

AB 744 Statute Breakdown

INTENT

(a) It is the intent of the Legislature to establish a five-year pilot project to assess whether increasing the diameter of trees that may be removed pursuant to the existing Forest Fire Prevention Exemption in the Z'berg-Nejedly Forest Practice Act can reduce the risk of catastrophic fire that threatens many communities in the Sierra Nevada while improving the economic use of this exemption for landowners. It is further the intent of the Legislature that the Department of Forestry and Fire Protection maintain adequate records to evaluate this pilot project. It is also the intent of the Legislature that those using this exemption consider the appropriate use of the California Conservation Corps, local conservation corps, and properly supervised inmate fire crews in implementing activities pursuant to this pilot project.

(b) It is the intent of the Legislature that the Natural Resources Agency develop a forest restoration and fuels reduction program that utilizes an interagency process to develop regionally appropriate and cost-effective forest restoration prescriptions and permits.

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(j) (1) The harvesting of trees, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns.

(2) The board may authorize an exemption pursuant to paragraph (1) only if the tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand, and the tree harvesting area will not exceed 300 acres.

(3) Except as provided in paragraph (11), the notice of exemption, which shall be known as the Forest Fire Prevention Exemption, may be authorized only if all of the conditions specified in paragraphs (4) to (10), inclusive, are met.

(4) A registered professional forester shall prepare the notice of exemption and submit it to the director, and include a map of the area of timber operations that complies with the requirements of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision (x) of Section 1034 of Title 14 of the California Code of Regulations.

(5) (A) The registered professional forester who submits the notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(B) The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Stocking shall not be reduced below the standards required by any of the following provisions that apply to the exemption at issue:

(i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 913.3 of Title 14 of the California Code of Regulations.

(ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 933.3 of Title 14 of the California Code of Regulations.

(iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 953.3 of Title 14 of the California Code of Regulations.

(C) If the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 100 trees over four inches in diameter at breast height shall be retained per acre for Site I, II, and III lands, and a minimum of 75 trees over four inches in diameter at breast height shall be retained per acre for Site IV and V lands.

(6) (A) The registered professional forester who submits the notice shall include selection criteria for the trees to be harvested or the trees to be retained. In the development of fuel reduction prescriptions, the registered professional forester should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long-term management of local wildlife populations.

(B) All trees that are harvested or all trees that are retained shall be marked or sample marked by or under the supervision of a registered professional forester before felling operations begin. The board shall adopt regulations for sample marking for this section in Title 14 of the California Code of Regulations. Sample marking shall be limited to homogenous forest stand conditions typical of plantations.

(7) (A) The registered professional forester submitting the notice, upon submission of the notice, shall provide a confidential archaeology letter that includes all the information required by any of the following provisions that apply to the exemption at issue:

(i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 929.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 929.5 of Title 14 of the California Code of Regulations.

(ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 949.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 949.5 of Title 14 of the California Code of Regulations.

(iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c) of Section 969.1 of Title 14 of the California Code of Regulations, and include site records if required pursuant to subdivision (g) of that section or pursuant to Section 969.5 of Title 14 of the California Code of Regulations.

(B) The director shall submit a complete copy of the confidential archaeological letter and two copies of all required archaeological or historical site records to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of notice submittal to the director. Before submitting the notice to the director, the registered professional forester shall send a copy of the notice to Native Americans, as defined in Section 895.1 of Title 14 of the California Code of Regulations.

(8) Only trees less than 18 inches in stump diameter, measured at eight inches above ground level, may be removed. However, within 500 feet of a legally permitted structure, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches in stump diameter, trees less than 24 inches in stump diameter may be removed if that removal complies with this section and is necessary to achieve the goal of fuel reduction. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(9) (A) This subparagraph applies to areas within 500 feet of a legally permitted structure and in areas prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency. The board shall adopt regulations for the treatment of surface and ladder fuels in the harvest area, including logging slash and debris, low brush, small trees, and deadwood, that could promote the spread of wildfire. The regulations adopted by the board shall be consistent with the standards in the board's "General Guidelines for Creating Defensible Space" described in Section 1299.03 of Title 14 of the California Code of Regulations. Postharvest standards shall include vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the postharvest fuels, whichever is the greater distance, measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the surface fuels.

(ii) Horizontal spacing shall achieve a minimum separation of two to six times the height of the postharvest fuels, increasing spacing with increasing slope, measured from the outside branch edges of the fuels.

(iii) Dead surface fuel depth shall be less than nine inches.

(iv) Standing dead or dying trees and brush generally shall be removed. That material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subparagraph applies to all areas not described in subparagraph (A).

(i) The postharvest stand shall not contain more than 200 trees over three inches in diameter per acre.

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of eight feet measured from the base of the live crown of the postharvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum postharvest depth of nine inches above the ground.

(C) The standards required by subparagraphs (A) and (B) shall be achieved on approximately 80 percent of the treated area. The treatment shall include chipping, removing, or other methods necessary to achieve the standards. Ladder and surface fuel treatments, for any portion of the exemption area where timber operations have occurred, shall be done within 120 days from the start of timber operations on that portion of the exemption area or by April 1 of the year following surface fuel creation on that portion of the exemption area if the surface fuels are burned.

(10) Timber operations shall comply with the requirements of paragraphs (1) to (10), inclusive, of subdivision (b) of Section 1038 of Title 14 of the California Code of Regulations. Timber operations in the Lake Tahoe region shall comply instead with the requirements of paragraphs (1) to (16), inclusive, of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

The above language is the existing language. Below is the new language

(11) A notice of exemption, which shall be known as the Forest Fire Prevention Pilot Project Exemption, may be authorized if all of the following conditions are met:

(A) The conditions specified in paragraphs (2), (4), (6), (7), and (10) are met.

(B) Only trees less than 24 inches in stump diameter, measured at eight inches above ground level, may be removed. A fuel reduction effort shall not violate the canopy closure regulations adopted by the board on June 10, 2004, and as those regulations may be amended.

(C) (i) The registered professional forester who submits the notice of exemption shall include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels.

(ii) The level of residual stocking shall be consistent with maximum sustained production of high-quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Where present prior to operations, the overstory canopy closure for trees greater than 12 inches in diameter at breast height shall not be reduced below 50 percent. Stocking shall be met with the largest trees available prior to harvest and shall not be reduced below the standards required by any of the following provisions that apply to the exemption at issue:

(I) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 913.3 of Title 14 of the California Code of Regulations.

(II) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 933.3 of Title 14 of the California Code of Regulations.

(III) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph (1) of subdivision (a) of Section 953.3 of Title 14 of the California Code of Regulations.

(iii) If the preharvest dominant and codominant crown canopy is occupied by trees less than 14 inches in diameter at breast height, a minimum of 100 trees over four inches in diameter at breast height shall be retained per acre for Site I, II, and III lands, and a minimum of 75 trees over four inches in diameter at breast height shall be retained per acre for Site IV and V lands. The retained trees shall be the largest trees available prior to harvest.

(D) The activities conducted pursuant to this paragraph occur in the Sierra Nevada Region as defined in subdivision (f) of Section 33302, in Modoc, Siskiyou, or Trinity Counties, or in any combination of these areas.

(E) All activities conducted pursuant to this paragraph occur within the most recent version of the department's Fire Hazard Severity Zone Map in the moderate, high, and very high fire threat zones.

(F) The department shall maintain records regarding the use of the exemption granted in this paragraph in order to evaluate the impact of the exemption on fuel reduction and natural resources in areas where the exemption has been used.

(G) This paragraph shall become inoperative three years after the effective date of regulations adopted by the board implementing this paragraph.

(12) After the timber operations are complete, the department shall conduct an onsite inspection to determine compliance with this subdivision and whether appropriate enforcement action should be initiated.

PRC 33302

(f) "Region" or "Sierra Nevada Region" means the area lying within the Counties of Alpine, Amador, Butte, Calaveras, El Dorado, Fresno, Inyo, Kern, Lassen, Madera, Mariposa, Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Tehama, Tulare, Tuolumne, and Yuba, described as the area bounded as follows:

On the east by the eastern boundary of the State of California; the crest of the White/Inyo ranges; and State Routes 395 and 14 south of Olancho; on the south by State Route 58, Tehachapi Creek, and Caliente Creek; on the west by the line of 1,250 feet above sea level from Caliente Creek to the Kern/Tulare County line; the lower level of the western slope's blue oak woodland, from the Kern/Tulare County line to the Sacramento River near the mouth of Seven-Mile Creek north of Red Bluff; the Sacramento River from Seven-Mile Creek north to Cow Creek below Redding; Cow Creek, Little Cow Creek, Dry Creek, and the Shasta National Forest portion of Bear Mountain Road, between the Sacramento River and Shasta Lake; the Pit River Arm of Shasta Lake; the northerly boundary of the Pit River watershed; the southerly and easterly boundaries of Siskiyou County; and within Modoc County, the easterly boundary of the Klamath River watershed; and on the north by the northern boundary of the State of California; excluding both of the following:

- (1) The Lake Tahoe Region, as described in Section 66905.5 of the Government Code, where it is defined as "region."
- (2) The San Joaquin River Parkway, as described in Section 32510.

GC 66905.5

As used in this title:

"Region" includes that part of Lake Tahoe within the jurisdiction of the State of California, the adjacent parts of the Counties of El Dorado and Placer lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, MDB&M. The region defined and described herein shall be as precisely delineated on official maps of the agency.