

House Bill 2029

Sponsored by Representative CLEM (Pre-session filed.)

SUMMARY

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

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

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to forestry; creating new provisions; amending ORS 93.710, 321.152, 321.367, 321.550,
3 390.235, 477.001, 477.062, 477.120, 477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660,
4 477.665, 477.670, 526.041, 526.060, 526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680,
5 527.683, 527.685, 527.690, 527.700, 527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755,
6 527.760 and 527.992; appropriating money; and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (3)(a) As used in this section, “memorandum” means an instrument that:

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

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

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

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

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

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

45 (B) A description of any collateral encumbered by the mortgage or trust deed, other than the

1 real property, that can be perfected by filing in the real property records of the county in which the
 2 collateral is situated;

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

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

7 (E) If the mortgage or trust deed constitutes a line of credit instrument as defined in ORS
 8 86.155, the information required to appear on the front page of the instrument under ORS 86.155
 9 (1)(b).

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

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

14 321.152. (1) Subject to ORS 321.145 (2), moneys remaining in the Department of Revenue's sus-
 15 pense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10 of
 16 each year shall be transferred to the various appropriation accounts described in subsections (2),
 17 (3), *[and]* (4) **and** (5) of this section.

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

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

26 (4) **Fifty percent of the moneys derived from taxes levied by ORS 321.015 (3) shall be**
 27 **transferred to the Oregon Forest Resources Institute Fund created under ORS 526.675.**
 28 **Moneys transferred to the Oregon Forest Resources Institute Fund under this subsection**
 29 **are continuously appropriated to the Forest Practices Act Administration Division of the**
 30 **Oregon Forest Resources Institute for carrying out the purposes described in section 1 of**
 31 **this 2013 Act.**

32 *[(4)]* (5) That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be trans-
 33 ferred to the Oregon Forest Land Protection Fund described in ORS 477.750.

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

35 321.367. (1) The *[State Forester]* **Forest Practices Act Administration Division of the Oregon**
 36 **Forest Resources Institute** shall identify all of the forestlands that fail to meet the minimum
 37 stocking required under ORS 527.610 to 527.770 and that are therefore underproductive as described
 38 under ORS 526.455.

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

- 44 (a) Regeneration of all suitable nonstocked land;
- 45 (b) Maintenance of a free-to-grow condition;

- 1 (c) Protection from fire, insects, disease, animal damage, undesirable vegetative competition; and
- 2 (d) Final harvest.

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

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

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

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

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

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

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

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

30 321.550. [(1) No person shall harvest or cause to be harvested any timber from land in Oregon
 31 without first having notified the State Forester in writing with a copy to the Department of Revenue
 32 on forms prepared by the State Forester and the department of intent to harvest pursuant to ORS
 33 321.005 to 321.185, 321.560 to 321.600 and 321.700 to 321.754.]

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

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

41 (b) **The department.**

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

43 (2) The notification shall specify where and when the harvest will take place and the nature of
 44 the harvest and shall include maps and other data as required by [the] State Forester **rules** and **by**
 45 the department. The department shall establish by rule procedures to assure the receipt of the tax

1 returns sent out or a report of nonharvest from the person. The department shall conduct field and
2 office audits to ascertain the correctness of any timber tax return.

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

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

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

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

17 390.235. (1)(a) A person may not excavate or alter an archaeological site on public lands, make
18 an exploratory excavation on public lands to determine the presence of an archaeological site or
19 remove from public lands any material of an archaeological, historical, prehistorical or
20 anthropological nature without first obtaining a permit issued by the State Parks and Recreation
21 Department.

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

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

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

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

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

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

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

39 (i) The Commission on Indian Services; and

40 (ii) The most appropriate Indian tribe.

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

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

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

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

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

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

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

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

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

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

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

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

27 (6) As used in this section:

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

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

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

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

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

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

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

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

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

42 477.001. As used in this chapter, unless the context otherwise requires:

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

- 1 (2) "Board" means the State Board of Forestry.
- 2 (3) "Campfire" means any open fire used for cooking, personal warmth, lighting, ceremonial or
3 aesthetic purposes that is hand built and that is not associated with any debris disposal activities.
- 4 (4) "Department" means the State Forestry Department.
- 5 (5) "District" means a forest protection district organized under ORS 477.225.
- 6 (6) "Every reasonable effort" means the use of the reasonably available personnel and equipment
7 under the supervision and control of an owner or operator, which are needed and effective to fight
8 the fire in the judgment of the forester and which can be brought to bear on the fire in a timely
9 fashion.
- 10 (7) "Fire season" means a period designated pursuant to ORS 477.505.
- 11 (8) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of
12 the next year.
- 13 (9) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that,
14 during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in
15 the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in
16 this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or
17 manually cleared area, road, rocky area, stream or other similar forestland opening that is sur-
18 rounded by or contiguous to forestland and that has been included in areas classified as forestland
19 under ORS 526.305 to 526.370.
- 20 (10) "Forest patrol assessment" means the costs levied and assessed under ORS 477.270.
- 21 (11) "Forest protective association" or "association" means an association, group or agency
22 composed of owners of forestlands, organized for the purpose of protecting such forestlands from
23 fire.
- 24 (12) "Forest resource" means the various types of vegetation normally growing on Oregon's
25 forestland, the associated harvested products and the associated residue, including but not limited
26 to brush, grass, logs, saplings, seedlings, trees and slashing.
- 27 (13) "Forester" means the State Forester or authorized representative.
- 28 (14) "Governing body" of a county means the county court or board of county commissioners.
- 29 (15) "Grazing land" is defined by ORS 477.205.
- 30 (16) "Open fire" means any outdoor fire that occurs in such a manner that combustion air is
31 not effectively controlled and combustion products are not effectively vented through a stack or
32 chimney.
- 33 (17) "Operation" means any industrial activity, any development or any improvement on
34 forestland inside or within one-eighth of one mile of a forest protection district, including but not
35 limited to the harvesting of forest tree species, the clearing of land, the use of power-driven ma-
36 chinery and the use of fire, excluding, however, the culture and harvesting of agricultural crops.
- 37 (18) "Operation area" means the area on which an operation is being conducted and the area
38 on which operation activity may have resulted in the ignition of a fire.
- 39 (19) "Operation in progress" means that time when workers are on an operation area for the
40 purpose of an operation, including the period of time when fire watches are required to be on the
41 operation area pursuant to ORS 477.665.
- 42 (20) "Operator" means any person who, either personally or through employees, agents, repre-
43 sentatives or contractors, is carrying on or has carried on any operation.
- 44 (21) "Owner" means an individual, a combination of individuals, a partnership, a corporation, the
45 State of Oregon or a political subdivision thereof, or an association of any nature that holds an

1 ownership interest in land.

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

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

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

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

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

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

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

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

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

16 **SECTION 8.** ORS 477.062 is amended to read:

17 477.062. (1) All forestland that by reason of its lack of adequate fire protection endangers life,
18 forest resources or property is declared to be a public nuisance.

19 (2) [*Whenever the forester learns thereof*] **Except as provided under ORS 477.580 and 477.660,**
20 **if the State Forester learns that forestland lacks adequate fire protection,** the forester may
21 direct the owner or operator of such forestland to take proper steps for [*its*] protection **of the**
22 **forestland** and advise the owner or operator of means to that end. [*In case of refusal or neglect by*
23 *either*] **If the owner or operator refuses or neglects** to take precautions against fire required by
24 law or when so directed by the forester in writing, within such time as is specified in the writing,
25 [*then*] the forester may have such work done as the forester considers necessary for the protection
26 of life, forest resources or property, without the necessity of court action.

27 (3) The cost of work under subsection (2) of this section and the expense of any patrol rendered
28 necessary by the want of adequate protection of such forestland shall be recoverable from the
29 offender by an action prosecuted in the name of the state.

30 (4) All moneys collected under this section shall be paid into the State Treasury, credited to the
31 State Forestry Department Account and expended as other moneys in that account are expended.

32 **SECTION 9.** ORS 477.120 is amended to read:

33 477.120. (1) Except as provided in subsections (2) and (3) of this section, the owner or operator
34 of forestland is not subject to the obligations or penalties of ORS 164.335 and 477.740 or 477.064,
35 477.066 and 477.068 if:

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

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

40 (c) Such forestland is protected pursuant to cooperative agreement or contract under ORS
41 477.406.

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

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

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

3 (c) Has failed to give notice to the [*forester*] **Forest Practices Act Administration Division**
4 **of the Oregon Forest Resources Institute** pursuant to ORS 527.670 (6), has failed to obtain a
5 permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625 or has
6 failed within the time prescribed in any order or notice issued by the **State Forester or the division**
7 to reduce, abate, or offset any hazard determined **by the State Forester** to exist pursuant to ORS
8 477.062 or **determined by the division to exist pursuant to 477.580** and a fire originates on or
9 spreads to the area on which such hazard exists and for which no release has been granted pursuant
10 to ORS 477.580 (3) or (4); or

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

13 (3) Unless subsection (2)(a) or (c) of this section applies, the owner or operator shall not be ob-
14 ligated to pay that portion of the actual costs provided in ORS 477.068 [*which*] **that** are the ordinary
15 costs of the regular personnel and equipment of the forest protection district [*wherein*] **in which** the
16 forestland is located.

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

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

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

25 **SECTION 10.** ORS 477.580 is amended to read:

26 477.580. (1) Following the issuance of a permit **by the Forest Practices Act Administration**
27 **Division of the Oregon Forest Resources Institute** pursuant to ORS 477.625, and after slashing
28 has been created in an operation area inside or within one-eighth of one mile of a forest protection
29 district, the [*forester*] **division** may make a determination if such slashing and debris exists on the
30 operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that
31 endangers life, forest resources or property, and if such area is in need of additional work or pro-
32 tection to reduce, abate or offset the additional fire hazard. Whenever practical, the [*forester*] **divi-**
33 **sion** shall make the determination referred to in this subsection during the administration and
34 enforcement of the Oregon Forest Practices Act.

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

43 (3) When the [*forester*] **division** finds that the provisions set forth in subsection (2) of this sec-
44 tion have been complied with or that the additional hazard has been, in the opinion of the
45 [*forester*] **division**, sufficiently reduced by other means to offset the hazard, the **division shall notify**

1 **the State Forester. Upon receiving notice from the division, the State Forester** shall imme-
 2 diately issue to the operator or landowner a release from all obligations imposed by ORS 477.120
 3 (2)(c) **due to the hazard determined under this section.**

4 (4) If the [*forester determines*] **division determines under this section** that an additional fire
 5 hazard exists, the **State Forester** shall, at the request of the owner or operator, with the approval
 6 of the owner, grant a release upon payment by the owner or operator of such sum of money as the
 7 **State Forester** finds necessary to provide additional protection or means necessary to reduce or
 8 offset the additional hazard created by such slashing and other debris. [*In no event may this sum*]
 9 **The sum that the owner or operator must pay for the release may not** exceed the lesser of:

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

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

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

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

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

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

26 **SECTION 11.** ORS 477.615 is amended to read:

27 477.615. (1) During a fire season inside or within one-eighth of one mile of a forest protection
 28 district, [*when,*] **if** in the judgment of the [*forester,*] **Forest Practices Act Administration Division**
 29 **of the Oregon Forest Resources Institute** an operation is of sufficient size or so planned and
 30 operated as to justify additional protection from fire, the owner or operator, when so directed by the
 31 [*forester*] **division** in writing, shall provide, within such time as is specified in the writing, additional
 32 water supply and equipment for use in fire suppression that is in conformity with rules promulgated
 33 by the State Forester.

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

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

40 **SECTION 12.** ORS 477.625 is amended to read:

41 477.625. (1) Every person conducting an operation inside or within one-eighth of one mile of a
 42 forest protection district that uses fire in any form or power-driven machinery shall first obtain from
 43 the [*forester*] **Forest Practices Act Administration Division of the Oregon Forest Resources**
 44 **Institute** a written permit.[, *which shall require*] **The permit must include requirements** that the
 45 holder of the permit:

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

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

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

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

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

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

20 **SECTION 13.** ORS 477.630 is amended to read:

21 477.630. (1) Each permit issued under ORS 477.625 shall include:

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

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

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

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

30 **SECTION 14.** ORS 477.635 is amended to read:

31 477.635. The [forester] **Forest Practices Act Administration Division of the Oregon Forest**
32 **Resources Institute** may issue the permits required in ORS 477.625 and suspend or revoke such
33 permits because of violation of the **permit** terms [thereof] or noncompliance with this chapter. The
34 [forester] **division** shall refuse to issue a permit to any person for the conduct of an operation when,
35 in the judgment of the [forester] **division**, an excessive amount of forest debris in and around the
36 operation area results in an extreme fire hazard that endangers life, forest resources or property.

37 **SECTION 15.** ORS 477.650 is amended to read:

38 477.650. (1) During a fire season every person operating a stationary internal combustion engine
39 inside or within one-eighth of one mile of a forest protection district shall provide at each engine
40 on an operation area a water supply, and equipment for its use in fire suppression, in conformity
41 with rules promulgated by the State Forester. These rules shall prescribe such water supply and
42 equipment as reasonably are necessary to prevent the spread of fire and may provide for the use
43 of alternate methods and equipment.

44 (2) [When] **If** a person has equipped one engine as required by subsection (1) of this section, any
45 additional engines operated by the person within 150 feet of the equipped engine shall be exempt

1 from the requirements of subsection (1) of this section.

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

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

8 **SECTION 16.** ORS 477.660 is amended to read:

9 477.660. During a fire season, **if** *[when]* in the judgment of the *[forester]* **Forest Practices Act**
10 **Administration Division of the Oregon Forest Resources Institute** any operation inside or
11 within one-eighth of one mile of a forest protection district has a fire hazard requiring additional
12 protection, **the division shall notify the State Forester.** The operator shall provide such other
13 facilities or services as the *[forester by written notice may direct]* **division, after consultation with**
14 **the State Forester, directs by written notice.**

15 **SECTION 17.** ORS 477.665 is amended to read:

16 477.665. (1) During a fire season inside or within one-eighth of one mile of a forest protection
17 district, every operator using power-driven machinery in an operation area shall provide fire watch
18 service on the operation area. The fire watch service shall consist of not less than one competent
19 person, who shall be constantly on duty at times prescribed by rules promulgated by the State
20 Forester. These rules shall require fire watch service at such times and at such places as the spread
21 of fire on or from the operation area to forestland reasonably may be expected.

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

26 **SECTION 18.** ORS 477.670 is amended to read:

27 477.670. During a fire season inside or within one-eighth of one mile of a forest protection dis-
28 trict situated west of the summit of the Cascade Mountains, if the forestland in such district, or any
29 part thereof, is susceptible in the judgment of the **State** Forester to damage by fire, the **State**
30 Forester shall issue notice to that effect. Thereafter the use of fire in any form by any person in
31 any operation area or the use of power-driven machinery for any operation, is unlawful unless ap-
32 proved by the *[forester. Approval shall be granted]* **Forest Practices Act Administration Division**
33 **of the Oregon Forest Resources Institute after consultation with the State Forester or de-**
34 **termined in writing by a fire warden under ORS 477.365. The division may grant approval** only
35 when in the judgment of the **State** Forester the activity will not constitute a fire hazard sufficient
36 to justify the requirement.

37 **SECTION 19.** ORS 526.041 is amended to read:

38 526.041. The **State** Forester, under the general supervision of the State Board of Forestry, shall:

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

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

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

44 (4) Collect data relative to forest conditions.

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

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

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

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

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

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

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

12 (12) Coordinate any activities of the State Forestry Department related to a watershed en-
 13 hancement project approved by the Oregon Watershed Enhancement Board under ORS 541.932 with
 14 activities of other cooperating state and federal agencies participating in the project.

15 (13) Prescribe uniform state standards for certification of wildland fire training courses and ed-
 16 ucational programs.

17 (14) Serve as the Governor's authorized representative for the purpose of initiating the fire
 18 management assistance declaration process with the Federal Emergency Management Agency and
 19 administering Federal Emergency Management Agency fire management assistance grants.

20 **SECTION 20.** ORS 526.060 is amended to read:

21 526.060. (1) **The State Forestry Department Account is established separate and distinct**
 22 **from the General Fund.** Except as provided in ORS 526.121, 530.147 and 530.280, all assessments,
 23 federal apportionments or contributions, and other moneys received by the **State** Forester or State
 24 Board of Forestry, shall be paid into the State Treasury and credited to the State Forestry Depart-
 25 ment Account[, *which is established separate and distinct from the General Fund*]. All moneys in the
 26 State Forestry Department Account are continuously appropriated, and shall be used by the **State**
 27 Forester, under the supervision and direction of the board, for the purposes authorized by law.

28 (2) The **State** Forester shall keep a record of all moneys deposited in the State Forestry De-
 29 partment Account. The record shall indicate by separate cumulative accounts the source from which
 30 the moneys are derived and the individual activity or program against which each withdrawal is
 31 charged. [*All moneys in the account received pursuant to ORS 527.610 to 527.770 and 527.992 shall*
 32 *be used only for carrying out the duties, functions and powers of the State Forestry Department in*
 33 *administering ORS 527.610 to 527.770 and 527.992.*]

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

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

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

45 (6) The State Forest Tree Seed Bank Subaccount is established as a subaccount to the State

1 Forestry Department Account. Moneys in the State Forest Tree Seed Bank Subaccount are contin-
 2 uously appropriated to the State Forestry Department to be used for the purposes described in ORS
 3 526.470.

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

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

10 **SECTION 21.** ORS 526.490 is amended to read:

11 526.490. (1) It is the policy of the State of Oregon to encourage the afforestation of idle land for
 12 the purpose of establishing commercial forests if such afforestation is consistent with landowner
 13 objectives. The purpose of this section is to provide an incentive for afforestation by providing as-
 14 surance that the State of Oregon will not prohibit the harvesting of trees planted on such lands
 15 within the first crop rotation.

16 (2) As used in this section:

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

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

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

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

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

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

32 (5)(a) If, within two to five years of planting under subsection (3) of this section, the person
 33 notifies the [*State Forester, the State Forester*] **Forest Practices Act Administration Division of**
 34 **the Oregon Forest Resources Institute, the division** shall inspect the timber and shall issue a
 35 certificate to the owner indicating that a free to grow stand of timber has been established under
 36 subsection (3) of this section and identifying the location of the timber. Upon request of the owner
 37 and payment of any applicable fee, the county clerk in the county [*wherein*] **in which** the parcel is
 38 located shall record the certificate as specified under ORS 205.130.

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

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

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

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

6 **SECTION 22.** ORS 526.770 is amended to read:

7 526.770. (1) No harvest or removal of forest products on forestland covered by a contract be-
 8 tween the forest landowner and the Forest Resource Trust shall occur without the landowner or the
 9 timber owner first notifying the State Forester in writing, on forms prepared by the State Forester,
 10 of intent to harvest or remove forest products. *[Notice shall be made in the same manner as notice*
 11 *provided under ORS 527.670 (6).]* **The State Forester shall adopt rules establishing a procedure**
 12 **for giving notification under this section. To the extent practicable, the State Forester shall**
 13 **pattern the notification forms on the notification forms described in ORS 527.670 (6). The**
 14 **requirement to give notification to the State Forester under this section is in addition to the**
 15 **requirement to give notification of forest operations to the Forest Practices Act Adminis-**
 16 **tration Division of the Oregon Forest Resources Institute under ORS 527.670.**

17 (2) The notification shall specify where and when the harvest or removal of forest products will
 18 take place, the nature of the harvest or removal of forest products and where and to whom the
 19 forest products will be sold or delivered and shall include maps or other information as required by
 20 the State Forester. Upon receipt of notification pursuant to subsection (1) of this section, the State
 21 Forester shall notify the landowner, and any person to whom the forest products will be sold or
 22 delivered, of the repayment obligation specified in any contract between the forest landowner and
 23 the State Forester. The landowner shall make payment to the State Forester. Such payment shall
 24 be deposited in the Forest Resource Trust Fund. If payment is not made within 60 days of harvest
 25 or removal of forest products, the lien shall be delinquent and may be foreclosed in the manner de-
 26 scribed in ORS 526.755.

27 **SECTION 23.** ORS 527.630 is amended to read:

28 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
 29 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
 30 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
 31 public policy of the State of Oregon to encourage economically efficient forest practices that ensure
 32 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
 33 such purposes as the leading use on privately owned land, consistent with sound management of soil,
 34 air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as
 35 provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-
 36 ations of Oregonians.

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

42 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770 and 527.990
 43 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclu-
 44 sive authority to develop *[and enforce]* statewide and regional rules pursuant to ORS 527.710 and to
 45 coordinate with other state agencies and local governments *[which]* **that** are concerned with the

1 forest environment. **It is further declared to be in the public interest to vest the enforcement**
 2 **of those rules with regard to forest practices described under ORS 527.610 to 527.770 in the**
 3 **Forest Practices Act Administration Division of the Oregon Forest Resources Institute.**

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

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

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

11 **SECTION 24.** ORS 527.670 is amended to read:

12 527.670. (1) The State Board of Forestry shall designate the types of operations for which notice
 13 shall be required under this section.

14 (2) The board shall identify by rule the types of operations that require a written plan.

15 (3) In addition to any other types of operations identified by the board, the board shall adopt
 16 rules to require a written plan for the following:

17 (a) An operation that occurs within 100 feet of a stream determined by the State Forester to
 18 be used by fish or for domestic use, unless:

19 (A) The board, by rule, provides that a written plan is not required because the operation will
 20 be conducted according to a general vegetation retention prescription described in administrative
 21 rule;

22 (B) The operation will not directly affect the riparian management area and the State Forester,
 23 acting under authority granted by a board rule, waives the written plan requirement; or

24 (C) The operation will be conducted pursuant to a stewardship agreement entered into under
 25 ORS 541.423.

26 (b) An operation that occurs within 100 feet of a resource site that is inventoried under ORS
 27 527.710 (3) as a significant wetland but is not classified by board rule as an estuary, unless:

28 (A) The board, by rule, provides that a written plan is not required because the operation will
 29 be conducted according to a general vegetation retention prescription described in administrative
 30 rule;

31 (B) The operation will not directly affect the riparian management area and the State Forester,
 32 acting under authority granted by a board rule, waives the written plan requirement; or

33 (C) The operation will be conducted pursuant to a stewardship agreement entered into under
 34 ORS 541.423.

35 (c) An operation that occurs within 300 feet of a resource site inventoried under ORS 527.710
 36 (3), other than a site described in paragraph (b) of this subsection, unless the operation:

37 (A) Will be conducted pursuant to a stewardship agreement entered into under ORS 541.423; and

38 (B) Is consistent with the purposes and policies of any relevant Safe Harbor Agreements or
 39 Candidate Conservation Agreements entered into between the State of Oregon and agencies of the
 40 United States Government, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16
 41 U.S.C. 1531 et seq.) and federal regulations.

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

45 (5) For the purpose of determining the distances set forth in subsection (3) of this section

1 “site” means the specific resource site and not any additional buffer area.

2 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the
3 [State Forester] **Forest Practices Act Administration Division of the Oregon Forest Resources**
4 **Institute**. The notification shall be on forms [provided] **prescribed** by the State Forester **and pro-**
5 **vided by the division** and shall include the name and address of the operator, timber owner and
6 landowner, the legal description of the operating area, and any other information considered by the
7 State Forester to be necessary for the administration of the rules promulgated by the board pursuant
8 to ORS 527.710. Promptly upon receipt of such notice, the [State Forester] **division** shall provide a
9 copy of the notice to whichever of the operator, timber owner or landowner did not submit the no-
10 tification. The [State Forester] **division** shall provide a copy of notices involving chemical applica-
11 tions to persons within 10 miles of the chemical application who hold downstream surface water
12 rights pursuant to ORS chapter 537, if such a person has requested that notification in writing. The
13 board shall adopt rules specifying the information to be contained in the notice. All information filed
14 with the [State Forester] **division** pertaining to chemical applications shall be public record.

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

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

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

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

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

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

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

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

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

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

16 (12) If the operation is required under rules described in subsection (3) of this section to have
 17 a written plan and comments have been timely filed under subsection (9) of this section pertaining
 18 to the operation requiring a written plan, the [*State Forester*] **division** shall:

19 (a) Provide a copy of the [*State Forester's*] **division's** review and comments, if any, to persons
 20 who submitted timely written comments under subsection (9) of this section pertaining to the oper-
 21 ation; and

22 (b) Provide to the operator, timber owner and landowner a copy of all timely comments sub-
 23 mitted under subsection (9) of this section.

24 **SECTION 25.** ORS 527.674 is amended to read:

25 527.674. The State Board of Forestry may not adopt or enforce a rule under ORS 527.610 to
 26 527.770 that [*requires that the board or the State Forester approve written plans as a required*
 27 *precedent*] **makes the approval of written plans by the Forest Practices Act Administration**
 28 **Division of the Oregon Forest Resources Institute a prerequisite** to conducting a forest prac-
 29 tice or operation.

30 **SECTION 26.** ORS 527.676 is amended to read:

31 527.676. (1) In order to contribute to the overall maintenance of wildlife, nutrient cycling,
 32 moisture retention and other resource benefits of retained wood, when a harvest type 2 unit ex-
 33 ceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave on av-
 34 erage, per acre harvested, at least:

35 (a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at least
 36 50 percent of which are conifers; and

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

41 (2) In meeting the requirements of this section, the operator has the sole discretion to determine
 42 the location and distribution of wildlife leave trees, including the ability to leave snags, trees and
 43 logs in one or more clusters rather than distributed throughout the unit and, if specifically permitted
 44 [*by the*] **under** State Board of Forestry [*by rule*] **rules**, to meet the wildlife leave tree requirements
 45 by counting snags, trees or logs otherwise required to be left in riparian management areas or re-

1 source sites listed in ORS 527.710, subject to:

2 (a) Safety and fire hazard regulations;

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

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

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

8 (a) Shall consult with the operator concerning the selection of wildlife leave trees [*when the*
9 *State Forester*] **if the division** believes that retaining certain trees or groups of trees would provide
10 increased benefits to wildlife.

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

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

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

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

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

29 [(4)] (5) When a harvest type 2 or harvest type 3 unit occurs adjacent to a prior harvest type
30 2 or harvest type 3 unit, resulting in a combined total contiguous acreage of harvest type 2 or
31 harvest type 3 under single ownership exceeding 25 acres, the wildlife leave tree and downed log
32 requirements of subsection (1) of this section apply to the combined total contiguous acreage.

33 **SECTION 27.** ORS 527.680 is amended to read:

34 527.680. (1) [*Whenever the State Forester*] **If the Forest Practices Act Administration Division**
35 **of the Oregon Forest Resources Institute** determines that an operator has committed a violation
36 **that is punishable** under ORS 527.990 (1), the [*State Forester may*] **division may act on behalf of**
37 **the State Board of Forestry to** issue and serve a citation upon the operator or authorized repre-
38 sentative. The [*State Forester*] **division** shall cause a copy of the citation to be mailed or delivered
39 to the timber owner and landowner. [*Whenever the State Forester*] **If the division** determines that
40 the landowner has failed to comply with the reforestation rules under ORS 527.710, the [*State*
41 *Forester may*] **division may act on behalf of the board to** issue and serve a citation upon the
42 landowner or authorized representative. Each citation issued under this section shall specify the
43 nature of the violation charged and any damage or unsatisfactory condition that has occurred as the
44 result of such violation.

45 (2) [*Whenever*] **If** a citation is served pursuant to subsection (1) of this section, the [*State*

1 *Forester*] **division, on behalf of the board:**

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

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

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

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

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

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

34 **SECTION 28.** ORS 527.683 is amended to read:

35 527.683. (1) No civil penalty prescribed in ORS 527.992 shall be imposed until the person incur-
36 ring the penalty has received notice in writing from the [*State Forester*] **Forest Practices Act**
37 **Administration Division of the Oregon Forest Resources Institute** specifying the violation.
38 Such notice is in addition to the notice required in ORS 183.745.

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

41 **SECTION 29.** ORS 527.685 is amended to read:

42 527.685. (1) The State Board of Forestry shall by rule establish **guidelines for** the amount of
43 civil penalty that [*may be imposed*] **the Forest Practices Act Administration Division of the**
44 **Oregon Forest Resources Institute, acting on behalf of the board, may impose** for a particular
45 **type of violation**. Except as provided in subsection (5) of this section, no civil penalty shall exceed

1 \$5,000 per violation.

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

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

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

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

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

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

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

13 (g) Any relevant rule of the board.

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

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

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

22 (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745,
23 the [State Forester] **division** may impose a civil penalty in an amount equal to the estimated cost
24 of reforesting lands pursuant to ORS 527.690. **Moneys from civil penalties described in this sec-**
25 **tion shall be made available for reforestation as directed by the board.**

26 **SECTION 30.** ORS 527.690 is amended to read:

27 527.690. (1) [In the event] **The Forest Practices Act Administration Division of the Oregon**
28 **Forest Resources Institute, after consultation with the State Forester, shall take whatever**
29 **action the division determines to be best for carrying out the purposes of ORS 527.630 if an**
30 **order issued pursuant to ORS 527.680 (2)(b) directs the repair of damage or correction of an unsat-**
31 **isfactory condition, including compliance with reforestation requirements, [and if] the operator or**
32 **landowner does not comply with the order within the period specified in such order and the order**
33 **has not been appealed to the State Board of Forestry within 30 days.[, the State Forester based upon**
34 **a determination by the forester of what action will best carry out the purposes of ORS 527.630] **The****
35 **division shall:**

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

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

1 **State Forester and the** board the alleged violation, the estimate of the expenditure to repair the
 2 damage or unsatisfactory condition and the justification for the expenditure.

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

9 (3) If the board authorizes the [*State Forester*] **division** to repair the damage or correct the un-
 10 satisfactory condition, the [*State Forester shall proceed, either with forces of the State Forester or by*
 11 *contract, to repair the damage or correct the unsatisfactory condition.*] **division, acting in consulta-**
 12 **tion with the State Forester, shall ensure that the damage is repaired or the unsatisfactory**
 13 **condition corrected.** The [*State Forester*] **division** shall keep a complete account of direct expen-
 14 ditures incurred, and upon completion of the work, shall prepare an itemized statement [*thereof*
 15 *and*] **of the expenditures. The division** shall deliver a copy to the **State Forester and to the**
 16 operator, timber owner and landowner. [*In no event shall*] The expenditures **may not** exceed the
 17 amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures
 18 incurred by the [*State Forester*] **division**, certified by the State Forester, shall be accepted as prima
 19 facie evidence of such expenditures in any proceeding authorized by this section. **Notwithstanding**
 20 **ORS 526.060, if any moneys are deposited in the State Forestry Department Account from**
 21 **recovery of a civil penalty imposed by the division under ORS 527.685 (5) against the operator,**
 22 **timber owner or landowner, the State Forester shall authorize the use of those moneys to**
 23 **reimburse the division for expenditures incurred in ensuring the damage repair or correction**
 24 **of the unsatisfactory condition.** If the [*State Forester's*] **division's** action to repair the damage or
 25 correct the unsatisfactory condition arose from an operation for which a bond, cash deposit or other
 26 security was required under ORS 527.760, the [*State Forester*] **division** shall retain any applicable
 27 portion of a cash deposit and the surety on the bond or holder of the other security deposit shall
 28 pay the amount of the bond or other security deposit to the [*State Forester*] **division** upon demand.
 29 If the amount specified in the demand is not paid within 30 days following the demand, the Attorney
 30 General, upon request by the [*State Forester*] **division**, shall institute proceedings to recover the
 31 amount specified in the demand.

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

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

44 **SECTION 31.** ORS 527.700 is amended to read:

45 527.700. (1) Any operator, timber owner or landowner affected by any finding or order of the

1 [State Forester] **Forest Practices Act Administration Division of the Oregon Forest Resources**
2 **Institute** issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days
3 after issuance of the order. The hearing shall be commenced within 14 days after receipt of the re-
4 quest for hearing and a final order shall be issued within 28 days of the request for the hearing
5 unless all parties agree to an extension of the time limit.

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

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

15 (4) A request for hearing may be filed under subsection (3) of this section only if a written plan
16 was required by rules adopted under ORS 527.670 (3).

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

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

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

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

27 (d) A statement of facts that establishes that the operation is of the type described in ORS
28 527.670 (3).

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

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

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

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

1 the board;

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

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

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

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

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

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

20 **SECTION 32.** ORS 527.710 is amended to read:

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

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

29 (a) Air quality;

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

31 (c) Soil productivity; and

32 (d) Fish and wildlife.

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

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

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

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

41 (D) Significant wetlands.

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

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

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

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

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

12 (c) Game fish and wildlife, commercial fishing, licensing and wildlife and bird refuge tax incen-
13 tive programs administered by the State Department of Fish and Wildlife under ORS 272.060 and
14 ORS chapters 496, 498, 501, 506 and 509;

15 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
16 ministered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to
17 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

18 (e) The programs administered by the Columbia River Gorge Commission under Public Law
19 99-663 and ORS 196.110 and 196.150;

20 (f) Removal and fill programs administered by the Department of State Lands under ORS 196.800
21 to 196.900;

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

24 (h) Conservation and conservation tax incentive programs administered by the State Parks and
25 Recreation Department under ORS 273.563 to 273.591;

26 (i) Open space land tax incentive programs administered by cities and counties under ORS
27 308A.300 to 308A.330;

28 (j) Water resources programs administered by the Water Resources Department under ORS
29 536.220 to 536.540; and

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

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

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

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

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

45 (8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws

1 1991, the board determines that additional rules are necessary to protect forest resources pursuant
 2 to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the
 3 adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity,
 4 fish and wildlife resources and watersheds. Such rules shall include a process for determining areas
 5 where adverse impacts from cumulative effects have occurred or are likely to occur, and may re-
 6 quire that a written plan be submitted for harvests in such areas.

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

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

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

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

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

24 **SECTION 33.** ORS 527.722 is amended to read:

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

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

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

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

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

38 (d) The siting or alteration of dwellings;

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

42 (f) Partitions and subdivisions of the land.

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

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

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

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

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

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

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

12 (c) Be developed through a public process;

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

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

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

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

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

31 **SECTION 34.** ORS 527.736 is amended to read:

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

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

45 (3) 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 purposes of a bona fide research project conducted by:

- 2 (a) A federal agency;
- 3 (b) Agencies of the executive department, as defined in ORS 174.112;
- 4 (c) An educational institution; or
- 5 (d) A private landowner.

6 (4) The State Board of Forestry may agree as a term of a stewardship agreement entered into
7 under ORS 541.423 to modify or waive the limitations and requirements of ORS 527.676, 527.740,
8 527.750 and 527.755.

9 (5) The State Board of Forestry may modify or waive the limitations and requirements of ORS
10 527.676, 527.740, 527.750 and 527.755 for the purpose of an operation for the planting, growing,
11 managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:

- 12 (a) The timber is grown on land that has been prepared by intensive cultivation methods and is
13 cleared of competing vegetation for at least three years after planting;
- 14 (b) The timber is harvested on a rotation cycle of more than 12 years and less than 20 years
15 after planting; and
- 16 (c) The timber is subject to intensive agricultural practices, including but not limited to
17 fertilization, cultivation, irrigation, insect control and disease control.

18 **SECTION 35.** ORS 527.740 is amended to read:

19 527.740. (1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size, ex-
20 cept as provided in ORS 527.750.

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

- 25 (a) At least the minimum tree stocking required by rule is established per acre; and either
- 26 (b) The resultant stand of trees has attained an average height of at least four feet; or
- 27 (c) At least 48 months have elapsed since the stand was created and it is “free to grow” as de-
28 fined by the State Board of Forestry.

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

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

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

- 42 (a) The trees are subject to a cutting right created by written contract prior to October 1, 1990,
43 which provides that the trees must be paid for regardless of whether the trees are cut, or subject
44 to a cutting right created by reservation in a deed prior to October 1, 1990; and
- 45 (b) If the provisions of this section were applied, the cutting right would expire before all the

1 trees subject to the cutting right could reasonably be harvested.

2 **SECTION 36.** ORS 527.745, as amended by section 5, chapter 56, Oregon Laws 2012, is amended
3 to read:

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

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

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

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

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

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

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

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

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

43 (5) Notwithstanding subsections (1), (2) and (3) of this section, in order to remove potential dis-
44 incentives to the conversion of underproducing stands, as defined by the board, or the salvage of
45 stands that have been severely damaged by wildfire, insects, disease or other factors beyond the

landowner's control, the [State Forester] **division** may suspend the reforestation requirements for specific harvest type 1 or harvest type 3 units in order to take advantage of the Forest Resource Trust provisions, or other cost-share programs administered by the State Forester or where the State Forester is the primary technical adviser. Such suspension may occur only on an individual case basis, in writing, based on a determination by the [State Forester] **division** that the cost of harvest preparation, harvest, severance and applicable income taxes, logging, site preparation, reforestation and any other measures necessary to establish a free to grow forest stand will likely exceed the gross revenues of the harvest. The board shall adopt rules implementing this subsection establishing the criteria for and duration of the suspension of the reforestation requirements.

(6) Notwithstanding subsections (1), (2) and (3) of this section, at the request of the Department of Transportation, the [State Forester] **division** shall consult with the department concerning reforestation requirements for harvest type 1 and harvest type 3 in areas that are within or adjacent to a state highway right of way. The [State Forester] **division** shall waive reforestation requirements in areas deemed to be unsuitable for reforestation by the department in order to maintain motorist safety and to protect highways, bridges and utility lines.

SECTION 37. ORS 527.750 is amended to read:

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

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

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

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

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

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

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

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

(5) The board shall specify by rule the information to be submitted for approval of harvest type

1 3 operations under this section, including evidence of past satisfactory compliance with the Oregon
2 Forest Practices Act.

3 **SECTION 38.** ORS 527.755 is amended to read:

4 527.755. (1) The following highways are hereby designated as scenic highways for purposes of
5 the Oregon Forest Practices Act:

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

7 (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 35, 36, 38, 42, 58, 62, 66, 82, 97, 101, 126, 138,
8 140, 199, 230, 234 and 395.

9 (2) The purpose of designating scenic highways is to provide a limited mechanism that maintains
10 roadside trees for the enjoyment of the motoring public while traveling through forestland, consist-
11 ent with ORS 527.630, safety and other practical considerations.

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

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

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

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

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

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

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

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

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

1 area per acre until the adjacent visually sensitive corridor has been reforested as required under
2 subsection (6) of this section and the stand has attained an average height of at least 10 feet and
3 has at least the minimum number of stems per acre.

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

7 (6) Notwithstanding the time limits established in ORS 527.745 (1)(a), when harvesting within a
8 visually sensitive corridor results in a harvest type 1 or harvest type 3, reforestation shall be com-
9 pleted by the end of the first planting season after the completion of the harvest. All other pro-
10 visions of ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within visually sensitive
11 corridors.

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

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

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

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

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

20 **SECTION 39.** ORS 527.760 is amended to read:

21 527.760. (1) The State Board of Forestry shall review its rules governing changes in land use
22 and adopt or amend rules as necessary to assure that only bona fide, established and continuously
23 maintained changes from forest uses are provided an exemption from reforestation requirements. The
24 board shall set specific time periods for the completion of land use conversions. Among other fac-
25 tors, the board shall condition exemptions from reforestation requirements upon:

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

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

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

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

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

45 (3) Nothing in this section is intended to exempt any change in land use from, nor affect the

1 applicability and administration of, any planning, zoning or permitting requirements provided under
 2 state or local laws or regulations.

3 **SECTION 40.** ORS 527.992 is amended to read:

4 527.992. (1) In addition to any other penalty provided by law, any person who fails to comply
 5 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

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

7 (b) The terms or conditions of any order of the [*State Forester*] **Forest Practices Act Admin-**
 8 **istration Division of the Oregon Forest Resources Institute** issued in accordance with ORS
 9 527.680.

10 (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS
 11 527.710.

12 (d) Any term or condition of a written waiver, or prior approval granted by the [*State*
 13 *Forester*] **division** pursuant to the rules adopted **by the State Board of Forestry** under ORS
 14 527.710.

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

18 **SECTION 41.** (1) **The Forest Practices Act Administration Division of the Oregon Forest**
 19 **Resources Institute shall enter into contracts under section 1 of this 2013 Act for the pro-**
 20 **vision of services described in section 1 of this 2013 Act to commence on July 1, 2014.**

21 (2) **The amendments to ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.062,**
 22 **477.120, 477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041,**
 23 **526.060, 526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690,**
 24 **527.700, 527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and 527.992 by**
 25 **sections 2 to 40 of this 2013 Act become operative July 1, 2014.**

26 (3) **The amendments to ORS 93.710, 321.152, 321.367, 321.550, 390.235, 477.001, 477.062,**
 27 **477.120, 477.580, 477.615, 477.625, 477.630, 477.635, 477.650, 477.660, 477.665, 477.670, 526.041,**
 28 **526.060, 526.490, 526.770, 527.630, 527.670, 527.674, 527.676, 527.680, 527.683, 527.685, 527.690,**
 29 **527.700, 527.710, 527.722, 527.736, 527.740, 527.745, 527.750, 527.755, 527.760 and 527.992 by**
 30 **sections 2 to 40 of this 2013 Act apply to forest operations subject to ORS 527.610 to 527.770,**
 31 **527.990 and 527.992 that commence on or after July 1, 2014. Forest operations subject to ORS**
 32 **527.610 to 527.770, 527.990 and 527.992 that commence before July 1, 2014, are subject to reg-**
 33 **ulation by the State Forester and State Board of Forestry as provided under the laws in ef-**
 34 **fect at the time the operation commenced.**

35 **SECTION 42.** **This 2013 Act being necessary for the immediate preservation of the public**
 36 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 37 **on its passage.**