United Policyholders
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Clearing the air: New standards and protocols related to wildfire smoke damage and insurance claim handling

NAIC Meeting
Consumer Liaison Committee
Saturday, November 14th, 2026
Dallas, TX

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United Policyholders (UP)

A 501(c) 3 national not-for-profit with a 35-year track record of problem-solving, informing and advocating for insurance consumers with a focus on property insurance, disaster resilience and recovery.

Through 3 programs UP educates and helps consumers be properly insured and treated fairly by insurers. We coordinate with state insurance regulators and a wide range of stakeholders to effectuate loss indemnification and dispute resolution.

Roadmap to Recovery® *Educating, and helping households navigate insurance, repairs and rebuilding and avoid problems after disasters.*

Roadmap to Preparedness *Educating and helping consumers be resilient to disasters, insure assets to value, shop smart, and proactively reduce risk.*

Advocacy and Action *Advancing policyholder priorities and perspectives in legislative, regulatory, legal and public policy forums.*

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What we know

- Smoke plumes from urban conflagrations (WUI megafires) carry contaminants into structures, damage property and leave particulates that are hazardous to human health and can accumulate in HVAC ducts, soft goods and porous surfaces

- Over the past decade, research and evidence has confirmed that insurers' standard approach to cleaning or replacing damaged personal property and restoring structures to safe and habitable pre-loss condition needs to be much more thorough and based on testing, not just visual inspections and "sniff" tests

- Testing before and after remediation and restoration should be standard protocol but hasn't been. Health and safety can't be sacrificed for cost savings

- In the aftermath of wildfires, a significant number of "standing home" property owners are mired in disputes and litigation with insurers

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What else we know

- The ("New York") Standard Form home insurance policy (codified in @28 states) insures "all loss by fire" and does not recognize smoke damage as a distinguishable peril.

- State regulators in CA, WA and CO have issued guidance to insurers that they cannot parse smoke from fire damage yet language is surfacing that purports to limit coverage for smoke damage

- Insured renters and homeowners reasonably expect that their insurer will arrange and pay for the removal of hazardous substances and to restore their residence to pre-loss condition, subject to policy limits

- No official standards for wildfire byproducts other than lead and asbestos

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Regulatory Actions

- Colorado:
  - Legislatively mandated study on Remediation of Property Damaged by Fire (pending)
  - Bulletin No. B-5.53 Division Position Concerning Wildfire Smoke, Soot, Ash, Odor, and Char Damage Sublimits
- California:
  - Bulletin 2025-7 Insurance Coverage for Smoke Damage and Guidance for Proper Handling of Smoke Damage Claims for Properties Located in or near California Wildfire Areas
  - Commissioner's Wildfire Smoke and Insurance Task Force
  - Recently enacted legislation

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Regulatory Actions

- New Mexico:

The Office of the Superintendent of Insurance (OSI) is requesting the following with respect to property and casualty claims:

1. For smoke, soot and ash claims:
   a. Inspect the home when smoke, soot and ash are visible. Authorize repairs/cleaning/replacement as necessary of hard surfaces, HVAC systems, attic insulation and soft goods; and
   b. If there is a question of habitability after cleaning, insurance company should offer independent testing at the insurer's cost. Additional Living Expenses should be continued until testing and remediation is complete.

- Washington State: https://www.insurance.wa.gov/insurance-resources/natural-disasters/disaster-recovery/smoke-damage-and-your-homeowner-or-renter-insurance

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CA AB 1642 — Wildfire Environmental Safety and Testing Act

- Directs the Dept. of Toxic Substances Control (DTSC), a division of the state's EPA, to develop health-based standards for investigation, testing and clearance to guide the adequate removal of lead and TEM-identified asbestos inside and outside of homes, schools, workplaces, and other structures in residential areas after a wildfire by 12-31-28

- Directs DTSC to develop health-based standards for investigation, testing and clearance related to CAM 17 heavy metals, Cyanide, Lithium, Dioxins, Manganese and Furans, Polycyclic aromatic hydrocarbons and procedures, for sampling indoor floors, windowsills, contents, and other hard surfaces by 12-31-29

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CA AB 1642 — Wildfire Environmental Safety and Testing Act

- Directs the state's Air Resources Board to develop and publish guidance on levels for indoor air contaminants following residential smoke damage from a wildfire, implications for health or health outcomes, and possible protective measures to reduce health impacts by 12-31-2028

- Directs DTSC in coordination w/Dept. of Ed to develop and publish post-wildfire guidance for schools

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CA AB 1795 — Smoke Damage Recovery Act

- Establishes a wildfire impact zone tied to zip codes located wholly or partially within a CAL FIRE-mapped wildfire perimeter
- Expressly requires insurers to pay for necessary sampling and testing properties within a wildfire impact zone
- Establishes a rebuttable presumption that combustion byproducts in surviving homes in a wildfire impact zone resulted from the wildfire
- Has a savings clause that confirms it doesn’t change existing law related to insurers’ claim handling duties outside the impact zone

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CA AB 1795 — Smoke Damage Recovery Act

- Expressly prevents insurers from cutting off temporary rent benefits before restoration to safe and habitable pre-loss condition has been confirmed
- Requires insurers to share documents that support their claim settlement offer with property owners and affirms general duties related to adjusting wildfire smoke damage claims
- DOI to develop company adjuster and public adjuster training and certification requirements for inspecting, evaluating, sampling, and testing wildfire smoke damaged homes based on the residential property being restored to pre loss condition and cleared for human occupancy

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Common disputes

- Testing methods, destructive testing (drywall removed or not)
- Extent of needed restoration/constructive total loss
- Encapsulation versus removal
- Integrity and credibility of experts
- Who is qualified and willing to declare “clearance” for human occupancy?
- Insurer asserts remediation is complete and terminates temporary rent benefit payments before homeowner feels secure it’s safe to move back in
- Insured runs out of temporary rent coverage due to disputes over testing, remediation, restoration, health and safety

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The ideal order

- Pre-cleaning inspection and testing
  - A qualified professional tests for soot ash, char, asbestos, lead and VOCs
  - Samples should be analyzed by an independent lab
  - Homeowner should get a copy of the results
- A qualified expert prepares a remediation and restoration protocol/plan
- The work gets done by an independent, qualified expert
- Clearance testing
  - If toxins remain, additional remediation is needed

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Thank you!

Consumer Liaison Committee members and meeting attendees for your time and attention

info@uphelp.org

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