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 has been accepted by OAL and is in effect until July 1, 2025, with a possibility for renewal for 180 days, pending submission of evidence of significant progress on rulemaking to OAL. Optimal evidence of significant progress on rulemaking would be the approval of a draft rule text and ISOR at the June Board meeting, but acceptable progress would be evidence of ongoing discussion at Committee meetings and possibly Board authorization of other steps towards permanent rulemaking such as evaluation of fiscal and economic impacts. Documents for approving the emergency rulemaking will be provided at the June Committee meeting.

In response to Committee requests for information on the methods for enforcement on dbh limitations post-harvest, George Gentry has provided a memo documenting relationships between stump diameter and diameter at breast height for Committee Review.

The Committee requested information on harmonizing the standards for removal of trees over 30 inches dbh for this exemption and the proposed Forest Resilience Exemption. Many of the requirements for harvest of trees over 30” dbh in both exemptions are set forth in statute including: the Oak Woodland Exemption’s requirement of a written explanation and justification; the Forest Resilience Exemption’s requirements that these trees be marked by (or under the supervision of) an RPF and that safety, fuel hazard abatement, mortality, and the retention of wildlife trees be considered; and the consultation with the Director under both exemptions.

# Changes to Rule Text

Changes made to the regulatory text per the direction of the Committee at the April meeting are in red. Changes made to the regulatory text per the direction of the Committee at previous meetings or changes from the regulatory text present in the emergency text are highlighted in blue. Items that would be potentially affected by one of the proposed updated definitions in the rule text are highlighted in green.

Proposed changes to the abbreviation for “d.b.h.” and the definition of “Diameter” as made by the Forest Practice Committee under the Forest Resilience Exemption are included for reference. Two options are presented as updated definitions: an added phrase under “Diameter” or a new definition under “Stump Diameter”. On page 9, line 9, similar phrasing is provided relevant to the enforcement of stump diameter.

Language related to consultation with the Director has been harmonized with the requirements in the Forest Resilience Exemption by specifying that the local CAL FIRE unit forester be consulted prior to submission of the exemption and requiring that the consultation be included in the written explanation and justification for the harvest of the tree(s).