

# Enrolled House Bill 3063

Sponsored by COMMITTEE ON ENVIRONMENT AND WATER

CHAPTER .....

AN ACT

Relating to Oregon natural areas; amending ORS 273.563, 273.566, 273.571, 273.576, 273.578, 273.581, 273.586, 273.591, 308A.706, 308A.712, 352.239, 517.971 and 527.710.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 273.563 is amended to read:

273.563. As used in ORS 273.563 to 273.591, unless the context requires otherwise:

- (1) "Agency" means a local, state or federal agency, board, commission or department.
- (2) "Board" means the State Land Board.
- (3) "Candidate natural area" means a natural resource area that may be considered for registration or dedication.
- (4) "Commodity" means timber, minerals, livestock, agricultural products or any other product of the land which is an important economic resource.
- (5) "Council" means the Natural Heritage Advisory Council established in ORS 273.571.
- (6) "Data bank" means the Natural [*Heritage*] **Areas** Program element inventory of element classification, data analysis, priority setting, owner and other data maintained by the Institute for Natural Resources under ORS 352.239.
- (7) "Dedicate" means the formal recognition and protection of a natural area for [*natural heritage*] conservation purposes.
- (8) "Elements" means both the natural heritage resources and the special species.
- (9) "Instrument" means any written document intended to convey an interest in real property under ORS 93.710, or an agreement between parties according to the Natural [*Heritage*] **Areas** Program or the Oregon Natural [*Heritage*] **Areas** Plan.
- (10) "Natural area" means a unit of land or water or both that may be considered for dedication under ORS 273.563 to 273.591 and that has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values, be valuable as habitat for plant and animal species or for the study and appreciation of the natural features.  
 [(11) "*Natural heritage conservation area*" means an area dedicated under the provisions of ORS 273.586.]
- [(12)] (11) "Natural heritage resources" means the terrestrial ecosystem types, aquatic ecosystem types and unique geologic types as defined in the Oregon Natural [*Heritage*] **Areas** Plan or a unit of land or water that contains a natural resource.
- [(13)] (12) "Plan" means the Oregon Natural [*Heritage*] **Areas** Plan established under ORS 273.576, which governs the Natural [*Heritage*] **Areas** Program in selecting areas for [*natural heritage*] conservation.

[(14)] (13) "Program" means the Natural [*Heritage*] **Areas** Program as established in ORS 273.566.

[(15)] (14) "Register" means the Oregon Register of Natural Heritage Areas established under ORS 273.581.

[(16)] (15) "Special species" means those species of plants and animals determined by the council to be significant in value in a [*natural heritage conservation*] **state natural** area and defined in the Oregon Natural [*Heritage*] **Areas** Plan.

(16) "**State natural area**" means an area that an individual, organization or public agency dedicates as a state natural area under ORS 273.586.

**SECTION 2.** ORS 273.566 is amended to read:

273.566. (1) The Legislative Assembly finds that many valuable natural heritage elements are represented in natural areas [*which*] **that** can be protected through the voluntary cooperation of private landowners and public land managers. These areas will comprise a discrete and limited system of natural [*heritage conservation*] areas [*which*] **that** are selected to represent the full range of Oregon's natural heritage resources. These areas shall have substantially retained their natural character, or, if altered in character, shall in addition to their natural heritage resource values be valuable as habitat for plant and animal species or for the study and appreciation of the natural features. As such they will be living museums for scientific research, educational purposes and nature interpretation.

(2) The Legislative Assembly also finds that it is necessary to establish a process and means for public and private sector cooperation in the development of this system of conservation areas. Private landowners and public land managers should be encouraged to voluntarily participate in the program through conservation activities [*which*] **that** benefit all Oregonians.

(3) In order to assure that [*natural heritage*] conservation activities cause the minimum of conflict with other resource uses and that they are cost effective, the Legislative Assembly finds that the Natural Heritage Advisory Council should provide a specific framework for [*natural heritage*] conservation decision making through a classification and planning process known as the Natural [*Heritage*] **Areas** Program. Future [*natural heritage conservation*] **state natural** areas should avoid unnecessary duplication of already protected natural heritage elements. Each [*natural heritage*] conservation decision should address alternative methods of accomplishing the same purpose and should consider cost effectiveness.

(4) The Legislative Assembly recognizes that there is a need for systematic, accessible information concerning the locations of the resources of Oregon's natural [*heritage*] **areas**, including special plant and animal species, native terrestrial ecosystems, aquatic ecosystems, and geologic features, and especially including the areas already protected that contain these elements.

**SECTION 3.** ORS 273.571 is amended to read:

273.571. (1) The Natural Heritage Advisory Council is hereby established. The council shall consist of 17 members, nine of whom shall be chosen as follows and who shall elect from its membership a chairperson:

(a) Four individuals, appointed by the Governor, shall be recognized experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology; and

(b) Five citizens, appointed by the Governor, shall be selected from the various regions of the state. These members shall have interest in natural resource conservation, management or the commodity use of natural resources.

(2) Appointed members shall serve for four-year terms.

(3) In addition to the nine members appointed by the Governor, the State Fish and Wildlife Director, the State Forester, the Director of Transportation, the Chancellor of the Oregon University System, the Director of Agriculture, the State Parks and Recreation Director, the State Geologist and the Director of the Department of State Lands or an authorized representative of each such officer, shall serve as ex officio, nonvoting members of the council.

(4) Any vacancy on the council shall be filled by appointment of the Governor.

(5) Members of the council shall serve without compensation, but the State Land Board may pay the expenses reasonably incurred by the council in the performance of its functions upon presentation of vouchers signed by the chairperson of the council pursuant to ORS 292.495.

(6) The council shall:

(a) Meet at least quarterly;

(b) Develop policy for the Natural [*Heritage*] **Areas** Program through the review and approval of the Oregon Natural [*Heritage*] **Areas** Plan;

(c) Review nominations for registration and the voluntary dedication of [*natural heritage conservation*] **state natural** areas, and approve instruments of dedication for such areas;

(d) Advise the State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Parks and Recreation Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and

(e) Advise the board in the adoption of rules that it considers necessary in carrying out ORS 273.563 to 273.591.

(7) The board shall adopt any rules pursuant to ORS chapter 183 that it considers necessary to carry out ORS 273.563 to 273.591.

(8) Acting through the Department of State Lands, the council may accept gifts or donations of real property. Such real property shall be held in the name of the State of Oregon by the State Land Board and shall be used for the purpose of carrying out the provisions of ORS 273.563 to 273.591.

**SECTION 4.** ORS 273.576 is amended to read:

273.576. (1)(a) The State Land Board, with the assistance of the Natural Heritage Advisory Council, shall maintain a natural heritage office to provide assistance in the selection and nomination of areas containing natural heritage elements for registration or dedication.

(b) The Oregon Natural [*Heritage*] **Areas** Plan established by ORS 273.578 shall govern the Natural [*Heritage*] **Areas** Program in the conduct of activities to create and manage a system of [*natural heritage conservation*] **state natural** areas [*which*] **that** are complementary to and consistent with the research natural area program on federal lands in Oregon. This plan lists the natural heritage elements that should be represented on the Oregon Register of Natural Heritage Areas and in [*natural heritage conservation*] **state natural** areas and provides criteria for the selection and approval of candidate natural areas for registration and dedication under ORS 273.563 to 273.591. In selecting [*natural heritage conservation*] **state natural** areas, the inclusion of natural heritage resources, and especially those which are not adequately protected elsewhere, shall be given primary consideration. Inclusion and protection of special species shall be an important additional consideration in selecting [*natural heritage conservation*] **state natural** areas, and wherever possible, individual species shall be protected in association with natural heritage resources or in assemblages of those species determined by the council to have special significance.

(2) The board may advise owners of [*natural heritage conservation*] **state natural** areas concerning the management and use of such areas and may make available to state, federal and local agencies that manage lands within Oregon, information concerning the conservation of natural heritage elements.

(3) The board may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any foundation, individual or organization for the purpose of carrying out the provisions of ORS 273.563 to 273.591.

**SECTION 5.** ORS 273.578 is amended to read:

273.578. (1) The Sixty-first Legislative Assembly approves the Oregon Natural [*Heritage*] **Areas** Plan submitted under ORS 273.576.

(2) The State Land Board may review and approve or disapprove any modification to the plan submitted by the Natural Heritage Advisory Council.

**SECTION 6.** ORS 273.581 is amended to read:

273.581. (1) The Natural Heritage Advisory Council shall maintain a state register of areas containing significant natural heritage elements to be called the Oregon Register of Natural Heritage Areas.

(2) The council shall from time to time identify areas from the natural heritage data bank [which] **that** qualify for registration. Priority shall be based on the Oregon Natural [Heritage] **Areas** Plan and shall generally be given to those elements [which] **that** are rarest, most threatened or underrepresented in the [heritage] conservation system on a statewide basis. [Natural heritage conservation] **State natural** areas shall not unnecessarily duplicate resources or special species already adequately protected by other methods of land protection. Whenever feasible, areas that qualify for registration shall be located on lands [which] **that** have been allocated primarily to special non-commodity uses.

(3) The council shall review each registration proposal, including the landowner's written permission for registration if the area is located on privately owned land.

(4) After review by the council, the State Land Board may place sites onto the register or remove sites from the register.

(5) A voluntary management agreement may be developed between the board and the owners of the sites on the register.

**SECTION 7.** ORS 273.586 is amended to read:

273.586. (1) A private individual or organization [which] **that** is the owner of any registered natural area may voluntarily agree to dedicate that area as a [natural heritage conservation] **state natural** area by executing with the State Land Board an instrument of dedication. The instrument of dedication shall be effective upon its recording in the real property records of the office of the clerk of the county in which any or all of the [natural heritage conservation] **state natural** area is located.

(2) Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591 following the providing of opportunity for adequate public notice and hearing by the agency. The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education, the State Parks and Recreation Commission and the State Land Board shall, with the advice and assistance of the Natural Heritage Advisory Council, establish procedures for the dedication of [natural heritage conservation] **state natural** areas on land, the title of which is held by the State of Oregon, and which is under that agency's management and control.

(3) The instrument of dedication shall contain any information or provisions as the private owner, organization or agency and council consider necessary to complete the dedication.

(4) Dedication of a [natural heritage conservation] **state natural** area may be terminated as follows:

(a) The dedication of a [natural heritage conservation] **state natural** area by a public agency may be terminated following the providing of opportunity for adequate public notice and hearing and a finding by that agency of an imperative and unavoidable necessity, or a finding by that agency, with the approval of the council, that the [natural heritage conservation] **state natural** area is no longer needed according to the guidelines of the Oregon Natural [Heritage] **Areas** Plan.

(b) The dedication of a [natural heritage conservation] **state natural** area by a private individual or organization may be terminated by the private individual or organization after the council is assured that there has been compliance with the procedures required by the terms of the dedication instrument.

(c) The dedication of a [natural heritage conservation] **state natural** area may be terminated by the board upon the advice of the council if the area is no longer needed according to the guidelines of the plan, or has permanently lost its natural character.

**SECTION 8.** ORS 273.591 is amended to read:

273.591. The Natural [Heritage] **Areas** Program Account is established within the General Fund of the State Treasury. All moneys received by the State Land Board for the purposes of ORS 273.563 to 273.591 shall be paid into the State Treasury and credited to the account. All moneys in the ac-

count are continuously appropriated for the use of the board in carrying out the provisions of ORS 273.563 to 273.591.

**SECTION 9.** ORS 308A.706 is amended to read:

308A.706. (1) Notwithstanding that land may have been disqualified from special assessment, the additional taxes described under ORS 308A.703 shall not be imposed and shall remain a potential tax liability if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(a) Disqualified exclusive farm use zone farmland or nonexclusive farm use zone farmland that:  
(A) Is not being used as farmland; and  
(B) Is not being used for industrial, commercial, residential or other use that is incompatible with a purpose to return the land to farm use.

(b) Acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body.

(c) Acquired and used for natural heritage purposes and all of the following additional requirements are met:

(A) The land is registered under ORS 273.581 as a [*natural heritage conservation*] **state natural** area;

(B) The land is acquired by a private nonprofit corporation;

(C) The land is retained by the corporation, or transferred to the state by the corporation, for the purpose of educational, scientific and passive recreational use consistent with conservation of the ecological values and natural heritage elements of the area;

(D) If the land is retained by the corporation, it remains open to the public without charge for the uses described in subparagraph (C) of this paragraph; and

(E) The land is managed pursuant to a voluntary management agreement under ORS 273.581 (5).

(d) Qualified for special assessment under:

(A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;

(B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone farmland;

(C) ORS 321.358, relating to classification as designated forestland in western Oregon;

(D) ORS 321.839, relating to classification as designated forestland in eastern Oregon;

(E) ORS 321.709, relating to qualification as small tract forestland;

(F) ORS 308A.424, relating to wildlife habitat special assessment; or

(G) ORS 308A.456, relating to conservation easement special assessment.

(e) Disqualified nonexclusive farm use zone farmland, to the extent the additional taxes are deferred or abated as provided in ORS 308A.119.

(2) In any case where the additional tax is deferred under the provisions of this section but may subsequently be imposed under ORS 308A.712, the county assessor shall continue to enter the notation "potential additional tax liability" on the assessment and tax roll.

**SECTION 10.** ORS 308A.712 is amended to read:

308A.712. (1) If the disqualification of land from special assessment results in the deferral of additional taxes under ORS 308A.706:

(a) The amount of deferred additional taxes shall be determined as provided for in this section in lieu of ORS 308A.703; and

(b) The deferred additional taxes shall be added to the assessment and tax roll for the year in which the event described in subsections (2) to (6) of this section is first taken into account for property tax purposes, to be collected and distributed in the same manner as other ad valorem property taxes.

(2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of farmland) and subsequently the land is changed to an industrial, commercial, residential or other use incompatible with a return of the land to farm use, then:

(a) The amount of additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the farm use special assessment was in effect for the land, not to exceed:

(A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of farm use zoning applicable to the property; or

(B) In the case of all other farmland disqualified from farm use special assessment, five tax years.

(3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government exchange of land), additional taxes shall be collected when the land acquired as a result of the exchange is disqualified from special assessment. The additional taxes shall equal the total amount of additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to the governmental agency or body received the special assessment before the exchange plus the number of years, if any, the land acquired from the governmental agency or body received a special assessment after the exchange.

(b) The total number of years taken into account shall not exceed the maximum number of years for which additional taxes may be collected under the provision of law applicable to either the exchanged land (immediately before the exchange) or the acquired land, whichever is greater.

(4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to *[natural heritage]* **state natural areas**), the additional taxes that would have been imposed under ORS 308A.703 at the time of disqualification shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

(5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the additional taxes that would have been collected at the time of disqualification shall be collected at the time the land is disqualified from any other special assessment law listed in ORS 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the land, not to exceed:

(A) Five tax years; or

(B) If the property had, within the past 10 tax years, been disqualified from a special assessment program described in ORS 308A.703 (3)(a) to (c) and had been continuously subject to special assessment, then 10 tax years. However, the number of continuous preceding years of special assessment under the special assessment programs listed in ORS 308A.703 (3)(d) that may be taken into consideration for purposes of computing the additional tax may not exceed five years.

(6) In determining the additional tax under subsection (5) of this section, the number of continuous preceding years of special assessment counted shall not include those years in which the land was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior to a disqualification of the land for special assessment as exclusive farm use zone farmland under the conditions described in ORS 308A.709 (6).

**SECTION 11.** ORS 352.239 is amended to read:

352.239. (1) There is created within the Department of Higher Education the Institute for Natural Resources. The Institute for Natural Resources shall be administered by Oregon State University **and other institutions in the Oregon University System.**

(2) The Institute for Natural Resources shall serve the following purposes:

(a) Serve as a clearinghouse for scientifically based natural resources information.

(b) Provide scientifically based natural resources information to the public in integrated and accessible formats.

(c) Coordinate efforts with other state agencies and bodies to provide natural resources information to the public in a comprehensive manner.

(d) Facilitate and conduct research.

(e) Provide information and technical tools to assist decision-making on natural resources issues.

(f) Assist the State Land Board in carrying out the Natural [*Heritage*] **Areas** Program by maintaining a data bank [*containing*] **that contains** a classification of natural heritage elements and an inventory of the locations of the elements. **At a minimum, the institute shall record in the data bank the location of state natural areas, the natural heritage elements in those areas, sites that are inhabited by rare species, and lists that rank by rarity species, plant communities and ecosystem types.** [*All data obtained through personal observation on private land by employees of Oregon State University working in the Natural Heritage Program may be entered into the data bank only with the written permission of the landowner.*] **The institute shall make the information included in the data bank available to private landowners, researchers and local, state and federal agencies.**

**(3) When making observations on private land, an employee of an institution in the Oregon University System who is compiling information for the Natural Areas Program pursuant to subsection (2)(f) of this section must obtain permission from the landowner before entering the information into the data bank.**

[(3)] (4) Using existing resources, state agencies designated by the Governor shall enter into a memorandum of understanding, or other agreement deemed appropriate by the Governor, with the institute that defines and clarifies the roles and responsibilities of the agencies in order to prevent duplication of effort and to ensure that agency resources are used efficiently.

[(4)] (5) State agencies may contract with the institute to fulfill agency needs regarding the collection, storage, integration, analysis, dissemination and monitoring of natural resources information and natural resources research and training.

**SECTION 12.** ORS 517.971 is amended to read:

517.971. Each applicant for a permit to operate a chemical process mining operation shall submit a consolidated application to the State Department of Geology and Mineral Industries. The department and the permitting and cooperating agencies shall not begin deliberating on whether to issue a permit until the department receives an application fee and a complete consolidated application that includes but is not limited to:

(1) Name and location of the proposed facility.

(2) Name, mailing address and phone number of the applicant and a registered agent for the applicant.

(3) The legal structure of the applicant as filed in the business registry with the Secretary of State and the legal residence of the applicant.

(4) Mineral and surface ownership status of the proposed facility.

(5) Baseline data, including but not limited to environmental, socioeconomic, historical, archaeological conditions, land use designations and special use designations in the area of the state in which the proposed chemical process mining operation is located.

(6) Appropriate maps, aerial photos, cross-sections, plans and documentation.

(7) A proposed:

(a) Mine plan;

(b) Processing plan;

(c) Water budget;

(d) Fish and wildlife protection and mitigation plan;

(e) Operational monitoring and reporting plan;

(f) Reclamation and closure plan;

(g) Plan for controlling water runoff and run on;

(h) Operating plan;

- (i) Solid and hazardous waste management plan;
  - (j) Plan for transporting and storing toxic chemicals;
  - (k) Employee training plan as required by agency rule;
  - (L) Seasonal or short term closure plan;
  - (m) Spill prevention and credible accident contingency plan;
  - (n) Post-closure monitoring and reporting plan; and
  - (o) Identification of special natural areas, including but not limited to areas designated as areas of critical environmental concern, research natural areas, outstanding natural areas and areas designated by the Oregon Natural [*Heritage*] **Areas** Plan, as defined in state rules and federal regulations.
- (8) All information required by the permitting agencies to determine whether to issue or deny the following permits as applicable to the proposed operation:
- (a) Surface mining operating permits required under ORS 517.790 and 517.915;
  - (b) Fill and removal permits required under ORS 196.600 to 196.905;
  - (c) Permits to appropriate surface water or ground water under ORS 537.130 and 537.615, to store water under ORS 537.400 and impoundment structure approval under ORS 540.350 to 540.390;
  - (d) National Pollutant Discharge Elimination System permit under ORS 468B.050;
  - (e) Water pollution control facility permit under ORS 468B.050;
  - (f) Air contaminant discharge permit under ORS 468A.040 to 468A.060;
  - (g) Solid waste disposal permit under ORS 459.205;
  - (h) Permit for use of power driven machinery on forestland under ORS 477.625;
  - (i) Permit for placing explosives or harmful substances in waters of the state under ORS 509.140;
  - (j) Hazardous waste storage permit under ORS 466.005 to 466.385;
  - (k) Local land use permits; and
  - (L) Any other state permit required for the proposed chemical process mining operation.
- (9) All other information required by the department, a permitting agency, a cooperating agency or the technical review team.

**SECTION 13.** ORS 527.710 is amended to read:

527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing standards for forest practices in each region or subregion.

(2) The rules shall ensure the continuous growing and harvesting of forest tree species. Consistent with ORS 527.630, the rules shall provide for the overall maintenance of the following resources:

- (a) Air quality;
- (b) Water resources, including but not limited to sources of domestic drinking water;
- (c) Soil productivity; and
- (d) Fish and wildlife.

(3)(a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board shall collect and analyze the best available information and establish inventories of the following resource sites needing protection:

- (A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species Act of 1973 as amended;
- (B) Sensitive bird nesting, roosting and watering sites;
- (C) Biological sites that are ecologically and scientifically significant; and
- (D) Significant wetlands.

(b) The board shall determine whether forest practices would conflict with resource sites in the inventories required by paragraph (a) of this subsection. If the board determines that one or more forest practices would conflict with resource sites in the inventory, the board shall consider the consequences of the conflicting uses and determine appropriate levels of protection.

(c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the inventories required by paragraph (a) of this subsection.

(4) Before adopting rules under subsection (1) of this section, the board shall consult with other agencies of this state or any of its political subdivisions that have functions with respect to the purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs subject to consultation under this subsection include, but are not limited to:

(a) Air and water pollution programs administered by the Department of Environmental Quality under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;

(b) Mining operation programs administered by the Department of Geology and Mineral Industries under ORS 516.010 to 516.130 and ORS chapter 517;

(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat improvement tax incentive programs administered by the State Department of Fish and Wildlife under ORS 272.060, 315.134 and ORS chapters 496, 498, 501, 506 and 509;

(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs administered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

(e) The programs administered by the Columbia River Gorge Commission under Public Law 99-663 and ORS 196.110 and 196.150;

(f) Removal and fill, [*natural heritage*] conservation and [*natural heritage*] conservation tax incentive programs administered by the State Land Board and the Department of State Lands under ORS 196.800 to 196.900 and 273.553 to 273.591;

(g) Federal Safe Drinking Water Act programs administered by the Department of Human Services under ORS 448.273 to 448.990;

(h) [*Natural heritage conservation*] **Conservation and conservation tax incentive** programs administered by the Natural Heritage Advisory Council under ORS 273.553 to 273.591;

(i) Open space land tax incentive programs administered by cities and counties under ORS 308A.300 to 308A.330;

(j) Water resources programs administered by the Water Resources Department under ORS 536.220 to 536.540; and

(k) Pesticide control programs administered by the State Department of Agriculture under ORS chapter 634.

(5) In carrying out the provisions of subsection (4) of this section, the board shall consider and accommodate the rules and programs of other agencies to the extent deemed by the board to be appropriate and consistent with the purposes of ORS 527.630.

(6) The board shall adopt rules to meet the purposes of another agency's regulatory program where it is the intent of the board to administer the other agency's program on forestland and where the other agency concurs by rule. An operation performed in compliance with the board's rules shall be deemed to comply with the other agency's program.

(7)(a) The board may enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630.

(b) The State Forestry Department shall enter into agreements with appropriate state agencies for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and water quality.

(8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws 1991, the board determines that additional rules are necessary to protect forest resources pursuant to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds. Such rules shall include a process for determining areas where adverse impacts from cumulative effects have occurred or are likely to occur, and may require that a written plan be submitted for harvests in such areas.

(9)(a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall identify streams for which restoration of habitat would be environmentally beneficial. The State Forester shall select as a priority those streams where restoration efforts will provide the greatest benefits to fish and wildlife, and to streambank and streambed stability.

(b) For those streams identified in paragraph (a) of this subsection, the State Forester shall encourage landowners to enter into cooperative agreements with appropriate state agencies for conduct of restoration activities.

(c) The board, in consultation with appropriate state agencies, shall study and identify methods for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of sites beneficial to fish and wildlife.

(d) The board shall adopt rules to implement the findings of this subsection.

(10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide directly related to forest practices. The rules shall consider the exposure of the public to these safety risks and shall include appropriate practices designed to reduce the occurrence, timing or effects of rapidly moving landslides. As used in this subsection, "rapidly moving landslide" has the meaning given that term in ORS 195.250.

**Passed by House April 15, 2009**

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Chief Clerk of House

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Speaker of House

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President of Senate

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Governor

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