

Date of Hearing: April 8, 2025

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 846 (Connolly) – As Amended March 27, 2025

**SUBJECT:** Endangered species: incidental take: wildfire preparedness activities

**SUMMARY:** Establishes a process to facilitate the approval of an incidental take permit (ITP) for listed species, if any, needed by a local agency to undertake wildfire preparedness activities. Specifically, **this bill:**

- 1) Authorizes a city, county, city and county, special district, or other local agency (local agencies) to submit to the Department of Fish and Wildlife (CDFW) a locally designed plan (plan) to conduct wildfire preparedness activities on land designated as a fire hazard severity zone that minimizes impacts to wildlife and habitat for candidate, threatened, and endangered species (listed species), and meets additional specified criteria.
- 2) Allows CDFW to impose a fee on the local agency for the cost of reviewing the plan, consistent with CDFW's fee authority.
- 3) Requires the plan to include specified information, including a description of how the local agency is compliant with the California Environmental Quality Act (CEQA), and any planned environmental mitigation or conservation measures the local agency plans to take.
- 4) Requires CDFW, within 90 days of receiving a plan, to notify the local agency if an incidental take permit (ITP) or other permit is needed, or if there are other considerations, exemptions, or streamlined pathways for which the wildfire preparedness activities qualify.
- 5) Requires CDFW, in its notification, to provide the local agency, as applicable, a description of listed species within the plan area, and measures to avoid, minimize, and fully mitigate the take of listed species during practices conducted under the plan.
- 6) Requires CDFW to consult with the State Board of Forestry and Fire Protection (Forestry Board) and the Department of Forestry and Fire Protection (CAL FIRE) if technical assistance is needed.
- 7) Requires CDFW, if it determines any activities in a plan require an ITP, to approve or deny the ITP within 45 days of receiving a complete ITP application, as specified. Provides that an approved ITP shall be for a term of no less than five years and shall be eligible for a permit renewal authorization by CDFW.
- 8) Requires CDFW, commencing January 1, 2026, to annually post a summary of submitted plans on its website, as specified.
- 9) Requires, upon appropriation, CDFW to, using existing data and information, develop maps identifying critical habitats within lands designated as moderate, high, or very high fire hazard severity zones (FHSZ) in consultation with the Office of the State Fire Marshal. Requires those maps to be made available to local agencies and be updated at least once every five years.

**EXISTING LAW:**

- 1) Provides that fish and wildlife resources are held in trust for the people of California by and through CDFW [Fish and Game Code (FGC) § 711.7].
- 2) Provides, under the California Endangered Species Act (CESA), for the listing and protection of species determined through biological scientific analysis to be endangered or threatened with extinction (FGC §§ 2070–2079.1).
- 3) Prohibits the taking of listed species pursuant to CESA unless CDFW authorizes the taking of the listed species under an ITP and if the taking is incidental to an otherwise lawful activity, the impacts are minimized and fully mitigated, and the issuance of the permit would not jeopardize the continued existence of the species (FGC § 2081 and § 2084).
- 4) Defines “take” as to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (FGC § 86).
- 5) Requires the Fire Marshal, by regulation, to designate FHSZ and assign to each zone a rating reflecting the degree of severity of fire hazard that is expected to prevail in the zone [Public Resources Code (PRC) § 4203].
- 6) Requires the Forestry Board to represent the state’s interest in the acquisition and management of state forests pertaining to forestry; protect the state’s interests in forest resources on private land; determine, establish, and maintain adequate forest policy; and formulate guidance policies for CAL FIRE (PRC § 740).
- 7) Requires the Fire Marshal to identify areas in the state as moderate, high, and very high FHSZ based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas, fuel loading, slope, fire weather, and other relevant factors (Government Code § 51178).
- 8) Requires a local agency to designate by ordinance, moderate, high, and very high FHSZ in its jurisdiction within 120 days of receiving recommendations from the Fire Marshal, among other things (Government Code § 51179).

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal.

**COMMENTS:**

- 1) **Purpose of this bill.** This bill provides an alternative pathway for a local agency to conduct wildfire preparedness activities that protect communities and minimize wildlife impact. According to the author, “[This bill] is designed to help expedite permits for fuel management activities, particularly those areas that are located near [FHSZ] that are adjacent to urban areas. The goal of this bill is to find a balance between public safety and environmental protection.”
- 2) **Background.** Wildfires are a common and natural occurrence in many ecosystems around the world and can provide numerous ecological and societal benefits. However, wildfires can also cause significant loss of lives, infrastructure, and critical ecosystem services. The losses associated with wildfires are predicted to worsen with climate change and an expanding

wildland urban interface (WUI). In California's recorded history, the top eight largest wildfires and nearly all of the top 20 most destructive wildfires have occurred in the last eight years. The recent Eaton and Palisades fires are considered the second and third most destructive wildfires in California's history, respectively.

Improving forest and wildlands stewardship, however, is complicated by the fact that the state itself only manages about 13% of the approximately 33 million acres of the state. The federal government—i.e., U.S. Forest Service (USFS), Bureau of Land Management, the National Parks Service—manages 47%. Private landowners own an estimated 40%.

*Wildfire management.* In response to wildfire, society engages in a variety of prevention, mitigation, and management actions in an effort to reduce the losses and maximize benefits of wildfire. While wildfire prevention activities focus on actions taken to prevent wildfires from occurring, mitigation refers to actions taken in order to manage the losses of wildfires when they do occur. Mitigation encompasses a wide variety of activities ranging from fire suppression to vegetation management to managing the built and social environments in which wildfires occur. Mitigation actions are designed to manage numerous components—fire intensity, burn probability, and possible damages to human health and physical or ecological assets.

Wildfire management areas are divided into two main categories: state responsibility areas (SRA) and local responsibility areas (LRA). SRA is a legal term defining the area where the state has financial responsibility for wildland fire protection and prevention. Incorporated cities and federal land are not included. Within the SRA, CAL FIRE is responsible for fire prevention and suppression. There are more than 31 million acres in SRA, with an estimated 1.7 million people and 800,000 existing homes. LRA include incorporated cities, urban regions, agriculture lands, and portions of the desert where the local government is responsible for wildfire protection. This is typically provided by city fire departments, fire protection districts, counties, and by CAL FIRE under contract.

*FHSZ Mapping.* FHSZ for SRA and LRA reflect potential wildfire hazard across the state. Specifically the Moderate, High, and Very High FHSZ are where more intense wildfire is likely to occur and impact people or physical assets (buildings, utilities, watersheds, timber, etc.). The assessment of FHSZ does not include the effects of any mitigation actions, such as a strong fire suppression response, well-managed fuel breaks, hardened homes, evacuation routes, defensible space, community education, spaced housing, or any number of actions that reduce fire impact. While a severe fire may be very likely to occur in a certain place, the impact of that fire is not measured for these maps. It is also important to note that the FHSZ maps do not include areas that are already urbanized. Therefore, many potentially fire-prone neighborhoods that are somewhat close to WUI are not given a FHSZ classification.

FHSZ maps for both SRA and LRA are available on Fire Marshal's website. As noted above, FHSZ maps evaluate "hazard," not "risk," similar to flood zone maps, where lands are described in terms of the probability level of a particular area being inundated by floodwaters, and not specifically prescriptive of impacts. "Hazard" is based on the physical conditions that create a likelihood and expected fire behavior over a 30 to 50-year period. FHSZ maps are developed using a science-based and field-tested model that assigns a hazard score based on the factors that influence fire likelihood and fire behavior. Many factors are considered such as fire history, existing and potential fuel (natural vegetation), predicted

flame length, blowing embers, terrain, and typical fire weather for the area. The Office of the State Fire Marshal adopted the final maps for SRA became effective April 1, 2024 and released its final round of LRA maps were released March 24, 2025.

*ITPs.* CESA was enacted to prevent the extinction of fish, wildlife, plant, and invertebrate species by relying on scientific analysis to determine which species face extinction and impose protections for those species at risk. The overarching intent of CESA is to regulate and impose mitigation on activities that could contribute to species extinction. Species are referred to as “listed” if they have been designated as “threatened” or “endangered” under CESA. When a new species is proposed to be listed, it benefits from the same protections as listed species during its candidacy period. CESA prohibits the “take” of a listed species. “Take” means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

ITPs are granted as exceptions under CESA to enable the prohibited take of listed species during otherwise lawful activity. Examples of “lawful activities” for which an ITP may be issued include infrastructure development, housing development, transportation, and scientific research. CDFW may not approve an ITP for a listed species if the activity for which the permit is sought would jeopardize the continued existence of the species. Impacts to listed species must be minimized and fully mitigated and those mitigation measures must be roughly proportional to the extent of the impact. CEQA compliance is required to obtain an ITP.

*California Vegetation Treatment Program (CalVTP).* CalVTP, developed by the Forestry Board, is a critical component of the state’s multi-faceted strategy to address California’s wildfire crisis. The CalVTP includes the use of prescribed burning, mechanical treatments, manual treatments, herbicide application, and prescribed herbivory as tools to reduce hazardous vegetation around communities in the WUI, to construct fuel breaks (shaded or non-shaded), and to promote ecological restoration. The CalVTP Program Environmental Impact Report provides a powerful CEQA compliance tool to expedite the implementation of wildfire resilience projects. CalVTP is available for SRA and can only be used on LRA if fuel breaks from SRA extend on to LRA. There have been 106 projects approved under CalVTP to date.

*Species mapping.* CDFW maintains a variety of maps in its Biogeographic Information and Observation System (BIOS). BIOS is designed to enable the management, visualization, and analysis of biogeographic data collected by CDFW and its partner organizations. BIOS includes the California Natural Diversity Database (CNDDDB).<sup>1</sup> CNDDDB is an inventory of the status and locations of rare plants and animals in California. This dataset is updated monthly, but is not considered a public database to prevent the disclosure of the exact locations of rare species. The concern is that, while it is important that the CNDDDB information is available to those whose job it is to conserve species, there is the very real possibility that some people will use the detailed location information to do harm to a species or its habitat. The CNDDDB QuickView Tool presents CNDDDB data in a generalized manner to protect species.

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<sup>1</sup> [CNDDDB Maps and Data](#)

*Executive orders.* In August 2020, the Newsom Administration, building on Executive Orders (EO) issued by both Governor Brown and Governor Newsom, signed a Memorandum of Understanding (MOU) with the Pacific Southwest Region office to establish a “joint framework to enhance science-based forest and rangeland stewardship in California.” In the MOU, USFS and the state “commit to maintain and restore healthy forests and rangelands that reduce public safety risks, protect natural and built infrastructure, and enhance ecological habitat and biological diversity.” The strategy underpinning the MOU contains three core elements—joint forest stewardship, the identification and prioritization of projects, and the utilization of every available tool. Actions agreed to in the MOU include sustainably treating one million acres annually (half each). Sustainable treatments include vegetation management, such as mechanical thinning or prescribed fire to reduce the fuel load in the event of a wildland fire. These wildfire prevention activities could be undertaken by a variety of agencies.

On March 1, 2025, Governor Newsom’s EO suspended the statutes, rules, regulations, and requirements that fall within the jurisdictions of boards, departments, and offices within the California Environmental Protection Agency (EPA) and the California Natural Resources Agency (CNRA), as approved by the appropriate agency secretary, to expedite critical fuels reduction projects (e.g., CEQA and the Coastal Act). Under the EO, “critical fuels reduction projects” include the removal of hazardous trees, maintenance of previously established fuel breaks, the use of traditional ecological knowledge for cultural burning, and the removal of vegetation for the creation of strategic fuel breaks, creating community defensible space, and roadside ignition reduction. The EO also requires EPA and CRNA Secretaries to provide the Governor with recommendations for increasing the pace and scale of beneficial fire in the state by April 30, 2025.

- 3) **Arguments in support.** A number of organizations representing fire response, local governments, and agriculture write in support of this bill. They note that local agencies do not have a streamlined process for environmental permitting like the CalVTP and have experienced long delays spanning multiple fire seasons when trying to accelerate these types of wildfire preparedness efforts on LRAs. These groups believe the CDFW consultation process proposed in this bill will increase permitting timeline certainty, while also maintaining the integrity of CESA and CEQA.
- 4) **Double referral.** This bill is also referred to the Assembly Natural Resources Committee.
- 5) **Related legislation.** AB 300 (Lackey) of the current legislative session requires the State Fire Marshall to identify and review lands within SRAs as FHSZ, and identify and review of areas in the state as moderate, high, and very high FHSZs every eight years. AB 300 passed out of the Assembly Natural Resources Committee on March 24, 2025 (13–0) and is now pending in the Assembly Emergency Management Committee.

SB 375 (Grove) of the current legislative session is similar to this bill and includes provisions to exempt fuels reduction moderate, high, and very high FHSZs from CEQA and the Coastal Act. SB 375 has been referred the Senate Natural Resources and Water Committee.

AB 763 (Ward) of the current legislative session accelerates the timeframe for CDFW to issue a Lake and Streambed Alteration Agreement and for a regional water quality control board to authorize timber harvest operations to within five working days of an approved

Timber Harvesting Plan by the Department of Forestry and Fire Protection. AB 763 is set for hearing April 8, 2025 in this committee.

AB 2330 (Holden) of 2024 was significantly similar to this bill. AB 2330 was vetoed by the Governor due to the “significant, ongoing costs” of the bill that were not considered in that year’s budget.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

League of California Cities (Sponsor)  
Association of California Water Agencies  
California Association of Winegrape Growers  
California Cattlemen's Association  
California Farm Bureau Federation  
California Fire Chiefs Association  
California Special Districts Association  
City of Agoura Hills  
Fire Districts Association of California  
Mountain Counties Water Resources Association  
Rural County Representatives of California  
Ventura County Fire Chiefs Association  
Wine Institute

**Opposition**

None on file

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