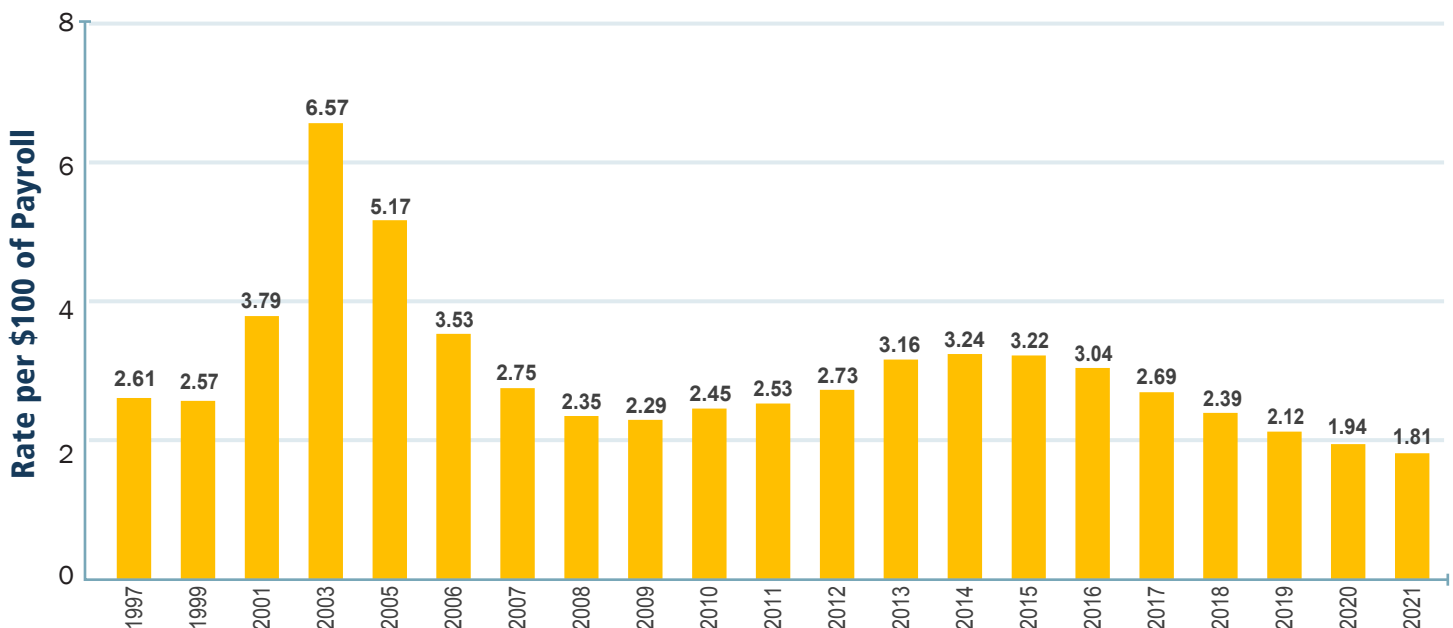
How rate decision affects your policy

Whether an employer's insurance rate stays the same, increases or decreases will depend on its claims history, industry and location. Some employers may still see rate increases if they've had claims, especially ones that require costly medical treatment.

If you are concerned about your workers' comp rates, please give us a call to discuss. ❖

AVERAGE CHARGED RATES LOWEST IN 25 YEARS

As of December 31, 2021



Source: Workers' Compensation Insurance Rating Bureau