# California State Assembly

## NATURAL RESOURCES



**ISAAC G BRYAN**
CHAIR

# AGENDA

Monday, January 8, 2024
2:30 p.m. -- State Capitol, Room 447
Upon adjournment of Session -- State Capitol, Room 447

## BILLS HEARD IN SIGN-IN ORDER

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| 1. | AB 1554 | Joe Patterson | California Environmental Quality Act: exemption: wildfire fuels reduction projects. |

## FOR VOTE ONLY

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| 2. | AB 397 | Essayli | California Global Warming Solutions Act of 2006: scoping plan. |

Date of Hearing: January 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 1554 (Joe Patterson) – As Introduced February 17, 2023

**SUBJECT**: California Environmental Quality Act: exemption: wildfire fuels reduction projects

**SUMMARY**: Expressly exempts from the California Environmental Quality Act (CEQA) a project for the reduction of fuels in areas within moderate, high, and very high fire hazard severity zones, as provided.

**EXISTING LAW**:

Pursuant to CEQA (Public Resources Code (PRC) 21000-21189.70.10):

1) Requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.

2) Requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

3) Defines "project" as an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:

    a) An activity directly undertaken by any public agency;

    b) An activity undertaken by a person that is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; and,

    c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

Pursuant to the Z'berg-Nejedly Forest Practices Act (PRC 4511-4630):

1) Prohibits a person from conducting timber operations unless a timber harvesting plan (THP) prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection (CAL FIRE).

2) Authorizes a THP prepared by a registered professional forester to rely upon a Program Timberland Environmental Impact Report (PTEIR) for CEQA compliance. Requires the THP to be within the scope of the PTEIR, the rules of the Board of Forestry (Board), and other applicable state laws.

**THIS BILL**:

1) Exempts from CEQA a project for the reduction of fuels in areas within moderate, high, and very high fire hazard severity zones, including, but not limited to, for the removal or reduction of overgrown vegetation through the use of prescribed fire, tree thinning, pruning, chipping, or roadway clearance.

2) Provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.

**FISCAL EFFECT**: Unknown

**COMMENTS**:

1) **Author's statement:**

> AB 1554 is a measure that strengthens the health of California's forests. By creating an exemption for projects that propose to reduce fuel load to bypass CEQA requirements, this bill will ultimately expedite this process in high risk areas and make California's forests more resilient.

2) **CEQA**. CEQA generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible.

   The process is intended to: (1) inform government decision-makers and the public about the potential environmental effects of proposed activities; (2) identify the ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable environmental damage by requiring changes in projects, either by the adoption of alternatives or imposition of mitigation measures; and, (4) disclose to the public why a project was approved if that project has significant environmental impacts that cannot be mitigated to a less than significant level.

   If an agency determines that a proposed activity is a project under CEQA, it will usually take the following three steps: (1) determine whether the project falls under a statutory or categorical exemption from CEQA; (2) if the project is not exempt, prepare an initial study to determine whether the project might result in significant environmental effects; and, (3) prepare a negative declaration, mitigated negative declaration, or EIR, depending on the initial study.

   There are two types of CEQA exemptions: (1) statutory exemptions and (2) categorical exemptions. There are 15 statutory exemptions to CEQA in PRC 21080 (among other stand-alone statutory exemptions). This bill is proposing to create a 16$^{th}$ statutory exemption for fuel load reduction projects in moderate, high, and very high fire hazard severity zones.

   The CEQA statutes require the Office of Planning and Research (OPC) to develop CEQA guidelines for implementation by public agencies, which include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." Under the current guidelines (Title 14, Division 6, Chapter 3 of the

California Code of Regulations (CCR)), there is a categorical exemption for defensible space, which falls under "minor alterations to land." It reads:

> *Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.*

This exemption does not extend to the fuel load reduction activities described by this bill in high fire severity zones.

3) **Wildfire prevention**. Wildfires have been growing in size, duration, and destructivity over the past 20 years. Growing wildfire risk is due to accumulating fuels, a warming climate, and expanding development in the wildland-urban interface.

   California is responsible for fire and resource protection on nearly 13.3 million acres of private and state-owned forested lands. The state owns about 1.1 million acres of these lands, and 12.2 million acres of lands are under private ownership. In the past several years, forest management has significantly expanded on these lands. CAL FIRE has increased its forest thinning and prescribed fire activities from about 30,000 acres in 2016 to more than 50,000 acres in 2020. Partners receiving state-funded grants treated more than 30,000 acres in 2020. Private landowners currently actively manage 250,000-300,000 acres through fuels reduction, mechanical thinning, and timber harvest projects.

4) **High fire zones**. The State Fire Marshal classifies lands within state responsibility areas into fire hazard severity zones (PRC 51178). Each zone is based on fuel loading, slope, fire weather, and other relevant factors present, including areas where winds have been identified by CAL FIRE as a major cause of wildfire spread. Fire Hazard Severity Zones fall into the following classifications: Moderate, High, and Very High based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas.

5) **California Vegetation Treatment Program (CalVTP).** CalVTP was developed and approved by the Board on December 30, 2019, and includes the use of prescribed burning, mechanical treatments, manual treatments, herbicides, and prescribed herbivory as tools to reduce hazardous vegetation around communities in the wildland-urban interface, to construct fuel breaks, and to restore healthy ecological fire regimes.

   The Board certified a VTP-related Final Program Environmental Impact Report (FPEIR) prepared pursuant to CEQA. The FPEIR can be used by a long list of specified public agencies. There are more than 200 agencies with land ownership or land management responsibilities in the treatable landscape. The FPEIR provides a helpful tool to expedite the implementation of vegetation treatments. The FPEIR is intended to provide broad CEQA coverage for individual projects consistent with the analysis and mitigation strategies set forth in the document.

Private landowners conducting vegetation management activities are only subject to CEQA (and therefore required to complete and EIR) if they have received public funding for the activity (i.e., a grant for forestry management).

6) **Forest management.** More broadly, the state's Forest Practice Act requires preparation of a THP for any timber subject to commercial harvesting in the state, regeneration of forest resources, old growth timber protection, fire control protocols, logging stipulations, and more. THPs are CEQA functional equivalent environmental documents and operational plans that detail how timber operations (e.g., felling and harvest of trees, related road construction and maintenance, and preparing ground for planting of seedlings) are to occur. Under those forest practice rules, a modified THP specifically for fuel load reduction may be submitted for a project area that meets specified conditions, including acreage limits, maintenance of at least 40% of the existing overstory tree canopy, no listed species will be directly or indirectly adversely impacted by the fuel load reduction, among more prescriptive conditions.

   The forest practice regulations are both rich in detail and nuance, and long-standing requirements for forest management.

7) **This bill**. AB 1554 would exempt from CEQA fuel load reduction projects in areas within moderate, high, and very high fire hazard severity zones including, but not limited to, for the removal or reduction of overgrown vegetation through the use of prescribed fire, tree thinning, pruning, chipping, or roadway clearance.

   The scope of the exemption is both broad in terms of the activities covered and geographic territory in which it would be applied, and is in conflict with the state's extensive Forest Practice Rules and THP plans.

   The proposed exemption in this bill would create legal confusion over compliance with the current requirements as it could be perceived to override the Forest Practices Act and THP requirements for those who are required to comply with them.

**8) Committee amendments**. To tighten up the exemption, the Committee may wish to consider amending the bill to tailor it for defensible space requirements being met in the Fire Hazard Severity Zones, and include a December 31, 2030, sunset to allow the Legislature the opportunity to assess the value of the exemption.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

California Builders Alliance
El Dorado County Water Agency
Humboldt Redwood Company LLC
Mountain Counties Water Resources Association
Sacramento Regional Builders Exchange

**Opposition**

None on file

**Analysis Prepared by**: Paige Brokaw / NAT. RES. /

Date of Hearing: January 8, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Isaac G. Bryan, Chair
AB 397 (Essayli) – As Introduced February 2, 2023

**SUBJECT**: California Global Warming Solutions Act of 2006: scoping plan.

**SUMMARY**: Requires the California Air Resources Board (ARB) to include greenhouse gas (GHG) emissions from wildlands and forest fires in the Scoping Plan

**EXISTING LAW**:

Pursuant to the California Global Warming Solutions Act of 2006 (Health and Safety Code (HSC) § 38500 et seq.):

1) Establishes ARB as the state agency responsible for monitoring and regulating sources emitting GHG.

2) Requires the GHG emissions reduction limit, pursuant to AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022) to be at least 85% below the 1990 level by 2045, and establishes a goal of zero net carbon emissions by 2045, commonly known as carbon neutrality.

3) Requires ARB to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in GHG emissions from sources or categories of sources of GHGs. Requires ARB to consult with all state agencies with jurisdiction over sources of GHGs. Requires the Scoping Plan to identify and make recommendations on direct GHG emissions reduction measures, among other things. Requires ARB to update Scoping Plan for at least once every five years.

4) States that it is the policy of the state that the protection and management of natural and working lands is an important strategy in meeting the state's GHG emissions reduction goals, and that the protection and management of those lands can result in the removal of carbon from the atmosphere and the sequestration of carbon in, above, and below the ground.

Pursuant to AB SB 901 (Dodd, Chapter 626, Statutes of 2018):

5) Requires ARB, in consultation with the California Department of Forestry and Fire Protection (CAL FIRE), to issue a report every five years that assesses GHG associated with wildfire and forest management activities. (HSC § 38535)

**FISCAL EFFECT**: Unknown.

**COMMENTS**:

1) **Need for the bill**. According to the author,

> "According to Michael Jerrett, a [University of California, Los Angeles] Public Health professor on environmental health sciences and a lead author of a study on Wildfire Emissions, "Wildfire emissions in 2020 essentially negated 18 years of

reduction in greenhouse gas emissions." Therefore, to better account and plan for future wildfires, AB 397 calls for the California Air Resource Board to include GHG emissions from wildlands and forest fires in its scoping plan."

2) **Wildfires**. Wildfires have always been part of California's natural ecology and will continue to be, but climate change has been exacerbating California's wildfire season over the last decade. Of the twenty largest wildfires ever recorded in California, nine occurred in 2020 and 2021.

   The 2020 wildfires resulted in the largest wildfire season recorded in California's modern history that was characterized by nearly 10,000 fires that burned more than 4.2 million acres. The associated carbon losses (GHGs released into the atmosphere) of these wildfires contribute to the very problem healthy forests naturally help solve.

   Over the long term, healthy and diverse forests are able to sequester carbon at a higher rate than overly dense forests under a broader range of stressful conditions. But, our forests need a lot of work before they can be considered "healthy." Forest thinning, which can be achieved by prescribed fire, mechanical, or manual thinning, helps to prevent fire. Thinning may result in an initial loss of carbon; however, within a decade or two of treatment, the larger and more resilient trees will recover the carbon and will sequester it at a faster rate than an untreated stand.

3) **Natural and working lands**. Current law defines natural lands as lands consisting of forests, grasslands, deserts, freshwater and riparian systems, wetlands, coastal and estuarine areas, watersheds, wildlands, or wildlife habitat, or lands used for recreational purposes such as parks, urban and community forests, trails, greenbelts, and other similar open-space land. Working lands include lands used for farming, grazing, or the production of forest products. Natural and working lands cover approximately 90% of the state's 105 million acres, including California Native American tribes' ancestral and cultural lands and waters.

   Healthy natural and working lands can sequester and store carbon, limit future carbon emissions into the atmosphere, protect people and nature from the impacts of climate change, and build resilience to future climate risks.

   In October 2020, Governor Newsom outlined a comprehensive and results-oriented nature-based solutions agenda for California in Executive Order (EO) N-82-20. The EO called on the Natural Resources Agency to enable enduring conservation measures on a broad range of landscapes, including natural areas and working lands, in partnership with land managers and natural resource user groups.

   Although natural and working lands can remove carbon dioxide from the atmosphere and sequester it in soil and vegetation, disturbances such as severe wildfire, land degradation, and conversion can cause these landscapes to emit more carbon dioxide than they store.

   The Natural Resources Agency has a draft *Natural and Working Lands Climate Smart Strategy* to guide and accelerate near- and long-term climate action across key California landscapes. This strategy will specifically identify how these lands can deliver on our climate change goals and identify priority nature-based climate solutions to address the climate crisis.

4) **Calculating wildfire GHG**. Quantifying emissions from fires and forest management is an evolving area of science. The 2020 ARB report, *Greenhouse Gas Emissions of Contemporary Wildfire, Prescribed Fire, and Forest Management Activities*, pursuant to SB 901, directed ARB to prepare "a report that assesses [GHGs] associated with wildfire and forest management activities."

   Wildfire activity varies as landscapes cycle through periods of vegetation fuel abundance and scarcity in response to climate, management, and ignitions. The frequency and area extent of wildfire is the product of multiple factors, such as fuel abundance and availability, climate episodes such as drought, the strength of seasonal events such as Diablo and Santa Ana winds, topography, ignition sources, and fire behavior.

   Using a vegetation combustion model and geospatial fire perimeters, annual wildfire GHG emissions in California were calculated for the years 2000–2019. ARB predicted the 2020 wildfire GHG emissions would be 112 million metric tons of $CO_2$ ($MMTCO_2$), the equivalent to the amount of carbon contained in the structural lumber of 6.3 million average California homes, or more than 75% of all homes in California.

   The ARB notes on its website that it is challenging to determine how much wildfire emissions alter the GHG concentrations in the atmosphere and contribute to anthropogenic climate change because wildfire emissions are part of the terrestrial carbon cycle.

   Since the passage of AB 32 (Nuñez, Chapter 488, Statutes of 2006), ARB has focused on reducing fossil fuel combustion emissions and other anthropogenic emissions because they are accumulating in the atmosphere at an unprecedented pace. Fossil-fuel combustion releases ancient carbon stored underground for millions of years that the atmosphere has not seen in any recent carbon cycle.

   Earth's terrestrial carbon cycle transfers carbon between the land, ocean, and atmosphere. As part of the terrestrial carbon cycle, fire, plant respiration and decomposition are balanced by plant growth and other processes that take place over decades or centuries. When in balance, these biogenic $CO_2$ emissions from fire and other sources are offset by biogenic $CO_2$ sequestration, resulting in relatively minimal change in the total concentration of atmospheric $CO_2$ that drives climate change. Emissions from fossil-fuel combustion are contributing to putting this cycle out of balance. They are also contributing to a negative feedback loop for California's forests and lands: as $CO_2$ emission accumulate in the atmosphere and California experiences more warming, extreme heat events, droughts, and invasive species, the risk and intensity of fires also increases, which in turn push the terrestrial carbon cycle further out of balance. Because of this effect, ARB works to understand and track both the total GHG emissions from anthropogenic sources, like the combustion of fossil-fuels, and the total carbon flux (or *net* change in carbon on the landscape) from terrestrial carbon.

   ARB does track and estimate GHG and criteria pollutant emissions from wildfires. The development of a carbon inventory for natural and working lands quantifies the carbon stored in the state's forests, soils, and other natural lands. Looking year-over-year at the data in the inventory, ARB tracks the trends of carbon-loss in California's natural and working lands, with most of those losses coming from wildfires.

Whether to include wildfire GHGs in the Scoping Plan is not a novel topic. When asked why ARB does not currently include wildfire emissions in the GHG accounting in the Scoping Plan, it explains:

> Use of fossil fuels created the climate and air quality problems we face, so our first priority will continue to be to minimize combustion of fossil fuels and reduce emissions as much as possible. This will not just reduce future global warming, but will also provide air quality and public health improvements for Californians, particularly those living in areas of high pollution exposure near traffic or other industrial sources. We also expect that California will need to develop and utilize carbon sinks via engineered carbon removal and natural and working lands to achieve carbon neutrality.
>
> Recent catastrophic wildfires, land conversion, and other disturbances that are largely driven by climate change and human activity, have turned our natural and working lands into a net source of emissions, which makes achieving carbon neutrality even more challenging. As part of the upcoming Scoping Plan effort, ARB will work to project the net flux (or change) of carbon on the State's natural and working lands between now and mid-century. This flux will include both changes in carbon sequestration as well as emissions from wildfires and other disturbances, consistent with recommendations from the [Intergovernmental Panel on Climate Change] on achieving carbon neutrality.

5) **Scoping Plan.** The climate change Scoping Plan is the state's roadmap for reducing anthropogenic GHGs by 85% below 1990 levels no later than 2045 and for ultimately achieving carbon neutrality.

   ARB modeling shows that, at this time and until our forests reach a balance through appropriate treatments, California's natural and working lands will act as a net source of emissions, not a sink. As such, the Scoping Plan includes policy direction and actions intended to quickly move the sector toward being a net sink and a more natural state, where wildfires will continue to be an important part of the healthy forest cycle but not at the intensity and frequency observed in recent years.

6) **This bill**. According to the author,

   > "given the risk of emission impacts from wildfires, CARB cannot afford to ignore emissions from wildfires in its scoping plan. AB 397 would require CARB to include GHG emissions from wildlands and forest fires in its scoping plan. Since forest fires are the source of an enormous amount of GHG emissions, this proposal will help us understand the impact of future wildland fires, which will hopefully lead to reduced GHGs and other toxic pollutants."

   AB 397 would require the ARB to include GHGs from wildlands and forest fires in the Scoping Plan. It is important to note that the Scoping Plan was just released in November 2022. Therefore, should this bill be enacted, the inclusion of GHGs from wildfires wouldn't be realized in the Scoping Plan for another five years.

   In addition, the impact of including wildfire GHGs could skew ARB's prioritization of GHG reductions, and may not be necessary given the state's efforts to reduce and sequester GHG in natural and working lands.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

California Farm Bureau Federation

**Opposition**

None on file

**Analysis Prepared by**: Paige Brokaw / NAT. RES. /