



# Public Health Law

Office for State, Tribal, Local and Territorial Support  
Centers for Disease Control and Prevention

## When It's Time To Leave: Summary of California Mass Evacuation Laws

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From forest fires to dam failures, state and local governments in California must be prepared for and respond to various emergency situations. During such emergencies, mass evacuations might be necessary to remove individuals from danger. Statutes and regulations in California play a vital role in ensuring that response personnel have the necessary authority to accomplish effective and efficient evacuations from threatened areas.

### Authority to Evacuate

California's evacuation laws grant most evacuation-related authority to local governments. However, certain individuals at both the state and local levels have the authority to close and evacuate an area where "a menace to the public health or safety is created by a calamity including flood, storm, fire, earthquake, explosion, accident, or other disaster"<sup>1</sup> or an area affected by an avalanche.<sup>2</sup> These individuals include peace officers, local health officials, California Highway Patrol officers, police officers, sheriffs, marshals, supervising full-time public lifeguards, and supervising full-time public marine safety officers.<sup>3</sup> California law does not mention who has the authority to lift evacuation orders nor how long the orders can be in effect.

### Criminal Penalties and Use of Reasonable Force

Misdemeanor charges can be brought against any unauthorized person who knowingly enters or willfully remains in an evacuated area. This penalty does not apply to authorized persons assisting in the evacuation or emergency response or members of the news media.<sup>4</sup>

State laws concerning avalanche-related evacuations also allow peace officers to use "reasonable force" to remove any unauthorized individuals who willfully remain in an evacuation area after receiving a notice to evacuate.<sup>5</sup> The use of force is not explicitly referenced in other California evacuation laws.

### State Aid for Local Governments for Evacuation Preparedness and Response

The state government offers ongoing support for localities preparing for potential evacuations<sup>6</sup> and can offer aid during an evacuation if a state of emergency is proclaimed by the governor.<sup>7</sup> The California Office of Emergency Services, which coordinates the state's emergency aid, has designated the California Business, Transportation and Housing Agency<sup>8</sup> as the lead state agency for evacuation-related aid.<sup>9</sup> The Office of Emergency Services has also assigned evacuation-related duties to several other state agencies and departments (Table 1).



**Table 1: California State Agencies with Evacuation-Related Duties<sup>10</sup>**

Agency	Evacuation Duties
Business, Transportation and Housing <sup>8</sup>	Lead state aid to local jurisdictions with regard to evacuation of people, pets, and livestock
California Highway Patrol Department of Transportation	Ensure adequacy of local evacuation traffic-flow plans
Department of Food and Agriculture	Advise on evacuation of farms and livestock
Health and Human Services Agency	Provide best practices for evacuation of senior citizens and functionally impaired adults
Department of Developmental Services	Advise on evacuation of persons with disabilities Provide additional medical staff and supplies for evacuation of persons with disabilities in state-operated facilities
Department of Rehabilitation Department of Social Services	Provide interpreters and evacuation materials in multiple languages and alternatives formats, such as Braille and large print
Department of Social Services	Aid in the identification and transfer of evacuees to safe locations
Emergency Medical Services Authority	Ensure injured persons are transferred to hospitals outside of the evacuation area
Department of Public Health	Aid in evacuation of healthcare facilities

## State Evacuation Preparedness Requirements for Localities

California encourages and requires local governments to take certain evacuation-related actions. These actions include

- Using best practices for evacuating persons with disabilities and those with access and functional needs when creating evacuation plans<sup>11</sup>
- Addressing evacuation routes for fires and geological hazards in all local planning and zoning initiatives<sup>12</sup>
- Coordinating with local harbor agencies when developing evacuation plans for municipalities located near harbors<sup>13</sup>
- Establishing local 2-1-1 information services to communicate evacuation procedures and related information to residents<sup>14</sup>
- Creating local flood protection plans, including evacuation plans for flood-prone areas<sup>15</sup>

## Special State Requirements for Dam, Levee, and Nuclear Power Plant Evacuations

California law includes specific evacuation requirements for dams, levees, and nuclear power plants.

**Dams.** The Office of Emergency Services requires all dam owners to submit inundation maps, which are used to designate areas where flooding from a partial or full dam failure could result in personal injury or loss of life.<sup>16</sup> Once those areas have been designated by the state, local public safety agencies can create evacuation procedures for the areas based on state recommendations. According to the statute, evacuation procedures in emergency action plans may include the following elements: a description of the evacuation area, evacuation routes, possible shelter locations, procedures for persons with special needs, and procedures for lifting the evacuation and reentering the area.<sup>17</sup>

**Levees.** California requires local entities, which maintain and operate project levees,<sup>18</sup> to adopt safety plans that include evacuation procedures.<sup>19</sup>

**Nuclear power plants.** California directs its Department of Transportation to fund, construct, and repair evacuation routes around nuclear power plants.<sup>20</sup> State law also requires state and local law enforcement agencies to ensure that all traffic-flow plans account for evacuation of areas in and around nuclear power plants. Secondary traffic-flow plans are also required for when primary evacuation routes are rendered impassible.<sup>21</sup>

## Using Mutual Aid During Evacuations

While still supporting local government authority over evacuations, the governor of California has divided the state into mutual aid regions to help facilitate local resource sharing. There are currently six mutual aid regions in the state, which are coordinated by the Office of Emergency Services.<sup>22</sup> Local governments may also enter into memoranda of understanding with state agencies, other local governments, and local organizations to facilitate mutual aid.<sup>23</sup>

California is also a party to the Emergency Management Assistance Compact (EMAC).<sup>24</sup> This compact supports mutual aid between states once a party state has proclaimed a state of emergency. EMAC also allows for supplemental agreements to be made between party states, including evacuation-related agreements and evacuation plans.<sup>25</sup>

## Liability

California law exempts first aid or medically trained personnel who are asked to help with search and rescue during an evacuation from civil liability related to any emergency services rendered. Emergency services are defined as “first aid and medical services, rescue procedures, and transportation or other related activities.”<sup>26</sup>

Other immunities from civil liability go into effect once a state of emergency or local emergency has been proclaimed.<sup>27</sup> These include exemptions for state and local governments and their employees regarding discretionary action or inaction during an emergency.<sup>28</sup> In addition, medical professionals, including physicians, nurses, and veterinarians, are exempt from liability arising from injuries sustained by a person or animal treated by them at the implied or expressed request of a state or local official during an emergency.<sup>29</sup>

Other state governments and their employees are also protected from liability when offering mutual aid to Californians.<sup>30</sup> These immunities, with exception to those provided to state and local governments and their employees, apply only to actions or omissions that were made in good faith.<sup>31</sup> California courts have found that the state has absolute immunity from civil liability under the California Emergency Services Act and is not subject to a good faith requirement.<sup>32</sup>

## Acknowledgments and Disclaimers

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For further technical assistance with this inventory, please contact PHLP at [phlawprogram@cdc.gov](mailto:phlawprogram@cdc.gov). PHLP provides technical assistance and public health law resources to advance the use of law as a public

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<sup>1</sup> Cal. Penal Code § 409.5.

<sup>2</sup> *Id.* § 409.6.

<sup>3</sup> *Id.* § 409.5. With regard to evacuations, the term “peace officers” includes designated employees of the Department of Parks and Recreation, Department of Forestry and Fire Protection, and Department of Fish and Game. *Id.*

<sup>4</sup> *Id.* §§ 409.5; 409.6; 2017 Cal. Legis. Serv. Ch. 26 (S.B. 92).

<sup>5</sup> Cal. Penal Code § 409.6.

<sup>6</sup> California Emergency Management Agency, *State of California Emergency Plan 97* (July 2009).

<sup>7</sup> Cal. Gov’t Code § 8625.

<sup>8</sup> In 2013, the Business, Transportation and Housing Agency and four other state agencies were replaced by three new agencies: the Government Operations Agency, the Business, Consumer Services and Housing Agency, and the Transportation Agency. The most recent version of the *State of California Emergency Management Plan* available to the public online does not include this development.

<sup>9</sup> California Emergency Management Agency, *State of California Emergency Plan 97* (July 2009).

<sup>10</sup> *Id.* at 90-130.

<sup>11</sup> Cal. Gov’t Code § 8570.3.

<sup>12</sup> *Id.* § 65302; See e.g. TEHAMA COUNTY, CAL. CODE § 9.14.020 (1991). (Tehama County, California requires some public and private roads to be constructed to provide “safe access for emergency wildland fire equipment and civilian evacuation concurrently.”)

<sup>13</sup> Cal. Harb. & Nav. Code § 3980.

<sup>14</sup> California Emergency Management Agency, *State of California Emergency Plan 52* (July 2009).

<sup>15</sup> Cal. Water Code § 8201.

<sup>16</sup> Cal. Gov’t Code § 8589.5.

<sup>17</sup> *Id.*

<sup>18</sup> Cal. Water Code § 12646. A “project levee” is defined as “any levee that is part of the facilities of the State Plan of Flood Control.” *Id.*

<sup>19</sup> *Id.* § 9650.

<sup>20</sup> Cal. Health & Safety Code § 114685.

<sup>21</sup> *Id.* § 114685.

<sup>22</sup> Cal. Gov’t Code § 8600.

<sup>23</sup> California Emergency Management Agency, *State of California Emergency Plan 52* (July 2009).

<sup>24</sup> Public Law 104-321.

<sup>25</sup> Cal. Gov’t Code § 179.5.

<sup>26</sup> *Id.* § 50086 (“No person who is summoned by a county sheriff, city police department, fire department, park ranger, or other local agency to voluntarily assist in a search or rescue operation, who possesses first aid training equivalent to the Red Cross advanced first aid and emergency care training standards, and who in good faith renders emergency services to a victim prior to or during the evacuation or extrication of the victim, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering such emergency services.”).

<sup>27</sup> *Id.* § 8558.

<sup>28</sup> *Id.* § 8655.

<sup>29</sup> *Id.* § 8659.

<sup>30</sup> *Id.* § 8660.

<sup>31</sup> *Id.* §§ 50086, 8655, 8659(a), 8660.

<sup>32</sup> *Farmers Ins. Exch. v. State of California*, 175 Cal. App. 3d 494, 500 (Ct. App. 1985).