

Date of Hearing: June 17, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

SB 1159 (Dodd) – As Amended April 24, 2024

**SENATE VOTE:** 37-0

**SUBJECT:** California Environmental Quality Act: roadside wildfire risk reduction projects.

**SUMMARY:** Requires the Office of Planning and Research (OPR), in consultation with other relevant state agencies, to evaluate, and the Secretary of the Natural Resources Agency (NRA) to consider, the inclusion of roadside projects no more than five road miles from a municipality or census-designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects determined not to have a significant effect on the environment pursuant to the California Environmental Quality Act (CEQA) Guidelines.

**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.
- 4) Requires OPR to prepare and develop proposed guidelines for the implementation of CEQA by public agencies. Requires the guidelines to include objectives and criteria for the orderly evaluation of projects and the preparation of EIRs and negative declarations in a manner consistent with CEQA statutes.
- 5) Requires the guidelines to include a list of classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from CEQA.

**THIS BILL:**

- 1) Requires, on or before January 1, 2026, OPR, in consultation with the California Department of Fish & Wildlife (CDFW), the Department of Forestry and Fire Protection (CAL FIRE), the State Water Resources Control Board (State Water Board), and other relevant state agencies, to evaluate, and the Secretary of NRA to consider, the inclusion of roadside projects no more than five road miles from a municipality or census-designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects determined not to have a significant effect on the environment.
- 2) Requires OPR, in consultation with CDFW, CAL FIRE, the State Water Board, and other relevant state agencies, to consider appropriate eligibility criteria for a roadside project, including, among others, the distance from the edge of an improved road or surface, any disturbance to soil and resultant impacts on sedimentation, protection of natural resources such as trees and sensitive, rare, threatened, or endangered plants, potential impacts to wildlife, and considerations for lands under conservation easement or identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan, or other adopted natural resource protection plan.
- 3) Provides that an exemption for projects pursuant to the class that may be adopted shall not limit any other statutory or categorical exemption that may otherwise apply to roadside projects undertaken to reduce wildfire risk.
- 4) Requires a project that is exempt from the division pursuant to the class that may be adopted to comply with all requirements otherwise imposed by law, including, but not limited to, the California Endangered Species Act, the federal Endangered Species Act of 1973, the Native Plant Protection Act, and any other applicable state and federal laws.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- OPR estimates ongoing costs of about \$450,000 annually (General Fund) for two positions to evaluate adopting an additional CEQA exemption within the Guidelines and to consider appropriate eligibility criteria for these projects, as specified.
- NRA estimates ongoing costs of an unknown amount, likely \$1 million or more (General Fund), to implement the provisions of this bill.
- To the extent this bill increases the number or ease of completing roadside projects, unknown ongoing cost pressure (various funds) to provide funds for CAL FIRE to implement the additional projects.
- To the extent the bill encourages activities that reduce the occurrence or severity of catastrophic wildfires from what otherwise would have occurred, this bill would result in potentially significant savings due to avoided fire suppression costs (General Fund). CAL FIRE spends roughly \$1 billion annually (General Fund) on “emergency fire suppression”

**COMMENTS:****1) Author's statement:**

Many fires are caused by sparks and burning debris from cars that ignite dry brush near our roads. We must make it easier for firefighters to clear this vulnerable land and remove these flammable materials. It will help keep the public safe and defend our exposed forests. This legislation aims to streamline the process for roadside vegetation management projects, crucial for wildfire risk reduction. By considering these projects for categorical exemption from CEQA, we seek to expedite essential preventative measures while minimizing bureaucratic hurdles.

- 2) Wildfire prevention.** In recent years, California has experienced a growing number of highly destructive wildfires. Of the 20 most destructive wildfires in California's recorded history, 13 have occurred since 2017. Together, these 13 fires caused tremendous damage, destroying nearly 40,000 structures, taking 148 lives, and charring millions of acres. California's Fourth Climate Change Assessment projects that by 2100, if climate change continues on this trajectory, the frequency of extreme wildfires will increase, and the average area burned statewide are expected to increase by 77%.

To address the threats posed by climate change, it is estimated that as many as 15 million acres of California forests need some form of treatment to maintain or restore forest health and prevent risk of wildfires. The state and United States Forest Service (USFS) have a collective goal to treat one million acres of land annually to reduce fire risk by 2025. CAL FIRE completed about 105,000 acres of fuel treatment, including 36,000 acres of prescribed burns during the 2023 fiscal year, according to state data. The USFS conducted about 312,000 acres of combined treatment and burns.

Implementing vegetation management along roadsides, in addition to prescribed burns, strategic fuel breaks, and home hardening, is essential for reducing the spread of wildfires and protecting both built and natural environments. Many fires are caused by sparks and burning debris from cars that ignite dry brushes near roads, and these roadside ignitions pose a significant threat to communities and are made worse by the presence of dry vegetation capable of carrying fast moving fires. Despite the broad consensus around the disproportionate importance of roadside vegetation management, some stakeholders feel the existing mechanisms for environmental compliance are less than clear.

- 3) CEQA Guidelines.** The CEQA statutes require OPR 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." The Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations (CCR)) reflect the requirements set forth in the PRC, as well as court decisions interpreting the statute and practical planning considerations. Among other things, the CEQA Guidelines explain how to determine whether an activity is subject to environmental review, what steps are involved in the environmental review process, and the required content of environmental documents. The CEQA Guidelines apply to public agencies throughout the state, including local governments, special districts, and state agencies. Further, PRC 21083 requires OPR and NRA to periodically update the CEQA Guidelines.

Existing CEQA Guideline categorical exemptions for vegetation management include the Class 1 exemption that covers the repair, maintenance, or minor alteration of existing public or private facilities, or topographical features, such as maintenance of existing landscaping, and involving negligible or no expansion of existing or former use. (CCR 15301) This exemption has been used by local agencies to perform strategic fuels reduction work to remove dead, dying, or hazardous trees along roads and around structures to provide defensible space and a wildfire calming zone, and clear vegetation that encroaches into the roadway prism.

The Class 4 exemption is for minor public or private alterations which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. This includes, but is not limited to, 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. (CCR 15304) This exemption has been used by state and local agencies to reduce roadside fuels along well-used public roads, improve fuel break function, and vegetation removal on private roads.

In addition, the California Vegetation Treatment Program (CalVTP) was developed and approved by the Board of Forestry and Fire Protection (Board) in 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 that can be used by more than 200 agencies with land ownership or land management responsibilities in the treatable landscape. The FPEIR is a tool to expedite the implementation of vegetation treatments and is intended to provide broad CEQA coverage for individual projects consistent with the analysis and mitigation strategies set forth in the

The sponsor of this bill expressed concern that the existing categorical exemptions are too vague, and there is a lack of specificity around vegetation management for wildfire risk reduction along roadsides under the existing CEQA exemptions.

- 4) **This bill.** SB 1159 requires OPR to evaluate, and the secretary of NRA to consider, the inclusion of roadside projects no more than five road miles from a municipality or census-designated place that are undertaken solely for the purpose of wildfire risk reduction in the classes of projects subject to a categorical exemption.
- 5) **Committee amendments.** The term “improved road or surface” is imprecise in that it makes no distinction between public or private roadways. The *Committee may wish to consider* a technical amendment to clarify what roads would be covered under the bill, as follows:

(2) ... including, among others, the distance from the edge of an improved public or private road or driveway ~~or surface~~, ...

**6) Related legislation:**

AB 2639 (Patterson) expands the definition of “timber operations” to include the maintenance of timberlands for fuels reduction, and provides that timber operations for the maintenance of timberland, paid in part or in whole with public funds, may comply with the requirements of CEQA in lieu of preparing a timber harvesting plan. This bill was held in the Assembly Appropriations Committee.

AB 1951 (Fong) provides that CEQA does not apply to a project for wildfire prevention, including, but not limited to, the removal of trees and brush, within 50 feet of either side of a roadway. This bill was pulled by the author from the Assembly Natural Resources Committee.

AB 1554 (J. Patterson, 2023) expressly exempts from CEQA a project for the reduction of fuels in areas within moderate, high, and very high fire hazard severity zones, as provided. The bill was presented by the author for presentation-only in the Assembly Natural Resources Committee.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Associated General Contractors of California  
Association of California Water Agencies (ACWA)  
CalChamber  
California Building Industry Association  
California Farm Bureau Federation  
California State Association of Counties  
California State Council of Laborers  
Contra Costa County  
County of Napa  
County of Solano  
County of Sonoma  
Mountain Counties Water Resources Association  
San Bernardino County  
San Diego Gas and Electric Company  
Tri County Chamber Alliance  
Wine Institute

**Opposition**

Livable California

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