

**A-Engrossed**  
**House Bill 2756**

Ordered by the House April 20  
Including House Amendments dated April 20

Sponsored by Representative CLEM (Pre-session filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Changes reference to reflect nature of forestry statute allowing punishment of violations.]*

**Establishes Forest Practices Act Administration Division within Oregon Forest Resources Institute. Specifies duties, functions and powers of division. Transfers specified duties, functions and powers from State Forester to division.**

**Requires moneys derived from tax on harvest of timber for purpose of providing field administration of Oregon Forest Practices Act to be deposited in Oregon Forest Resources Institute Fund. Continuously appropriates deposited moneys to division.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to forestry; creating new provisions; amending ORS 93.710, 321.152, 321.367, 321.550,  
3 390.235, 477.001, 477.120, 477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665,  
4 477.670, 526.041, 526.060, 526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683,  
5 527.685, 527.690, 527.700, 527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and  
6 527.992; appropriating money; and declaring an emergency.

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

8 **SECTION 1. (1) The Forest Practices Act Administration Division is established within**  
9 **the Oregon Forest Resources Institute. The institute shall allocate for purposes of adminis-**  
10 **tering the division not more than 15 percent of any moneys appropriated or authorized to**  
11 **be expended to carry out the powers, duties and functions of the division. The institute shall**  
12 **allocate any other moneys appropriated or authorized to be expended for purposes of the di-**  
13 **vision to fund contracts described in this section.**

14 **(2) The division shall, as directed by the institute, issue requests for proposals and enter**  
15 **into contracts with qualified private parties to provide services to the institute related to the**  
16 **administration of the division's powers, duties and functions under ORS 527.610 to 527.770,**  
17 **527.990 and 527.992. The services shall include, but need not be limited to, the following:**

18 **(a) Processing forest operation notices under ORS 527.670.**

19 **(b) Conducting preoperation and post-operation visits to sites of forest operations that**  
20 **are subject to ORS 527.610 to 527.770, 527.990 and 527.992 as necessary and appropriate.**

21 **(c) Providing monitoring to ensure compliance with reforestation requirements, require-**  
22 **ments for free to grow stands as defined by the State Board of Forestry and other require-**  
23 **ments imposed under ORS 527.610 to 527.770.**

24 **(d) Surveying areas with high levels of actual or potential landslide hazards as necessary**  
25 **and appropriate under State Board of Forestry rules described in ORS 527.630 and 527.710 (10)**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **and providing related advice to affected landowners.**

2 **(e) Working with landowners and operators to mitigate unsatisfactory forestland condi-**  
3 **tions.**

4 **(f) Acting as agents of the division to issue citations on behalf of the State Board of**  
5 **Forestry for violations of ORS 527.610 to 527.770, 527.990 and 527.992 or rules adopted under**  
6 **ORS 527.610 to 527.770.**

7 **(g) Providing information to the Department of Revenue regarding timber harvested as**  
8 **provided under ORS 527.610 to 527.770.**

9 **(h) Achieving efficiencies and reduced costs by working with auditors and other persons**  
10 **designated by landowners for the purposes of ensuring compliance with third-party certif-**  
11 **ication systems.**

12 **(i) Performing fire inspections during fire season on industrial private forestlands.**

13 **SECTION 2.** ORS 93.710 is amended to read:

14 93.710. (1) Any instrument creating a license, easement, profit a prendre, or a leasehold interest  
15 or oil, gas or other mineral interest or estate in real property or an interest in real property created  
16 by a land sale contract, or memorandum of such instrument or contract, which is executed by the  
17 person from whom the interest is intended to pass, and acknowledged or proved in the manner  
18 provided for the acknowledgment or proof of other conveyances, may be indexed and recorded in the  
19 records of deeds of real property in the county where such real property is located. Any instrument  
20 creating a mortgage or trust deed, or a memorandum thereof, or assignment for security purposes  
21 relating to any of the interests or estates in real property referred to in this subsection, which is  
22 executed by the person from whom the mortgage, trust deed, or assignment for security purposes is  
23 intended to be given, and acknowledged or proved in the manner provided for the acknowledgment  
24 or proof of other conveyances, may be indexed and recorded in the records of mortgages of real  
25 property in the county where such real property is located. Such recordation, whether the instru-  
26 ment be recorded prior to or subsequent to May 29, 1963, constitutes notice to third persons of the  
27 rights of the parties under the instrument irrespective of whether the party granted such interest  
28 or estate is in possession of the real property. Any such instrument when so acknowledged or  
29 proved, or certified in the manner prescribed by law by any of the authorized officers, may be read  
30 in evidence without further proof thereof.

31 (2) Any notice under ORS 527.710 or order under ORS 527.680 [*by the State Forester*] requiring  
32 the reforestation of specific lands may be indexed and recorded in the records of deeds of real  
33 property in the county where such real property is located. Such recordation constitutes notice to  
34 third persons of the rights and obligations of the parties to the notice or order. Any such notice or  
35 order when properly prepared in the manner prescribed by law by any of the authorized officers  
36 may be read in evidence without further proof thereof.

37 (3)(a) As used in this section, "memorandum" means an instrument that:

38 (A) Contains the date of the instrument being memorialized;

39 (B) Contains the names and addresses of the parties;

40 (C) Contains a legal description of the real property involved and the nature of the interest  
41 created which is signed by the person from whom the interest is intended to pass; and

42 (D) Is acknowledged or proved in the manner provided for the acknowledgment or proof of  
43 deeds.

44 (b) In addition to the requirements of paragraph (a) of this subsection, a memorandum of a  
45 mortgage or trust deed shall contain:

1 (A) The legend “Memorandum of Mortgage” or “Memorandum of Trust Deed” either in capital  
2 letters or underscored above the body of the memorandum;

3 (B) A description of any collateral encumbered by the mortgage or trust deed, other than the  
4 real property, that can be perfected by filing in the real property records of the county in which the  
5 collateral is situated;

6 (C) A description in general terms of the obligation or obligations secured and a statement of  
7 the term or maturity date, if any, of the obligation or obligations;

8 (D) A statement by the mortgagee or beneficiary that a complete copy of the mortgage or trust  
9 deed is available upon written request to the mortgagee or beneficiary; and

10 (E) If the mortgage or trust deed constitutes a line of credit instrument as defined in ORS  
11 86.155, the information required to appear on the front page of the instrument under ORS 86.155  
12 (1)(b).

13 (c) In addition to the requirements of paragraph (a) of this subsection, a memorandum of an in-  
14 strument conveying or contracting to convey fee title to any real estate shall state on its face the  
15 true and actual consideration paid for such transfer as provided in ORS 93.030.

16 **SECTION 3.** ORS 321.152 is amended to read:

17 321.152. (1) Subject to ORS 321.145 (2), moneys remaining in the Department of Revenue’s sus-  
18 pense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10 of  
19 each year shall be transferred to the various appropriation accounts described in subsections (2), (3)  
20 and (4) of this section.

21 (2) That part of the moneys derived from taxes levied by ORS 321.015 (1) shall be transferred  
22 to the Forest Research and Experiment Account described in ORS 321.185.

23 (3) That part of the moneys derived from taxes levied by ORS 321.015 (3)(a) shall be transferred  
24 to the State Forestry Department Account referred to in ORS 526.060. Notwithstanding ORS 291.238,  
25 the moneys transferred to the State Forestry Department Account under this section are appropri-  
26 ated continuously for and shall be used by the State Forester, under the supervision and direction  
27 of the State Board of Forestry, for the purposes of [administering] the Oregon Forest Practices Act  
28 and the forest practices monitoring program.

29 **(4) That part of the moneys derived from taxes levied by ORS 321.015 (3)(b) shall be**  
30 **transferred to the Oregon Forest Resources Institute Fund created under ORS 526.675.**  
31 **Moneys transferred to the Oregon Forest Resources Institute Fund under this subsection**  
32 **are continuously appropriated to the Forest Practices Act Administration Division of the**  
33 **Oregon Forest Resources Institute for carrying out the purposes described in section 1 of**  
34 **this 2011 Act.**

35 [(4)] (5) That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be trans-  
36 ferred to the Oregon Forest Land Protection Fund described in ORS 477.750.

37 **SECTION 4.** ORS 321.367 is amended to read:

38 321.367. (1) The [State Forester] **Forest Practices Act Administration Division of the Oregon**  
39 **Forest Resources Institute** shall identify all of the forestlands that fail to meet the minimum  
40 stocking required under ORS 527.610 to 527.770 and that are therefore underproductive as described  
41 under ORS 526.455.

42 (2) **If** at any time the **division or the** State Forester has reason to believe that forestland is not  
43 being managed as forestland, the [State Forester] **division** shall review the owner’s management  
44 plan, if any, and inspect the property. Subject to subsection (5) of this section, the [State Forester]  
45 **division** shall advise the owner as prescribed in subsection (3) of this section if the [State Forester]

1 **division** determines the land is not being managed in accordance with a plan that provides for:

- 2 (a) Regeneration of all suitable nonstocked land;
- 3 (b) Maintenance of a free-to-grow condition;
- 4 (c) Protection from fire, insects, disease, animal damage, undesirable vegetative competition; and
- 5 (d) Final harvest.

6 (3)(a) The [State Forester] **division** shall advise the owner that the land is not being managed  
7 in accordance with a plan that meets the criteria set forth in subsection (2) of this section and that  
8 a plan for the land that does meet the criteria must be developed and activated within one year after  
9 the date of the advisement.

10 (b) **The division may assist the owner in developing and implementing means for miti-**  
11 **gating the unsatisfactory conditions on the land.** At the request of the owner, the State Forester  
12 shall assign a forester or provide a listing of foresters to assist the owner in developing and imple-  
13 menting an appropriate management plan for the land.

14 (c) As soon as practicable after the time indicated in the advisement has expired, the [State  
15 Forester] **division** shall view the land to determine if the land is being managed in accordance with  
16 a plan that meets the criteria set forth in subsection (2) of this section. If, upon inspection, the [State  
17 Forester] **division** finds that the land is not being so managed, the [State Forester] **division** shall  
18 notify the owner, **the State Forester** and the county assessor.

19 (4) The county assessor, upon receipt of the notice from the [State Forester] **division**, shall cease  
20 to treat that land as forestland under ORS 321.257 to 321.390 and shall value the land as prescribed  
21 under ORS 308.146 and 308.232.

22 (5) If at the time that the [State Forester] **division** views the land under subsection (3)(c) of this  
23 section, it is determined that a change in ownership has occurred, the [State Forester] **division** shall  
24 notify the new owner as required under subsection (3) of this section in the manner of the original  
25 notification.

26 (6) When the owner of land disqualified from forestland assessment provides satisfactory infor-  
27 mation to the [State Forester] **division** of subsequent action taken to correct the deficiency resulting  
28 in the disqualification of land, or provides an acceptable management plan to correct such defi-  
29 ciency, the [State Forester] **division** shall so indicate to the county assessor. The assessor shall then  
30 assess the land under ORS 321.257 to 321.390, if the land is otherwise qualified for such assessment.

31 (7) The State Forester shall adopt rules necessary to carry out the purposes of this section.

32 **SECTION 5.** ORS 321.550 is amended to read:

33 321.550. *[(1) No person shall harvest or cause to be harvested any timber from land in Oregon*  
34 *without first having notified the State Forester in writing with a copy to the Department of Revenue*  
35 *on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS*  
36 *321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.]*

37 (1) **A person may not harvest or cause to be harvested any timber from land in Oregon**  
38 **without first having given written notice to the following entities, in a form prescribed by**  
39 **the State Forester and the Department of Revenue, of intent to harvest pursuant to ORS**  
40 **321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754:**

41 (a)(A) **Except as provided in subparagraph (B) of this paragraph, the State Forester; or**  
42 (B) **If the harvest operation is subject to ORS 527.610 to 527.770, the Forest Practices Act**  
43 **Administration Division of the Oregon Forest Resources Institute.**

44 (b) **The department.**

45 (c) **The State Board of Forestry.**

1 (2) The notification shall specify where and when the harvest will take place and the nature of  
2 the harvest and shall include maps and other data as required by [the] State Forester **rules** and **by**  
3 the department. The department shall establish by rule procedures to assure the receipt of the tax  
4 returns sent out or a report of nonharvest from the person. The department shall conduct field and  
5 office audits to ascertain the correctness of any timber tax return.

6 (3)(a) If a person fails to file a written notice as required in subsection (1) of this section with  
7 respect to any harvest over 5,000 board feet, the department shall notify the person. If, after the  
8 person has been notified, the person fails to file a written notice as required in subsection (1) of this  
9 section with respect to any subsequent harvest over 5,000 board feet, there shall be added to the  
10 amount of the timber tax required to be shown on the return as a result of the subsequent harvest  
11 a delinquency penalty of \$250 for each violation occurring within a calendar year. The department  
12 shall collect the penalty in the same manner as taxes are collected.

13 (b) No penalty shall be imposed under this subsection if a penalty for failure to file the notice  
14 [with the State Forester] has been imposed under ORS 527.992.

15 (c) The delinquency penalty shall first be added to the small tract forestland timber severance  
16 tax imposed under ORS 321.700 to 321.754, if applicable to the harvest. If the small tract forestland  
17 timber severance tax is not applicable, the delinquency penalty shall be added to the forest products  
18 harvest tax imposed under ORS 321.005 to 321.185.

19 **SECTION 6.** ORS 390.235 is amended to read:

20 390.235. (1)(a) A person may not excavate or alter an archaeological site on public lands, make  
21 an exploratory excavation on public lands to determine the presence of an archaeological site or  
22 remove from public lands any material of an archaeological, historical, prehistorical or  
23 anthropological nature without first obtaining a permit issued by the State Parks and Recreation  
24 Department.

25 (b) If a person who obtains a permit under this section intends to curate or arrange for alternate  
26 curation of an archaeological object that is uncovered during an archaeological investigation, the  
27 person must submit evidence to the State Historic Preservation Officer that the Oregon State Mu-  
28 seum of Anthropology and the appropriate Indian tribe have approved the applicant's curatorial fa-  
29 cilities.

30 (c) No permit shall be effective without the approval of the state agency or local governing body  
31 charged with management of the public land on which the excavation is to be made, and without the  
32 approval of the appropriate Indian tribe.

33 (d) The State Parks and Recreation Director, with the advice of the Oregon Indian tribes and  
34 Executive Officer of the Commission on Indian Services, shall adopt rules governing the issuance  
35 of permits.

36 (e) Disputes under paragraphs (b) and (c) of this subsection shall be resolved in accordance with  
37 ORS 390.240.

38 (f) Before issuing a permit, the State Parks and Recreation Director shall consult with:

39 (A) The landowning or land managing agency; and

40 (B) If the archaeological site in question is associated with a prehistoric or historic native In-  
41 dian culture:

42 (i) The Commission on Indian Services; and

43 (ii) The most appropriate Indian tribe.

44 (2) The State Parks and Recreation Department may issue a permit under subsection (1) of this  
45 section under the following circumstances:

1 (a) To a person conducting an excavation, examination or gathering of such material for the  
2 benefit of a recognized scientific or educational institution with a view to promoting the knowledge  
3 of archaeology or anthropology;

4 (b) To a qualified archaeologist to salvage such material from unavoidable destruction; or

5 (c) To a qualified archaeologist sponsored by a recognized institution of higher learning, private  
6 firm or an Indian tribe as defined in ORS 97.740.

7 (3) Any archaeological materials, with the exception of Indian human remains, funerary objects,  
8 sacred objects and objects of cultural patrimony, recovered by a person granted a permit under  
9 subsection (2) of this section shall be under the stewardship of the State of Oregon to be curated  
10 by the Oregon State Museum of Anthropology unless:

11 (a) The Oregon State Museum of Anthropology with the approval from the appropriate Indian  
12 tribe approves the alternate curatorial facilities selected by the permittee;

13 (b) The materials are made available for nondestructive research by scholars; and

14 (c)(A) The material is retained by a recognized scientific, educational or Indian tribal institution  
15 for whose benefit a permit was issued under subsection (2)(a) of this section;

16 (B) The State Board of Higher Education with the concurrence of the appropriate Indian tribe  
17 grants approval for material to be curated by an educational facility other than the institution that  
18 collected the material pursuant to a permit issued under subsection (2)(a) of this section; or

19 (C) The sponsoring institution or firm under subsection (2)(c) of this section furnishes the  
20 Oregon State Museum of Anthropology with a complete catalog of the material within six months  
21 after the material is collected.

22 (4) The Oregon State Museum of Anthropology shall have the authority to transfer permanent  
23 possessory rights in subject material to an appropriate Indian tribe.

24 (5) Except for sites containing human remains, funerary objects and objects of cultural  
25 patrimony as defined in ORS 358.905, or objects associated with a prehistoric Indian tribal culture,  
26 the permit required by subsection (1) of this section or by ORS 358.920 shall not be required for  
27 forestry operations on private lands for which notice has been filed with the [State Forester] **Forest**  
28 **Practices Act Administration Division of the Oregon Forest Resources Institute** under ORS  
29 527.670.

30 (6) As used in this section:

31 (a) "Private firm" means any legal entity that:

32 (A) Has as a member of its staff a qualified archaeologist; or

33 (B) Contracts with a qualified archaeologist who acts as a consultant to the entity and provides  
34 the entity with archaeological expertise.

35 (b) "Qualified archaeologist" means a person who has the following qualifications:

36 (A) A post-graduate degree in archaeology, anthropology, history, classics or other germane  
37 discipline with a specialization in archaeology, or a documented equivalency of such a degree;

38 (B) Twelve weeks of supervised experience in basic archaeological field research, including both  
39 survey and excavation and four weeks of laboratory analysis or curating; and

40 (C) Has designed and executed an archaeological study, as evidenced by a Master of Arts or  
41 Master of Science thesis, or report equivalent in scope and quality, dealing with archaeological field  
42 research.

43 (7) Violation of the provisions of subsection (1)(a) of this section is a Class B misdemeanor.

44 **SECTION 7.** ORS 477.001 is amended to read:

45 477.001. As used in this chapter, unless the context otherwise requires:

1 (1) "Additional fire hazard" means a hazard that has been determined to exist by the [forester]  
2 **Forest Practices Act Administration Division of the Oregon Forest Resources Institute** pur-  
3 suant to ORS 477.580.

4 (2) "Board" means the State Board of Forestry.

5 (3) "Campfire" means any open fire used for cooking, personal warmth, lighting, ceremonial or  
6 aesthetic purposes that is hand built and that is not associated with any debris disposal activities.

7 (4) "Department" means the State Forestry Department.

8 (5) "District" means a forest protection district organized under ORS 477.225.

9 (6) "Every reasonable effort" means the use of the reasonably available personnel and equipment  
10 under the supervision and control of an owner or operator, which are needed and effective to fight  
11 the fire in the judgment of the forester and which can be brought to bear on the fire in a timely  
12 fashion.

13 (7) "Fire season" means a period designated pursuant to ORS 477.505.

14 (8) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of  
15 the next year.

16 (9) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that,  
17 during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in  
18 the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in  
19 this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or  
20 manually cleared area, road, rocky area, stream or other similar forestland opening that is sur-  
21 rounded by or contiguous to forestland and that has been included in areas classified as forestland  
22 under ORS 526.305 to 526.370.

23 (10) "Forest patrol assessment" means the costs levied and assessed under ORS 477.270.

24 (11) "Forest protective association" or "association" means an association, group or agency  
25 composed of owners of forestlands, organized for the purpose of protecting such forestlands from  
26 fire.

27 (12) "Forest resource" means the various types of vegetation normally growing on Oregon's  
28 forestland, the associated harvested products and the associated residue, including but not limited  
29 to brush, grass, logs, saplings, seedlings, trees and slashing.

30 (13) "Forester" means the State Forester or authorized representative.

31 (14) "Governing body" of a county means the county court or board of county commissioners.

32 (15) "Grazing land" is defined by ORS 477.205.

33 (16) "Open fire" means any outdoor fire that occurs in such a manner that combustion air is  
34 not effectively controlled and combustion products are not effectively vented through a stack or  
35 chimney.

36 (17) "Operation" means any industrial activity, any development or any improvement on  
37 forestland inside or within one-eighth of one mile of a forest protection district, including but not  
38 limited to the harvesting of forest tree species, the clearing of land, the use of power-driven ma-  
39 chinery and the use of fire, excluding, however, the culture and harvesting of agricultural crops.

40 (18) "Operation area" means the area on which an operation is being conducted and the area  
41 on which operation activity may have resulted in the ignition of a fire.

42 (19) "Operation in progress" means that time when workers are on an operation area for the  
43 purpose of an operation, including the period of time when fire watches are required to be on the  
44 operation area pursuant to ORS 477.665.

45 (20) "Operator" means any person who, either personally or through employees, agents, repre-

1 sentatives or contractors, is carrying on or has carried on any operation.

2 (21) "Owner" means an individual, a combination of individuals, a partnership, a corporation, the  
3 State of Oregon or a political subdivision thereof, or an association of any nature that holds an  
4 ownership interest in land.

5 (22) "Political subdivision" includes, but is not limited to, counties, cities and special districts.

6 (23) "Rangeland" is defined by ORS 477.315.

7 (24) "Routine road maintenance" is defined by ORS 477.625.

8 (25) "Side" means any single unit of a logging operation employing power-driven machinery.

9 (26) "Slashing" means the forest debris or refuse on any forestland resulting from the cutting,  
10 killing, pruning, severing or removal of brush, trees or other forest growth.

11 (27) "State Forester" means the person appointed State Forester pursuant to ORS 526.031 or the  
12 person serving in the position on an interim or delegated basis.

13 (28) "Summit of the Cascade Mountains" is considered to be a line beginning at the intersection  
14 of the northern boundary of the State of Oregon and the western boundary of Wasco County; thence  
15 southerly along the western boundaries of Wasco, Jefferson, Deschutes and Klamath Counties to the  
16 southern boundary of the State of Oregon.

17 (29) "Timberland" is defined by ORS 477.205.

18 (30) "Warden" means a fire warden appointed under ORS 477.355.

19 **SECTION 8.** ORS 477.120 is amended to read:

20 477.120. (1) Except as provided in subsections (2) and (3) of this section, the owner or operator  
21 of forestland is not subject to the obligations or penalties of ORS 164.335 and 477.740 or 477.064,  
22 477.066 and 477.068 if:

23 (a) Forest patrol assessments are regularly paid for the forestland;

24 (b) Such forestland is protected pursuant to membership in a forest protective association in  
25 accordance with ORS 477.210, which association has undertaken the control and suppression of fires  
26 on such land as provided in the contract; or

27 (c) Such forestland is protected pursuant to cooperative agreement or contract under ORS  
28 477.406.

29 (2) The provisions of subsection (1) of this section do not apply to such owner or operator if the  
30 owner or operator:

31 (a) Is willful, malicious or negligent in the origin or subsequent spread of a fire on such  
32 forestland;

33 (b) Has caused or permitted an operation to exist on such forestland and a fire originates  
34 thereon as a result of the operation;

35 (c) Has failed to give notice to the [*forester*] **Forest Practices Act Administration Division**  
36 **of the Oregon Forest Resources Institute** pursuant to ORS 527.670 (6), has failed to obtain a  
37 permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625 or has  
38 failed within the time prescribed in any order or notice issued by the **State Forester or the division**  
39 to reduce, abate, or offset any hazard determined **by the State Forester** to exist pursuant to ORS  
40 477.062 or **determined by the division to exist pursuant to** 477.580 and a fire originates on or  
41 spreads to the area on which such hazard exists and for which no release has been granted pursuant  
42 to ORS 477.580 (3) or (4); or

43 (d) Has caused or allowed any burning, including burning regulated by ORS 477.013 or 477.515,  
44 whether or not a permit has been obtained and a fire results from or is caused by such burning.

45 (3) Unless subsection (2)(a) or (c) of this section applies, the owner or operator shall not be ob-

1 ligated to pay that portion of the actual costs provided in ORS 477.068 which are the ordinary costs  
 2 of the regular personnel and equipment of the forest protection district wherein the forestland is  
 3 located.

4 (4) If subsection (2)(b) or (d) of this section applies and subsection (2)(a) and (c) of this section  
 5 do not apply, the owner or operator shall not be liable to the **State** Forester for fire suppression  
 6 costs in excess of \$300,000.

7 (5) The provisions of subsections (3) and (4) of this section do not apply to the owner or operator  
 8 if the owner or operator fails to make every reasonable effort.

9 (6) For the purpose of subsection (2)(b) of this section, if a fire originates while an operation is  
 10 in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the  
 11 operation.

12 **SECTION 9.** ORS 477.580 is amended to read:

13 477.580. (1) Following the issuance of a permit **by the Forest Practices Act Administration**  
 14 **Division of the Oregon Forest Resources Institute** pursuant to ORS 477.625, and after slashing  
 15 has been created in an operation area inside or within one-eighth of one mile of a forest protection  
 16 district, the [*forester*] **division** may make a determination if such slashing and debris exists on the  
 17 operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that  
 18 endangers life, forest resources or property, and if such area is in need of additional work or pro-  
 19 tection to reduce, abate or offset the additional fire hazard. Whenever practical, the [*forester*] **divi-**  
 20 **sion** shall make the determination referred to in this subsection during the administration and  
 21 enforcement of the Oregon Forest Practices Act.

22 (2) If the [*forester*] **division** determines that an additional fire hazard exists on the operation  
 23 area sufficient to endanger life, forest resources or property, and that such area is in need of addi-  
 24 tional work or protection to reduce, abate or offset the additional fire hazard, the [*forester*] **division**  
 25 shall so notify the **State Forester and the** landowner and operator or their representatives in  
 26 writing of such determination. Pursuant to rules promulgated by the State Forester, the notice to  
 27 the landowner or operator shall contain provisions for offsetting the additional fire hazard by  
 28 burning, improvements, extra protection or other means. The notice shall also specify a reasonable  
 29 time for completion of the provisions contained therein.

30 (3) When the [*forester*] **division** finds that the provisions set forth in subsection (2) of this sec-  
 31 tion have been complied with or that the additional hazard has been, in the opinion of the  
 32 [*forester*] **division**, sufficiently reduced by other means to offset the hazard, the **division shall notify**  
 33 **the State Forester. Upon receiving notice from the division, the State Forester** shall imme-  
 34 diately issue to the operator or landowner a release from all obligations imposed by ORS 477.120  
 35 (2)(c) **due to the hazard determined under this section.**

36 (4) If the [*forester determines*] **division determines under this section** that an additional fire  
 37 hazard exists, the **State** Forester shall, at the request of the owner or operator, with the approval  
 38 of the owner, grant a release upon payment by the owner or operator of such sum of money as the  
 39 **State** Forester finds necessary to provide additional protection or means necessary to reduce or  
 40 offset the additional hazard created by such slashing and other debris. In no event may this sum  
 41 exceed the lesser of:

42 (a) \$6 for each 1,000 board feet of timber harvested in an operation;

43 (b) The **State** Forester's estimated cost of reducing or providing other means to offset the ad-  
 44 ditional hazard; or

45 (c) \$10 for each acre in a stand improvement operation where no timber is harvested.

1 (5) Moneys received under subsection (4) of this section shall be placed in the State Treasury,  
2 credited to the State Forestry Department Account and used exclusively for the purposes of forest  
3 protection within the district.

4 (6) Any owner of forestland may make written request to the [forester] **division for the owner**  
5 to assume all obligations for the disposal or reduction of any additional fire hazard determined [to  
6 exist thereon] **under this section to exist on the forestland**. If the [forester then] **division** deter-  
7 mines that the owner can comply with such obligation, the **division shall notify the State**  
8 **Forester. Upon receiving the notice from the division, the State Forester** shall immediately is-  
9 sue to all other persons involved a written release of such obligations.

10 (7) Any order or determination made by the [forester] **division** pursuant to this section is final  
11 unless modified or vacated in an appeal to the State Board of Forestry taken within 30 days after  
12 issuance of the order.

13 **SECTION 10.** ORS 477.615 is amended to read:

14 477.615. (1) During a fire season inside or within one-eighth of one mile of a forest protection  
15 district, when, in the judgment of the [forester] **Forest Practices Act Administration Division of**  
16 **the Oregon Forest Resources Institute**, an operation is of sufficient size or so planned and op-  
17 erated as to justify additional protection from fire, the owner or operator, when so directed by the  
18 [forester] **division** in writing, shall provide, within such time as is specified in the writing, additional  
19 water supply and equipment for use in fire suppression that is in conformity with rules promulgated  
20 by the State Forester.

21 (2) All such equipment shall be kept in constant readiness for instant use in fighting forest fires.  
22 However, nothing in this section prohibits the use of the equipment by the operator for sprinkling  
23 roads or other uses within the operation area.

24 (3) Rules promulgated under this section shall prescribe such water supply and equipment as  
25 reasonably are necessary to provide immediate and effective suppression of fires on forestland and  
26 may provide for the use of alternate methods and equipment.

27 **SECTION 11.** ORS 477.625 is amended to read:

28 477.625. (1) Every person conducting an operation inside or within one-eighth of one mile of a  
29 forest protection district that uses fire in any form or power-driven machinery shall first obtain from  
30 the [forester] **Forest Practices Act Administration Division of the Oregon Forest Resources**  
31 **Institute** a written permit.[, which shall require] **The permit must include requirements** that the  
32 holder of the permit:

33 (a) Take reasonable precautions that in the judgment of the [forester] **division** are necessary in  
34 the use of fire and power-driven machinery to prevent the spread of fire on or from an operation  
35 area.

36 (b) Designate a representative authorized to act on all matters having to do with fire control.[,  
37 which representatives shall] **The representative must** be available at all times by direct means of  
38 communication with the **State Forester**.

39 (c) If operating west of the summit of the Cascade Mountains, close down any part or all of the  
40 operation during any period of time when notified that, in the judgment of the **State Forester**, con-  
41 ditions exist as described in ORS 477.670.

42 (2) Routine road maintenance is excepted from the requirement to obtain a permit to operate  
43 power-driven machinery under this section. As used in this subsection "routine road maintenance"  
44 means grading, cleaning ditches, culvert cleaning, spot rocking or mechanical brushing along the  
45 roadside to maintain visibility.

1 (3)(a) The [forester] **division** may waive the requirement to obtain a written permit under this  
2 section when in the judgment of the [forester] **division** the operation will not constitute a fire hazard  
3 sufficient to justify the requirement.

4 (b) Waiver of the requirement to obtain a written permit under this section does not relieve the  
5 owner and operator of the responsibility for complying with other applicable duties, requirements  
6 or penalties of this chapter.

7 **SECTION 12.** ORS 477.630 is amended to read:

8 477.630. (1) Each permit issued under ORS 477.625 shall include:

9 (a) The legal description of the area upon which any operation is to be conducted, or an alter-  
10 nate description of the area permitted by the [forester] **Forest Practices Act Administration Di-**  
11 **vision of the Oregon Forest Resources Institute;**

12 (b) The name and address of the operator and owner; and

13 (c) Any other information considered by the [forester] **division** to be necessary for the adminis-  
14 tration of the rules promulgated **by the State Forester** under this chapter.

15 (2) The information required in subsection (1) of this section shall be provided by the operator  
16 or owner, prior to issuance of the permit by the [forester] **division**.

17 **SECTION 13.** ORS 477.635 is amended to read:

18 477.635. The [forester] **Forest Practices Act Administration Division of the Oregon Forest**  
19 **Resources Institute** may issue the permits required in ORS 477.625 and suspend or revoke such  
20 permits because of violation of the **permit** terms [thereof] or noncompliance with this chapter. The  
21 [forester] **division** shall refuse to issue a permit to any person for the conduct of an operation when,  
22 in the judgment of the [forester] **division**, an excessive amount of forest debris in and around the  
23 operation area results in an extreme fire hazard that endangers life, forest resources or property.

24 **SECTION 14.** ORS 477.650 is amended to read:

25 477.650. (1) During a fire season every person operating a stationary internal combustion engine  
26 inside or within one-eighth of one mile of a forest protection district shall provide at each engine  
27 on an operation area a water supply, and equipment for its use in fire suppression, in conformity  
28 with rules promulgated by the State Forester. These rules shall prescribe such water supply and  
29 equipment as reasonably are necessary to prevent the spread of fire and may provide for the use  
30 of alternate methods and equipment.

31 (2) When a person has equipped one engine as required by subsection (1) of this section, any  
32 additional engines operated by the person within 150 feet of the equipped engine shall be exempt  
33 from the requirements of subsection (1) of this section.

34 (3) For the purposes of this section, an internal combustion engine shall be considered stationary  
35 if it is operated for a period of more than two days exclusively at one location in an operation area.

36 (4) The [forester in writing may waive] **Forest Practices Act Administration Division of the**  
37 **Oregon Forest Resources Institute, after consultation with the State Forester, may issue a**  
38 **written waiver of** any requirement of this section [when] **if** an operation will not constitute a fire  
39 hazard sufficient to justify the requirement.

40 **SECTION 15.** ORS 477.660 is amended to read:

41 477.660. During a fire season when in the judgment of the [forester] **Forest Practices Act Ad-**  
42 **ministration Division of the Oregon Forest Resources Institute** any operation inside or within  
43 one-eighth of one mile of a forest protection district has a fire hazard requiring additional pro-  
44 tection, the operator shall provide such other facilities or services as the [forester] **division** by  
45 written notice may direct.

1        **SECTION 16.** ORS 477.665 is amended to read:

2        477.665. (1) During a fire season inside or within one-eighth of one mile of a forest protection  
3 district, every operator using power-driven machinery in an operation area shall provide fire watch  
4 service on the operation area. The fire watch service shall consist of not less than one competent  
5 person, who shall be constantly on duty at times prescribed by rules promulgated by the State  
6 Forester. These rules shall require fire watch service at such times and at such places as the spread  
7 of fire on or from the operation area to forestland reasonably may be expected.

8        (2) The *[forester may modify or waive, in writing,]* **Forest Practices Act Administration Divi-**  
9 **sion of the Oregon Forest Resources Institute, after consultation with the State Forester,**  
10 **may issue a written modification or waiver of** any requirement of this section *[as to any operation*  
11 *whenever]* **for an operation if** the fire hazard is not sufficient to justify the requirement.

12        **SECTION 17.** ORS 477.670 is amended to read:

13        477.670. During a fire season inside or within one-eighth of one mile of a forest protection dis-  
14 trict situated west of the summit of the Cascade Mountains, if the forestland in such district, or any  
15 part thereof, is susceptible in the judgment of the **State** Forester to damage by fire, the **State**  
16 Forester shall issue notice to that effect. Thereafter the use of fire in any form by any person in  
17 any operation area or the use of power-driven machinery for any operation, is unlawful unless ap-  
18 proved by **the Forest Practices Act Administration Division of the Oregon Forest Resources**  
19 **Institute after consultation with the State** Forester. Approval shall be granted **by the division**  
20 only when in the judgment of the **State** Forester the activity will not constitute a fire hazard suf-  
21 ficient to justify the requirement.

22        **SECTION 18.** ORS 526.041 is amended to read:

23        526.041. The **State** Forester, under the general supervision of the State Board of Forestry, shall:

24        (1) In compliance with ORS chapter 183, promulgate rules consistent with law for the enforce-  
25 ment of the state forest laws relating directly to the protection of forestland and the conservation  
26 of forest resources.

27        (2) Appoint and instruct fire wardens as provided in ORS chapter 477.

28        (3) Direct the improvement and protection of forestland owned by the State of Oregon.

29        (4) Collect data relative to forest conditions.

30        (5) Take action authorized by law to prevent and extinguish forest, brush and grass fires.

31        (6) Enforce all laws pertaining to forestland and prosecute violations of such laws.

32        (7) Cooperate with **the Forest Practices Act Administration Division of the Oregon Forest**  
33 **Resources Institute**, landowners, political subdivisions, private associations and agencies and oth-  
34 ers in forest protection.

35        (8) *[Advise and]* Encourage reforestation.

36        (9) Publish such information on forestry as the **State** Forester determines to be in the public  
37 interest.

38        (10) Enter into contracts and cooperative agreements pertaining to experiments and research in  
39 forestry.

40        (11) Sell, exchange or otherwise dispose of any real property heretofore or hereafter acquired  
41 by the board for administrative purposes and no longer needed.

42        (12) Coordinate any activities of the State Forestry Department related to a watershed en-  
43 hancement project approved by the Oregon Watershed Enhancement Board under ORS 541.375 with  
44 activities of other cooperating state and federal agencies participating in the project.

45        (13) Prescribe uniform state standards for certification of wildland fire training courses and ed-

1 ucational programs.

2 **SECTION 19.** ORS 526.060 is amended to read:

3 526.060. (1) Except as provided in ORS 526.121, 530.147 and 530.280, all assessments, federal ap-  
4 portionments or contributions, and other moneys received by the **State** Forester or State Board of  
5 Forestry, shall be paid into the State Treasury and credited to the State Forestry Department Ac-  
6 count, which is established separate and distinct from the General Fund. All moneys in the State  
7 Forestry Department Account are continuously appropriated, and shall be used by the **State**  
8 Forester, under the supervision and direction of the board, for the purposes authorized by law.

9 (2) The forester shall keep a record of all moneys deposited in the State Forestry Department  
10 Account. The record shall indicate by separate cumulative accounts the source from which the  
11 moneys are derived and the individual activity or program against which each withdrawal is  
12 charged. *[All moneys in the account received pursuant to ORS 527.610 to 527.770 and 527.992 shall*  
13 *be used only for carrying out the duties, functions and powers of the State Forestry Department in*  
14 *administering ORS 527.610 to 527.770 and 527.992.]*

15 (3) The Urban and Community Forestry Subaccount is established as a subaccount of the State  
16 Forestry Department Account. Moneys in the Urban and Community Forestry Subaccount are con-  
17 tinuously appropriated to the State Forestry Department to be used for urban and community forest  
18 activities described in ORS 469.634 and 469.652.

19 (4) The State Forest Enhancement Donation Subaccount is established as a subaccount to the  
20 State Forestry Department Account. Moneys in the State Forest Enhancement Donation Subaccount  
21 are continuously appropriated to the State Forestry Department to be used for the purposes de-  
22 scribed in ORS 526.065.

23 (5) The State Forest Nursery Subaccount is established as a subaccount to the State Forestry  
24 Department Account. Moneys in the State Forest Nursery Subaccount are continuously appropriated  
25 to the State Forestry Department to be used for the purposes described in ORS 526.235.

26 (6) The State Forest Tree Seed Bank Subaccount is established as a subaccount to the State  
27 Forestry Department Account. Moneys in the State Forest Tree Seed Bank Subaccount are contin-  
28 uously appropriated to the State Forestry Department to be used for the purposes described in ORS  
29 526.470.

30 (7) The State Forest Tree Seed Orchard Subaccount is established as a subaccount to the State  
31 Forestry Department Account. Moneys in the State Forest Tree Seed Orchard Subaccount are con-  
32 tinuously appropriated to the State Forestry Department to be used for the purposes described in  
33 ORS 526.472.

34 (8) Notwithstanding ORS 291.238, the moneys credited to the subaccounts established under  
35 subsections (5), (6) and (7) of this section shall be continuously available on a revolving basis.

36 **SECTION 20.** ORS 526.490 is amended to read:

37 526.490. (1) It is the policy of the State of Oregon to encourage the afforestation of idle land for  
38 the purpose of establishing commercial forests if such afforestation is consistent with landowner  
39 objectives. The purpose of this section is to provide an incentive for afforestation by providing as-  
40 surance that the State of Oregon will not prohibit the harvesting of trees planted on such lands  
41 within the first crop rotation.

42 (2) As used in this section:

43 (a) "Free to grow" means a stand of well-distributed trees that has a high probability of re-  
44 maining or becoming vigorous, healthy and dominant over undesired competing vegetation.

45 (b) "Parcel" has the meaning given that term in ORS 92.010.

1 (3) Notwithstanding ORS 527.676, 527.710 or 527.755 or any rules promulgated thereunder, and  
2 except as provided in subsection (4) of this section, a person who, after September 9, 1995, plants  
3 or causes to be planted a stand of timber that is intended to become a merchantable stand of timber  
4 as defined in ORS 321.005 on a parcel owned by the person, or a portion of such parcel not less than  
5 five contiguous acres, shall not be prohibited from harvesting the planted timber provided that:

6 (a) Prior to the time of planting, the parcel or portion thereof has not been subject to any forest  
7 practice as defined in ORS 527.620 since July 1, 1972; and

8 (b) Prior to the time of planting, the stocking of forest tree species on the subject parcel or  
9 portion thereof is less than 25 square feet of basal area per acre.

10 (4) The provisions of subsection (3) of this section shall not apply to any land or timber located  
11 within 20 feet of any large or medium stream, or any small stream that is a fish-bearing or domestic  
12 use stream, as defined by the State Board of Forestry.

13 (5)(a) If, within two to five years of planting under subsection (3) of this section, the person  
14 notifies the [State Forester] **Forest Practices Act Administration Division of the Oregon Forest**  
15 **Resources Institute**, the [State Forester] **division** shall inspect the timber and shall issue a certif-  
16 icate to the owner indicating that a free to grow stand of timber has been established under sub-  
17 section (3) of this section and identifying the location of the timber. Upon request of the owner and  
18 payment of any applicable fee, the county clerk in the county wherein the parcel is located shall  
19 record the certificate as specified under ORS 205.130.

20 (b) A person who notifies the [State Forester] **division** and requests certification shall provide  
21 an accurate plat of the parcel or portion planted under subsection (3) of this section to the [State  
22 Forester] **division** as well as photographs that accurately depict the condition of the land prior to  
23 planting.

24 (c) The State Forester may, by rule, establish a fee or schedule of fees adequate to cover such  
25 necessary expenses incurred by the [State Forester] **division** in conducting inspection and certif-  
26 ication activities. Fees may be charged to the person requesting certification.

27 (6)(a) Except as provided in subsection (3) of this section, all forest practices conducted on the  
28 planted parcel or portion thereof shall be subject to the provisions of ORS 527.610 to 527.770, 527.990  
29 (1) and 527.992.

30 (b) No parcel or portion of such parcel shall be subject to the provisions of subsections (3) and  
31 (5) of this section more than once.

32 **SECTION 21.** ORS 526.770 is amended to read:

33 526.770. (1) No harvest or removal of forest products on forestland covered by a contract be-  
34 tween the forest landowner and the Forest Resource Trust shall occur without the landowner or the  
35 timber owner first notifying the State Forester in writing, on forms prepared by the State Forester,  
36 of intent to harvest or remove forest products. [Notice shall be made in the same manner as notice  
37 provided under ORS 527.670 (6).] **The State Forester shall adopt rules establishing a procedure**  
38 **for giving notice under this section. To the extent practicable, the State Forester shall pat-**  
39 **tern the notice procedure on the notice procedure described in ORS 527.670 (6).**

40 (2) The notification shall specify where and when the harvest or removal of forest products will  
41 take place, the nature of the harvest or removal of forest products and where and to whom the  
42 forest products will be sold or delivered and shall include maps or other information as required by  
43 the State Forester. Upon receipt of notification pursuant to subsection (1) of this section, the State  
44 Forester shall notify the landowner, and any person to whom the forest products will be sold or  
45 delivered, of the repayment obligation specified in any contract between the forest landowner and

1 the State Forester. The landowner shall make payment to the State Forester. Such payment shall  
 2 be deposited in the Forest Resource Trust Fund. If payment is not made within 60 days of harvest  
 3 or removal of forest products, the lien shall be delinquent and may be foreclosed in the manner de-  
 4 scribed in ORS 526.755.

5 **SECTION 22.** ORS 527.630 is amended to read:

6 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base  
 7 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water  
 8 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the  
 9 public policy of the State of Oregon to encourage economically efficient forest practices that ensure  
 10 the continuous growing and harvesting of forest tree species and the maintenance of forestland for  
 11 such purposes as the leading use on privately owned land, consistent with sound management of soil,  
 12 air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as  
 13 provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-  
 14 ations of Oregonians.

15 (2) It is recognized that operations on forestland are already subject to other laws and to reg-  
 16 ulations of other agencies which deal primarily with consequences of such operations rather than  
 17 the manner in which operations are conducted. It is further recognized that it is essential to avoid  
 18 uncertainty and confusion in enforcement and implementation of such laws and regulations and in  
 19 planning and carrying out operations on forestlands.

20 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770 and 527.990  
 21 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclu-  
 22 sive authority to develop [*and enforce*] statewide and regional rules pursuant to ORS 527.710 and to  
 23 coordinate with other state agencies and local governments which are concerned with the forest  
 24 environment. **It is further declared to be in the public interest to vest the enforcement of**  
 25 **those rules with regard to forest practices described under ORS 527.610 to 527.770 in the**  
 26 **Forest Practices Act Administration Division of the Oregon Forest Resources Institute.**

27 (4) The board may adopt [*and enforce*] rules addressing scenic considerations only in accordance  
 28 with ORS 527.755.

29 (5) The board shall adopt [*and enforce*] forest practice rules to reduce the risk of serious bodily  
 30 injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10). As used  
 31 in this subsection, “rapidly moving landslide” has the meaning given in ORS 195.250.

32 (6) The State of Oregon should provide a stable regulatory environment to encourage investment  
 33 in private forestlands.

34 **SECTION 23.** ORS 527.670 is amended to read:

35 527.670. (1) The State Board of Forestry shall designate the types of operations for which notice  
 36 shall be required under this section.

37 (2) The board shall determine by rule what types of operations require a written plan.

38 (3) The board’s determination under subsection (2) of this section shall require a written plan  
 39 for operations:

40 (a) Within one hundred feet of a stream determined by the State Forester to be used by fish or  
 41 for domestic use, unless the board, by rule, provides that a written plan is not required because the  
 42 proposed operation will be conducted according to a general vegetation retention prescription de-  
 43 scribed in administrative rule, or unless the operation will be conducted pursuant to a stewardship  
 44 agreement entered into under ORS 541.423; or

45 (b) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710 (3)(a) un-

1 less the operation will be conducted pursuant to a stewardship agreement entered into under ORS  
 2 541.423 and is consistent with the purposes and policies of any relevant Safe Harbor Agreements  
 3 or Candidate Conservation Agreements entered into between the State of Oregon and agencies of  
 4 the United States Government, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205,  
 5 16 U.S.C. 1531 et seq.) and federal regulations.

6 (4) The distances set forth in subsection (3)(a) and (b) of this section are solely for the purpose  
 7 of defining an area within which a hearing may be requested under ORS 527.700 and not the area  
 8 to be protected by the board's rules adopted pursuant to ORS 527.710 (3)(c).

9 (5) For the purpose of determining the distances set forth in subsection (3)(a) and (b) of this  
 10 section "site" means the specific resource site and not any additional buffer area.

11 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the  
 12 [State Forester] **Forest Practices Act Administration Division of the Oregon Forest Resources**  
 13 **Institute**. The notification shall be on forms [provided] **prescribed** by the State Forester **and pro-**  
 14 **vided by the division** and shall include the name and address of the operator, timber owner and  
 15 landowner, the legal description of the operating area, and any other information considered by the  
 16 State Forester to be necessary for the administration of the rules promulgated by the board pursuant  
 17 to ORS 527.710. Promptly upon receipt of such notice, the [State Forester] **division** shall send a copy  
 18 of the notice to whichever of the operator, timber owner or landowner did not submit the notifica-  
 19 tion. The [State Forester] **division** shall send a copy of notices involving chemical applications to  
 20 persons within 10 miles of the chemical application who hold downstream surface water rights pur-  
 21 suant to ORS chapter 537, if such a person has requested that notification in writing. The board  
 22 shall adopt rules specifying the information to be contained in the notice. All information filed with  
 23 the [State Forester] **division** pertaining to chemical applications shall be public record.

24 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-  
 25 tify the [State Forester] **division** of any subsequent change in the information contained in the no-  
 26 tification.

27 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)  
 28 or (7) of this section, the [State Forester] **division** shall send a copy of the notice or written plan to  
 29 any person who requested of the [State Forester] **division** in writing that the person be sent copies  
 30 of notice and written plan and who has paid any applicable fee established [by the State Forester]  
 31 for such service. The [State Forester] **Oregon Forest Resources Institute** may establish a fee for  
 32 [sending] **the division to send** copies of notices and written plans under this subsection not to ex-  
 33 ceed the actual and reasonable costs. In addition, the [State Forester] **division** shall send a copy of  
 34 the notification to the Department of Revenue and the county assessor for the county in which the  
 35 operation is located, at times and in a manner determined through written cooperative agreement  
 36 by the parties involved.

37 (9) Persons may submit written comments pertaining to the operation to the [State Forester]  
 38 **division** within 14 calendar days of the date the notice or written plan was filed with the [State  
 39 Forester] **division** under subsection (2), (6) or (7) of this section. Notwithstanding the provisions of  
 40 this subsection, the [State Forester] **division** may waive any waiting period for operations not re-  
 41 quiring a written plan under subsection (3) of this section, except those operations involving aerial  
 42 application of chemicals.

43 (10) If an operator, timber owner or landowner is required to submit a written plan of operations  
 44 to the [State Forester under] **division under determinations described in** subsection (3) of this  
 45 section:

1 (a) The [State Forester] **division** shall review a written plan and may provide comments to the  
2 person who submitted the written plan;

3 (b) The [State Forester] **division** may not provide any comments concerning the written plan  
4 earlier than 14 calendar days following the date that the written plan was filed with the [State  
5 Forester] **division** nor later than 21 calendar days following the date that the written plan was filed;  
6 and

7 (c) Provided that notice has been provided as required by subsection (6) of this section, the op-  
8 eration may commence on the date that the [State Forester] **division** provides comments or, if no  
9 comments are provided within the time period established in paragraph (b) of this subsection, at any  
10 time after 21 calendar days following the date that the written plan was filed.

11 (11)(a) Comments provided by the [State Forester, or by the board under ORS 527.700 (6),] **divi-**  
12 **sion** to the person who submitted the written plan are for the sole purpose of providing advice to  
13 the operator, timber owner or landowner regarding whether the operation described in the written  
14 plan is likely to comply with ORS 527.610 to 527.770 and rules adopted thereunder. Comments pro-  
15 vided by the [State Forester or the board] **division** do not constitute an approval of the written plan  
16 or operation.

17 (b) If the [State Forester or the board] **division** does not comment on a written plan, the failure  
18 to comment does not mean that an operation carried out in conformance with the written plan  
19 complies with ORS 527.610 to 527.770 or rules adopted thereunder nor does the failure to comment  
20 constitute a rejection of the written plan or operation.

21 (c) [In the event that the State Forester or board] **If the division** determines that an enforcement  
22 action may be appropriate concerning the compliance of a particular operation with ORS 527.610 to  
23 527.770 or rules adopted thereunder, the [State Forester or board] **division** shall consider, but [are]  
24 **is** not bound by, comments that the [State Forester] **division** provided under this section [or com-  
25 ments that the board provided under ORS 527.700].

26 (12) When the operation is required to have a written plan under subsection (3) of this section  
27 and comments have been timely filed under subsection (9) of this section pertaining to the operation  
28 requiring a written plan, the [State Forester] **division** shall:

29 (a) Send a copy of the [State Forester's] **division's** review and comments, if any, to persons who  
30 submitted timely written comments under subsection (9) of this section pertaining to the operation;  
31 and

32 (b) Send to the operator, timber owner and landowner a copy of all timely comments submitted  
33 under subsection (9) of this section.

34 **SECTION 24.** ORS 527.674 is amended to read:

35 527.674. The State Board of Forestry may not adopt or enforce a rule under ORS 527.610 to  
36 527.770 that [requires that the board or the State Forester approve written plans as a required  
37 precedent] **makes the approval of written plans by the Forest Practices Act Administration**  
38 **Division of the Oregon Forest Resources Institute a prerequisite** to conducting a forest prac-  
39 tice or operation.

40 **SECTION 25.** ORS 527.676 is amended to read:

41 527.676. (1) In order to contribute to the overall maintenance of wildlife, nutrient cycling,  
42 moisture retention and other resource benefits of retained wood, when a harvest type 2 unit ex-  
43 ceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave on av-  
44 erage, per acre harvested, at least:

45 (a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at least

1 50 percent of which are conifers; and

2 (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that each  
3 comprise at least 10 cubic feet gross volume and are no less than six feet long. One downed conifer  
4 or suitable hardwood log of at least 20 cubic feet gross volume and no less than six feet long may  
5 count as two logs.

6 (2) In meeting the requirements of this section, the operator has the sole discretion to determine  
7 the location and distribution of wildlife leave trees, including the ability to leave snags, trees and  
8 logs in one or more clusters rather than distributed throughout the unit and, if specifically permitted  
9 [by the] **under** State Board of Forestry [by rule] **rules**, to meet the wildlife leave tree requirements  
10 by counting snags, trees or logs otherwise required to be left in riparian management areas or re-  
11 source sites listed in ORS 527.710, subject to:

12 (a) Safety and fire hazard regulations;

13 (b) Rules or other requirements relating to wildlife leave trees established by the State Board  
14 of Forestry or the State Forester; and

15 (c) All other requirements pertaining to forest operations.

16 (3) **To assist an operator** in meeting the requirements of this section, the [State Forester]  
17 **Forest Practices Act Administration Division of the Oregon Forest Resources Institute:**

18 (a) Shall consult with the operator concerning the selection of wildlife leave trees when the  
19 [State Forester] **division** believes that retaining certain trees or groups of trees would provide in-  
20 creased benefits to wildlife.

21 (b) May approve alternate plans submitted by the operator to meet the provisions of this section,  
22 including but not limited to waiving:

23 (A) The requirement that at least 50 percent of wildlife leave trees be conifers, upon a showing  
24 that a site is being intensively managed for hardwood production; and

25 (B) In whole or in part, the requirements of this section for one operation if an alternate plan  
26 provides for an equal or greater number of wildlife leave trees in another harvest type 2 or harvest  
27 type 3 operation, that the [State Forester] **division** determines would achieve better overall benefits  
28 for wildlife.

29 (c) May require, for operations adjacent to a fish-bearing or domestic use stream, in addition to  
30 trees otherwise required to be left in riparian management areas, up to 25 percent of the green trees  
31 required to be retained under this section to be left in or adjacent to the riparian management area  
32 of the stream.

33 [(d)] (4) **The State Board of Forestry** may require by rule, [for] **that** operations adjacent to a  
34 small, nonfish-bearing stream subject to rapidly moving landslides as defined in ORS 195.250, [that]  
35 **leave** available green trees and snags [be left] in or adjacent to the stream. **If an operation is**  
36 **subject to a rule described in this subsection**, the operator must leave available green trees and  
37 snags [under this paragraph] within an area that is 50 feet on each side of the stream and no more  
38 than 500 feet upstream from a riparian management area of a fish-bearing stream.

39 [(4)] (5) When a harvest type 2 or harvest type 3 unit occurs adjacent to a prior harvest type  
40 2 or harvest type 3 unit, resulting in a combined total contiguous acreage of harvest type 2 or  
41 harvest type 3 under single ownership exceeding 25 acres, the wildlife leave tree and downed log  
42 requirements of subsection (1) of this section apply to the combined total contiguous acreage.

43 **SECTION 26.** ORS 527.680 is amended to read:

44 527.680. (1) [Whenever the State Forester] **If the Forest Practices Act Administration Division**  
45 **of the Oregon Forest Resources Institute** determines that an operator has committed a violation

1 **that is punishable** under ORS 527.990 (1), the [*State Forester may*] **division may act on behalf of**  
 2 **the State Board of Forestry to** issue and serve a citation upon the operator or authorized repre-  
 3 sentative. The [*State Forester*] **division** shall cause a copy of the citation to be mailed or delivered  
 4 to the timber owner and landowner. [*Whenever the State Forester*] **If the division** determines that  
 5 the landowner has failed to comply with the reforestation rules under ORS 527.710, the [*State*  
 6 *Forester may*] **division may act on behalf of the board to** issue and serve a citation upon the  
 7 landowner or authorized representative. Each citation issued under this section shall specify the  
 8 nature of the violation charged and any damage or unsatisfactory condition that has occurred as the  
 9 result of such violation.

10 (2) [*Whenever*] **If** a citation is served pursuant to subsection (1) of this section, the [*State*  
 11 *Forester*] **division, on behalf of the board:**

12 (a) Shall issue and serve upon the landowner or operator or authorized representative an order  
 13 directing that the landowner or operator cease further violation. If the order is served upon an op-  
 14 erator, the [*State Forester*] **division** shall cause a copy of such order to be mailed or delivered to  
 15 the timber owner and landowner; and

16 (b) May issue and serve an order upon the landowner or operator and shall cause a copy of such  
 17 order to be mailed or delivered to the timber owner and landowner, directing the landowner or op-  
 18 erator, where practical and economically feasible, to make reasonable efforts to repair the damage  
 19 or correct the unsatisfactory condition specified in the citation within a period specified by the  
 20 [*State Forester*] **division.**

21 (3) [*In the event*] **If** the order issued under subsection (2)(a) of this section has not been complied  
 22 with, and the violation specified in such order is resulting in continuing damage, the [*State*  
 23 *Forester*] **division** by temporary order, may direct the landowner or operator to cease any further  
 24 activity in that portion of the operation that is resulting in such damage. Such temporary order  
 25 shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this  
 26 section or until the date that the violation ceases, whichever date occurs first.

27 (4) A temporary order issued under subsection (3) of this section shall be served upon the  
 28 landowner or operator or authorized representative, and the [*State Forester*] **division** shall cause a  
 29 copy of such temporary order to be mailed or delivered to the operator, timber owner and land-  
 30 owner. If requested by the operator, timber owner or landowner, the [*State*] board [*of Forestry*], fol-  
 31 lowing the appeal procedures of ORS 527.700, must hold a hearing on the temporary order within  
 32 five working days after the receipt by the board of the request. A temporary order issued and served  
 33 pursuant to subsection (3) of this section shall remain in effect not more than five working days  
 34 after such hearing unless the order is sooner affirmed, modified or revoked by the board.

35 (5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b)  
 36 of this section within the time specified in the order, or if the landowner or operator fails to comply  
 37 with a **board** final order imposing civil penalties for violation of any provision of the Oregon Forest  
 38 Practices Act, the [*State Forester*] **division** may issue an order that prohibits the affected landowner  
 39 or operator from conducting any new operations on any forestland in this state until the landowner  
 40 or operator has complied with the order to correct an unsatisfactory condition, make repair or pay  
 41 the civil penalty, as the case may be, to the satisfaction of the [*State Forester.*] **division.**

42 (6) **The division shall provide a copy of any citation or order issued under this section to**  
 43 **the State Forester.**

44 **SECTION 27.** ORS 527.683 is amended to read:

45 527.683. (1) No civil penalty prescribed in ORS 527.992 shall be imposed until the person incur-

1 ring the penalty has received notice in writing from the [*State Forester*] **Forest Practices Act**  
2 **Administration Division of the Oregon Forest Resources Institute** specifying the violation.  
3 Such notice is in addition to the notice required in ORS 183.745.

4 (2) The citation issued pursuant to ORS 527.680 (1) and the order issued pursuant to ORS 527.680  
5 (2)(b) shall each constitute the notice required by subsection (1) of this section.

6 **SECTION 28.** ORS 527.685 is amended to read:

7 527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that  
8 [*may be imposed*] **the Forest Practices Act Administration Division of the Oregon Forest Re-**  
9 **sources Institute, acting on behalf of the board, may impose** for a particular **type of** violation.  
10 Except as provided in subsection (5) of this section, no civil penalty shall exceed \$5,000 per vio-  
11 lation.

12 (2) In imposing a penalty authorized by this section, the [*State Forester*] **division** may consider  
13 the following factors:

14 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures  
15 necessary or appropriate to correct any violation.

16 (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest  
17 Practices Act.

18 (c) The gravity and magnitude of the violation.

19 (d) Whether the violation was repeated or continuous.

20 (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional  
21 act.

22 (f) The size and type of ownership of the operation.

23 (g) Any relevant rule of the board.

24 (h) The violator's cooperativeness and efforts to correct the violation.

25 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and  
26 conditions as the board determines to be proper and consistent with the public benefit. Upon the  
27 request of the person incurring the penalty, the board shall consider evidence of the economic and  
28 financial condition of the person in determining whether a penalty shall be remitted or mitigated.

29 (4) The board, by rule, may delegate to the [*State Forester*] **division** upon such conditions as  
30 [*deemed*] **the board deems** necessary, all or part of the authority of the board provided in sub-  
31 section (3) of this section to [*assess,*] remit or mitigate civil penalties.

32 (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745,  
33 the [*State Forester*] **division** may impose a civil penalty in an amount equal to the estimated cost  
34 of reforesting lands pursuant to ORS 527.690.

35 **SECTION 29.** ORS 527.690 is amended to read:

36 527.690. (1) [*In the event*] **If** an order issued pursuant to ORS 527.680 (2)(b) directs the repair of  
37 damage or correction of an unsatisfactory condition, including compliance with reforestation re-  
38 quirements, and if the operator or landowner does not comply with the order within the period  
39 specified in such order and the order has not been appealed to the State Board of Forestry within  
40 30 days, the [*State Forester*] **Forest Practices Act Administration Division of the Oregon Forest**  
41 **Resources Institute** based upon a determination by the [*forester*] **division, after consultation with**  
42 **the State Forester,** of what action will best carry out the purposes of ORS 527.630 shall:

43 (a) Maintain an action, **in the name of the Oregon Forest Resources Institute,** in the Circuit  
44 Court for Marion County or the circuit court for the county in which the violation occurred for an  
45 order requiring the landowner or operator to comply with the terms of the [*forester's*] **division's**

1 order or to restrain violations [*thereof*] **of the order**; or

2 (b) Estimate the cost to repair the damage or the unsatisfactory condition as directed by the  
3 order and shall notify the operator, timber owner and landowner in writing of the amount of the  
4 estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State  
5 Forester may proceed to repair the damage or the unsatisfactory condition. [*In the event*] **If** approval  
6 of the expenditure is not obtained within 30 days after notification to the operator, timber owner  
7 and landowner under this section, the [*State Forester*] **division** shall present to the **State Forester**  
8 **and the** board the alleged violation, the estimate of the expenditure to repair the damage or un-  
9 satisfactory condition and the justification for the expenditure.

10 (2) The board shall review the matter presented to it pursuant to subsection (1) of this section  
11 and shall determine whether to authorize the State Forester to proceed to repair the damage or  
12 correct the unsatisfactory condition and the amount authorized for expenditure. The board shall af-  
13 ford the operator, timber owner or landowner the opportunity to appear before the board for the  
14 purpose of presenting facts pertaining to the alleged violation and the proposed expenditure.

15 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory  
16 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,  
17 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-  
18 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an  
19 itemized statement [*thereof and*] **of the expenditures. The division** shall deliver a copy to the op-  
20 erator, timber owner and landowner. [*In no event shall*] The expenditures **may not** exceed the  
21 amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures  
22 incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie ev-  
23 idence of such expenditures in any proceeding authorized by this section. If the State Forester's  
24 action to repair the damage or correct the unsatisfactory condition arose from an operation for  
25 which a bond, cash deposit or other security was required under ORS 527.760, the State Forester  
26 shall retain any applicable portion of a cash deposit and the surety on the bond or holder of the  
27 other security deposit shall pay the amount of the bond or other security deposit to the State  
28 Forester upon demand. If the amount specified in the demand is not paid within 30 days following  
29 the demand, the Attorney General, upon request by the State Forester, shall institute proceedings  
30 to recover the amount specified in the demand.

31 (4) The expenditures in cases covered by this section, including cases where the amount col-  
32 lected on a bond, deposit or other security was not sufficient to cover authorized expenditures, shall  
33 constitute a general lien upon the real and personal property of the operator, timber owner and  
34 landowner within the county in which the damage occurred. A written notice of the lien, containing  
35 a statement of the demand, the description of the property upon which the expenditures were made  
36 and the name of the parties against whom the lien attaches, shall be certified under oath by the  
37 State Forester and filed in the office of the county clerk of the county or counties in which the  
38 expenditures were made within six months after the date of delivery of the itemized statement re-  
39 ferred to in subsection (3) of this section, and may be foreclosed in the manner provided in ORS  
40 chapter 88.

41 (5) All moneys recovered under this section shall be paid into the State Forestry Department  
42 Account.

43 **SECTION 30.** ORS 527.700 is amended to read:

44 527.700. (1) Any operator, timber owner or landowner affected by any finding or order of the  
45 [*State Forester*] **Forest Practices Act Administration Division of the Oregon Forest Resources**

1 **Institute** issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days  
2 after issuance of the order. The hearing shall be commenced within 14 days after receipt of the re-  
3 quest for hearing and a final order shall be issued within 28 days of the request for the hearing  
4 unless all parties agree to an extension of the time limit.

5 (2) The State Board of Forestry may delegate to the administrative law judge the authority to  
6 issue final orders on matters under this section. Hearings provided under this section shall be con-  
7 ducted as contested case hearings under ORS 183.413 to 183.470. The board may establish such rules  
8 as it deems appropriate to carry out the provisions of this section. Appeals from final hearing orders  
9 under this section shall be provided in ORS 183.482, except that the comments of the board or [*the*  
10 *State Forester*] **division** concerning a written plan are not reviewable orders under ORS 183.480.

11 (3) Any person adversely affected or aggrieved by an operation described in subsection (4) of  
12 this section may file a written request to the board for a hearing if the person submitted written  
13 comments pertaining to the operation within the time limits established under ORS 527.670 (9).

14 (4) A request for hearing may be filed under subsection (3) of this section only if a written plan  
15 was required pursuant to ORS 527.670 (3).

16 (5) A request for hearing filed under subsection (3) of this section shall be filed within 14 cal-  
17 endar days of the date the [*State Forester*] **division** completed review of the written plan and issued  
18 any comments. Copies of the complete request shall be served, within the 14-day period, on the op-  
19 erator, timber owner and landowner. The request shall include:

20 (a) A copy of the written plan on which the person is requesting a hearing;

21 (b) A copy of the comments pertaining to the operation that were filed by the person requesting  
22 the hearing;

23 (c) A statement that shows the person is adversely affected or aggrieved by the operation and  
24 has an interest which is addressed by the Oregon Forest Practices Act or rules adopted thereunder;  
25 and

26 (d) A statement of facts that establishes that the operation is of the type described in ORS  
27 527.670 (3).

28 (6) If the board finds that the person making the request meets the requirement of subsection  
29 (5)(c) of this section, the board shall set the matter for hearing within 21 calendar days after receipt  
30 of the request for hearing. The operator, timber owner and landowner shall be allowable parties to  
31 the hearing. The person requesting the hearing may raise, in the hearing, only those issues that the  
32 person raised in written comments filed under ORS 527.670 (9) relating to conformity with the rules  
33 of the board. The board shall issue its own comments, which may affirm, modify or rescind comments  
34 of the [*State Forester*] **division**, if any, on the written plan within 45 days after the request for  
35 hearing was filed, unless all parties agree to an extension of the time limit. The comments of the  
36 board or of the [*State Forester*] **division** concerning a written plan are not reviewable orders under  
37 ORS 183.480.

38 (7) The board may award reasonable attorney fees and expenses to each of the prevailing parties  
39 against any other party who the board finds presented a position without probable cause to believe  
40 the position was well-founded, or made a request primarily for a purpose other than to secure ap-  
41 propriate action by the board.

42 (8)(a) Upon the written request of a person requesting a hearing under subsection (3) of this  
43 section, a stay of the operation subject to the hearing may be granted upon a showing that:

44 (A) Commencement or continuation of the operation will constitute a violation of the rules of  
45 the board;

1 (B) The person requesting the stay will suffer irreparable injury if the stay is not granted; and

2 (C) The requirements of subsections (3), (4) and (5) of this section are met.

3 (b) If the board grants the stay, it shall require the person requesting the stay to give an  
4 undertaking which may be in the amount of the damages potentially resulting from the stay, but in  
5 any event shall not be less than \$15,000. The board may impose other reasonable requirements per-  
6 taining to the grant of the stay. The board shall limit the effect of the stay to the specific ge-  
7 ographic area or elements of the operation for which the person requesting the stay has  
8 demonstrated a violation of the rules and irreparable injury under paragraph (a) of this subsection.

9 (c) If the board determines in its comments that the written plan pertaining to the operation for  
10 which the stay was granted is likely to result in compliance with ORS 527.610 to 527.770 or the rules  
11 of the board, the board may award reasonable attorney fees and actual damages in favor of each  
12 of the prevailing parties, to the extent incurred by each, against the person requesting the stay.

13 (9) If the board rescinds or modifies the comments on the written plan as submitted by the [*State*  
14 *Forester*] **division** pertaining to any operation, the board may award reasonable attorney fees and  
15 costs against the state in favor of each of the prevailing parties.

16 (10) As used in this section, “person” means any individual, partnership, corporation, associ-  
17 ation, governmental subdivision or public or private organization of any character.

18 **SECTION 31.** ORS 527.710 is amended to read:

19 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the  
20 State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183,  
21 rules to be administered by the [*State Forester*] **Forest Practices Act Administration Division of**  
22 **the Oregon Forest Resources Institute** establishing standards for forest practices in each region  
23 or subregion.

24 (2) The rules shall ensure the continuous growing and harvesting of forest tree species. Con-  
25 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-  
26 sources:

27 (a) Air quality;

28 (b) Water resources, including but not limited to sources of domestic drinking water;

29 (c) Soil productivity; and

30 (d) Fish and wildlife.

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

34 (A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by  
35 rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species  
36 Act of 1973 as amended;

37 (B) Sensitive bird nesting, roosting and watering sites;

38 (C) Biological sites that are ecologically and scientifically significant; and

39 (D) Significant wetlands.

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

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

1 ventories required by paragraph (a) of this subsection.

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

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

8 (b) Mining operation programs administered by the Department of Geology and Mineral Indus-  
9 tries under ORS 516.010 to 516.130 and ORS chapter 517;

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

13 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-  
14 ministered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to  
15 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

16 (e) The programs administered by the Columbia River Gorge Commission under Public Law  
17 99-663 and ORS 196.110 and 196.150;

18 (f) Removal and fill, conservation and conservation tax incentive programs administered by the  
19 State Land Board and the Department of State Lands under ORS 196.800 to 196.900 and 273.553 to  
20 273.591;

21 (g) Federal Safe Drinking Water Act programs administered by the Oregon Health Authority  
22 under ORS 448.273 to 448.990;

23 (h) Conservation and conservation tax incentive programs administered by the Natural Heritage  
24 Advisory Council under ORS 273.553 to 273.591;

25 (i) Open space land tax incentive programs administered by cities and counties under ORS  
26 308A.300 to 308A.330;

27 (j) Water resources programs administered by the Water Resources Department under ORS  
28 536.220 to 536.540; and

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

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

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

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

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

43 (8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws  
44 1991, the board determines that additional rules are necessary to protect forest resources pursuant  
45 to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the

1 adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity,  
 2 fish and wildlife resources and watersheds. Such rules shall include a process for determining areas  
 3 where adverse impacts from cumulative effects have occurred or are likely to occur, and may re-  
 4 quire that a written plan be submitted for harvests in such areas.

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

9 (b) For those streams identified *[in]* **by the State Forester under** paragraph (a) of this sub-  
 10 section, the *[State Forester]* **division** shall encourage landowners to enter into cooperative agree-  
 11 ments with appropriate state agencies for conduct of restoration activities.

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

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

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

22 **SECTION 32.** ORS 527.722 is amended to read:

23 527.722. (1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 215 and 227, and ex-  
 24 cept as provided in subsections (2), (3) and (4) of this section, no unit of local government shall adopt  
 25 any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate, subject  
 26 to approval or in any other way affect forest practices on forestlands located outside of an ac-  
 27 knowledged urban growth boundary.

28 (2) Nothing in subsection (1) of this section prohibits local governments from adopting and ap-  
 29 plying a comprehensive plan or land use regulation to forestland to allow, prohibit or regulate:

30 (a) Forest practices on lands located within an acknowledged urban growth boundary;

31 (b) Forest practices on lands located outside of an acknowledged urban growth boundary, and  
 32 within the city limits as they exist on July 1, 1991, of a city with a population of 100,000 or more,  
 33 for which an acknowledged exception to an agriculture or forestland goal has been taken;

34 (c) The establishment or alteration of structures other than temporary on-site structures which  
 35 are auxiliary to and used during the term of a particular forest operation;

36 (d) The siting or alteration of dwellings;

37 (e) Physical alterations of the land, including but not limited to those made for purposes of ex-  
 38 ploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road  
 39 construction or recreational facilities, when such uses are not auxiliary to forest practices; or

40 (f) Partitions and subdivisions of the land.

41 (3) Nothing in subsection (2) of this section shall prohibit a local government from enforcing the  
 42 provisions of ORS 455.310 to 455.715 and the rules adopted thereunder.

43 (4) Counties may prohibit, but in no other manner regulate, forest practices on forestlands:

44 (a) Located outside an acknowledged urban growth boundary; and

45 (b) For which an acknowledged exception to an agricultural or forest land goal has been taken.

1 (5) To ensure that all forest operations in this state are regulated to achieve protection of soil,  
2 air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Prac-  
3 tices Act applies to forest operations inside any urban growth boundary except in areas where a  
4 local government has adopted land use regulations for forest practices. For purposes of this sub-  
5 section, "land use regulations for forest practices" means local government regulations that are  
6 adopted for the specific purpose of directing how forest operations and practices may be conducted.  
7 These local regulations shall:

8 (a) Protect soil, air, water, fish and wildlife resources;

9 (b) Be acknowledged as in compliance with land use planning goals;

10 (c) Be developed through a public process;

11 (d) Be developed for the specific purpose of regulating forest practices; and

12 (e) Be developed in coordination with the State Forestry Department and with notice to the  
13 Department of Land Conservation and Development.

14 (6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife  
15 resources, the [State Forester] **Forest Practices Act Administration Division of the Oregon**  
16 **Forest Resources Institute** shall provide local governments with a copy of the notice or written  
17 plan for a forest operation within any urban growth boundary. Local governments may review and  
18 comment on an individual forest operation and inform the landowner or operator of all other regu-  
19 lations that apply but that do not pertain to activities regulated under the Oregon Forest Practices  
20 Act.

21 (7) The existence or adoption by local governments of a comprehensive plan policy or land use  
22 regulation regulating forest practices consistent with subsections (1) to (5) of this section shall re-  
23 lieve the [State Forester] **division** of responsibility to administer the Oregon Forest Practices Act  
24 within the affected area.

25 (8) The Director of the Department of Land Conservation and Development shall provide the  
26 [State Forester] **division** copies of notices submitted pursuant to ORS 197.615, whenever such notices  
27 concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, pro-  
28 hibiting or regulating forest practices.

29 **SECTION 33.** ORS 527.736 is amended to read:

30 527.736. (1) The standards established in ORS 527.740 to 527.750 shall be administered by the  
31 [State Forester] **Forest Practices Act Administration Division of the Oregon Forest Resources**  
32 **Institute** as standards applying to all operations in the state, including those on forestland owned  
33 by the state or any political subdivision thereof. Pursuant to ORS 527.710 the State Board of  
34 Forestry shall adopt, repeal or amend forest practice rules as necessary to be consistent with and  
35 to implement the standards established in ORS 527.740 to 527.750. Except as provided in ORS  
36 527.714, nothing in ORS 468B.100 to 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715,  
37 527.722, 527.724 and 527.736 to 527.770 shall affect the powers and duties of the board to adopt, or  
38 **of the State Forester or the division as applicable** to administer, all other regulations pertaining  
39 to forest practices under [applicable] state law.

40 (2) Nothing in ORS 527.740 to 527.750 is intended to apply to cutting of trees that is for growth  
41 enhancement treatments, as defined by the State Forester, such as thinning or precommercial  
42 thinning **approved by the division**.

43 (3) The State Board of Forestry may modify or waive the limitations and requirements of ORS  
44 527.676, 527.740, 527.750 and 527.755 for the purposes of a bona fide research project conducted by:

45 (a) A federal agency;

1 (b) Agencies of the executive department, as defined in ORS 174.112;

2 (c) An educational institution; or

3 (d) A private landowner.

4 (4) The State Board of Forestry may agree as a term of a stewardship agreement entered into  
5 under ORS 541.423 to modify or waive the limitations and requirements of ORS 527.676, 527.740,  
6 527.750 and 527.755.

7 (5) The State Board of Forestry may modify or waive the limitations and requirements of ORS  
8 527.676, 527.740, 527.750 and 527.755 for the purpose of an operation for the planting, growing,  
9 managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:

10 (a) The timber is grown on land that has been prepared by intensive cultivation methods and is  
11 cleared of competing vegetation for at least three years after planting;

12 (b) The timber is harvested on a rotation cycle of more than 12 years and less than 20 years  
13 after planting; and

14 (c) The timber is subject to intensive agricultural practices, including but not limited to  
15 fertilization, cultivation, irrigation, insect control and disease control.

16 **SECTION 34.** ORS 527.740 is amended to read:

17 527.740. (1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size, ex-  
18 cept as provided in ORS 527.750.

19 (2) No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest  
20 type 3 unit within a single ownership if the combined acreage of the harvest type 3 areas subject  
21 to regulation under the Oregon Forest Practices Act would exceed 120 acres in size, unless the prior  
22 harvest type 3 unit has been reforested as required by all applicable regulations and:

23 (a) At least the minimum tree stocking required by rule is established per acre; and either

24 (b) The resultant stand of trees has attained an average height of at least four feet; or

25 (c) At least 48 months have elapsed since the stand was created and it is "free to grow" as de-  
26 fined by the State Board of Forestry.

27 (3) Any acreage attributable to riparian areas or to resource sites listed in ORS 527.710 (3) that  
28 is located within a harvest unit shall not be counted in calculating the size of a harvest type 3 unit.

29 (4) The provisions of this section shall not apply when the land is being converted to managed  
30 conifers or managed hardwoods from brush or hardwood stands that contain less than 80 square feet  
31 of basal area per acre of trees 11 inches DBH or greater or when the harvest type 3 results from  
32 disasters such as fire, insect infestation, disease, windstorm or other occurrence that the [*State*  
33 *Forester*] **Forest Practices Act Administration Division of the Oregon Forest Resources In-**  
34 **stitute** determines was beyond the landowner's control and has substantially impaired productivity  
35 or safety on the unit or jeopardizes nearby forestland. The prior approval of the [*State Forester*]  
36 **division** shall be required for such conversion or harvest type 3 operations that exceed 120 acres  
37 in size.

38 (5) The provisions of this section do not apply to any operation where the operator demonstrates  
39 to the [*State Forester*] **division** that:

40 (a) The trees are subject to a cutting right created by written contract prior to October 1, 1990,  
41 which provides that the trees must be paid for regardless of whether the trees are cut, or subject  
42 to a cutting right created by reservation in a deed prior to October 1, 1990; and

43 (b) If the provisions of this section were applied, the cutting right would expire before all the  
44 trees subject to the cutting right could reasonably be harvested.

45 **SECTION 35.** ORS 527.745 is amended to read:

1       527.745. (1) The State Board of Forestry shall adopt standards for the reforestation of harvest  
2 type 1 and harvest type 3. Unless the board makes the findings for alternate standards under sub-  
3 section (2) of this section, the standards for the reforestation of harvest type 1 and harvest type 3  
4 shall include the following:

5       (a) Reforestation, including site preparation, shall commence within 12 months after the com-  
6 pletion of harvest and shall be completed by the end of the second planting season after the com-  
7 pletion of harvest. By the end of the fifth growing season after planting or seeding, at least 200  
8 healthy conifer or suitable hardwood seedlings or lesser number as permitted by the board by rule,  
9 shall be established per acre, well-distributed over the area, which are “free to grow” as defined by  
10 the board.

11       (b) Landowners may submit plans for alternate practices that do not conform to the standards  
12 established under paragraph (a) of this subsection or the alternate standards adopted under sub-  
13 section (2) of this section, including but not limited to variances in the time in which reforestation  
14 is to be commenced or completed or plans to reforest sites by natural reforestation. Such alternate  
15 plans may be approved if the [*State Forester*] **Forest Practices Act Administration Division of**  
16 **the Oregon Forest Resources Institute** determines that the plan will achieve equivalent or better  
17 regeneration results for the particular conditions of the site, or the plan carries out an authorized  
18 research project conducted by a public agency or educational institution.

19       (2) The board, by rule, may establish alternate standards for the reforestation of harvest type  
20 1 and harvest type 3, in lieu of the standards established in subsection (1) of this section, but in no  
21 case can the board require the establishment of more than 200 healthy conifer or suitable hardwood  
22 seedlings per acre. Such alternate standards may be adopted upon finding that the alternate stan-  
23 dards will better assure the continuous growing and harvesting of forest tree species and the  
24 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,  
25 fish and wildlife resources based on one or more of the following findings:

26       (a) Alternate standards are warranted based on scientific data concerning biologically effective  
27 regeneration;

28       (b) Different standards are warranted for particular geographic areas of the state due to vari-  
29 ations in climate, elevation, geology or other physical factors; or

30       (c) Different standards are warranted for different tree species, including hardwoods, and for  
31 different growing site conditions.

32       (3) Pursuant to ORS 527.710, the board may adopt definitions, procedures and further regulations  
33 to implement the standards established under subsection (1) of this section, without making the  
34 findings required in subsection (2) of this section, if those procedures or regulations are consistent  
35 with the standards established in subsection (1) of this section.

36       (4) The board shall encourage planting of disease and insect resistant species in sites infested  
37 with root pathogens or where planting of susceptible species would significantly facilitate the spread  
38 of a disease or insect pest and there are immune or more tolerant commercial species available  
39 which are adapted to the site.

40       (5) Notwithstanding subsections (1), (2) and (3) of this section, in order to remove potential dis-  
41 incentives to the conversion of underproducing stands, as defined by the board, or the salvage of  
42 stands that have been severely damaged by wildfire, insects, disease or other factors beyond the  
43 landowner’s control, the [*State Forester*] **division** may suspend the reforestation requirements for  
44 specific harvest type 1 or harvest type 3 units in order to take advantage of the Forest Resource  
45 Trust provisions, or other cost-share programs administered by the State Forester or where the

1 State Forester is the primary technical adviser. Such suspension may occur only on an individual  
 2 case basis, in writing, based on a determination by the [*State Forester*] **division** that the cost of  
 3 harvest preparation, harvest, severance and applicable income taxes, logging, site preparation,  
 4 reforestation and any other measures necessary to establish a free to grow forest stand will likely  
 5 exceed the gross revenues of the harvest. The board shall adopt rules implementing this subsection  
 6 establishing the criteria for and duration of the suspension of the reforestation requirements.

7 **SECTION 36.** ORS 527.750 is amended to read:

8 527.750. (1) Notwithstanding the requirements of ORS 527.740, a harvest type 3 unit within a  
 9 single ownership that exceeds 120 acres but does not exceed 240 acres may be approved by the  
 10 [*State Forester*] **Forest Practices Act Administration Division of the Oregon Forest Resources**  
 11 **Institute** if all the requirements of this section and any additional requirements established by the  
 12 State Board of Forestry are met. Proposed harvest type 3 units that are within 300 feet of the per-  
 13 imeter of a prior harvest type 3 unit, and that would result in a total combined harvest type 3 area  
 14 under a single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the  
 15 [*State Forester*] **division** if the additional requirements are met for the combined area. No harvest  
 16 type 3 unit within a single ownership shall exceed 240 contiguous acres. No harvest type 3 unit shall  
 17 be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership  
 18 if the combined acreage of the areas subject to regulation under the Oregon Forest Practices Act  
 19 would exceed 240 acres, unless:

20 (a) The prior harvest type 3 unit has been reforested by all applicable regulations;

21 (b) At least the minimum tree stocking required by rule is established per acre; and

22 (c)(A) The resultant stand of trees has attained an average height of at least four feet; or

23 (B) At least 48 months have elapsed since the stand was created and it is “free to grow” as  
 24 defined by the board.

25 (2) The requirements of this section are in addition to all other requirements of the Oregon  
 26 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be  
 27 applied in lieu of such other requirements only to the extent the requirements of this section are  
 28 more stringent. Nothing in this section shall apply to operations conducted under ORS 527.740 (4)  
 29 or (5).

30 (3) The board shall require that a plan for an alternate practice be submitted prior to approval  
 31 of a harvest type 3 operation under this section. The board may establish by rule any additional  
 32 standards applying to operations under this section.

33 (4) The [*State Forester*] **division** shall approve the harvest type 3 operation if the proposed op-  
 34 eration would provide better overall results in meeting the requirements and objectives of the  
 35 Oregon Forest Practices Act.

36 (5) The board shall specify by rule the information to be submitted for approval of harvest type  
 37 3 operations under this section, including evidence of past satisfactory compliance with the Oregon  
 38 Forest Practices Act.

39 **SECTION 37.** ORS 527.755 is amended to read:

40 527.755. (1) The following highways are hereby designated as scenic highways for purposes of  
 41 the Oregon Forest Practices Act:

42 (a) Interstate Highways 5, 84, 205, 405; and

43 (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 35, 36, 38, 42, 58, 62, 66, 82, 97, 101, 126, 138,  
 44 140, 199, 230, 234 and 395.

45 (2) The purpose of designating scenic highways is to provide a limited mechanism that maintains

1 roadside trees for the enjoyment of the motoring public while traveling through forestland, consist-  
 2 ent with ORS 527.630, safety and other practical considerations.

3 (3) The State Board of Forestry, in consultation with the Department of Transportation, shall  
 4 establish procedures and regulations as necessary to implement the requirements of subsections (4),  
 5 (5) and (6) of this section, consistent with subsection (2) of this section, including provisions for al-  
 6 ternate plans. Alternate plans that modify or waive the requirements of subsection (4), (5) or (6) of  
 7 this section may be approved when, in the judgment of the [State Forester] **Forest Practices Act**  
 8 **Administration Division of the Oregon Forest Resources Institute**, circumstances exist such  
 9 as:

10 (a) Modification or waiver is necessary to maintain motorist safety, protect improvements such  
 11 as dwellings and bridges, or protect forest health;

12 (b) Modification or waiver will provide additional scenic benefits to the motoring public, such  
 13 as exposure of distant scenic vistas;

14 (c) Trees that are otherwise required to be retained will not be visible to motorists;

15 (d) The operation involves a change of land use that is inconsistent with maintaining a visually  
 16 sensitive corridor; or

17 (e) The retention of timber in a visually sensitive corridor will result in severe economic hard-  
 18 ship for the owner because all or nearly all of the owner's property is within the visually sensitive  
 19 corridor.

20 (4)(a) For harvest operations within a visually sensitive corridor, at least 50 healthy trees of at  
 21 least 11 inches DBH, or that measure at least 40 square feet in basal area, shall be temporarily left  
 22 on each acre.

23 (b) Overstory trees initially required to be left under paragraph (a) of this subsection may be  
 24 removed when the reproduction understory reaches an average height of at least 10 feet and has  
 25 at least the minimum number of stems per acre of free to grow seedlings or saplings required by the  
 26 board for reforestation, by rule.

27 (c) Alternatively, when the adjacent stand, extending from 150 feet from the outermost edge of  
 28 the roadway to 300 feet from the outermost edge of the roadway, has attained an average height  
 29 of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings  
 30 or saplings required by the board for reforestation, by rule, or at least 40 square feet of basal area  
 31 per acre, no trees are required to be left in the visually sensitive corridor, or trees initially required  
 32 to be left under paragraph (a) of this subsection may be removed. When harvests within the visually  
 33 sensitive corridor are carried out under this paragraph, the adjacent stand, extending from 150 feet  
 34 from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, shall  
 35 not be reduced below the minimum number of stems per acre of free to grow seedlings or saplings  
 36 at least 10 feet tall required by the board for reforestation, by rule, or below 40 square feet of basal  
 37 area per acre until the adjacent visually sensitive corridor has been reforested as required under  
 38 subsection (6) of this section and the stand has attained an average height of at least 10 feet and  
 39 has at least the minimum number of stems per acre.

40 (5) Harvest areas within a visually sensitive corridor shall be cleared of major harvest debris  
 41 within 30 days of the completion of the harvest, or within 60 days of the cessation of active har-  
 42 vesting activity on the site, regardless of whether the harvest operation is complete.

43 (6) Notwithstanding the time limits established in ORS 527.745 (1)(a), when harvesting within a  
 44 visually sensitive corridor results in a harvest type 1 or harvest type 3, reforestation shall be com-  
 45 pleted by the end of the first planting season after the completion of the harvest. All other pro-

1 visions of ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within visually sensitive  
2 corridors.

3 (7) Landowners and operators shall not be liable for injury or damage caused by trees left within  
4 the visually sensitive corridor for purposes of fulfilling the requirements of this section, when car-  
5 ried out in compliance with the provisions of the Oregon Forest Practices Act.

6 (8) The following are exempt from this section:

7 (a) Harvest on single ownerships less than five acres in size;

8 (b) Harvest within an urban growth boundary, as defined in ORS 195.060; and

9 (c) Harvest within zones designated for rural residential development pursuant to an exception  
10 adopted to the statewide land use planning goals under ORS 197.732.

11 **SECTION 38.** ORS 527.760 is amended to read:

12 527.760. (1) The State Board of Forestry shall review its rules governing changes in land use  
13 and adopt or amend rules as necessary to assure that only bona fide, established and continuously  
14 maintained changes from forest uses are provided an exemption from reforestation requirements. The  
15 board shall set specific time periods for the completion of land use conversions. Among other fac-  
16 tors, the board shall condition exemptions from reforestation requirements upon:

17 (a) Demonstrating the intended change in land use is authorized under local land use and zoning  
18 ordinances, including obtaining and maintaining all necessary land use or construction permits and  
19 approvals for the intended change in land use;

20 (b) Demonstrating progress toward the change in land use within the time required for planting  
21 of trees, and substantial completion and continuous maintenance of the change in land use in a time  
22 certain;

23 (c) Allowing an exemption for only the smallest land area necessary to carry out the change in  
24 land use, and requiring that additional land area within the harvest unit remains subject to all ap-  
25 plicable reforestation requirements; and

26 (d) Allowing an exemption only to the extent that the proposed land use is not compatible with  
27 the maintenance of forest cover.

28 (2) The board may require that, prior to commencing an operation where a change in land use  
29 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State  
30 Forester in an amount determined by the [*State Forester*] **Forest Practices Act Administration**  
31 **Division of the Oregon Forest Resources Institute** sufficient to cover the cost of site preparation  
32 and reforestation for the area subject to an exemption from reforestation due to a change in land  
33 use, and shall require that provisions be made for the administration and collection on such bond  
34 or security deposit in the event that the change in land use is not established or continuously  
35 maintained within a time certain.

36 (3) Nothing in this section is intended to exempt any change in land use from, nor affect the  
37 applicability and administration of, any planning, zoning or permitting requirements provided under  
38 state or local laws or regulations.

39 **SECTION 39.** ORS 527.992 is amended to read:

40 527.992. (1) In addition to any other penalty provided by law, any person who fails to comply  
41 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

42 (a) The requirements of ORS 527.670, 527.676, 527.740, 527.750 or 527.755.

43 (b) The terms or conditions of any order of the [*State Forester*] **Forest Practices Act Admin-**  
44 **istration Division of the Oregon Forest Resources Institute** issued in accordance with ORS  
45 527.680.

1 (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS  
2 527.710.

3 (d) Any term or condition of a written waiver, or prior approval granted by the [State  
4 Forester] **division** pursuant to the rules adopted under ORS 527.710.

5 (2) Imposition or payment of a civil penalty under this section shall not be a bar to actions al-  
6 leging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover  
7 an amount based on the gain resulting from individual or corporate criminal violations.

8 **SECTION 40. (1) The Forest Practices Act Administration Division of the Oregon Forest**  
9 **Resources Institute shall enter into contracts under section 1 of this 2011 Act for the pro-**  
10 **vision of services described in section 1 of this 2011 Act to commence on July 1, 2012.**

11 **(2) The amendments to ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.120,**  
12 **477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041, 526.060,**  
13 **526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690, 527.700,**  
14 **527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and 527.992 by sections 2 to**  
15 **39 of this 2011 Act become operative July 1, 2012.**

16 **(3) The amendments to ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.120,**  
17 **477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041, 526.060,**  
18 **526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690, 527.700,**  
19 **527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and 527.992 by sections 2 to**  
20 **39 of this 2011 Act apply to forest operations subject to ORS 527.610 to 527.770, 527.990 and**  
21 **527.992 that commence on or after July 1, 2012. Forest operations subject to ORS 527.610 to**  
22 **527.770, 527.990 and 527.992 that commence before July 1, 2012, are subject to regulation by**  
23 **the State Forester and State Board of Forestry as provided under the laws in effect at the**  
24 **time the operation commenced.**

25 **SECTION 41. This 2011 Act being necessary for the immediate preservation of the public**  
26 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
27 **on its passage.**

28