

The Oak Woodlands Monitoring Act is based on a three-tiered monitoring system that institutes a green light, yellow light and red light oak conservation process:

- Green light oak tree removal requires no permit to proceed.
- Yellow light oak tree removal requires a non-discretionary Notice of Intent Permit to proceed.
- Red light oak tree removal requires a discretionary Conversion Permit to proceed.

Example:

	TIER 1 No Permit	TIER 2 Notice of Intent Permit	TIER 3 Conversion Permit
PARCEL ACREAGE	Maximum number of native oak trees removable without a permit	Maximum number of native oak trees removable with a non-discretionary permit	Requires Conversion Plan
<50	x	x	
50 - 99	x	x	
100 - 199	x	x	
200 - 299	x	x	
300 - 399	x	x	
400 - 499	x	x	
500 - 599	x	x	
600 - 699	x	x	
700 - 799	x	x	
800 - 899	x	x	
900 - 999	x	x	
>999	x	x	
	Removal of numbers of native oaks greater than above requires a Tier 2 notice of intent permit	Removal of numbers of native oaks greater than above requires a Tier 3 conversion permit	

Necessity for Immediate Statewide Oak Woodlands Protection

- “Loss of oak woodland habitat is analogous to what would occur to wildlife if other habitats, such as wetlands, riparian or old-growth coniferous forests, were substantially altered. In addition, these habitats support the greatest number of wildlife species of any comparable habitat in the State.” - California Department of Fish and Game, 1993
- “Several oak species, notably valley oak, blue oak and Engelmann oak have exhibited low rates of recruitment in recent decades, adding to the concern about the long-term viability of these ecosystems.” - California GAP Analysis, 1999
- "The problem is that we should not wait. The oak issues continue to fall under extreme pressure. It is time for a more aggressive approach." - California Fish and Game Commission, 1999
- "There is strong evidence from recent statewide surveys that valley oak is in decline over most of its range and is also especially vulnerable to habitat loss though land use conversion from rangeland to intensive agriculture and residential development." - University of California, 2000
- “No other ecosystem in the Sierra Nevada has been subjected to more human influences over a longer period of time than the oak woodlands. County efforts to mitigate development pressure on oak woodlands are not well developed in the Sierra Nevada.” - United States Forest Service, 2000
- "We want to pull together a protection strategy, just like the redwoods or the giant sequoia. Oaks are part of the landscape and people will miss them when they are gone." - California Resources Agency, 2000
- "The Forest Practice Act wasn't designed to deal with the issues that are presented by oak management and preservation." - California Department of Forestry, 2000

Oak Woodlands Monitoring Act

Designates the Department of Fish and Game to issue non-discretionary and discretionary permits according to oak tree removal standards established by the Oak Woodlands Monitoring Act.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Oak woodlands enhance the natural scenic beauty for residents and visitors, increase real property values, promote ecological balance, provide habitat for over 300 wildlife species, reduce soil erosion, sustain water quality, and aid with nutrient cycling, all of which affect and improve the health, safety, and general welfare of the residents of the state.

(b) Widespread changes in land use patterns across the landscape are fragmenting the wildland character of oak woodlands over extensive areas.

(c) The growing population of the state is having a profound impact on the ability to conserve the exceptional biological values of oak woodlands in areas of rapid urban and suburban expansion.

(d) The future viability of hundreds of California's wildlife species are dependent on the maintenance of biologically functional oak woodlands.

(e) An oak woodlands administrative monitoring program is a necessary part of the state's wildlife protection policies and addresses the need to conserve oak woodlands for future generations of Californians.

SECTION 2. Article 1 (commencing with Section 1625) is added to Chapter 6 of Division 2 of the Fish and Game Code, to read:

Article 1. Oak Woodlands Monitoring Act

1625. This article shall be known, and may be cited, as the Oak Woodlands Monitoring Act.

1626. For purposes of this article, the following terms have the following meanings:

(a) "Commission" means the Fish and Game Commission.

(b) "Conversion permit" means a discretionary permit approving an application for oak woodlands conversion.

(c) "Conversion plan" means a oak woodlands biologic evaluation.

(d) "Department" means the Department of Fish and Game.

(e) "Director" means the Director of Department of Fish and Game.

(f) "Dying trees" means oak trees which exhibit one or more of the following: Fifty percent or more of the foliage-bearing crown is dead or fading in color from a normal green to yellow, sorrel, or brown, excluding normal autumn coloration changes; has tested positive for the pathogen *Phytophthora ramorum* (sudden oak death); successful bark beetle attacks with indications of dead cambium and brood development distributed around the circumference of the bole; or trees designated by a certified arborist as likely to die within one year.

(g) "Monitoring system" means the three-tiered system for oak removal.

(h) "Notice of intent permit" means a non-discretionary permit.

(i) "Oak" means any native tree species in the genus *Quercus* not growing on timberland, as defined in PRC

4526. (j) "Oak removal" means causing an oak tree to die or be removed from the ground by any means including,

but not limited to, cutting, uprooting, poisoning, burning, pruning, topping or severing an oak tree's roots.

(k) "Oak woodlands" means land with a greater than 10 percent oak canopy cover.

(l) "Oak woodlands conversion" means oak removal as specified in Section 1627(a)(3)(b).

(m) "Parcel" means a single assessor's parcel of land as shown on maps produced by the County Assessor.

1627. (a) The monitoring system shall be a three-tiered system:

(1) Tier 1 shall allow removal of a specific number of oak trees without any permits.

(2) Tier 2 shall require a non-discretionary notice of intent permit for oak removal that exceeds Tier 1 standards.

(3) Tier 3 shall require a discretionary conversion permit for oak removal that exceeds Tier 2 standards.

(b) The tier classification and permit type that apply to oak removals shall be determined by the parcel acreage and number of oaks to be removed. The specific oak removal standards for the monitoring system shall be prescribed by the director in consultation with a broad range of stakeholders including, but not limited to, representatives of the following agencies and groups:

- (1) Building industry.
- (2) Conservation groups.
- (3) Department of Forestry and Fire Protection.
- (4) Department of Parks and Recreation.
- (5) Farming and ranching associations.
- (6) Local government entities.
- (7) Private citizens.
- (8) University of California

1628. (a) Any person, firm, corporation, company, partnership or government agency owning oak woodlands for which the owner proposes oak removal as specified in Section 1627(a)(2)(b) shall apply on a form prescribed by the director for issuance of a non-discretionary Notice of Intent Permit.

(b) Any person, firm, corporation, company, partnership or government agency owning oak woodlands for which the owner proposes oak woodlands conversion as specified in Section 1627(a)(3)(b) shall apply on a form prescribed by the director for issuance of a discretionary Oak Woodlands Conversion Permit.

1629. (a) The applicant shall pay an application fee as prescribed by the director for the cost of processing an application for a notice of intent permit or conversion permit. The fees charged shall be established in an amount necessary to pay the total costs incurred by the department in administering and enforcing this article. Fees received pursuant to this section shall be deposited in the Oak Woodlands Conservation Fund as a reimbursement.

(b) The application for a notice of intent permit or conversion permit shall be in a form prescribed by the director, except that the application for a notice of intent permit shall not exceed one (1) written page. The application for either permit shall require, but not be limited to, the following information:

- (1) Name and address of the applicant.
- (2) Name and address of the oak woodland owner of record.
- (3) Legal description, general plan designation, and zoned status of the parcel.
- (4) Number of acres on which oak removal will occur.
- (5) Number, diameter at breast height and type of oak species to be removed.
- (6) Dates when oak removal will be commenced and completed.

1630. (a) The department shall provide all conversion permit applicants with a cover letter which sets forth all of the following information:

- (1) The time period for review of the application.
- (2) An explanation of the applicant's right to object to conditions proposed by the department.
- (3) The time period within which objections may be made in writing by the applicant to the department.
- (4) The time period within which the department is required to respond to the applicant's objections, and that the response must be in writing.
- (5) An explanation of the right of the applicant to appeal the department's imposition of conditions for the conversion permit.
- (6) The current fee schedule for obtaining the conversion permit including, but not limited to, an explanation of how the fees are calculated.

1631. (a) A conversion plan in a form prescribed by the director shall become a part of the application for a conversion permit. The conversion plan shall set forth, but not be limited to, the following information:

- (1) Present and future use.
- (2) Parcel map indicating the location of oak woodlands conversion.
- (3) Topography.
- (4) Oak species inventory.

(5) Special habitat elements (riparian zones, multilayered canopy, cavity trees, snags and downed woody debris).

(6) Vegetation composition and zoned status of adjacent parcels.

(7) Mitigation measures.

(8) Conversion techniques.

(9) Conversion time schedule.

(10) Such other information as may be required and is applicable to the particular future use to which the land will be devoted.

1632. (a) The director shall issue a conversion permit if:

(1) The director makes the written findings pursuant to PRC 21081, if an environmental impact report has been prepared;

(2) The director finds that necessary and feasible mitigation measures have been incorporated into the proposed conversion.

(b) The conversion permit granted to the permittee is non-transferable and non-assignable for any purpose without written approval of the director.

(c) The permittee shall submit the conversion permit to the County Recorder for recording in each county in which the property is located before beginning any operations contemplated under said permit.

(1) Upon application by the permittee for cancellation, the conversion permit may be canceled on such terms and conditions as the director may set forth. Upon cancellation of the permit, an agreement of cancellation, executed by the permittee and the director, shall be recorded by the permittee in those counties in which the permit was originally recorded. The director shall provide a copy of the cancellation agreement to the county planning directors of those counties in which the property is located. Costs of recording the documents pursuant to subsection (c) shall be paid by the applicant.

1633. (a) The director shall deny a conversion permit if:

(1) The applicant is not the real person in interest.

(2) There are material misrepresentations or false statements in the application.

(3) The applicant fails or refuses to comply with the rules and regulations of the commission and the provisions of this article.

(4) The director cannot make the findings required by PRC 21801, if an environmental impact report has been prepared.

(5) The director finds that necessary and feasible mitigation measures have not been incorporated into the proposed conversion.

(b) The director may deny a conversion permit provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of subsection (c), except that the applicant must request a hearing before the commission within 15 days of service of the denial. The hearing shall be commenced within 60 days from the filing of the appeal unless a later hearing date is mutually agreed upon by the applicant and the commission.

(c) A person or entity whose application for a oak woodland conversion permit has been denied shall be entitled to a hearing before the commission pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Upon appeal by the applicant of the director's denial of a conversion permit, the commission may require that the applicant provide additional information to assist the commission in judging whether or not to issue a conversion permit.

1634. (a) Oak removal for the following purposes are exempt from the provisions of this article:

(1) Removal of dead or dying trees of any size.

(2) Removal of trees seventy-five feet or less from any point of an approved and legally permitted structure that complies with the California Building Code.

(b) Upon the submission of a written application prescribed by the director, a person or entity may request a conversion permit exemption for substantially damaged oak woodlands where wildfire, insects, disease,

wind, flood or other blight caused by an act of God has occurred. A professional biologist shall certify that the oak woodlands are substantially damaged; that no known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged; and that no conditions were identified where oak removal operations would reasonably result in significant adverse environmental effects. If necessary, the landowner shall allow access to the property for inspections by department staff. Oak removal operations may not commence for 20 working days from the date of the director's receipt of the exemption unless this delay is waived by the director after consultation with other state agencies. The director shall determine whether the exemption is complete, and if so, shall send a copy of a notice of acceptance to the applicant. If the exemption is not complete and accurate, it shall be returned to the applicant and the oak removal may not proceed. If the director does not respond to the application for exemption within 20 working days of its receipt, oak removal may commence.

1635. (a) Any person or entity who violates this article is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, any voluntary mitigation efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California and any actions relating to the same violation may be joined or consolidated.

(e) In any civil action brought pursuant to this article in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following: (1) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued. (2) The remedy at law is inadequate. The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this article without the allegations and without the proof specified in this paragraph or paragraph (1).

(f) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner: (1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100. (2) Fifty percent shall be distributed to the Wildlife Conservation Board for deposit in the Oak Woodlands Conservation Fund. These funds may be expended to cover the costs of any legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

1636. (a) All provisions of this article shall go into effect on or before _____.