

House Bill 3226

Sponsored by Representative HOLVEY (at the request of Pacific Rivers and Center for Sustainable Economy)

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**.

Requires State Board of Forestry to establish criteria for preserving natural resource values on forestland.

Requires forest management plan for certain forestlands. Requires that plan include provision for establishment of late successional and old-growth forest area.

Establishes certification program for preparers of forest management plans.

Requires timber harvest plan prior to commencing timber harvesting operation on forestland.

Establishes riparian management area requirements for waterways on forestlands. Prohibits or limits forest operations within riparian management areas.

Declares policy regarding forest roads. Imposes criteria for forest roads. Requires road plan for roads on other lands necessary to make timber harvest on forestland practicable. Restricts timber harvest and forest road construction in areas with landslide risk.

Allows local government to impose public trust resource protections on forestland exceeding protections provided under state law.

Changes geographic basis for board standards regarding forest practices. Expands list of resources to be maintained under standards. Expands list of resources board must inventory for protection purposes.

A BILL FOR AN ACT

Relating to forest practices; creating new provisions; amending ORS 30.934, 195.260, 197.277, 215.050, 215.780, 526.280, 526.490, 527.640, 527.670, 527.676, 527.690, 527.710, 527.714, 527.715, 527.736, 527.740, 527.755, 527.990 and 527.992; and repealing ORS 527.630 and 527.722.

Whereas public resources, including, but not limited to, productive soil, clean water supply, fish and wildlife, biological diversity and a stable climate are being harmed by unsustainable forest practices on state and privately managed forestlands in Oregon; and

Whereas the Oregon Forest Practices Act has changed little in over 30 years, and existing protections of public resources under the Oregon Forest Practices Act fall far below the standards adopted by the scientific community, the federal government and neighboring states and far below current best practices; and

Whereas the Oregon Forest Practices Act provides no standards for protecting some resources, such as late successional and old-growth forests or Native American cultural resources; and

Whereas the Oregon Forest Practices Act provides seriously inadequate standards for resources such as streams and rivers; and

Whereas unsustainable forest practices on state and privately managed forestlands in Oregon impede the ability of federal, state and local government agencies to achieve goals for the protection of water quality, fish and wildlife, native plant communities, climate, scenery, recreation and rural economic prosperity; and

Whereas modernizing the Oregon Forest Practices Act will provide benefits for the economy of this state, including, but not limited to, job creation through more labor-intensive forest practices, reductions in the costs of soil erosion and water filtration, reductions in adverse impacts to fish and wildlife, scenery and recreational resources and increased opportunities for landowners to diversify

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 land management practices and take advantage of emerging conservation and ecosystem service
2 markets; and

3 Whereas industrial forest practices, including, but not limited to, clearcutting, short rotations,
4 the conversion of natural forests to tree plantations, construction of new logging roads and the ap-
5 plication of chemical pesticides and fertilizers generate costs to other economic sectors and burden
6 state and local governments with unreimbursed costs; and

7 Whereas industrial forest practices create risks that jeopardize public health and safety, in-
8 cluding, but not limited to, identified risks to public water supplies from clearcutting and forest
9 chemicals, the exposure of people to unsafe levels of drifting pesticides, the greater wildfire sus-
10 ceptibility of industrial tree plantations and greatly increased potential for landslides; and

11 Whereas state and private forestland management in this state fails to adequately provide for
12 the early seral, complex late successional and old-growth forests and riparian zones needed by at
13 least 1,098 species in order to maintain viable populations; and

14 Whereas the Oregon Conservation Strategy of the State Department of Fish and Wildlife in-
15 cludes a finding that most private forestlands are currently managed intensively for timber values,
16 using relatively short rotations that will limit future development of late successional habitats in
17 many areas; and

18 Whereas federal forests alone are incapable of maintaining viable populations of forest-
19 dependent wildlife species or water quality, making significant contributions from state and pri-
20 vately managed forests essential; and

21 Whereas the United States Fish and Wildlife Service has adopted a revised recovery plan for the
22 northern spotted owl that acknowledges the important role that state and private lands can play
23 toward implementing a coordinated and cooperative effort for spotted owl recovery; and

24 Whereas the lack of coordination among private forestland owners, state agencies, and federal
25 forestland owners with respect to timber harvest and protection of public resources causes detri-
26 mental cumulative effects to wildlife habitat and water quality; and

27 Whereas the failure of the Oregon Forest Practices Act to regulate the cumulative effects of
28 industrial forest practices has caused a significant deterioration in the ability of many watersheds
29 to meet state and federal goals for water quality and wildlife habitat; and

30 Whereas industrial forest practices, including, but not limited to, clearcutting and the mainte-
31 nance of timber plantations represent one of Oregon's largest sources of greenhouse gas emissions
32 and undermine climate resiliency by increasing the frequency and severity of wildfires, insect
33 infestations and landslides; and

34 Whereas the Oregon Forest Practices Act contains barriers to public participation and good
35 governance, prevents counties from adopting more stringent forest practices regulations when
36 needed and requires citizens to post bonds in order to ask for a stay of logging operations harmful
37 to their health and well-being; and

38 Whereas the Oregon Forest Practices Act provides no administrative opportunities for citizens
39 to negotiate changes to harmful forest practices and lacks a requirement for forest management
40 plans with multi-stakeholder consultation; and

41 Whereas Oregonians share a vast landscape of forestlands that define communities, culture and
42 environment; and

43 Whereas forestlands cover approximately 28 million of the 63 million acres in Oregon, including
44 approximately 16 million acres of federally owned and managed forestland, eight million acres of
45 private forestland of which 5.6 million are industrial forests, 840,000 acres of state-managed

1 forestland and forestlands held by Indian tribes or other governments; and

2 Whereas federal, private and state-owned forests in Oregon can play a vital role in sequestering
3 carbon; and

4 Whereas the purpose of the Oregon Forest Practices Act is to balance and support a robust
5 timber industry with the need and responsibility to protect the environment for all Oregonians; and

6 Whereas adjusting Oregon laws regarding private forest practices to utilize the best available
7 science and give consideration to the changes that have occurred in the timber industry will protect
8 the shared environment for all Oregonians and ensure a sustainable timber industry; now, therefore,

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

10 **SECTION 1. Sections 2 to 11 of this 2017 Act and ORS 527.714 are added to and made a**
11 **part of ORS 527.610 to 527.770.**

12 **SECTION 2. The State Board of Forestry, after consultation with the Department of**
13 **Environmental Quality and State Department of Fish and Wildlife, shall adopt rules to es-**
14 **tablish and periodically update numerical criteria for each United States Geological Survey**
15 **accounting unit hydrologic level in this state. The numerical criteria must be based on best**
16 **available science. The numerical criteria must identify requirements with regard to matters**
17 **that include, but need not be limited to:**

18 (1) Fish and wildlife habitat;

19 (2) Water quality and flow;

20 (3) Natural forest cover;

21 (4) Road condition;

22 (5) Road density;

23 (6) The extent of late successional and old-growth forest;

24 (7) The extent of timber plantations;

25 (8) The amounts of permeable and impermeable surfaces;

26 (9) The maximum annual timber harvest area, expressed as a percentage of forestland,
27 determined using both even-aged and uneven-aged techniques; and

28 (10) Other factors the board identifies by rule as necessary to control adverse cumulative
29 impacts.

30 **SECTION 3. (1) An owner or operator of forestland that is 5,000 or more acres in size,**
31 **or that is a unit of a contiguous area of 5,000 acres or more of forestland under common**
32 **ownership, must have a forest management plan for the forestland that has received ap-**
33 **proval by the State Forester under section 5 of this 2017 Act. A proposed forest management**
34 **plan must be prepared by a technical service provider certified under section 6 of this 2017**
35 **Act.**

36 (2) The State Forester shall maintain a list of best practices adopted by the State Board
37 of Forestry under ORS 527.710. A forest management plan for forestland described in sub-
38 section (1) of this section must include, but not be limited to, identification of the best
39 practices to be used to further the achievement of the applicable numerical criteria estab-
40 lished by the State Board of Forestry under section 2 of this 2017 Act on the forestland over
41 a 10-year period and to generate income and economic benefits for the landowner and the
42 economy of this state. A forest management plan must also include, but need not be limited
43 to:

44 (a) Identification of forestland resource concerns and other background and site infor-
45 mation;

- 1 (b) An evaluation of ecosystem services and market-based conservation opportunities;
- 2 (c) A statement of resource management objectives;
- 3 (d) A description of existing conditions on the forestland;
- 4 (e) A description of the conditions desired for the forestland;
- 5 (f) A description of activities that may promote the achievement of desired conditions;
- 6 (g) A monitoring plan for the forestland;
- 7 (h) A list of government and public interest entities consulted regarding the forestland;
- 8 (i) A statement verifying compliance with federal, state and local statutes, regulations
- 9 or rules applicable to the forestland;
- 10 (j) The names and addresses of the landowner, timber owner and operator and a de-
- 11 scription of the responsibilities of each regarding administration of the forest management
- 12 plan;
- 13 (k) A certification by the technical service provider preparing the plan that the provider
- 14 or a designee has personally inspected the plan area; and
- 15 (L) Any other information required by board or State Forester rules.

16 (3) If the forestland includes a site of religious significance or ceremonial use by an In-

17 dian tribe, or is of cultural, ecological or economic significance to an Indian tribe, the forest

18 management plan must be developed in consultation with the tribe and include measures to

19 protect or enhance the site in a manner consistent with the significance the site holds for

20 the tribe.

21 (4) A forest management plan for forestland is a restriction running with the land. A

22 forest management plan must be designed to provide best practices and goals for forestland

23 during a period of at least 10 years. A forest management plan remains in effect until re-

24 placed by an amended, revised or subsequent forest management plan. An owner of

25 forestland may submit a request for approval of an amended, revised or new forest man-

26 agement plan at any time.

27 (5) If the forest management plan for forestland includes provisions authorizing timber

28 harvesting, subject to approval by the State Forester, the owner of the forestland may, for

29 compensation, agree to transfer the timber harvest authorization to other forestland. If the

30 State Forester finds that transfer of the timber harvest authorization to other forestland

31 would be consistent with furthering the achievement of all numerical criteria established

32 under section 2 of this 2017 Act applicable to the forestlands, the State Forester may approve

33 amendments to the forest management plan to transfer the timber harvest authorization.

34 A transfer described in this subsection does not exempt any forestland from a requirement

35 to have a timber harvest plan.

36 **SECTION 4.** (1) In addition to any other requirements under ORS 527.610 to 527.770, a

37 forest management plan described in section 3 of this 2017 Act must provide for the estab-

38 lishment of late successional and old-growth forests in an amount that contributes propor-

39 tionally to the numerical criteria established under section 2 of this 2017 Act for late

40 successional and old-growth forests in that United States Geological Survey accounting unit

41 hydrologic level.

42 (2) Forest management plan practices for the establishment of late successional and

43 old-growth forests may include, but need not be limited to, restoration treatments on timber

44 plantations, thinning, reserves of existing late successional and old-growth forest and long

45 rotations.

(3) A landowner shall delineate lands selected for the establishment of late successional and old-growth forests on a map and include the map as part of the forest management plan.

(4) Except as provided in this subsection, if lands selected for the establishment of late successional and old-growth forests are adversely affected by fire, insects, disease or other natural disturbances, the landowner shall file an amended forest management plan for approval by the State Forester. An amended forest management plan filed under this section must provide for replacing the adversely affected lands with an equal amount of other lands selected for the establishment of late successional and old-growth forests. The landowner shall delineate the alternative lands on a map and include the map as part of the amended forest management plan. The State Forester may waive the requirements of this subsection if, in response to a written request, the State Department of Fish and Wildlife conducts an evaluation and finds that the critical ecological functions of late successional and old-growth forests will continue on the adversely affected lands.

(5) Except as provided in subsection (4) this section, an amended, revised or subsequent forest management plan may not change the forestland areas selected for the establishment of late successional and old-growth forests.

SECTION 5. (1) The State Forester shall review a forest management plan submitted under section 3 of this 2017 Act. The State Forester shall provide copies of the plan to the Department of Environmental Quality and the State Department of Fish and Wildlife for comment. The State Forester may approve a forest management plan if the State Forester finds that the proposed forest management plan:

- (a) Is consistent with the applicable numerical criteria established by the State Board of Forestry under section 2 of this 2017 Act;
- (b) Complies with federal, state and local laws and rules;
- (c) Is based on the best available science;
- (d) Gives consideration to any Department of Environmental Quality and State Department of Fish and Wildlife recommendations regarding the forestland; and
- (e) Is based on an adequate assessment of ecosystem services and market-based opportunities for conservation.

(2) If the State Forester does not approve a forest management plan, the State Forester shall remand the plan to the landowner with comments indicating the changes necessary to receive plan approval. If the State Forester approves the plan, the State Forester shall publish the plan and give notice of approval on a website maintained by the State Forestry Department.

(3) A person claiming to be adversely affected by a forest management plan may file written objections to the plan with the State Forester no later than 60 days after the State Forester publishes the proposed forest management plan and gives notice of approval under subsection (2) of this section. If a timely written objection is filed, the State Forester shall hold a contested case hearing under ORS chapter 183 regarding the proposed plan.

(4) A forest management plan approved by the State Forester shall take effect on the later of:

- (a) Sixty days after the State Forester publishes the proposed forest management plan and gives notice of approval under subsection (2) of this section; or
- (b) The date that an order issued in a contested case held under subsection (3) of this section becomes final by operation of law or on appeal.

SECTION 6. (1) The State Forester shall establish a program to certify technical service providers for the preparation of forest management plans under ORS 527.610 to 527.770. The State Forester may establish minimum educational and experience qualifications for technical service providers. The State Forester may require that an applicant for certification pass an examination approved by the State Forester.

(2) Certification as a technical service provider is valid for three years. However, the State Forester may suspend or revoke a certificate for dishonesty or incompetence related to fitness of the person to perform work as a technical service provider.

(3) The State Forester may charge a reasonable fee for the issuance or renewal of a certificate.

SECTION 7. (1) An owner of forestland must obtain approval of a timber harvest plan from the State Forester before commencing a timber harvest operation on the forestland. A timber harvest plan must, at a minimum, include the following information:

(a) The name and address of the timber harvest operator;

(b) The expected dates of commencement and completion of the timber harvest operation;

(c) A description of the site for the proposed timber harvest operation, including but not limited to a United States Geological Survey quadrangle map, or an equivalent map, indicating locations of streams and other water features, known sensitive species, landslide-prone areas, existing and proposed logging truck roads and the boundaries for each forestland class as described in ORS 526.324;

(d) A description of the method of harvest, including but not limited to the size of cut, methods of felling, yarding and extraction, the type of logging equipment to be used, equipment exclusion zones, landing areas and the location of cuts and fills necessary to remove the harvest volume;

(e) A description of the timber species composition, existing stock of trees per acre, basal area to be harvested, stand density index before harvest and expected stand density 1, 10 and 50 years after harvest, site class, widths of buffers and management of trees within buffers;

(f) A description of the methods to be used to avoid accelerated erosion from timber operations in proximity to surface waterways; and

(g) A description of any special provisions for protecting unique areas within the timber operation area.

(2) If a proposed timber harvest site is on forestland that is required under section 3 of this 2017 Act to have a forest management plan:

(a) The owner shall submit the timber harvest plan at least 60 days prior to the expected date of commencement for the timber harvest operation; and

(b) In addition to providing the information described in subsection (1) of this section, the timber harvest plan must show that the proposed timber harvest operation is consistent with the forest management plan.

(3) The State Forester shall issue an order approving or disapproving a timber harvest plan no later than 30 days after submittal of the plan. The State Forester shall approve the timber harvest plan if the State Forester finds that the plan is consistent with federal, state and local laws and rules and with any applicable forest management plan. If the State Forester disapproves the timber harvest plan, the State Forester shall remand the plan to the owner of the forestland with comments indicating the changes necessary to receive plan

1 approval. Failure of the State Forester to timely disapprove a timber harvest plan does not
2 constitute approval of the plan.

3 (4) There is a rebuttable presumption that a timber harvest operation conducted in con-
4 formance with a timber harvest plan approved in a State Forester order under this section
5 is in conformance with ORS 527.610 to 527.770.

6 (5) If the State Forester approves the timber harvest plan, the State Forester shall pro-
7 vide a copy of the plan to the Department of Revenue and the county assessor for the county
8 in which the timber harvest operation will occur, at times and in a manner determined
9 through written cooperative agreement by the parties involved.

10 **SECTION 8. (1) If they are located on forestland:**

11 (a) Fish-bearing streams and surface waters that supply water for domestic use must
12 have a riparian management area bordering the water channel. The riparian management
13 area must have a width equal to the greater of the average expected height of mature
14 coniferous trees in the area or 150 feet. Timber harvesting may not be conducted within 75
15 feet of the water channel. More than 75 feet, but not more than 125 feet, from the water
16 channel, thinning of trees is allowed if at least 100 trees per acre remain after thinning. More
17 than 125 feet from the water channel, thinning of trees is allowed in the riparian manage-
18 ment area if at least 60 trees per acre remain after thinning. However, if the Department
19 of Environmental Quality designates all or part of a riparian management area described in
20 this subsection for drinking water protection, clearcutting and the application of pesticides
21 within the area designated is prohibited.

22 (b) Intermittent streams and streams that are not fish-bearing must have a 100-foot
23 riparian management area bordering the water channel. Timber harvesting may not be con-
24 ducted within 50 feet of the water channel. More than 50 feet from the water channel, timber
25 harvesting is allowed in the riparian management area if at least 50 trees per acre remain
26 after harvesting. As used in this paragraph, "intermittent streams" means streams that in
27 places flow underground.

28 (c) Bogs, estuaries, fen or other significant wetlands that are two acres in size or larger
29 must have a 200-foot riparian management area bordering the wetlands. Timber harvesting
30 may not be conducted within 100 feet of the wetlands. More than 100 feet from the wetlands,
31 timber harvesting is allowed in the riparian management area if at least 100 trees per acre
32 remain after harvesting.

33 (d) Bogs, estuaries, fen or other significant wetlands that are less than two acres in size,
34 springs and seeps must have a 100-foot riparian management area bordering the wetlands,
35 springs or seeps. Timber harvesting may not be conducted within 50 feet of the wetlands,
36 springs or seeps. More than 50 feet from the wetlands, springs or seeps, timber harvesting
37 is allowed in the riparian management area if at least 60 trees per acre remain after har-
38 vesting.

39 (e) Lakes and ponds must have a riparian management area bordering the average high
40 water mark. The riparian management area must have a width equal to the greater of the
41 average expected height of mature coniferous trees in the area or 150 feet. Timber harvest-
42 ing may not be conducted within 50 feet of the average high water mark. Timber harvesting
43 is allowed more than 50 feet but not more than 100 feet from the average high water mark,
44 if at least 100 trees per acre remain after harvesting. More than 100 feet from the average
45 high water mark, timber harvesting is allowed in the riparian management area if at least

60 trees per acre remain after harvesting.

(2) The State Forestry Department shall adopt distribution requirements for trees within riparian management areas that remain after thinning or harvest. The department shall adopt revegetation requirements for thinned or harvested riparian management areas that, to the extent practicable, encourage the replanting of suitable hardwood species.

SECTION 9. (1) The Legislative Assembly finds and declares that a properly designed, located, constructed and maintained system of forest roads is essential to forest management and protection of public trust resources, including fish and wildlife habitat, water quality and human health. It is the policy of this state that forestland roads be constructed and maintained in a manner that prevents potential or actual damage to public trust resources and does not result in sediment and surface water being delivered in amounts, at times or by means that preclude achieving desired fish habitat and water quality.

(2) To carry out the state policy described in subsection (1) of this section, the State Forester shall ensure that forest roads are constructed in a manner that:

- (a) Provides for fish passage at all stages of fish life;
- (b) Prevents mass movement on forest slopes;
- (c) Avoids the capture and redirection of surface or groundwater;
- (d) Retains streams within natural drainages and routes subsurface flow captured by roads and road ditches back onto the forest floor;
- (e) Diverts most road runoff to the forest floor;
- (f) Designs any water-crossing structures to the 100-year flood level and provides for the passage of bedload and some woody debris;
- (g) Protects stream bank stability, existing stream channels and riparian vegetation;
- (h) Minimizes the construction of new roads;
- (i) Does not result in a net loss of wetland function; and
- (j) Does not result in a net loss of fish habitat.

(3)(a) If road construction on other land is necessary to make timber harvesting practicable for a forestland that is required under section 3 of this 2017 Act to have a forest management plan, the forest management plan for the forestland must include a road plan for the other land. The road plan must address long-term issues related to the construction and maintenance of roads on the other land sufficient to make timber harvesting on the forestland practicable.

(b) The road plan must include, but need not be limited to, analysis of the potential for cumulative adverse impacts on fish, wildlife and water quality and flow. The State Forester shall review the analysis when determining whether to approve the forest management plan for the forestland.

(c) A road plan must provide for the construction and maintenance of a road network sufficient to:

- (A) Meet the objectives of the forest management plan; and
 - (B) Ensure that adverse environmental impacts from construction and maintenance of the road system are minimized.
- (d) A road plan must identify:
- (A) Road segments that may fail due to hydrologic connection or that are prone to erosion;
 - (B) Any locations where roads cross streams;

- (C) Any locations where roads would create biological migration barriers;
- (D) A schedule for maintaining the roads in a condition suitable for all-weather use;
- (E) A schedule for maintaining road infrastructure in good working order; and
- (F) A system for identifying and vacating unneeded roads.

(e) If the construction of a new road is required to carry out the forest management plan, the plan must require that an equal number of miles of existing road be improved or decommissioned at the time the new road is constructed. This paragraph does not apply to the construction of a new temporary road that will be decommissioned and replanted within one year after completion of a forest operation.

SECTION 10. (1) A person may not construct roads or conduct a timber harvest operation on any sites that the State Forester identifies as posing intermediate or substantial public safety risks from shallow, rapidly moving landslides.

(2) A person may not construct roads or conduct harvest type 1, harvest type 2 or harvest type 3 operations on land that the State Forester or the State Department of Geology and Mineral Industries identifies as presenting a substantial risk to public safety due to landslide potential.

(3) The State Forester shall require the inclusion of specific resource protection standards in the timber harvest plan for land that the State Forester or the department identifies as presenting an intermediate risk to public safety due to landslide potential. The standards must require that at least 50 trees per acre remain after harvesting.

(4) Subsection (3) of this section does not authorize an operation that violates State Board of Forestry rules adopted under ORS 527.710 (10).

SECTION 11. A local government, as defined in ORS 174.116, may enact and enforce ordinances or regulations that provide greater protection than ORS 527.610 to 527.770 provides for soil productivity, water quality and flow, fish, wildlife, game, biological diversity, climate resiliency and other public trust resources on forestlands within the jurisdiction of the local government. A local government that adopts an ordinance or regulation under this section shall give notice of the ordinance or regulation to the State Forester and the State Board of Forestry.

SECTION 12. ORS 527.670 is amended to read:

527.670. (1) **Except as provided in subsection (2) of this section,** the State Board of Forestry shall:

(a) Designate the types of operations for which notice shall be required under this section[.];
and

[(2)] (b) [The board shall] Identify by rule the types of operations that require a written plan.

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

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

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

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

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

1 *[(b) An operation that occurs within 100 feet of a resource site that is inventoried under ORS*
 2 *527.710 (3) as a significant wetland but is not classified by board rule as an estuary, unless:]*

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

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

7 *[(C) The operation will be conducted pursuant to a stewardship agreement entered into under ORS*
 8 *541.423.]*

9 **(2) Subsection (1) of this section does not apply to operations conducted pursuant to a**
 10 **plan approved under section 5 or 7 of this 2017 Act.**

11 **(3) In addition to any operations identified by board rules under subsection (1)(b) of this**
 12 **section, the board shall require a written plan for:**

13 **(a) An operation occurring within a riparian management area required under section 8**
 14 **of this 2017 Act, unless the operation will be conducted pursuant to a forest management**
 15 **plan approved under section 5 of this 2017 Act, a timber harvest plan approved under section**
 16 **7 of this 2017 Act or a stewardship agreement under ORS 541.423.**

17 *[(c)] (b) An operation that occurs outside of a riparian management area, but within 300 feet*
 18 *of a resource site inventoried under ORS 527.710 (3), [other than a site described in paragraph (b)*
 19 *of this subsection,] unless the operation:*

20 **(A) Will be conducted pursuant to a forest management plan approved under section 5 of**
 21 **this 2017 Act, a timber harvest plan approved under section 7 of this 2017 Act or a stewardship**
 22 **agreement entered into under ORS 541.423; and**

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

27 **(4) The [distances set forth] descriptions in subsection (3) of this section are solely for the pur-**
 28 **pose of defining an area within which a hearing may be requested under ORS 527.700 and not the**
 29 **area to be protected by the board's rules adopted pursuant to ORS 527.710 (3)(c).**

30 **(5) For the purpose of determining [the distances set forth in] a distance for purposes of sub-**
 31 **section (3)(b) of this section, "site" means the specific resource site and not any additional buffer**
 32 **area.**

33 **(6) An operator, timber owner or landowner, before commencing an operation other than a**
 34 **timber harvest operation approved under section 7 of this 2017 Act, shall notify the State**
 35 **Forester. The notification shall be on forms provided by the State Forester and shall include the**
 36 **name and address of the operator, timber owner and landowner, the legal description of the oper-**
 37 **ating area, and any other information considered by the State Forester to be necessary for the ad-**
 38 **ministration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt**
 39 **of such notice, the State Forester shall provide a copy of the notice to whichever of the operator,**
 40 **timber owner or landowner did not submit the notification. The State Forester shall provide a copy**
 41 **of notices involving chemical applications to persons within 10 miles of the chemical application**
 42 **who hold downstream surface water rights pursuant to ORS chapter 537, if such a person has re-**
 43 **quested that notification in writing. The board shall adopt rules specifying the information to be**
 44 **contained in the notice. All information filed with the State Forester pertaining to chemical appli-**
 45 **cations shall be public record.**

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

(8) *[Within] No later than* six working days *[of] after* receipt of a notice or a written plan filed under subsection (6) or (7) of this section, the State Forester shall make a copy of the notice or written plan available to any person who requested of the State Forester in writing that the person be provided with copies of notice and written plan and who has paid any applicable fee established by the State Forester for such service. The State Forester may establish a fee for providing copies of notices and written plans under this subsection not to exceed the actual and reasonable costs. *[In addition, the State Forester shall provide a copy of the notification to the Department of Revenue and the county assessor for the county in which the operation is located, at times and in a manner determined through written cooperative agreement by the parties involved.]*

(9) Persons may submit written comments pertaining to the operation to the State Forester *[within] on or before* 14 calendar days *[of] after* the date the notice or written plan *[was] is* filed with the State Forester under *[subsection (2), (6) or (7) of]* this section. Notwithstanding the provisions of this subsection, the State Forester may waive any waiting period for operations not requiring a written plan under subsection (3) of this section, except those operations involving aerial application of chemicals.

(10) If an operator, timber owner or landowner is required to submit a written plan of operations to the State Forester under subsection (3) of this section:

(a) The State Forester shall review a written plan and may provide comments to the person who submitted the written plan;

(b) The State Forester may not provide any comments concerning the written plan earlier than 14 calendar days following the date that the written plan was filed with the State Forester nor later than 21 calendar days following the date that the written plan was filed; and

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

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

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

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

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

(a) Provide a copy of the State Forester's review and comments, if any, to persons who submitted timely written comments under subsection (9) of this section pertaining to the operation; and

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

SECTION 13. ORS 527.710 is amended to read:

527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing standards for **best** forest practices in each *[region or subregion]* **United States Geological Survey accounting unit hydrologic level in this state.**

(2) The rules shall ensure the continuous growing and harvesting of forest tree species. Consistent with *[ORS 527.630]* **the numerical criteria established by the board under section 2 of this 2017 Act**, the rules shall provide for the overall maintenance of the following resources:

(a) Air quality;

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

(c) Soil productivity; *[and]*

[(d) Fish and wildlife.]

(d) Native fish, wildlife and plant community diversity; and

(e) Cultural and historical resources.

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

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

(B) Threatened or endangered plant species identified on lists that are established and published, by rule, by the Director of Agriculture or are federally listed under the Endangered Species Act of 1973 as amended;

(C) Threatened or endangered fish, wildlife or plant species listed by the Institute for Natural Resources acting in cooperation with Portland State University;

[(B)] **(D) Sensitive bird nesting, roosting and watering sites;**

[(C)] **(E) Biological sites that are ecologically and scientifically significant, including but not limited to native forestlands largely undisturbed by past forest management activities, rare plant communities, restoration gene pools and individual heritage trees; [and]**

[(D)] **(F) Significant wetlands[.];**

(G) Cultural or historical resources;

(H) Sites identified by the governing body of an Indian tribe as sacred sites based on religious significance or ceremonial use; and

(I) Areas identified under the Oregon Conservation Strategy, as defined in ORS 541.890, as places where fish and wildlife conservation goals can best be met.

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

(c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the

1 *[policies of ORS 527.630]* **numerical criteria established by the board under section 2 of this**
 2 **2017 Act**, the board shall adopt rules appropriate to protect resource sites in the inventories re-
 3 quired by paragraph (a) of this subsection.

4 (4) *[Before]* **When** adopting rules under subsection (1) of this section, the board shall **give**
 5 **consideration to practices recognized by professional foresters and by federal and state**
 6 **agencies. The board shall** consult with other agencies of this state or any of its political subdivi-
 7 sions that have functions with respect to *[the purposes specified in ORS 527.630]* **operations on**
 8 **forestland** or programs affected by *[forest]* operations **on forestland**. Agencies and programs sub-
 9 ject to consultation under this subsection include, but are not limited to:

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

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

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

17 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
 18 ministered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to
 19 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

20 (e) The programs administered by the Columbia River Gorge Commission under Public Law
 21 99-663 and ORS 196.110 and 196.150;

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

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

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

28 (i) Open space land tax incentive programs administered by cities and counties under ORS
 29 308A.300 to 308A.330;

30 (j) Water resources programs administered by the Water Resources Department under ORS
 31 536.220 to 536.540; and

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

34 (5) **In addition to agencies described in subsection (4) of this section, when adopting rules**
 35 **under subsection (1) of this section the board shall consult with:**

36 (a) **The State Historic Preservation Officer; and**

37 (b) **Indian tribe governing bodies and organizations.**

38 *[(5)]* (6) In carrying out the provisions of subsection (4) of this section, the board shall consider
 39 and accommodate the rules and programs of other agencies to the extent deemed by the board to
 40 be appropriate and consistent with the purposes of ORS *[527.630]* **527.610 to 527.770.**

41 *[(6)]* (7) The board shall adopt rules to meet the purposes of another agency's regulatory pro-
 42 gram *[where it is the intent of]* **if** the board **intends** to administer the other agency's program on
 43 forestland and *[where]* the other agency concurs by rule. An operation performed in compliance with
 44 the board's rules shall be deemed to comply with the other agency's program.

45 *[(7)(a)]* (8)(a) The board may enter into cooperative agreements or contracts necessary in car-

rying out [*the purposes specified in ORS 527.630*] **ORS 527.610 to 527.770.**

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

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

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

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

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

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

(10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide directly related to forest practices. The rules shall consider the exposure of the public to these safety risks and shall include appropriate practices designed to reduce the occurrence, timing or effects of rapidly moving landslides. **The rules must impose restrictions equal to or greater than the restrictions imposed under section 10 of this 2017 Act.** As used in this subsection, "rapidly moving landslide" has the meaning given that term in ORS 195.250.

SECTION 14. ORS 30.934 is amended to read:

30.934. (1) Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a forest practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

(2) Subsection (1) of this section does not apply to:

(a) City [*rules, regulations or*] ordinances **or regulations** adopted in accordance with [*ORS 527.722*] **section 11 of this 2017 Act**; or

(b) Any forest practice conducted in violation of a solar energy easement that complies with ORS 105.880 to 105.890.

SECTION 15. ORS 195.260 is amended to read:

195.260. (1) In order to reduce the risk of serious bodily injury or death resulting from rapidly moving landslides, a local government:

(a) Shall exercise all available authority to protect the public during emergencies, consistent with ORS 401.032.

(b) May require a geotechnical report and, if a report is required, shall provide for a coordinated

1 review of the geotechnical report by the State Department of Geology and Mineral Industries or the
2 State Forestry Department, as appropriate, before issuing a building permit for a site in a further
3 review area.

4 (c) Except those structures exempt from building codes under ORS 455.310 and 455.315, shall
5 amend its land use regulations, or adopt new land use regulations, to regulate the siting of dwellings
6 and other structures designed for human occupancy, including those being restored under ORS
7 215.130 (6), in further review areas where there is evidence of substantial risk for rapidly moving
8 landslides. All final decisions under this paragraph and paragraph (b) of this subsection are the re-
9 sponsibility of the local government with jurisdiction over the site. A local government may not
10 delegate such final decisions to any state agency.

11 (d) May deny a request to issue a building permit if a geotechnical report discloses that the
12 entire parcel is subject to a rapidly moving landslide or that the subject lot or parcel does not
13 contain sufficient buildable area that is not subject to a rapidly moving landslide.

14 (e) Shall maintain a record, available to the public, of properties for which a geotechnical report
15 has been prepared within the jurisdiction of the local government.

16 (2) A landowner allowed a building permit under subsection (1)(c) of this section shall sign a
17 statement that shall:

18 (a) Be recorded with the county clerk of the county in which the property is located, in which
19 the landowner acknowledges that the landowner may not in the future bring any action against an
20 adjacent landowner about the effects of rapidly moving landslides on or adjacent to the landowner's
21 property; and

22 (b) Record in the deed records for the county where the lot or parcel is located a nonrevocable
23 deed restriction that the landowner signs and acknowledges, that contains a legal description com-
24 plying with ORS 93.600 and that prohibits any present or future owner of the property from bringing
25 any action against an adjacent landowner about the effects of rapidly moving landslides on or ad-
26 jacent to the property.

27 (3) Restrictions on forest practices adopted under ORS 527.710 (10) **or section 10 of this 2017**
28 **Act** do not apply to risk situations arising solely from the construction of a building designed for
29 human occupancy in a further review area on or after October 23, 1999.

30 (4) The following state agencies shall implement the following specific responsibilities to reduce
31 the risk of serious bodily injury or death resulting from rapidly moving landslides:

32 (a) The State Department of Geology and Mineral Industries shall:

33 (A) Identify and map further review areas selected in cooperation with local governments and
34 in coordination with the State Forestry Department, and provide technical assistance to local gov-
35 ernments to facilitate the use and application of this information pursuant to subsection (1)(b) of this
36 section; and

37 (B) Provide public education regarding landslide hazards.

38 (b) The State Forestry Department shall regulate forest operations to reduce the risk of serious
39 bodily injury or death from rapidly moving landslides directly related to forest operations, and assist
40 local governments in the siting review of permanent dwellings on and adjacent to forestlands in
41 further review areas pursuant to subsection (1)(b) of this section.

42 (c) The Land Conservation and Development Commission may take steps under its existing au-
43 thority to assist local governments to appropriately apply the requirements of subsection (1)(c) of
44 this section.

45 (d) The Department of Transportation shall provide warnings to motorists during periods deter-

1 mined to be of highest risk of rapidly moving landslides along areas on state highways with a history
2 of being most vulnerable to rapidly moving landslides.

3 (e) The Office of Emergency Management shall coordinate state resources for rapid and effective
4 response to landslide-related emergencies.

5 (5) Notwithstanding any other provision of law, any state or local agency adopting rules related
6 to the risk of serious bodily injury or death from rapidly moving landslides shall do so only in con-
7 formance with the policies and provisions of ORS 195.250 to 195.260.

8 (6) No state or local agency may adopt or enact any rule or ordinance for the purpose of re-
9 ducing risk of serious bodily injury or death from rapidly moving landslides that limits the use of
10 land that is in addition to land identified as a further review area by the State Department of
11 Geology and Mineral Industries or the State Forestry Department pursuant to subsection (4) of this
12 section.

13 (7) Except as provided in ORS 527.710, **section 10 of this 2017 Act** or *[in]* Oregon's ocean and
14 coastal land use planning goals, no state agency may adopt criteria regulating activities for the
15 purpose of reducing risk of serious bodily injury or death from rapidly moving landslides on lands
16 subject to the provisions of ORS 195.250 to 195.260 that are more restrictive than the criteria
17 adopted by a local government pursuant to subsection (1)(c) of this section.

18 **SECTION 16.** ORS 197.277 is amended to read:

19 197.277. (1) The goals and rules established in ORS chapters 195, 196 and 197 do not apply to
20 programs, rules, procedures, decisions, determinations or activities carried out under the Oregon
21 Forest Practices Act administered under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

22 *[(2) No goal or rule shall be adopted, construed or administered in a manner to require or allow
23 local governments to take any action prohibited by ORS 527.722.]*

24 *[(3)]* **(2)** The Land Conservation and Development Commission shall amend goals and rules as
25 necessary to implement ORS 197.180, *[197.277,]* 197.825, 215.050, 477.440, 477.455, 477.460, 526.009,
26 526.016, 526.156, 527.620, *[527.630,]* 527.660, 527.670, 527.683 to 527.687, 527.715, 527.990 and 527.992
27 **and numerical criteria established under section 2 of this 2017 Act.**

28 **SECTION 17.** ORS 215.050 is amended to read:

29 215.050. (1) *[Except as provided in ORS 527.722,]* The county governing body shall adopt and may
30 from time to time revise a comprehensive plan and zoning, subdivision and other ordinances appli-
31 cable to all of the land in the county. The plan and related ordinances may be adopted and revised
32 part by part or by geographic area.

33 (2) Zoning, subdivision or other ordinances or regulations and any revisions or amendments
34 thereof shall be designed to implement the adopted county comprehensive plan.

35 (3) A county shall maintain copies of its comprehensive plan and land use regulations, as defined
36 in ORS 197.015, for sale to the public at a charge not to exceed the cost of copying and assembling
37 the material.

38 **SECTION 18.** ORS 215.780 is amended to read:

39 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
40 parcel sizes apply to all counties:

- 41 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- 42 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- 43 (c) For land designated forestland, at least 80 acres.

44 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)
45 of this section in any of the following circumstances:

(a) When the county can demonstrate to the Land Conservation and Development Commission that the county can adopt a lower minimum lot or parcel size while continuing to meet the requirements of ORS 215.243 and [527.630] **numerical criteria established under section 2 of this 2017 Act** and the land use planning goals adopted under ORS 197.230.

(b) To divide by partition an area of land zoned for forest use to create a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(A) The parcel created may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres; and

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum lot or parcel size of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel size of the zone.

(c) To divide by partition an area of land zoned for mixed farm and forest use to create a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

(A) The parcel created may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel may not be larger than 10 acres;

(B) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:

(i) Meets the minimum lot or parcel size of the zone; or

(ii) Is consolidated with another parcel, and together the parcels meet the minimum lot or parcel size of the zone;

(C) The minimum tract eligible under this paragraph is 40 acres;

(D) The tract must be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321; and

(E) The remainder of the tract does not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

(d) To allow a division by partition of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

(A) Are not eligible for siting of a new dwelling;

(B) May not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

(D) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

(i) Facilitate an exchange of lands involving a governmental agency; or

(ii) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland.

(e) To allow a division by partition of a lot or parcel zoned for forest use or mixed farm and forest use under a statewide planning goal protecting forestland if:

(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213 (1)(q) or 215.283 (1)(p);

(C) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;

(D) At least one dwelling is located on each parcel created under this paragraph; and

(E) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.

(f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as provided in ORS 215.783.

(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record must be readily available to the public.

(4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing dwelling on the lot or parcel was approved under:

(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.651 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) and (c) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction may not allow a dwelling unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record must be readily available to the public.

(7) A landowner allowed a land division under subsection (2) of this section shall sign a statement that must be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future com-

plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

SECTION 19. ORS 526.280 is amended to read:

526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

(1) Establish a policy of active and inclusive communication with the federal government, public bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization of woody biomass produced through forest health restoration. The State Forester shall actively utilize the statutory provisions of the National Forest Management Act of 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration Act of 2003 that allow the state to participate in federal policy development in a manner that expresses the policy established in ORS 526.277.

(2) Promote public involvement in the identification of the areas of interface between urban lands and forestlands that pose the highest potential to threaten lives and private property.

(3) Solicit public comment on the location of biomass-based energy projects and conversion facilities.

(4) Promote public understanding, through education and outreach, of forest conditions, forest management options, the potential benefits and potential consequences of woody biomass utilization, the quality and quantity of woody biomass on federal lands and the potential for woody biomass utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience. The State Forestry Department may coordinate with the State Department of Energy, the Oregon Business Development Department, Oregon State University, the State Department of Fish and Wildlife, the Department of Environmental Quality and other entities in any education and outreach performed pursuant to this subsection.

(5) Assess the types of woody biomass available and serve as an information resource for persons seeking to utilize woody biomass for energy development. Notwithstanding ORS 192.501, reports on any assessment of woody biomass conducted by the State Forester shall be made available for public inspection.

(6) Promote public understanding that woody biomass utilization may be an effective tool for restoration of forest health and for economic development in rural communities.

(7) Develop and apply, with advice from the forestry program at Oregon State University, the State Department of Fish and Wildlife, the Department of Environmental Quality and other sources, the best available scientific knowledge and technologies pertaining to forest and wildlife habitat restoration and woody biomass utilization [*when developing rules under ORS 527.630*] **consistent with any applicable numerical criteria established under section 2 of this 2017 Act.**

(8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and private forests.

(9) Periodically prepare a report utilizing, to the greatest extent practicable, data collected from state and federal sources that specify the effect of woody biomass collection and conversion on the plant and wildlife resources and on the air and water quality of this state. The report shall identify any changes that the State Forester determines are necessary to encourage woody biomass collection and conversion and to avoid negative effects on the environment from woody biomass collection and conversion. The State Forester shall submit the report to the Governor and to an appropriate legislative interim committee with jurisdiction over forestry issues.

SECTION 20. ORS 526.490 is amended to read:

526.490. (1) It is the policy of the State of Oregon to encourage the afforestation of idle land for

the purpose of establishing commercial forests if such afforestation is consistent with landowner objectives. The purpose of this section is to provide an incentive for afforestation by providing assurance that the State of Oregon will not prohibit the harvesting of trees planted on such lands within the first crop rotation.

(2) As used in this section:

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

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

(3) Notwithstanding ORS 527.676, 527.710 or 527.755 **or section 7 of this 2017 Act** or any rules promulgated thereunder, and except as provided in subsection (4) of this section, a person who, after September 9, 1995, plants or causes to be planted a stand of timber that is intended to become a merchantable stand of timber as defined in ORS 321.005 on a parcel owned by the person, or a portion of such parcel not less than five contiguous acres, shall not be prohibited from harvesting the planted timber provided that:

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

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

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

(5)(a) If, within two to five years of planting under subsection (3) of this section, the person notifies the State Forester, the State Forester shall inspect the timber and shall issue a certificate to the owner indicating that a free to grow stand of timber has been established under subsection (3) of this section and identifying the location of the timber. Upon request of the owner and payment of any applicable fee, the county clerk in the county wherein the parcel is located shall record the certificate as specified under ORS 205.130.

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

(c) The State Forester may, by rule, establish a fee or schedule of fees adequate to cover such necessary expenses incurred by the State Forester in conducting inspection and certification activities. Fees may be charged to the person requesting certification.

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

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

SECTION 21. ORS 527.640 is amended to read:

527.640. The State Board of Forestry shall establish [*a number of forest regions, but not less than three, necessary to achieve the purposes described in ORS 527.630*] **three or more administrative regions within this state for the purpose of carrying out the administration and enforcement of ORS 527.610 to 527.770.**

SECTION 22. ORS 527.676 is amended to read:

527.676. (1) In order to contribute to the overall maintenance of wildlife, nutrient cycling,

1 moisture retention and other resource benefits of retained wood, when a harvest type 2 unit ex-
 2 ceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave on av-
 3 erage, per acre harvested, at least:

4 (a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at least
 5 50 percent of which are conifers; and

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

10 (2) In meeting the requirements of this section, the operator has the sole discretion to determine
 11 the location and distribution of wildlife leave trees, including the ability to leave snags, trees and
 12 logs in one or more clusters rather than distributed throughout the unit and, if specifically permitted
 13 by the State Board of Forestry by rule, to meet the wildlife leave tree requirements by counting
 14 snags, trees or logs otherwise required to be left in riparian management areas **under section 8**
 15 **of this 2017 Act** or resource sites listed in ORS 527.710, subject to:

16 (a) Safety and fire hazard regulations;

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

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

20 (3) In meeting the requirements of this section, the State Forester:

21 (a) Shall consult with the operator concerning the selection of wildlife leave trees when the
 22 State Forester believes that retaining certain trees or groups of trees would provide increased ben-
 23 efits to wildlife.

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

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

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

32 (c) May require, for operations adjacent to a fish-bearing or domestic use stream, in addition to
 33 trees otherwise required to be left in riparian management areas **under section 8 of this 2017**
 34 **Act**, up to 25 percent of the green trees required to be retained under this section to be left in or
 35 adjacent to the riparian management area of the stream.

36 (d) May require by rule, for operations adjacent to a small, nonfish-bearing stream subject to
 37 rapidly moving landslides as defined in ORS 195.250, that available green trees and snags be left in
 38 or adjacent to the stream. The operator must leave available green trees and snags under this par-
 39 agraph within an area that is 50 feet on each side of the stream and no more than 500 feet upstream
 40 from a riparian management area of a fish-bearing stream.

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

45 **SECTION 23.** ORS 527.690 is amended to read:

1 527.690. (1) *[In the event]* **If** an order issued pursuant to ORS 527.680 (2)(b) directs the repair of
 2 damage or correction of an unsatisfactory condition, including compliance with reforestation re-
 3 quirements, and *[if]* the operator or landowner does not comply with the order within the period
 4 specified in *[such]* **the** order and the order has not been appealed to the State Board of Forestry
 5 within 30 days, the State Forester based upon a determination by the forester of what action will
 6 best carry out the purposes of ORS *[527.630]* **527.610 to 527.770** shall:

7 (a) Maintain an action in the Circuit Court for Marion County or the circuit court for the
 8 county in which the violation occurred for an order requiring the landowner or operator to comply
 9 with the terms of the forester's order or to restrain violations thereof; or

10 (b) Estimate the cost to repair the damage or the unsatisfactory condition as directed by the
 11 order and shall notify the operator, timber owner and landowner in writing of the amount of the
 12 estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State
 13 Forester may proceed to repair the damage or the unsatisfactory condition. In the event approval
 14 of the expenditure is not obtained within 30 days after notification to the operator, timber owner
 15 and landowner under this section, the State Forester shall present to the board the alleged violation,
 16 the estimate of the expenditure to repair the damage or unsatisfactory condition and the justifica-
 17 tion for the expenditure.

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

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

38 (4) The expenditures in cases covered by this section, including cases where the amount col-
 39 lected on a bond, deposit or other security was not sufficient to cover authorized expenditures, shall
 40 constitute a general lien upon the real and personal property of the operator, timber owner and
 41 landowner within the county in which the damage occurred. A written notice of the lien, containing
 42 a statement of the demand, the description of the property upon which the expenditures were made
 43 and the name of the parties against whom the lien attaches, shall be certified under oath by the
 44 State Forester and filed in the office of the county clerk of the county or counties in which the
 45 expenditures were made within six months after the date of delivery of the itemized statement re-

ferred to in subsection (3) of this section, and may be foreclosed in the manner provided in ORS chapter 88.

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

SECTION 24. ORS 527.714 is amended to read:

527.714. (1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to 527.770 consists generally of the following three types of rules:

(a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to 527.770 that support but do not directly regulate standards of forest practices.

(b) Rules adopted to provide definitions or procedures for forest practices where the standards **of forest practices** are set in statute.

(c) Rules adopted to implement the provisions of ORS 527.710 [(2), (3), (6), (8), (9) and (10)] **or section 2 of this 2017 Act** that grant broad discretion to the board and [that] set standards for forest practices not specifically addressed in statute.

(2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS 183.335, the board shall determine which type of rule described in subsection (1) of this section is being considered.

(3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already adopted or to make minor adjustments to rules already adopted that are of the type described in subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410 and is not subject to the provisions of this section.

(4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would change the standards for forest practices, the board shall describe in its rule the purpose of the rule and the level of protection that is desired.

(5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and the proposed rule would provide new or increased standards for forest practices, the board may adopt such a rule only after determining that the following facts exist and standards are met:

(a) If forest practices continue to be conducted under existing regulations, there is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710 (2) or (3) **or of matters for which requirements are identified by numerical criteria under section 2 of this 2017 Act** is likely, or in the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of serious bodily injury or death;

(b) If the resource to be protected is a wildlife species, the scientific or biological status of a species or resource site to be protected by the proposed rule has been documented using best available information;

(c) The proposed rule reflects available scientific information, the results of relevant monitoring and, as appropriate, adequate field evaluation at representative locations in Oregon;

(d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices as a result of adoption of the proposed rule:

(A) Are to prevent harm or provide benefits to the resource or resource site for which protection is sought, or in the case of rules proposed under ORS 527.710 (10), to reduce risk of serious bodily injury or death; and

(B) Are directly related to the objective of the proposed rule and substantially advance its purpose;

(e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including nonregulatory alternatives, were considered, and the alternative chosen is the least burdensome to landowners and timber owners, in the aggregate, while still achieving the desired level of protection, **restoration or risk reduction**; and

(f) The benefits to the resource, or in the case of rules proposed under ORS 527.710 (10), the benefits in reduction of risk of serious bodily injury or death, that would be achieved by adopting the rule are in proportion to the degree that existing practices of the landowners and timber owners, in the aggregate, are contributing to the overall resource concern that the proposed rule is intended to address.

(6) Nothing in subsection (5) of this section:

(a) Requires the board to call witnesses;

(b) Requires the board to allow cross-examination of witnesses;

(c) Restricts ex parte communications with the board or requires the board to place statements of such communications on the record;

(d) Requires verbatim transcripts of records of proceedings; or

(e) Requires depositions, discovery or subpoenas.

(7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would require new or increased standards for forest practices, as part of or in addition to the economic and fiscal impact statement required by ORS 183.335 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make available to the public a comprehensive analysis of the economic impact of the proposed rule. The analysis shall include, but is not limited to:

(a) An estimate of the potential change in timber harvest as a result of the rule;

(b) An estimate of the overall statewide economic impact, including a change in output, employment and income;

(c) An estimate of the total economic impact on the forest products industry and common school and county forest trust land revenues, both regionally and statewide; and

(d) Information derived from consultation with potentially affected landowners and timber owners and an assessment of the economic impact of the proposed rule under a wide variety of circumstances, including varying ownership sizes and the geographic location and terrain of a diverse subset of potentially affected forestland parcels.

(8) The provisions of this section do not apply to temporary rules adopted by the board.

SECTION 25. ORS 527.715 is amended to read:

527.715. The State Board of Forestry shall establish, by rule, the standards and procedures to implement the provisions of ORS 197.180, 197.270, 197.825, [215.050,] 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, [527.620, 527.630, 527.660, 527.670, 527.683 to 527.724, 527.736 to 527.760] **527.610 to 527.770** and 527.992.

SECTION 26. ORS 527.736 is amended to read:

527.736. (1) The standards established in ORS 527.740 to 527.750 shall be administered by the State Forester as standards applying to all operations in the state, including those on forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the State Board of Forestry shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to implement the standards established in ORS 527.740 to 527.750. Except as provided in ORS

1 527.714, nothing in ORS 468B.100 to 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715,
 2 [527.722,] 527.724 and 527.736 to 527.770 shall affect the powers and duties of the board to adopt, or
 3 the State Forester to administer, all other regulations pertaining to forest practices under applicable
 4 state law.

5 (2) Nothing in ORS 527.740 to 527.750 is intended to apply to cutting of trees that is for growth
 6 enhancement treatments, as defined by the State Forester, such as thinning or precommercial
 7 thinning.

8 (3) The State Board of Forestry may modify or waive the limitations and requirements of ORS
 9 527.676, 527.740, 527.750 and 527.755 for the purposes of a bona fide research project conducted by:

10 (a) A federal agency;

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

12 (c) An educational institution; or

13 (d) A private landowner.

14 (4) The State Board of Forestry may agree as a term of a stewardship agreement entered into
 15 under ORS 541.423 to modify or waive the limitations and requirements of ORS 527.676, 527.740,
 16 527.750 and 527.755.

17 (5) The State Board of Forestry may modify or waive the limitations and requirements of ORS
 18 527.676, 527.740, 527.750 and 527.755 for the purpose of an operation for the planting, growing,
 19 managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:

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

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

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

26 **SECTION 27.** ORS 527.740 is amended to read:

27 527.740. (1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size, ex-
 28 cept as provided in ORS 527.750.

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

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

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

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

37 (3) Any acreage attributable to riparian **management** areas **under section 8 of this 2017 Act**
 38 or to resource sites listed in ORS 527.710 (3) that is located within a harvest unit shall not be
 39 counted in calculating the size of a harvest type 3 unit.

40 (4) The provisions of this section shall not apply when the land is being converted to managed
 41 conifers or managed hardwoods from brush or hardwood stands that contain less than 80 square feet
 42 of basal area per acre of trees 11 inches DBH or greater or when the harvest type 3 results from
 43 disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
 44 Forester determines was beyond the landowner's control and has substantially impaired productivity
 45 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall

1 be required for such conversion or harvest type 3 operations that exceed 120 acres in size.

2 (5) The provisions of this section do not apply to any operation where the operator demonstrates
3 to the State Forester that:

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

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

9 **SECTION 28.** ORS 527.755 is amended to read:

10 527.755. (1) The following highways are hereby designated as scenic highways for purposes of
11 the Oregon Forest Practices Act:

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

13 (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,
14 140, 199, 230, 234 and 395.

15 (2) The purpose of designating scenic highways is to provide a limited mechanism that maintains
16 roadside trees for the enjoyment of the motoring public while traveling through forestland, consist-
17 ent with [ORS 527.630] **numerical criteria established under section 2 of this 2017 Act**, safety
18 and other practical considerations.

19 (3) The State Board of Forestry, in consultation with the Department of Transportation, shall
20 establish procedures and regulations as necessary to implement the requirements of subsections (4),
21 (5) and (6) of this section, consistent with subsection (2) of this section, including provisions for al-
22 ternate plans. Alternate plans that modify or waive the requirements of subsection (4), (5) or (6) of
23 this section may be approved when, in the judgment of the State Forester, circumstances exist such
24 as:

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

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

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

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

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

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

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

42 (c) Alternatively, when the adjacent stand, extending from 150 feet from the outermost edge of
43 the roadway to 300 feet from the outermost edge of the roadway, has attained an average height
44 of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings
45 or saplings required by the board for reforestation, by rule, or at least 40 square feet of basal area

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

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

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

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

(8) The following are exempt from this section:

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

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

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

SECTION 29. ORS 527.990 is amended to read:

527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740, 527.750 or 527.755 **or section 3, 4, 7, 8, 9 or 10 of this 2017 Act**, or any rule promulgated under ORS 527.710 **or section 2 of this 2017 Act** is a Class A misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall be deemed to be a separate offense.

(2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a Class C misdemeanor.

SECTION 30. ORS 527.992 is amended to read:

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

(a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750 or 527.755 **or section 3, 4, 7, 8, 9 or 10 of this 2017 Act**.

(b) The terms or conditions of any order of the State Forester issued in accordance with ORS 527.680 **or section 5 or 7 of this 2017 Act**.

(c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS 527.710 **or section 2 of this 2017 Act**.

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

(2) Imposition or payment of a civil penalty under this section shall not be a bar to actions alleging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover

an amount based on the gain resulting from individual or corporate criminal violations.

SECTION 31. ORS 527.630 and 527.722 are repealed.

SECTION 32. The State Board of Forestry shall adopt temporary rules establishing initial numerical criteria under section 2 of this 2017 Act in time for the temporary rules to become operative 180 days after the effective date of this 2017 Act.

SECTION 33. Section 3 of this 2017 Act becomes operative one year after the effective date of this 2017 Act. Notwithstanding section 3 of this 2017 Act, a forest management plan filed with the State Forester on or before one year after the effective date of this 2017 Act may be prepared by a person other than a certified technical service provider.

SECTION 34. The State Forester shall begin certifying technical service providers under section 6 of this 2017 Act no later than one year after the effective date of this 2017 Act.

SECTION 35. Section 7 of this 2017 Act applies to operations commenced or continued on or after the effective date of this 2017 Act.