

AB 2585 (PATTERSON)

PRESCRIBED BURNS: BURN MANAGERS: LIABILITY

SUMMARY

AB 2585 will promote the utilization of prescribed fire in the state's forested lands as a tool to maintain healthy forests by addressing one of the biggest obstacles in conducting a prescribed-burn- the fear of being held strictly liable or the high cost to insure conducting the activity itself.

Specifically, the bill would create a voluntary process for individuals to become a certified prescribed burn manager through CalFIRE. The benefit of utilizing a CalFIRE certified manager, under AB 2585, will be that the manager or property owner will not be held strictly liable for conducting the burn.

EXISTING LAW

Under existing law, forest landowners may conduct prescribed fire if they have a permit from CalFire. There are two different permits: one for non-government entities and one for local municipalities.

CalFIRE does have a program of their own where, through a cost-share agreement, they will conduct a prescribed burn on forested lands. However, CalFIRE has recently utilized this program less than its historical average.

PROBLEM

There are numerous advantages to using prescribed fires as a tool for managing the state's forests. It can return forests to their natural fire-adapted state and remove buildup of forest fuels, further decreasing the risk of catastrophic wildfire.

Although CalFIRE can, and does, conduct prescribed fires, they are limited in what they can achieve because of budget and personnel

constraints (including re-tasking personnel to other work). CalFIRE reached only 70% of its goal for 2016-2017, according to a recently published Little Hoover Commission report *Embracing Fire as an Essential Tool for Forest Resiliency*, and in recent years the number of acres treated under their Vegetation Management Program have been in decline.

There are ways that non-CalFIRE entities can utilize prescribed burns by utilizing a permit for a non-government entity or a permit to a government entity from CalFIRE to conduct a burn. However, for many who would conduct a burn on their own, the risk of being held liable for a prescribed fire dissuades many forest landowners who would otherwise conduct prescribed fire on their own accord.

SOLUTION

AB 2585 will help promote the use of prescribed fire by establishing a voluntary certification process for prescribed burn managers under CalFIRE. A prescribed burn manager will complete a certification program through CalFIRE and forest landowners who utilize a certified prescribed burn manager will no longer be held liable for damage or injury caused by fire or smoke (unless negligence is proven).

In order to ensure that innocent people and property could still be made whole if an incident did occur, CalFIRE will secure an insurance policy to provide compensation for any injuries or property damage resulting from the prescribed fire operations performed in accordance with CalFIRE permitted guidelines and a certified prescribed burn manager.

For more information, please contact:

Nicholas Sinclair

(916) 319-2023

nick.sinclair@asm.ca.gov