Staff Overview: AB 2276 Bill Revision for 14 CCR 1038.3 – Forest Fire Prevention Exemption to Forest Resilience Exemption

# Overview

Assembly Bill 2276 (Wood, Chapter 388) amends § 4584 of the Public Resources Code, which establishes the authority of the Board to exempt certain activities from all or parts of the Forest Practice Act. The bill makes three changes to these activities that require further Board action to implement:

1. repeals the Small Landowner Exemption;
2. renames and revises the criteria for the Forest Fire Prevention Exemption; and
3. revises the California black or Oregon white oak woodlands and associated grasslands exemption (colloquially, the “Oak Woodland Exemption”).

The Emergency Rule package was submitted on January 6, 2025, and was received by the Office of Administrative Law (OAL) and is under review until January 17, 2025.

The Emergency Rule Plead currently was developed utilizing AB 2276 language which largely makes prescriptive changes to the statute, meaning the Board does not have the discretion to adopt different requirements than the Legislature provided for. However, the Legislature gave the Board discretion in implementing the Forest Resilience Exemption requirements for the removal of “dead and dying trees in amounts less than 10 percent of the average volume per acre for trees up to 36-inches [dbh].” Additionally the Board was given authority to develop standards for canopy closure.

# Summary of Revisions

The rule Plead as presented represent the statutory language per AB 2276 and now part of Public Resources Code (PRC) 4584.

The following bullet points identifies the remaining areas where the Board as the authority to make further regulatory changes and clarifications.

* Page1, Line 12-13 and Line 17-19: Bord staff received suggested changes to the definition of d.b.h & Diameter per 14 CCR 895.1. Current language defines the specific measure points for d.b.h at 4.5 feet (1.37m) above the “average ground level”. Board staff received a request to change the “average ground level” to the ground level “**on the uphill side of the tree”**
* Page 6, Line 21-24 and Page 7, Line 1-5: Board staff has the authority to adopt specific regulations for the removal of dead and dying trees in amounts less than 10 percent of the average volume per acre for trees up to 36 inches in diameter at breast height, Ref. PRC 4584(j)(D)(vi). Language used in the Emergency rule plead has been included form approved language in AB 2276.
* Page 7, Line 15-18: AB 2276 states per 4584(j)(E)(i) ”The board shall adopt regulations for the treatment of understory vegetation and standing dead fuels, canopy closure, clearance to base of live crown, or ladder fuels, that could promote the spread of wildfire.” Canopy closure language in the rule plead was developed in 2024 under the rule making package “Drought Mortality and Forest Fire Prevention Exemption Amendment 2024”