

HOUSE AMENDMENTS TO HOUSE BILL 2756

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 20

1 On page 1 of the printed bill, line 2, delete “amending ORS 527.680” and insert “creating new
2 provisions; amending ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.120, 477.580, 477.615,
3 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041, 526.060, 526.490, 526.770, 527.630,
4 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690, 527.700, 527.710, 527.722, 527.736, 527.740,
5 527.745, 527.750, 527.755, 527.760 and 527.992; appropriating money; and declaring an emergency”.

6 Delete lines 4 through 32 and delete page 2 and insert:

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

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

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

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

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

23 **“(d) Surveying areas with high levels of actual or potential landslide hazards as necessary**
24 **and appropriate under State Board of Forestry rules described in ORS 527.630 and 527.710 (10)**
25 **and providing related advice to affected landowners.**

26 **“(e) Working with landowners and operators to mitigate unsatisfactory forestland con-**
27 **ditions.**

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

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

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

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

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

3 “93.710. (1) Any instrument creating a license, easement, profit a prendre, or a leasehold interest
4 or oil, gas or other mineral interest or estate in real property or an interest in real property created
5 by a land sale contract, or memorandum of such instrument or contract, which is executed by the
6 person from whom the interest is intended to pass, and acknowledged or proved in the manner
7 provided for the acknowledgment or proof of other conveyances, may be indexed and recorded in the
8 records of deeds of real property in the county where such real property is located. Any instrument
9 creating a mortgage or trust deed, or a memorandum thereof, or assignment for security purposes
10 relating to any of the interests or estates in real property referred to in this subsection, which is
11 executed by the person from whom the mortgage, trust deed, or assignment for security purposes is
12 intended to be given, and acknowledged or proved in the manner provided for the acknowledgment
13 or proof of other conveyances, may be indexed and recorded in the records of mortgages of real
14 property in the county where such real property is located. Such recordation, whether the instru-
15 ment be recorded prior to or subsequent to May 29, 1963, constitutes notice to third persons of the
16 rights of the parties under the instrument irrespective of whether the party granted such interest
17 or estate is in possession of the real property. Any such instrument when so acknowledged or
18 proved, or certified in the manner prescribed by law by any of the authorized officers, may be read
19 in evidence without further proof thereof.

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

26 “(3)(a) As used in this section, ‘memorandum’ means an instrument that:

27 “(A) Contains the date of the instrument being memorialized;

28 “(B) Contains the names and addresses of the parties;

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

31 “(D) Is acknowledged or proved in the manner provided for the acknowledgment or proof of
32 deeds.

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

35 “(A) The legend ‘Memorandum of Mortgage’ or ‘Memorandum of Trust Deed’ either in capital
36 letters or underscored above the body of the memorandum;

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

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

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

44 “(E) If the mortgage or trust deed constitutes a line of credit instrument as defined in ORS
45 86.155, the information required to appear on the front page of the instrument under ORS 86.155

1 (1)(b).

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

5 “**SECTION 3.** ORS 321.152 is amended to read:

6 “321.152. (1) Subject to ORS 321.145 (2), moneys remaining in the Department of Revenue’s sus-
7 pense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10 of
8 each year shall be transferred to the various appropriation accounts described in subsections (2), (3)
9 and (4) of this section.

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

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

18 “(4) **That part of the moneys derived from taxes levied by ORS 321.015 (3)(b) shall be**
19 **transferred to the Oregon Forest Resources Institute Fund created under ORS 526.675.**
20 **Moneys transferred to the Oregon Forest Resources Institute Fund under this subsection**
21 **are continuously appropriated to the Forest Practices Act Administration Division of the**
22 **Oregon Forest Resources Institute for carrying out the purposes described in section 1 of**
23 **this 2011 Act.**

24 “[4] (5) That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be trans-
25 ferred to the Oregon Forest Land Protection Fund described in ORS 477.750.

26 “**SECTION 4.** ORS 321.367 is amended to read:

27 “321.367. (1) The *[State Forester]* **Forest Practices Act Administration Division of the**
28 **Oregon Forest Resources Institute** shall identify all of the forestlands that fail to meet the min-
29 imum stocking required under ORS 527.610 to 527.770 and that are therefore underproductive as
30 described under ORS 526.455.

31 “(2) **If at any time the division or the State Forester has reason to believe that forestland is**
32 **not being managed as forestland, the *[State Forester]* division shall review the owner’s management**
33 **plan, if any, and inspect the property. Subject to subsection (5) of this section, the *[State Forester]***
34 **division shall advise the owner as prescribed in subsection (3) of this section if the *[State Forester]***
35 **division determines the land is not being managed in accordance with a plan that provides for:**

36 “(a) Regeneration of all suitable nonstocked land;

37 “(b) Maintenance of a free-to-grow condition;

38 “(c) Protection from fire, insects, disease, animal damage, undesirable vegetative competition;
39 and

40 “(d) Final harvest.

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

45 “(b) **The division may assist the owner in developing and implementing means for miti-**

1 **gating the unsatisfactory conditions on the land.** At the request of the owner, the State Forester
2 shall assign a forester or provide a listing of foresters to assist the owner in developing and imple-
3 menting an appropriate management plan for the land.

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

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

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

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

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

22 “**SECTION 5.** ORS 321.550 is amended to read:

23 “321.550. *[(1) No person shall harvest or cause to be harvested any timber from land in Oregon
24 without first having notified the State Forester in writing with a copy to the Department of Revenue
25 on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS
26 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.]*

27 “**(1) A person may not harvest or cause to be harvested any timber from land in Oregon
28 without first having given written notice to the following entities, in a form prescribed by
29 the State Forester and the Department of Revenue, of intent to harvest pursuant to ORS
30 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754:**

31 “**(a)(A) Except as provided in subparagraph (B) of this paragraph, the State Forester; or**

32 “**(B) If the harvest operation is subject to ORS 527.610 to 527.770, the Forest Practices
33 Act Administration Division of the Oregon Forest Resources Institute.**

34 “**(b) The department.**

35 “**(c) The State Board of Forestry.**

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

41 “(3)(a) If a person fails to file a written notice as required in subsection (1) of this section with
42 respect to any harvest over 5,000 board feet, the department shall notify the person. If, after the
43 person has been notified, the person fails to file a written notice as required in subsection (1) of this
44 section with respect to any subsequent harvest over 5,000 board feet, there shall be added to the
45 amount of the timber tax required to be shown on the return as a result of the subsequent harvest

1 a delinquency penalty of \$250 for each violation occurring within a calendar year. The department
2 shall collect the penalty in the same manner as taxes are collected.

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

5 “(c) The delinquency penalty shall first be added to the small tract forestland timber severance
6 tax imposed under ORS 321.700 to 321.754, if applicable to the harvest. If the small tract forestland
7 timber severance tax is not applicable, the delinquency penalty shall be added to the forest products
8 harvest tax imposed under ORS 321.005 to 321.185.

9 “**SECTION 6.** ORS 390.235 is amended to read:

10 “390.235. (1)(a) A person may not excavate or alter an archaeological site on public lands, make
11 an exploratory excavation on public lands to determine the presence of an archaeological site or
12 remove from public lands any material of an archaeological, historical, prehistorical or
13 anthropological nature without first obtaining a permit issued by the State Parks and Recreation
14 Department.

15 “(b) If a person who obtains a permit under this section intends to curate or arrange for alter-
16 nate curation of an archaeological object that is uncovered during an archaeological investigation,
17 the person must submit evidence to the State Historic Preservation Officer that the Oregon State
18 Museum of Anthropology and the appropriate Indian tribe have approved the applicant’s curatorial
19 facilities.

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

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

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

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

29 “(A) The landowning or land managing agency; and

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

32 “(i) The Commission on Indian Services; and

33 “(ii) The most appropriate Indian tribe.

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

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

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

40 “(c) To a qualified archaeologist sponsored by a recognized institution of higher learning, pri-
41 vate firm or an Indian tribe as defined in ORS 97.740.

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

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

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

4 “(c)(A) The material is retained by a recognized scientific, educational or Indian tribal institu-
5 tion for whose benefit a permit was issued under subsection (2)(a) of this section;

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

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

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

14 “(5) Except for sites containing human remains, funerary objects and objects of cultural
15 patrimony as defined in ORS 358.905, or objects associated with a prehistoric Indian tribal culture,
16 the permit required by subsection (1) of this section or by ORS 358.920 shall not be required for
17 forestry operations on private lands for which notice has been filed with the [State Forester] **Forest**
18 **Practices Act Administration Division of the Oregon Forest Resources Institute** under ORS
19 527.670.

20 “(6) As used in this section:

21 “(a) ‘Private firm’ means any legal entity that:

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

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

25 “(b) ‘Qualified archaeologist’ means a person who has the following qualifications:

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

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

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

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

34 “**SECTION 7.** ORS 477.001 is amended to read:

35 “477.001. As used in this chapter, unless the context otherwise requires:

36 “(1) ‘Additional fire hazard’ means a hazard that has been determined to exist by the [forester]
37 **Forest Practices Act Administration Division of the Oregon Forest Resources Institute** pur-
38 suant to ORS 477.580.

39 “(2) ‘Board’ means the State Board of Forestry.

40 “(3) ‘Campfire’ means any open fire used for cooking, personal warmth, lighting, ceremonial or
41 aesthetic purposes that is hand built and that is not associated with any debris disposal activities.

42 “(4) ‘Department’ means the State Forestry Department.

43 “(5) ‘District’ means a forest protection district organized under ORS 477.225.

44 “(6) ‘Every reasonable effort’ means the use of the reasonably available personnel and equipment
45 under the supervision and control of an owner or operator, which are needed and effective to fight

1 the fire in the judgment of the forester and which can be brought to bear on the fire in a timely
2 fashion.

3 “(7) ‘Fire season’ means a period designated pursuant to ORS 477.505.

4 “(8) ‘Fiscal year’ means the period beginning on July 1 of any year and ending on June 30 of
5 the next year.

6 “(9) ‘Forestland’ means any woodland, brushland, timberland, grazing land or clearing that,
7 during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in
8 the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in
9 this subsection, ‘clearing’ means any grassland, improved area, lake, meadow, mechanically or man-
10 ually cleared area, road, rocky area, stream or other similar forestland opening that is surrounded
11 by or contiguous to forestland and that has been included in areas classified as forestland under
12 ORS 526.305 to 526.370.

13 “(10) ‘Forest patrol assessment’ means the costs levied and assessed under ORS 477.270.

14 “(11) ‘Forest protective association’ or ‘association’ means an association, group or agency
15 composed of owners of forestlands, organized for the purpose of protecting such forestlands from
16 fire.

17 “(12) ‘Forest resource’ means the various types of vegetation normally growing on Oregon’s
18 forestland, the associated harvested products and the associated residue, including but not limited
19 to brush, grass, logs, saplings, seedlings, trees and slashing.

20 “(13) ‘Forester’ means the State Forester or authorized representative.

21 “(14) ‘Governing body’ of a county means the county court or board of county commissioners.

22 “(15) ‘Grazing land’ is defined by ORS 477.205.

23 “(16) ‘Open fire’ means any outdoor fire that occurs in such a manner that combustion air is
24 not effectively controlled and combustion products are not effectively vented through a stack or
25 chimney.

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

30 “(18) ‘Operation area’ means the area on which an operation is being conducted and the area
31 on which operation activity may have resulted in the ignition of a fire.

32 “(19) ‘Operation in progress’ means that time when workers are on an operation area for the
33 purpose of an operation, including the period of time when fire watches are required to be on the
34 operation area pursuant to ORS 477.665.

35 “(20) ‘Operator’ means any person who, either personally or through employees, agents, repre-
36 sentatives or contractors, is carrying on or has carried on any operation.

37 “(21) ‘Owner’ means an individual, a combination of individuals, a partnership, a corporation, the
38 State of Oregon or a political subdivision thereof, or an association of any nature that holds an
39 ownership interest in land.

40 “(22) ‘Political subdivision’ includes, but is not limited to, counties, cities and special districts.

41 “(23) ‘Rangeland’ is defined by ORS 477.315.

42 “(24) ‘Routine road maintenance’ is defined by ORS 477.625.

43 “(25) ‘Side’ means any single unit of a logging operation employing power-driven machinery.

44 “(26) ‘Slashing’ means the forest debris or refuse on any forestland resulting from the cutting,
45 killing, pruning, severing or removal of brush, trees or other forest growth.

1 “(27) ‘State Forester’ means the person appointed State Forester pursuant to ORS 526.031 or the
2 person serving in the position on an interim or delegated basis.

3 “(28) ‘Summit of the Cascade Mountains’ is considered to be a line beginning at the intersection
4 of the northern boundary of the State of Oregon and the western boundary of Wasco County; thence
5 southerly along the western boundaries of Wasco, Jefferson, Deschutes and Klamath Counties to the
6 southern boundary of the State of Oregon.

7 “(29) ‘Timberland’ is defined by ORS 477.205.

8 “(30) ‘Warden’ means a fire warden appointed under ORS 477.355.

9 “**SECTION 8.** ORS 477.120 is amended to read:

10 “477.120. (1) Except as provided in subsections (2) and (3) of this section, the owner or operator
11 of forestland is not subject to the obligations or penalties of ORS 164.335 and 477.740 or 477.064,
12 477.066 and 477.068 if:

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

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

17 “(c) Such forestland is protected pursuant to cooperative agreement or contract under ORS
18 477.406.

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

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

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

25 “(c) Has failed to give notice to the [*forester*] **Forest Practices Act Administration Division**
26 **of the Oregon Forest Resources Institute** pursuant to ORS 527.670 (6), has failed to obtain a
27 permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625 or has
28 failed within the time prescribed in any order or notice issued by the **State Forester or the division**
29 to reduce, abate, or offset any hazard determined **by the State Forester** to exist pursuant to ORS
30 477.062 or **determined by the division to exist pursuant to** 477.580 and a fire originates on or
31 spreads to the area on which such hazard exists and for which no release has been granted pursuant
32 to ORS 477.580 (3) or (4); or

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

35 “(3) Unless subsection (2)(a) or (c) of this section applies, the owner or operator shall not be
36 obligated to pay that portion of the actual costs provided in ORS 477.068 which are the ordinary
37 costs of the regular personnel and equipment of the forest protection district wherein the forestland
38 is located.

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

42 “(5) The provisions of subsections (3) and (4) of this section do not apply to the owner or oper-
43 ator if the owner or operator fails to make every reasonable effort.

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

1 operation.

2 “**SECTION 9.** ORS 477.580 is amended to read:

3 “477.580. (1) Following the issuance of a permit **by the Forest Practices Act Administration**
4 **Division of the Oregon Forest Resources Institute** pursuant to ORS 477.625, and after slashing
5 has been created in an operation area inside or within one-eighth of one mile of a forest protection
6 district, the *[forester]* **division** may make a determination if such slashing and debris exists on the
7 operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that
8 endangers life, forest resources or property, and if such area is in need of additional work or pro-
9 tection to reduce, abate or offset the additional fire hazard. Whenever practical, the *[forester]* **divi-**
10 **sion** shall make the determination referred to in this subsection during the administration and
11 enforcement of the Oregon Forest Practices Act.

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

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

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

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

33 “(b) The **State** Forester’s estimated cost of reducing or providing other means to offset the ad-
34 ditional hazard; or

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

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

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

45 “(7) Any order or determination made by the *[forester]* **division** pursuant to this section is final

1 unless modified or vacated in an appeal to the State Board of Forestry taken within 30 days after
2 issuance of the order.

3 “**SECTION 10.** ORS 477.615 is amended to read:

4 “477.615. (1) During a fire season inside or within one-eighth of one mile of a forest protection
5 district, when, in the judgment of the [*forester*] **Forest Practices Act Administration Division of**
6 **the Oregon Forest Resources Institute**, an operation is of sufficient size or so planned and op-
7 erated as to justify additional protection from fire, the owner or operator, when so directed by the
8 [*forester*] **division** in writing, shall provide, within such time as is specified in the writing, additional
9 water supply and equipment for use in fire suppression that is in conformity with rules promulgated
10 by the State Forester.

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

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

17 “**SECTION 11.** ORS 477.625 is amended to read:

18 “477.625. (1) Every person conducting an operation inside or within one-eighth of one mile of a
19 forest protection district that uses fire in any form or power-driven machinery shall first obtain from
20 the [*forester*] **Forest Practices Act Administration Division of the Oregon Forest Resources**
21 **Institute** a written permit, [*which shall require*] **The permit must include requirements** that the
22 holder of the permit:

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

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

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

32 “(2) Routine road maintenance is excepted from the requirement to obtain a permit to operate
33 power-driven machinery under this section. As used in this subsection ‘routine road maintenance’
34 means grading, cleaning ditches, culvert cleaning, spot rocking or mechanical brushing along the
35 roadside to maintain visibility.

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

39 “(b) Waiver of the requirement to obtain a written permit under this section does not relieve
40 the owner and operator of the responsibility for complying with other applicable duties, require-
41 ments or penalties of this chapter.

42 “**SECTION 12.** ORS 477.630 is amended to read:

43 “477.630. (1) Each permit issued under ORS 477.625 shall include:

44 “(a) The legal description of the area upon which any operation is to be conducted, or an al-
45 ternate description of the area permitted by the [*forester*] **Forest Practices Act Administration**

1 **Division of the Oregon Forest Resources Institute;**

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

3 “(c) Any other information considered by the [*forester*] **division** to be necessary for the admin-
4 istration of the rules promulgated **by the State Forester** under this chapter.

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

7 “**SECTION 13.** ORS 477.635 is amended to read:

8 “477.635. The [*forester*] **Forest Practices Act Administration Division of the Oregon Forest**
9 **Resources Institute** may issue the permits required in ORS 477.625 and suspend or revoke such
10 permits because of violation of the **permit** terms [*thereof*] or noncompliance with this chapter. The
11 [*forester*] **division** shall refuse to issue a permit to any person for the conduct of an operation when,
12 in the judgment of the [*forester*] **division**, an excessive amount of forest debris in and around the
13 operation area results in an extreme fire hazard that endangers life, forest resources or property.

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

15 “477.650. (1) During a fire season every person operating a stationary internal combustion en-
16 gine inside or within one-eighth of one mile of a forest protection district shall provide at each en-
17 gine on an operation area a water supply, and equipment for its use in fire suppression, in
18 conformity with rules promulgated by the State Forester. These rules shall prescribe such water
19 supply and equipment as reasonably are necessary to prevent the spread of fire and may provide for
20 the use of alternate methods and equipment.

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

24 “(3) For the purposes of this section, an internal combustion engine shall be considered sta-
25 tionary if it is operated for a period of more than two days exclusively at one location in an oper-
26 ation area.

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

31 “**SECTION 15.** ORS 477.660 is amended to read:

32 “477.660. During a fire season when in the judgment of the [*forester*] **Forest Practices Act**
33 **Administration Division of the Oregon Forest Resources Institute** any operation inside or
34 within one-eighth of one mile of a forest protection district has a fire hazard requiring additional
35 protection, the operator shall provide such other facilities or services as the [*forester*] **division** by
36 written notice may direct.

37 “**SECTION 16.** ORS 477.665 is amended to read:

38 “477.665. (1) During a fire season inside or within one-eighth of one mile of a forest protection
39 district, every operator using power-driven machinery in an operation area shall provide fire watch
40 service on the operation area. The fire watch service shall consist of not less than one competent
41 person, who shall be constantly on duty at times prescribed by rules promulgated by the State
42 Forester. These rules shall require fire watch service at such times and at such places as the spread
43 of fire on or from the operation area to forestland reasonably may be expected.

44 “(2) The [*forester may modify or waive, in writing,*] **Forest Practices Act Administration Di-**
45 **vision of the Oregon Forest Resources Institute, after consultation with the State Forester,**

1 **may issue a written modification or waiver of** any requirement of this section [*as to any operation*
2 *whenever*] **for an operation if** the fire hazard is not sufficient to justify the requirement.

3 **“SECTION 17.** ORS 477.670 is amended to read:

4 “477.670. During a fire season inside or within one-eighth of one mile of a forest protection
5 district situated west of the summit of the Cascade Mountains, if the forestland in such district, or
6 any part thereof, is susceptible in the judgment of the **State** Forester to damage by fire, the **State**
7 Forester shall issue notice to that effect. Thereafter the use of fire in any form by any person in
8 any operation area or the use of power-driven machinery for any operation, is unlawful unless ap-
9 proved by **the Forest Practices Act Administration Division of the Oregon Forest Resources**
10 **Institute after consultation with** the **State** Forester. Approval shall be granted **by the division**
11 only when in the judgment of the **State** Forester the activity will not constitute a fire hazard suf-
12 ficient to justify the requirement.

13 **“SECTION 18.** ORS 526.041 is amended to read:

14 “526.041. The **State** Forester, under the general supervision of the State Board of Forestry,
15 shall:

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

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

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

21 “(4) Collect data relative to forest conditions.

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

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

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

27 “(8) [*Advise and*] Encourage reforestation.

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

30 “(10) Enter into contracts and cooperative agreements pertaining to experiments and research
31 in forestry.

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

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

37 “(13) Prescribe uniform state standards for certification of wildland fire training courses and
38 educational programs.

39 **“SECTION 19.** ORS 526.060 is amended to read:

40 “526.060. (1) Except as provided in ORS 526.121, 530.147 and 530.280, all assessments, federal
41 apportionments or contributions, and other moneys received by the **State** Forester or State Board
42 of Forestry, shall be paid into the State Treasury and credited to the State Forestry Department
43 Account, which is established separate and distinct from the General Fund. All moneys in the State
44 Forestry Department Account are continuously appropriated, and shall be used by the **State**
45 Forester, under the supervision and direction of the board, for the purposes authorized by law.

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

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

11 “(4) The State Forest Enhancement Donation Subaccount is established as a subaccount to the
12 State Forestry Department Account. Moneys in the State Forest Enhancement Donation Subaccount
13 are continuously appropriated to the State Forestry Department to be used for the purposes de-
14 scribed in ORS 526.065.

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

18 “(6) The State Forest Tree Seed Bank Subaccount is established as a subaccount to the State
19 Forestry Department Account. Moneys in the State Forest Tree Seed Bank Subaccount are contin-
20 uously appropriated to the State Forestry Department to be used for the purposes described in ORS
21 526.470.

22 “(7) The State Forest Tree Seed Orchard Subaccount is established as a subaccount to the State
23 Forestry Department Account. Moneys in the State Forest Tree Seed Orchard Subaccount are con-
24 tinuously appropriated to the State Forestry Department to be used for the purposes described in
25 ORS 526.472.

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

28 “**SECTION 20.** ORS 526.490 is amended to read:

29 “526.490. (1) It is the policy of the State of Oregon to encourage the afforestation of idle land
30 for the purpose of establishing commercial forests if such afforestation is consistent with landowner
31 objectives. The purpose of this section is to provide an incentive for afforestation by providing as-
32 surance that the State of Oregon will not prohibit the harvesting of trees planted on such lands
33 within the first crop rotation.

34 “(2) As used in this section:

35 “(a) ‘Free to grow’ means a stand of well-distributed trees that has a high probability of re-
36 maining or becoming vigorous, healthy and dominant over undesired competing vegetation.

37 “(b) ‘Parcel’ has the meaning given that term in ORS 92.010.

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

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

45 “(b) Prior to the time of planting, the stocking of forest tree species on the subject parcel or

1 portion thereof is less than 25 square feet of basal area per acre.

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

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

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

16 “(c) The State Forester may, by rule, establish a fee or schedule of fees adequate to cover such
17 necessary expenses incurred by the [State Forester] **division** in conducting inspection and certifi-
18 cation activities. Fees may be charged to the person requesting certification.

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

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

24 “**SECTION 21.** ORS 526.770 is amended to read:

25 “526.770. (1) No harvest or removal of forest products on forestland covered by a contract be-
26 tween the forest landowner and the Forest Resource Trust shall occur without the landowner or the
27 timber owner first notifying the State Forester in writing, on forms prepared by the State Forester,
28 of intent to harvest or remove forest products. [Notice shall be made in the same manner as notice
29 provided under ORS 527.670 (6).] **The State Forester shall adopt rules establishing a procedure**
30 **for giving notice under this section. To the extent practicable, the State Forester shall pat-**
31 **tern the notice procedure on the notice procedure described in ORS 527.670 (6).**

32 “(2) The notification shall specify where and when the harvest or removal of forest products
33 will take place, the nature of the harvest or removal of forest products and where and to whom the
34 forest products will be sold or delivered and shall include maps or other information as required by
35 the State Forester. Upon receipt of notification pursuant to subsection (1) of this section, the State
36 Forester shall notify the landowner, and any person to whom the forest products will be sold or
37 delivered, of the repayment obligation specified in any contract between the forest landowner and
38 the State Forester. The landowner shall make payment to the State Forester. Such payment shall
39 be deposited in the Forest Resource Trust Fund. If payment is not made within 60 days of harvest
40 or removal of forest products, the lien shall be delinquent and may be foreclosed in the manner de-
41 scribed in ORS 526.755.

42 “**SECTION 22.** ORS 527.630 is amended to read:

43 “527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
44 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
45 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the

1 public policy of the State of Oregon to encourage economically efficient forest practices that ensure
2 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
3 such purposes as the leading use on privately owned land, consistent with sound management of soil,
4 air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as
5 provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-
6 ations of Oregonians.

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

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

19 “(4) The board may adopt [*and enforce*] rules addressing scenic considerations only in accord-
20 ance with ORS 527.755.

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

24 “(6) The State of Oregon should provide a stable regulatory environment to encourage invest-
25 ment in private forestlands.

26 “**SECTION 23.** ORS 527.670 is amended to read:

27 “527.670. (1) The State Board of Forestry shall designate the types of operations for which notice
28 shall be required under this section.

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

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

32 “(a) Within one hundred feet of a stream determined by the State Forester to be used by fish
33 or for domestic use, unless the board, by rule, provides that a written plan is not required because
34 the proposed operation will be conducted according to a general vegetation retention prescription
35 described in administrative rule, or unless the operation will be conducted pursuant to a stewardship
36 agreement entered into under ORS 541.423; or

37 “(b) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710 (3)(a)
38 unless the operation will be conducted pursuant to a stewardship agreement entered into under ORS
39 541.423 and is consistent with the purposes and policies of any relevant Safe Harbor Agreements
40 or Candidate Conservation Agreements entered into between the State of Oregon and agencies of
41 the United States Government, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205,
42 16 U.S.C. 1531 et seq.) and federal regulations.

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

1 “(5) For the purpose of determining the distances set forth in subsection (3)(a) and (b) of this
2 section ‘site’ means the specific resource site and not any additional buffer area.

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

16 “(7) An operator, timber owner or landowner, whichever filed the original notification, shall
17 notify the [State Forester] **division** of any subsequent change in the information contained in the
18 notification.

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

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

35 “(10) If an operator, timber owner or landowner is required to submit a written plan of oper-
36 ations to the [State Forester under] **division under determinations described in** subsection (3) of
37 this section:

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

40 “(b) The [State Forester] **division** may not provide any comments concerning the written plan
41 earlier than 14 calendar days following the date that the written plan was filed with the [State
42 Forester] **division** nor later than 21 calendar days following the date that the written plan was filed;
43 and

44 “(c) Provided that notice has been provided as required by subsection (6) of this section, the
45 operation may commence on the date that the [State Forester] **division** provides comments or, if no

1 comments are provided within the time period established in paragraph (b) of this subsection, at any
2 time after 21 calendar days following the date that the written plan was filed.

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

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

13 “(c) [*In the event that the State Forester or board*] **If the division** determines that an enforcement
14 action may be appropriate concerning the compliance of a particular operation with ORS 527.610 to
15 527.770 or rules adopted thereunder, the [*State Forester or board*] **division** shall consider, but [*are*]
16 **is** not bound by, comments that the [*State Forester*] **division** provided under this section [*or com-*
17 *ments that the board provided under ORS 527.700*].

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

21 “(a) Send a copy of the [*State Forester’s*] **division’s** review and comments, if any, to persons who
22 submitted timely written comments under subsection (9) of this section pertaining to the operation;
23 and

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

26 “**SECTION 24.** ORS 527.674 is amended to read:

27 “527.674. The State Board of Forestry may not adopt or enforce a rule under ORS 527.610 to
28 527.770 that [*requires that the board or the State Forester approve written plans as a required*
29 *precedent*] **makes the approval of written plans by the Forest Practices Act Administration**
30 **Division of the Oregon Forest Resources Institute a prerequisite** to conducting a forest prac-
31 tice or operation.

32 “**SECTION 25.** ORS 527.676 is amended to read:

33 “527.676. (1) In order to contribute to the overall maintenance of wildlife, nutrient cycling,
34 moisture retention and other resource benefits of retained wood, when a harvest type 2 unit ex-
35 ceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave on av-
36 erage, per acre harvested, at least:

37 “(a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at
38 least 50 percent of which are conifers; and

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

43 “(2) In meeting the requirements of this section, the operator has the sole discretion to deter-
44 mine the location and distribution of wildlife leave trees, including the ability to leave snags, trees
45 and logs in one or more clusters rather than distributed throughout the unit and, if specifically

1 permitted [by the] **under** State Board of Forestry [by rule] **rules**, to meet the wildlife leave tree re-
2 quirements by counting snags, trees or logs otherwise required to be left in riparian management
3 areas or resource sites listed in ORS 527.710, subject to:

4 “(a) Safety and fire hazard regulations;

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

7 “(c) All other requirements pertaining to forest operations.

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

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

13 “(b) May approve alternate plans submitted by the operator to meet the provisions of this sec-
14 tion, including but not limited to waiving:

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

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

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

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

31 “[4)] (5) When a harvest type 2 or harvest type 3 unit occurs adjacent to a prior harvest type
32 2 or harvest type 3 unit, resulting in a combined total contiguous acreage of harvest type 2 or
33 harvest type 3 under single ownership exceeding 25 acres, the wildlife leave tree and downed log
34 requirements of subsection (1) of this section apply to the combined total contiguous acreage.

35 “**SECTION 26.** ORS 527.680 is amended to read:

36 “527.680. (1) [Whenever the State Forester] **If the Forest Practices Act Administration Divi-**
37 **sion of the Oregon Forest Resources Institute** determines that an operator has committed a vi-
38 olation **that is punishable** under ORS 527.990 (1), the [State Forester may] **division may act on**
39 **behalf of the State Board of Forestry to** issue and serve a citation upon the operator or author-
40 ized representative. The [State Forester] **division** shall cause a copy of the citation to be mailed or
41 delivered to the timber owner and landowner. [Whenever the State Forester] **If the division** deter-
42 mines that the landowner has failed to comply with the reforestation rules under ORS 527.710, the
43 [State Forester may] **division may act on behalf of the board to** issue and serve a citation upon
44 the landowner or authorized representative. Each citation issued under this section shall specify the
45 nature of the violation charged and any damage or unsatisfactory condition that has occurred as the

1 result of such violation.

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

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

8 “(b) May issue and serve an order upon the landowner or operator and shall cause a copy of
9 such order to be mailed or delivered to the timber owner and landowner, directing the landowner
10 or operator, where practical and economically feasible, to make reasonable efforts to repair the
11 damage or correct the unsatisfactory condition specified in the citation within a period specified by
12 the [State Forester] **division.**

13 “(3) [In the event] **If** the order issued under subsection (2)(a) of this section has not been com-
14 plied with, and the violation specified in such order is resulting in continuing damage, the [State
15 Forester] **division** by temporary order, may direct the landowner or operator to cease any further
16 activity in that portion of the operation that is resulting in such damage. Such temporary order
17 shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this
18 section or until the date that the violation ceases, whichever date occurs first.

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

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

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

36 “**SECTION 27.** ORS 527.683 is amended to read:

37 “527.683. (1) No civil penalty prescribed in ORS 527.992 shall be imposed until the person in-
38 curring the penalty has received notice in writing from the [State Forester] **Forest Practices Act**
39 **Administration Division of the Oregon Forest Resources Institute** specifying the violation.
40 Such notice is in addition to the notice required in ORS 183.745.

41 “(2) The citation issued pursuant to ORS 527.680 (1) and the order issued pursuant to ORS
42 527.680 (2)(b) shall each constitute the notice required by subsection (1) of this section.

43 “**SECTION 28.** ORS 527.685 is amended to read:

44 “527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that
45 [may be imposed] **the Forest Practices Act Administration Division of the Oregon Forest Re-**

1 **sources Institute, acting on behalf of the board, may impose** for a particular **type of** violation.
2 Except as provided in subsection (5) of this section, no civil penalty shall exceed \$5,000 per vio-
3 lation.

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

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

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

10 “(c) The gravity and magnitude of the violation.

11 “(d) Whether the violation was repeated or continuous.

12 “(e) Whether the cause of the violation was an unavoidable accident, negligence or an inten-
13 tional act.

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

15 “(g) Any relevant rule of the board.

16 “(h) The violator’s cooperativeness and efforts to correct the violation.

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

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

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

27 “**SECTION 29.** ORS 527.690 is amended to read:

28 “527.690. (1) [*In the event*] **If** an order issued pursuant to ORS 527.680 (2)(b) directs the repair
29 of damage or correction of an unsatisfactory condition, including compliance with reforestation re-
30 quirements, and if the operator or landowner does not comply with the order within the period
31 specified in such order and the order has not been appealed to the State Board of Forestry within
32 30 days, the [*State Forester*] **Forest Practices Act Administration Division of the Oregon Forest**
33 **Resources Institute** based upon a determination by the [*forester*] **division, after consultation with**
34 **the State Forester,** of what action will best carry out the purposes of ORS 527.630 shall:

35 “(a) Maintain an action, **in the name of the Oregon Forest Resources Institute,** in the Cir-
36 cuit Court for Marion County or the circuit court for the county in which the violation occurred for
37 an order requiring the landowner or operator to comply with the terms of the [*forester’s*] **division’s**
38 order or to restrain violations [*thereof*] **of the order;** or

39 “(b) Estimate the cost to repair the damage or the unsatisfactory condition as directed by the
40 order and shall notify the operator, timber owner and landowner in writing of the amount of the
41 estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State
42 Forester may proceed to repair the damage or the unsatisfactory condition. [*In the event*] **If** approval
43 of the expenditure is not obtained within 30 days after notification to the operator, timber owner
44 and landowner under this section, the [*State Forester*] **division** shall present to the **State Forester**
45 **and the board** the alleged violation, the estimate of the expenditure to repair the damage or un-

1 satisfactory condition and the justification for the expenditure.

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

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

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

33 “(5) All moneys recovered under this section shall be paid into the State Forestry Department
34 Account.

35 “**SECTION 30.** ORS 527.700 is amended to read:

36 “527.700. (1) Any operator, timber owner or landowner affected by any finding or order of the
37 [*State Forester*] **Forest Practices Act Administration Division of the Oregon Forest Resources**
38 **Institute** issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days
39 after issuance of the order. The hearing shall be commenced within 14 days after receipt of the re-
40 quest for hearing and a final order shall be issued within 28 days of the request for the hearing
41 unless all parties agree to an extension of the time limit.

42 “(2) The State Board of Forestry may delegate to the administrative law judge the authority to
43 issue final orders on matters under this section. Hearings provided under this section shall be con-
44 ducted as contested case hearings under ORS 183.413 to 183.470. The board may establish such rules
45 as it deems appropriate to carry out the provisions of this section. Appeals from final hearing orders

1 under this section shall be provided in ORS 183.482, except that the comments of the board or [*the*
2 *State Forester*] **division** concerning a written plan are not reviewable orders under ORS 183.480.

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

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

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

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

13 “(b) A copy of the comments pertaining to the operation that were filed by the person requesting
14 the hearing;

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

18 “(d) A statement of facts that establishes that the operation is of the type described in ORS
19 527.670 (3).

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

30 “(7) The board may award reasonable attorney fees and expenses to each of the prevailing par-
31 ties against any other party who the board finds presented a position without probable cause to
32 believe the position was well-founded, or made a request primarily for a purpose other than to se-
33 cure appropriate action by the board.

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

36 “(A) Commencement or continuation of the operation will constitute a violation of the rules of
37 the board;

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

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

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

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

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

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

11 “**SECTION 31.** ORS 527.710 is amended to read:

12 “527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the
13 State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183,
14 rules to be administered by the [State Forester] **Forest Practices Act Administration Division of**
15 **the Oregon Forest Resources Institute** establishing standards for forest practices in each region
16 or subregion.

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

20 “(a) Air quality;

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

22 “(c) Soil productivity; and

23 “(d) Fish and wildlife.

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

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

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

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

32 “(D) Significant wetlands.

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

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

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

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

1 “(b) Mining operation programs administered by the Department of Geology and Mineral In-
2 dustries under ORS 516.010 to 516.130 and ORS chapter 517;

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

6 “(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
7 ministered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to
8 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

9 “(e) The programs administered by the Columbia River Gorge Commission under Public Law
10 99-663 and ORS 196.110 and 196.150;

11 “(f) Removal and fill, conservation and conservation tax incentive programs administered by the
12 State Land Board and the Department of State Lands under ORS 196.800 to 196.900 and 273.553 to
13 273.591;

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

16 “(h) Conservation and conservation tax incentive programs administered by the Natural Herit-
17 age Advisory Council under ORS 273.553 to 273.591;

18 “(i) Open space land tax incentive programs administered by cities and counties under ORS
19 308A.300 to 308A.330;

20 “(j) Water resources programs administered by the Water Resources Department under ORS
21 536.220 to 536.540; and

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

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

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

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

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

36 “(8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws
37 1991, the board determines that additional rules are necessary to protect forest resources pursuant
38 to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the
39 adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity,
40 fish and wildlife resources and watersheds. Such rules shall include a process for determining areas
41 where adverse impacts from cumulative effects have occurred or are likely to occur, and may re-
42 quire that a written plan be submitted for harvests in such areas.

43 “(9)(a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall
44 identify streams for which restoration of habitat would be environmentally beneficial. The State
45 Forester shall select as a priority those streams where restoration efforts will provide the greatest

1 benefits to fish and wildlife, and to streambank and streambed stability.

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

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

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

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

15 “**SECTION 32.** ORS 527.722 is amended to read:

16 “527.722. (1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 215 and 227, and
17 except as provided in subsections (2), (3) and (4) of this section, no unit of local government shall
18 adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate,
19 subject to approval or in any other way affect forest practices on forestlands located outside of an
20 acknowledged urban growth boundary.

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

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

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

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

29 “(d) The siting or alteration of dwellings;

30 “(e) Physical alterations of the land, including but not limited to those made for purposes of
31 exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road
32 construction or recreational facilities, when such uses are not auxiliary to forest practices; or

33 “(f) Partitions and subdivisions of the land.

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

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

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

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

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

1 “(a) Protect soil, air, water, fish and wildlife resources;
2 “(b) Be acknowledged as in compliance with land use planning goals;
3 “(c) Be developed through a public process;
4 “(d) Be developed for the specific purpose of regulating forest practices; and
5 “(e) Be developed in coordination with the State Forestry Department and with notice to the
6 Department of Land Conservation and Development.
7 “(6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife
8 resources, the [State Forester] **Forest Practices Act Administration Division of the Oregon**
9 **Forest Resources Institute** shall provide local governments with a copy of the notice or written
10 plan for a forest operation within any urban growth boundary. Local governments may review and
11 comment on an individual forest operation and inform the landowner or operator of all other regu-
12 lations that apply but that do not pertain to activities regulated under the Oregon Forest Practices
13 Act.
14 “(7) The existence or adoption by local governments of a comprehensive plan policy or land use
15 regulation regulating forest practices consistent with subsections (1) to (5) of this section shall re-
16 lieve the [State Forester] **division** of responsibility to administer the Oregon Forest Practices Act
17 within the affected area.
18 “(8) The Director of the Department of Land Conservation and Development shall provide the
19 [State Forester] **division** copies of notices submitted pursuant to ORS 197.615, whenever such notices
20 concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, pro-
21 hibiting or regulating forest practices.
22 “**SECTION 33.** ORS 527.736 is amended to read:
23 “527.736. (1) The standards established in ORS 527.740 to 527.750 shall be administered by the
24 [State Forester] **Forest Practices Act Administration Division of the Oregon Forest Resources**
25 **Institute** as standards applying to all operations in the state, including those on forestland owned
26 by the state or any political subdivision thereof. Pursuant to ORS 527.710 the State Board of
27 Forestry shall adopt, repeal or amend forest practice rules as necessary to be consistent with and
28 to implement the standards established in ORS 527.740 to 527.750. Except as provided in ORS
29 527.714, nothing in ORS 468B.100 to 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715,
30 527.722, 527.724 and 527.736 to 527.770 shall affect the powers and duties of the board to adopt, or
31 **of the State Forester or the division as applicable** to administer, all other regulations pertaining
32 to forest practices under [applicable] state law.
33 “(2) Nothing in ORS 527.740 to 527.750 is intended to apply to cutting of trees that is for growth
34 enhancement treatments, as defined by the State Forester, such as thinning or precommercial
35 thinning **approved by the division**.
36 “(3) The State Board of Forestry may modify or waive the limitations and requirements of ORS
37 527.676, 527.740, 527.750 and 527.755 for the purposes of a bona fide research project conducted by:
38 “(a) A federal agency;
39 “(b) Agencies of the executive department, as defined in ORS 174.112;
40 “(c) An educational institution; or
41 “(d) A private landowner.
42 “(4) The State Board of Forestry may agree as a term of a stewardship agreement entered into
43 under ORS 541.423 to modify or waive the limitations and requirements of ORS 527.676, 527.740,
44 527.750 and 527.755.
45 “(5) The State Board of Forestry may modify or waive the limitations and requirements of ORS

1 527.676, 527.740, 527.750 and 527.755 for the purpose of an operation for the planting, growing,
2 managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:

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

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

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

9 “**SECTION 34.** ORS 527.740 is amended to read:

10 “527.740. (1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size,
11 except as provided in ORS 527.750.

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

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

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

18 “(c) At least 48 months have elapsed since the stand was created and it is ‘free to grow’ as de-
19 fined by the State Board of Forestry.

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

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

31 “(5) The provisions of this section do not apply to any operation where the operator demon-
32 strates to the [*State Forester*] **division** that:

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

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

38 “**SECTION 35.** ORS 527.745 is amended to read:

39 “527.745. (1) The State Board of Forestry shall adopt standards for the reforestation of harvest
40 type 1 and harvest type 3. Unless the board makes the findings for alternate standards under sub-
41 section (2) of this section, the standards for the reforestation of harvest type 1 and harvest type 3
42 shall include the following:

43 “(a) Reforestation, including site preparation, shall commence within 12 months after the com-
44 pletion of harvest and shall be completed by the end of the second planting season after the com-
45 pletion of harvest. By the end of the fifth growing season after planting or seeding, at least 200

1 healthy conifer or suitable hardwood seedlings or lesser number as permitted by the board by rule,
2 shall be established per acre, well-distributed over the area, which are 'free to grow' as defined by
3 the board.

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

12 “(2) The board, by rule, may establish alternate standards for the reforestation of harvest type
13 1 and harvest type 3, in lieu of the standards established in subsection (1) of this section, but in no
14 case can the board require the establishment of more than 200 healthy conifer or suitable hardwood
15 seedlings per acre. Such alternate standards may be adopted upon finding that the alternate stan-
16 dards will better assure the continuous growing and harvesting of forest tree species and the
17 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
18 fish and wildlife resources based on one or more of the following findings:

19 “(a) Alternate standards are warranted based on scientific data concerning biologically effective
20 regeneration;

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

23 “(c) Different standards are warranted for different tree species, including hardwoods, and for
24 different growing site conditions.

25 “(3) Pursuant to ORS 527.710, the board may adopt definitions, procedures and further regu-
26 lations to implement the standards established under subsection (1) of this section, without making
27 the findings required in subsection (2) of this section, if those procedures or regulations are con-
28 sistent with the standards established in subsection (1) of this section.

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

33 “(5) Notwithstanding subsections (1), (2) and (3) of this section, in order to remove potential
34 disincentives to the conversion of underproducing stands, as defined by the board, or the salvage
35 of stands that have been severely damaged by wildfire, insects, disease or other factors beyond the
36 landowner's control, the [*State Forester*] **division** may suspend the reforestation requirements for
37 specific harvest type 1 or harvest type 3 units in order to take advantage of the Forest Resource
38 Trust provisions, or other cost-share programs administered by the State Forester or where the
39 State Forester is the primary technical adviser. Such suspension may occur only on an individual
40 case basis, in writing, based on a determination by the [*State Forester*] **division** that the cost of
41 harvest preparation, harvest, severance and applicable income taxes, logging, site preparation,
42 reforestation and any other measures necessary to establish a free to grow forest stand will likely
43 exceed the gross revenues of the harvest. The board shall adopt rules implementing this subsection
44 establishing the criteria for and duration of the suspension of the reforestation requirements.

45 “**SECTION 36.** ORS 527.750 is amended to read:

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

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

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

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

16 “(B) At least 48 months have elapsed since the stand was created and it is ‘free to grow’ as
17 defined by the board.

18 “(2) The requirements of this section are in addition to all other requirements of the Oregon
19 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
20 applied in lieu of such other requirements only to the extent the requirements of this section are
21 more stringent. Nothing in this section shall apply to operations conducted under ORS 527.740 (4)
22 or (5).

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

26 “(4) The [State Forester] **division** shall approve the harvest type 3 operation if the proposed
27 operation would provide better overall results in meeting the requirements and objectives of the
28 Oregon Forest Practices Act.

29 “(5) The board shall specify by rule the information to be submitted for approval of harvest type
30 3 operations under this section, including evidence of past satisfactory compliance with the Oregon
31 Forest Practices Act.

32 “**SECTION 37.** ORS 527.755 is amended to read:

33 “527.755. (1) The following highways are hereby designated as scenic highways for purposes of
34 the Oregon Forest Practices Act:

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

36 “(b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 35, 36, 38, 42, 58, 62, 66, 82, 97, 101, 126,
37 138, 140, 199, 230, 234 and 395.

38 “(2) The purpose of designating scenic highways is to provide a limited mechanism that main-
39 tains roadside trees for the enjoyment of the motoring public while traveling through forestland,
40 consistent with ORS 527.630, safety and other practical considerations.

41 “(3) The State Board of Forestry, in consultation with the Department of Transportation, shall
42 establish procedures and regulations as necessary to implement the requirements of subsections (4),
43 (5) and (6) of this section, consistent with subsection (2) of this section, including provisions for al-
44 ternate plans. Alternate plans that modify or waive the requirements of subsection (4), (5) or (6) of
45 this section may be approved when, in the judgment of the [State Forester] **Forest Practices Act**

1 **Administration Division of the Oregon Forest Resources Institute**, circumstances exist such
2 as:

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

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

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

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

10 “(e) The retention of timber in a visually sensitive corridor will result in severe economic
11 hardship for the owner because all or nearly all of the owner’s property is within the visually sen-
12 sitive corridor.

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

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

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

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

36 “(6) Notwithstanding the time limits established in ORS 527.745 (1)(a), when harvesting within
37 a visually sensitive corridor results in a harvest type 1 or harvest type 3, reforestation shall be
38 completed by the end of the first planting season after the completion of the harvest. All other
39 provisions of ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within visually sen-
40 sitive corridors.

41 “(7) Landowners and operators shall not be liable for injury or damage caused by trees left
42 within the visually sensitive corridor for purposes of fulfilling the requirements of this section, when
43 carried out in compliance with the provisions of the Oregon Forest Practices Act.

44 “(8) The following are exempt from this section:

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

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

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

4 “**SECTION 38.** ORS 527.760 is amended to read:

5 “527.760. (1) The State Board of Forestry shall review its rules governing changes in land use
6 and adopt or amend rules as necessary to assure that only bona fide, established and continuously
7 maintained changes from forest uses are provided an exemption from reforestation requirements. The
8 board shall set specific time periods for the completion of land use conversions. Among other fac-
9 tors, the board shall condition exemptions from reforestation requirements upon:

10 “(a) Demonstrating the intended change in land use is authorized under local land use and
11 zoning ordinances, including obtaining and maintaining all necessary land use or construction per-
12 mits and approvals for the intended change in land use;

13 “(b) Demonstrating progress toward the change in land use within the time required for planting
14 of trees, and substantial completion and continuous maintenance of the change in land use in a time
15 certain;

16 “(c) Allowing an exemption for only the smallest land area necessary to carry out the change
17 in land use, and requiring that additional land area within the harvest unit remains subject to all
18 applicable reforestation requirements; and

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

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

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

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

33 “527.992. (1) In addition to any other penalty provided by law, any person who fails to comply
34 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

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

36 “(b) The terms or conditions of any order of the [*State Forester*] **Forest Practices Act Ad-**
37 **ministration Division of the Oregon Forest Resources Institute** issued in accordance with ORS
38 527.680.

39 “(c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS
40 527.710.

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

43 “(2) Imposition or payment of a civil penalty under this section shall not be a bar to actions
44 alleging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover
45 an amount based on the gain resulting from individual or corporate criminal violations.

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

4 **“(2) The amendments to ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.120,**
5 **477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041, 526.060,**
6 **526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690, 527.700,**
7 **527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and 527.992 by sections 2 to**
8 **39 of this 2011 Act become operative July 1, 2012.**

9 **“(3) The amendments to ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.120,**
10 **477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041, 526.060,**
11 **526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690, 527.700,**
12 **527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and 527.992 by sections 2 to**
13 **39 of this 2011 Act apply to forest operations subject to ORS 527.610 to 527.770, 527.990 and**
14 **527.992 that commence on or after July 1, 2012. Forest operations subject to ORS 527.610 to**
15 **527.770, 527.990 and 527.992 that commence before July 1, 2012, are subject to regulation by**
16 **the State Forester and State Board of Forestry as provided under the laws in effect at the**
17 **time the operation commenced.**

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

21
