

BUDGET REPORT - Joint Committee on Ways and Means - 66th Legislative Assembly

Agency Forestry Department **Budget Page** --- **LFO Analysis Page** --- **Bill No.** SB 1125 **Biennium** 1991-93
Department of Fish and Wildlife
Department of Environmental Quality

Subcommittee: Natural Resources/Economic Development **Prepared by:** (Executive Department)
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Date: June 22, 1991 **Sen. Clifford Trow, Chairperson**

	<u>1989-91</u>		<u>1991-93</u>		Committee Change	
	<u>Estimated</u>	<u>Governor's Printed</u>	<u>Committee</u>	<u>Differences from</u>	<u>Gov.</u>	<u>1989-91</u>
	<u>Expenditures</u>	<u>Budget Rec.</u>	<u>Recommendation</u>	<u>Governor's Rec.</u>	<u>Rec.</u>	<u>Est.</u>

BUDGET SUMMARY						
FORESTRY DEPARTMENT						
General Fund	\$	---	\$	\$+1,140,000	+100.0%	+100.0%
Other Funds	\$	---	1,525,802	+1,525,802	+100.0%	+100.0%
Federal Funds	\$	---	390,000	+ 390,000	+100.0%	+100.0%
Total	\$	---	\$3,055,802	\$+3,055,802	+100.0%	+100.0%
DEPARTMENT OF FISH AND WILDLIFE						
General Fund	\$	---	\$	\$+ 102,322	+100.0%	+100.0%
DEPARTMENT OF ENVIRONMENTAL QUALITY						
General Fund	\$	---	\$	\$+ 219,903	+100.0%	+100.0%

Enrolled
Senate Bill 1125

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

CHAPTER

AN ACT

Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670, 527.690, 527.710, 527.715, 527.722 and 527.724 and section 8, chapter 920, Oregon Laws 1989; repealing section 9, chapter 920, Oregon Laws 1989; appropriating money; and limiting expenditures.

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

SECTION 1. ORS 527.620 is amended to read:

527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

[(1) "*State Forester*" means the State Forester or the duly authorized representative of the State Forester.]

[(2) "*Operator*" means any person, including a landowner or timber owner, who conducts an operation.]

[(3)] (1) "Board" means the State Board of Forestry.

(2) "Clear-cut" means any harvest unit in western Oregon that leaves fewer than 50 trees per acre that are well-distributed over the unit and that measure at least 11 inches at DBH or that measure less than 40 square feet of basal area per acre. "Clear-cut" means any harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-distributed over the unit and that measure at least 10 inches at DBH. For purposes of this subsection, no tree shall be counted unless the top one-third of the bole of the tree supports a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall be considered 20-inch trees.

(3) "Cumulative effects" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions.

(4) "DBH" means the diameter at breast height which is measured as the width of a standing tree at four and one-half feet above the ground, on the uphill side.

[(4)] (5) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied. Forest tree species does not include Christmas trees on land used solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).

[(5)] (6) "Forest practice" means any operation conducted on or pertaining to forest land, including but not limited to:

- (a) Reforestation of forestland;
- (b) Road construction and maintenance;
- (c) Harvesting of forest tree species;
- (d) Application of chemicals; and

(e) Disposal of slash.

[(6) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.]

(7) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.

(8) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.

(9) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(10) "State Forester" means the State Forester or the duly authorized representative of the State Forester.

(11) "Suitable hardwood seedlings" means any hardwood seedling that will eventually yield logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other forest products.

[(8)] (12) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.

(13) "Visually sensitive corridor" means forestland located within the area extending 150 feet measured on the slope from the outermost right of way boundary of a scenic highway referred to in section 17 of this 1991 Act.

[(9)] (14) "Written plan" means a plan submitted by an operator, for written approval by the State Forester, which describes how the operation will be conducted, including the means to protect resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of this 1991 Act, if applicable.

SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are added to and made a part of ORS 527.610 to 527.730.

SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act 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 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the board to adopt, or the State Forester to administer, all other regulations pertaining to forest practices under applicable state law.

(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for growth enhancement treatments, as defined by the State Forester, such as thinning or precommercial thinning.

SECTION 4. (1) No clear-cut unit within a single ownership shall exceed 120 acres in size, except as provided in section 7 of this 1991 Act.

(2) No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Practices Act would exceed 120 acres in size, unless the prior clear-cut unit has been reforested as required by all applicable regulations and:

(a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and either

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

(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is "free to grow" as defined by the board.

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

(4) The provisions of this section shall not apply when the land is being converted to conifers or managed hardwoods from brush or understocked hardwoods, or when the clear-cut harvest results

from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State Forester determines was beyond the landowner's control and has substantially impaired productivity or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall be required for such conversion or clear-cut operations that exceed 120 acres in size.

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

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

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

SECTION 5. (1) In a clear-cut harvest unit exceeding 10 acres, the operator shall leave, on average per acre harvested, at least:

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

(b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of this size are not available on the site.

(2) In meeting the requirements of subsection (1) of this section, the required snags, trees and logs may be left in one or more clusters rather than distributed throughout the unit. The location and distribution of the material shall be in the sole discretion of the landowner or operator, consistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are in addition to all other requirements pertaining to forest operations and may not be met by counting snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS 527.710 (3).

(3) Notwithstanding subsection (2) of this section:

(a) The State Forester shall consult with operators on the selection of green trees and snags required to be left pursuant to this section whenever the State Forester believes that retaining certain trees or groups of trees would provide increased benefits to wildlife;

(b) Operators may submit, and the State Forester may approve, alternate plans to meet the requirements of this section. The State Forester may approve alternate plans to waive, in whole or in part, the requirements of this section for one clear-cut harvest operation if the plan provides for an equal or greater number of trees to be left in another clear-cut harvest operation which, in the opinion of the State Forester, would, in the aggregate, achieve better overall benefits for wildlife; and

(c) For clear-cut harvest operations adjacent to Class 1 streams, the State Forester may require up to 25 percent of the green trees required to be left pursuant to this section to be left in or adjacent to the riparian management area of the Class 1 stream if such requirement would provide increased benefits to wildlife. Such trees shall be in addition to trees otherwise required by rule to be left in riparian management areas. The operator shall have sole discretion to determine which trees to leave, either in or adjacent to a riparian management area, pursuant to this paragraph.

SECTION 5a. Section 5 of this 1991 Act is repealed July 1, 1995.

SECTION 6. (1) The board shall adopt standards for the reforestation of clear-cut harvests. Unless the board makes the findings for alternate standards under subsection (2) of this section, and except to the extent that more stringent reforestation requirements apply under section 4 (2) of this 1991 Act, the standards for the reforestation of clear-cuts shall include the following:

(a) Reforestation, including site preparation, of clear-cut units shall commence within 12 months after the completion of harvest and shall be completed by the end of the second planting season after the completion of harvest. By the end of the fifth growing season after planting or seeding, at least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-distributed over the area, which are "free to grow" as defined by the board.

(b) Landowners may submit plans for alternate practices that do not conform to the standards established under paragraph (a) of this subsection or the alternate standards adopted under subsection (2) of this section, including but not limited to variances in the time in which reforestation is to be commenced or completed or plans to reforest sites by natural reforestation. Such alternate plans may be approved if the State Forester determines that the plan will achieve equivalent or better regeneration results for the particular conditions of the site, or the plan carries out an authorized research project conducted by a public agency or educational institution.

(2) The board, by rule, may establish alternate standards for the reforestation of clear-cuts, in lieu of the standards established in subsection (1) of this section, upon finding that the alternate standards will better assure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes, consistent with sound management of soil, air, water, fish and wildlife resources based on one or more of the following findings:

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

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

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

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

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

(5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2). Nothing in this section is intended to affect the administration and enforcement of regulations pertaining to the maintenance of minimum stocking levels or the reforestation of sites required as a result of operations other than such clear-cuts.

SECTION 7. (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut unit within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved by the State Forester if all the requirements of this section and any additional requirements established by the board are met. Proposed clear-cut units that are within 300 feet of the perimeter of a prior clear-cut unit, and that would result in a total combined clear-cut area under a single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the additional requirements are met for the combined clear-cut area. No clear-cut unit within a single ownership shall exceed 240 contiguous acres. No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-cut unit has been reforested by all applicable regulations and:

(a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and either

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

(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is "free to grow" as defined by the board.

(2) The requirements of this section are in addition to all other requirements of the Oregon Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be applied in lieu of such other requirements only to the extent the requirements of this section are more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or (5) of this 1991 Act.

(3) The board shall require that a written plan be submitted prior to approval of a clear-cut operation under this section. The board may establish by rule any additional standards applying to operations under this section.

(4) The State Forester shall approve the clear-cut operation if the proposed clear-cut would provide better overall results in meeting the requirements and objectives of the Oregon Forest Practices Act.

(5) The board shall specify by rule the information to be submitted for approval of clear-cut operations under this section, including evidence of past satisfactory compliance with the Oregon Forest Practices Act.

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

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

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

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

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

(2) The board may require that, prior to commencing an operation where a change in land use is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State Forester in an amount determined by the State Forester sufficient to cover the cost of site preparation and reforestation for the area subject to an exemption from reforestation due to a change in land use, and shall require that provisions be made for the administration and collection on such bond or security deposit in the event that the change in land use is not established or continuously maintained within a time certain.

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

SECTION 9. (1) Not later than September 1, 1992, the board shall review its classification of waters of the state, create at least three classifications and establish rules applicable to each classification. The board shall give particular consideration to perennial streams, not currently classified as Class 1, which have an average gradient of not more than eight percent and which are important to water quality and fish needs in downstream Class 1 streams. The board shall consider requirements for vegetative buffers along such streams consistent with the health of the forest and the protection of fish and wildlife. The board shall consider whether additional classifications shall be subject to the requirements of ORS 527.670.

(2) The board shall review current Class 1 stream and associated riparian protection rules and, where appropriate, shall improve protection of soil, air, water, fish and wildlife resources, which include but are not limited to fish and wildlife habitat, species biodiversity and stream morphology.

(3) Until the board adopts rules pursuant to this section, the following interim protection shall apply to operations near streams which are important to threatened, endangered, sensitive or game fish species and to streams with an average gradient of not more than eight percent and which are important to water quality and fish needs in downstream Class 1 streams:

(a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on both sides of the stream;

- (b) All nonmerchantable herbaceous vegetation shall be retained;
 - (c) Ground-based equipment shall not be operated within the buffer without approval of the State Forestry Department;
 - (d) Logs shall not be yarded across streams unless the logs are fully suspended in order to minimize disturbance to streambanks, stream channels and streambank vegetation;
 - (e) Streams shall not be crossed without approval of the State Forestry Department; and
 - (f) Removal of merchantable trees may be permitted consistent with protection of the buffer, streambanks and stream channels with prior approval of the State Forester and consistent with protection of forest resources pursuant to ORS 527.630.
- (4) The State Forestry Department shall consult with the appropriate state agencies in determining which streams are affected by this section.
- (5) The interim protection in subsection (3) of this section terminates on the effective date of permanent rules adopted by the board for the protection of these streams.
- (6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for legislative changes.

SECTION 10. ORS 527.630 is amended to read:

527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, *[and]* fish and wildlife resources **and scenic resources within visually sensitive corridors as provided in section 17 of this 1991 Act** that assures the continuous benefits of those resources for future generations of Oregonians.

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

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990, it is declared to be in the public interest to vest in the board exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.

(4) The board may adopt and enforce rules addressing scenic considerations only in accordance with section 17 of this 1991 Act.

SECTION 11. ORS 527.670 is amended to read:

527.670. (1) The board shall designate the types of operations for which notice shall be required under this section.

(2) The board shall determine by rule what types of operations require a written plan to be approved by the State Forester.

(3)(a) The board's determination under subsection (2) of this section shall require a written plan for operations *[within]*:

[(a)] **(A) Within** one hundred feet of a Class 1 stream, unless the board, by rule, provides that a written plan is not required because there is no reasonable likelihood that such operations would damage a resource described in ORS 527.710 (2), within the riparian management area; *[or]*

[(b)] **(B) Within** three hundred feet of a resource site inventoried pursuant to ORS 527.710 (3)(a).];

(C) On lands determined by the State Forester to be within high risk sites, unless the board, by rule, provides that a written plan is not required because there is no reasonable likelihood that such operations would damage a resource described in ORS 527.710 (2); or

(D) On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.
(b) Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection are not subject to appeal under ORS 527.700 (3).

(c) The board shall adopt rules and standards for which a written plan may be required for final clear-cut harvest operations of any stand of an average age less than 40 years. The written plan for such an operation must address the environmental consequences of the harvest and the economic costs and benefits.

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

(5) For the purpose of determining the distances set forth in [paragraphs (a) and (b)] subparagraphs (A) and (B) of paragraph (a) of subsection (3) of this section "site" means the specific resource site and not any additional buffer area.

(6) An operator, timber owner or landowner, before commencing an operation, shall notify the State Forester. The notification shall be on forms provided by the State Forester and shall include the name and address of the operator, timber owner and landowner, the legal description of the operating area, and any other information considered by the State Forester to be necessary for the administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator, timber owner or landowner did not submit the notification. The State Forester shall send a copy of notices involving chemical applications to persons within 10 miles of the chemical application who hold downstream surface water rights pursuant to ORS chapter 537, if such a person has requested that notification in writing. The board shall adopt rules specifying the information to be contained in the notice. All information filed with the State Forester pertaining to chemical applications shall be public record. The State Forester shall also send to the operator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.

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

(8) Within three working days of receipt of a notice or a written plan filed under subsection (6) or (7) of this section, the State Forester shall send a copy of the notice or written plan to the Department of Revenue, the county assessor for the county in which the operation is located and persons who requested of the State Forester in writing that they be sent copies of notice and written plan and who have paid any applicable fee established by the State Forester for such service. The State Forester may establish a fee for sending copies of notices and written plans under this subsection not to exceed the actual and reasonable costs.

(9) Persons may submit written comments pertaining to the operation to the State Forester within 14 calendar days of the date the notice or written plan was 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) Whenever an operator, timber owner or landowner is required to submit a written plan of operations to the State Forester under subparagraph (A) or (B) of paragraph (a) of subsection (3) of this section, the State Forester shall not approve any such written plan until 14 calendar days following the date the written plan was filed with the State Forester. An operation may commence upon approval of the written plan.

(11)(a) The State Forester shall issue a decision on a written plan within three working days after the end of the 14-day period described in subsection (10) of this section.

(b) If the State Forester fails to issue a decision within five working days after the end of the 14-day period described in subsection (10) of this section, the written plan shall be deemed approved and the operation may be commenced.

(12) When the operation is required to have a written plan under subparagraph (A) or (B) of paragraph (a) of subsection (3) of this section 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) Send a copy of the approved written plan to persons who submitted timely written comments under subsection (9) of this section pertaining to the operation; and

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

SECTION 12. ORS 527.690 is amended to read:

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

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

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

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

(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory condition, the State Forester shall proceed, either with forces of the State Forester or by contract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner. In no event shall the expenditures exceed the amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding authorized by this section. **If the State Forester's action to repair the damage or correct the unsatisfactory condition arose from an operation for which a bond, cash deposit or other security was required under section 8 of this 1991 Act, the State Forester shall retain any applicable portion of a cash deposit and the surety on the bond or holder of the other security deposit shall pay the amount of the bond or other security deposit to the State Forester upon demand. If the amount specified in the demand is not paid within 30 days following the demand, the Attorney General, upon request by the State Forester, shall institute proceedings to recover the amount specified in the demand.**

(4) The expenditures in cases covered by this section, **including cases where the amount collected on a bond, deposit or other security was not sufficient to cover authorized expenditures**, shall constitute a general lien upon the real and personal property of the operator,

timber owner and landowner within the county in which the damage occurred. A written notice of the lien, containing a statement of the demand, the description of the property upon which the expenditures were made and the name of the parties against whom the lien attaches, shall be certified under oath by the State Forester and filed in the office of the county clerk of the county or counties in which the expenditures were made within six months after the date of delivery of the itemized statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided in ORS chapter 88.

[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within six months from the date of filing under subsection (4) of this section.]

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

SECTION 13. ORS 527.710 is amended to read:

527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be administered by the State Forester establishing [*minimum*] standards for forest practices in each region or subregion.

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

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

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

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

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

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

(D) Significant wetlands.

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

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

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

(a) Air and water pollution programs administered by the Department of Environmental Quality under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

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

(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat improvement tax incentive programs administered by the State Department of Fish and Wildlife under ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs administered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

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

(f) Removal and fill, natural heritage conservation and natural heritage conservation tax incentive programs administered by the State Land Board and the Division of State Lands under ORS 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

(g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS 448.273 to 448.990;

(h) Natural heritage conservation programs administered by the Natural Heritage Advisory Council under ORS 273.553 to 273.591, 307.550 and 307.560;

(i) Open space land tax incentive programs administered by cities and counties under ORS 308.740 to 308.790; and

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

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

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

(7) The board may enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630. **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 analysis required in section 15 (2)(f) of this 1991 Act, and as the results become available, 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) **The board shall adopt rules that provide the State Forester with authority to condition the approval of plans required under ORS 527.670 (2) and (3) when the State Forester makes a determination that there is evidence of a potential threat to resources protected under this section by controlling method, timing and extent of harvest when the forester determines such limitations are necessary to achieve the objectives of ORS 527.630.**

SECTION 14. ORS 527.715 is added to and made a part of ORS 527.610 to 527.730 and is amended to read:

527.715. The board shall establish, by rule, the standards and procedures to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016, 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722,] **527.724, 527.735, [and] 527.992 and sections 3 to 9 and 17 of this 1991 Act.**

SECTION 15. (1) The State Forester, in cooperation with the Department of Environmental Quality and the State Department of Fish and Wildlife, shall conduct a study of harvest rates and cumulative effects related to forest practices on forestland in Oregon, and submit a progress report to the Sixty-seventh Legislative Assembly and a final report to the Sixty-eighth Legislative Assembly on the results of the study, along with recommendations for addressing any problems that may be identified during the course of such study.

(2) The study shall include, but be not limited to, an analysis of:

(a) The annual rates of harvest of commercial tree species on Oregon's private forestlands compared to the annual rates of growth on such forestlands;

(b) The effect of such harvest rates on employment and community stability;

(c) Age and species composition of commercial forest trees species at final clear-cut harvest, the rationale for such harvests and any problems caused by premature harvesting;

(d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill the terms of highly leveraged contracts to purchase such resources;

(e) The effectiveness of current forest practices rules;

(f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and wildlife. The study of cumulative effects shall be conducted in at least three distinct geographic areas in the state; and

(g) The appropriate limitations on clear-cut size.

(3) As results from the analyses in paragraphs (e) and (f) of subsection (2) of this section become available, the board shall adopt additional rules it deems necessary to protect forest resources pursuant to ORS 527.630. Nothing in this section shall be construed to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

(4) For purposes of the study required by this section, "cumulative effects" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions. Nothing in this section shall be construed to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

(5) This section is repealed January 1, 1995.

SECTION 15a. Section 8, chapter 920, Oregon Laws 1989, is amended to read:

Sec. 8. (1) The department shall collect a nonrefundable registration fee for forest land to be burned lying within the restricted area described under ORS 477.515 (3). **However, the State Forester, by rule, shall provide an exemption from payment of the fee for burning of understory materials that occurs on forestland for which regular, periodic burning of understory materials is required for forest health.**

(2) Any owner of Class 1 forest land under ORS 526.324 and any agency managing Class 1 forest land under ORS 526.324 lying within the restricted area as described in the plan required under ORS 477.515 (3) shall register with the State Forester, in accordance with rules adopted by the State Forester, the number of acres to be burned prior to December 31 of the same year.

(3) The State Forester shall establish by rule the amount of fees to be collected under this section. The fees shall not exceed:

(a) Fifty cents per acre for registration.

(b) ~~[\$1.50]~~ **\$5** per acre for forest land classified as Class 1 under ORS 526.324 that has been treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515 (1).

(4) Federal lands included within the restricted area under the provision of the smoke management plan approved under ORS 477.515 (3)(a) shall also be subject to the fees authorized under subsection (3) of this section for forest land to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean Air Act.

(5) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the Oregon Forest Smoke Management Account established under section 7, **chapter 920, Oregon Laws 1989** [of this 1989 Act].

SECTION 16. Section 9, chapter 920, Oregon Laws 1989, is repealed.

SECTION 17. (1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:

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

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

(2) In consultation with the Department of Transportation, the board shall establish procedures and regulations as necessary to implement the requirements of subsection (3) of this section, consistent with the safety of the motoring public, including provisions for alternate plans providing equivalent or better results within visually sensitive corridors extending 150 feet from the outermost right of way boundary along both sides and for the full length of the scenic highways designated in subsection (1) of this section.

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

(b) Overstory trees initially required to be left under paragraph (a) of this subsection may be removed when the reproduction understory reaches an average height of at least 10 feet and has at least 250 stems per acre.

(c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or at least 40 square feet of basal area, 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. Harvest areas within the 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. Reforestation shall be completed by the end of the first planting season after the completion of harvest. A minimum of 400 trees per acre shall be planted. By the end of the fifth growing season after the completion of planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over the area, which are "free to grow" as defined by the board. When harvests within the visually sensitive corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive corridor has been reforested as required under this paragraph and the stand has attained an average height of at least 10 feet and has at least 250 stems per acre.

(4) 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.

SECTION 18. The State Forestry Department shall conduct a study and shall submit to the Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in this state. The study shall use existing information to assess the availability of native Pacific yew on public and private lands in this state.

SECTION 19. ORS 527.724 is amended to read:

527.724. Subject to sections 20 and 21 of this 1991 Act, any forest operations on forestlands within this state shall be conducted in full compliance with the rules and standards of the Environmental Quality Commission relating to air and water pollution control. In addition to all other remedies provided by law, any violation of those rules or standards shall be subject to all remedies and sanctions available under statute or rule to the Department of Environmental Quality or the Environmental Quality Commission.

SECTION 20. (1) The board shall establish best management practices and other rules applying to forest practices as necessary to insure that to the maximum extent practicable nonpoint source discharges of pollutants resulting from forest operations on forestlands do not impair the achievement and maintenance of water quality standards established by the Environmental Quality Commission for the waters of the state. Such best management practices shall consist of forest practices rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the board in establishing best management practices shall include, where applicable, but not be limited to:

- (a) Beneficial uses of waters potentially impacted;
- (b) The effects of past forest practices on beneficial uses of water;
- (c) Appropriate practices employed by other forest managers;
- (d) Technical, economic and institutional feasibility; and
- (e) Natural variations in geomorphology and hydrology.

(2) The board shall consult with the Environmental Quality Commission in adoption and review of best management practices and other rules to address nonpoint source discharges of pollutants resulting from forest operations on forestlands.

(3)(a) Notwithstanding ORS 183.310 (7), upon written petition for rulemaking under ORS 183.390 of any interested person or agency, the board shall review the best management practices adopted pursuant to this section. In addition to all other requirements of law, the petition must allege with reasonable specificity that nonpoint source discharges of pollutants resulting from forest operations being conducted in accordance with the best management practices are a significant contributor to violations of such standards.

(b) Notwithstanding the time limitations of ORS 183.390, the board shall complete its review of a petition and either dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in accordance with paragraph (f) of this subsection within 90 days of the date the petition for review was filed.

(c) Except as provided in paragraph (d) of this subsection, if the board determines that forest operations being conducted in accordance with the best management practices are neither significantly responsible for particular water quality standards not being met nor are a significant contributor to violations of such standards, the board shall issue an order dismissing the petition.

(d) If the petition for review of best management practices is made by the Environmental Quality Commission, the board shall not terminate the review without the concurrence of the commission, unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

(e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an order that includes findings regarding specific allegations in the petition and shall state the board's reasons for any conclusions to the contrary.

(f) If, pursuant to review, the board determines that best management practices should be reviewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the revised best management practices must be adopted not later than two years from the filing date of the petition for review unless the board, with concurrence of the Environmental Quality Commission, finds that special circumstances require additional time.

(g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the request of the Environmental Quality Commission, the board shall take action as quickly as practicable to prevent significant damage to beneficial uses identified by the commission while the board is revising its best management practices and rules as provided for in this section.

(h) The board shall include in its triennial review of administrative rules in accordance with ORS 183.545 an analysis of the effectiveness of the best management practices and other rules applying to forest practices adopted to maintain water quality standards established by the Environmental Quality Commission.

SECTION 21. A forest operator conducting, or in good faith proposing to conduct, operations in accordance with best management practices currently in effect shall not be considered in violation of any water quality standards. When the board adopts new best management practices and other rules applying to forest operations, such rules shall apply to all current or proposed forest operations upon their effective dates. However, nothing in this section prevents enforcement of water quality standards against a forest operator conducting operations after the time provided in section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board either has not adopted revised management practices or has not made a finding that such revised best management practices are not required.

SECTION 22. Sections 22a, 23 and 24 of this Act are added to and made a part of ORS 468.700 to 468.778.

SECTION 22a. As used in sections 23 and 24 of this 1991 Act, "forestlands" and "operation" have the meaning for those terms provided in ORS 527.620.

SECTION 23. Upon request of the State Board of Forestry, the Environmental Quality Commission shall review any water quality standard that affects forest operations on forestlands. The commission's review may be limited to or coordinated with the triennial or any other regularly scheduled review of the state's water quality standards, consistent with ORS 468.735, section 24 of this 1991 Act and applicable federal law.

SECTION 24. (1) Except as provided in subsection (2) of this section, as necessary to achieve and maintain standards of water quality or purity adopted under ORS 468.735, the commission or department may, by rule or order, impose and enforce limitations or other controls which may include total maximum daily loads, wasteload allocations for point sources and load allocations for nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and federal regulations and guidelines issued pursuant thereto.

(2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the Environmental Quality Commission nor the Department of Environmental Quality shall promulgate or enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest operations on forestlands in this state. Implementation of any limitations or controls applying to nonpoint source discharges or pollutants resulting from forest operations are subject to sections 20 and 21 of this 1991 Act. However, nothing in this section is intended to affect the authority of the commission or the department provided by law to impose and enforce limitations or other controls on water pollution from sources other than forest operations.

(3) When the Environmental Quality Commission establishes instream water quality standards to protect designated beneficial uses in the waters of the state, it shall consider, where applicable, available scientific information including, but not limited to, stream flow, geomorphology and other factors representing the variability and complexity of hydrologic systems and intrinsic water quality conditions.

(4) When the Environmental Quality Commission establishes instream water quality standards, it will also issue guidelines describing how the department and the commission will determine whether water quality standards in waters affected by nonpoint source activities are being met. In developing these guidelines, the commission shall include, where applicable, those physical characteristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other factors which represent the variability and complexity of forested and other appropriate hydrologic systems.

SECTION 25. (1) The State Board of Forestry, after consultation with the State Department of Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing information, of the relative effects of forest practices on anadromous fish runs in western Oregon. The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-

lation declines if that is the case; assign the relative importance of forest practices to these declines, compared to other leading causes; identify the relative importance of various habitat characteristics in streams in limiting anadromous fish production; determine how forest practices have affected fish production; determine how forest practices have affected these habitat characteristics and anadromous fish populations before and since 1972; identify the extent to which forest practices are limiting the recovery of depressed anadromous fish populations; and make recommendations as to how forest practices can assist in recovery of anadromous fish populations.

(2) The board shall contract with an independent and disinterested organization to assemble a panel of well-qualified scientists to conduct the work described in subsection (1) of this section and to write a report of its findings.

(3) Nothing in this section shall be construed to limit the ability of the board to promulgate rules relating to forest practices which appropriately protect fish and wildlife populations.

SECTION 26. (1) The study required by section 25 of this 1991 Act shall be financed from such moneys as are referred to in this section and sections 28 and 33 of this 1991 Act.

(2) The State Board of Forestry shall request:

(a) The United States Forest Service to pay 25 percent of the study cost.

(b) The Bureau of Land Management to pay 15 percent of the study cost.

(c) The Bonneville Power Administration to pay 25 percent of the study cost.

SECTION 27. Section 28 of this Act is added to and made a part of ORS 321.005 to 321.185.

SECTION 28. (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forestland during the period beginning July 1, 1991, and ending June 30, 1993, in the amount provided in subsection (2) of this section.

(2) The rate of tax levied in subsection (1) of this section shall be 13 cents per thousand feet, board measure, on all merchantable forest products harvested on forestland.

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4) and (5).

(4) The tax levied by subsection (1) of this section shall be due and payable to the department in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.185.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After payment of refunds, which shall be paid in the same manner as other forest products harvest tax refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1) of this section shall be deposited to the account referred to in ORS 526.060.

SECTION 29. ORS 527.722 is amended to read:

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

(2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use [regulations] regulation to forestland to allow, prohibit or regulate:

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

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

[(a)] (c) The establishment or alteration of structures other than temporary onsite structures which are auxiliary to and used during the term of a particular forest operation;

[(b)] (d) The siting or alteration of dwellings;

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

[(d)] (f) Partitions and subdivisions of the land[; or].

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

[(3)] (4) Counties can prohibit forest practices on land for which an acknowledged exception to an agricultural or forestland goal has been taken.

(5) To insure that all forest operations in this state are regulated to achieve protection of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Practices Act applies to forestlands inside any urban growth boundary unless a local government has adopted regulations for forest practices. Such local regulations shall:

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

(b) Be acknowledged as being in compliance with land use planning goals.

(6) Local governments which have, before the effective date of this 1991 Act, adopted a comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest practices consistent with subsections (1) to (5) of this section shall inform the State Forester of such policies and regulations within 60 days of the effective date of this 1991 Act. Existence or adoption of such policies or regulations relieves the State Forester of responsibility to administer the Oregon Forest Practices Act within the affected area.

(7) The Director of the Department of Land Conservation and Development shall provide the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such notices concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, prohibiting or regulating forest practices.

SECTION 30. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and 527.990.

SECTION 31. In addition to and not in lieu of any other appropriations or moneys made available by law or from other sources, there is appropriated to the State Forestry Department for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$1,140,000. Such sum may only be expended for forest practices operations to carry out the provisions of this Act.

SECTION 32. In addition to and not in lieu of any other appropriations or moneys made available by law or from other sources, there is appropriated to the State Department of Fish and Wildlife, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$102,322. Such sum may only be expended by the Habitat Conservation Division to carry out the provisions of this Act.

SECTION 33. In addition to and not in lieu of any other appropriations or moneys made available by law or from other sources, there is appropriated to the Department of Environmental Quality for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$219,903. Such sum may only be expended to carry out the provisions of this Act.

SECTION 34. The limitation on expenditure otherwise provided by law, for the biennium beginning July 1, 1991, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, excluding federal funds, collected or received by the State Forestry Department, for forest practices operations, is increased by \$1,525,802.

SECTION 35. The limitation on expenditures otherwise provided by law, for the biennium beginning July 1, 1991, as the maximum limit for the payment of expenses from federal funds received by the State Forestry Department is increased by \$390,000. Such sum may only be expended to carry out the provisions of this Act.

Passed by Senate May 30, 1991

Repassed by Senate June 28, 1991

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Secretary of Senate

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President of Senate

Passed by House June 25, 1991

Repassed by House June 29, 1991

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Speaker of House

Received by Governor:

.....M,....., 1991

Approved:

.....M,....., 1991

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Governor

Filed by Office of Secretary of State:

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Secretary of State

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6/28

Senate Bill 1125

Ordered by the House June 24
Including Senate Amendments dated May 29 and
House Amendments dated June 14 and June 24

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution.

Requires State Board of Forestry by September 1, 1992, to review state water classifications.

Requires State Forester to notify individuals of chemical applications within five miles of application if individuals request notice.

Requires State Forestry Department to conduct and submit to Legislative Assembly recommendation regarding native Pacific yew species in state.

Requires State Board of Forestry after consultation with State Department of Fish and Wildlife to commission scientific inquiry on effects of forest practices on anadromous fish runs in western Oregon.

Levies privilege tax on harvesting of merchantable forest products harvested between July 1, 1991, and June 30, 1993.

Authorizes local governments to allow, prohibit or regulate forest practices within acknowledged urban growth boundary or within city limits of cities with population of 100,000 or more. Applies Oregon Forest Practices Act to forestland inside urban growth boundary unless local government has adopted regulations.

Appropriates moneys.

Limits expenditures.

A BILL FOR AN ACT

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Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670, 527.690, 527.710, 527.715, 527.722 and 527.724, ^{and section 5, Chapter 920, Oregon Laws 1989} repealing section 9, chapter 920, Oregon Laws 1989; appropriating money; and limiting expenditures.

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

SECTION 1. ORS 527.620 is amended to read:

527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

[(1) "State Forester" means the State Forester or the duly authorized representative of the State Forester.]

[(2) "Operator" means any person, including a landowner or timber owner, who conducts an operation.]

[(3)] (1) "Board" means the State Board of Forestry.

(2) "Clear-cut" means any harvest unit in western Oregon that leaves fewer than 50 trees per acre that are well-distributed over the unit and that measure at least 11 inches at DBH or that measure less than 40 square feet of basal area per acre. "Clear-cut" means any harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-distributed over the unit and that measure at least 10 inches at DBH. For purposes of this subsection, no tree shall be counted unless the top one-third of the bole of the tree supports a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

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1 be considered 20-inch trees.

2 ~~(3)~~⁽⁴⁾ "DBH" means the diameter at breast height which is measured as the width of a
3 standing tree at four and one-half feet above the ground, on the uphill side.

4 ~~(4)~~⁽⁵⁾ "Forestland" means land which is used for the growing and harvesting of forest tree species,
5 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
6 or regulations are applied. Forest tree species does not include Christmas trees on land used solely
7 for the production of cultured Christmas trees as defined in ORS 215.203 (3).

8 ~~(5)~~⁽⁶⁾ "Forest practice" means any operation conducted on or pertaining to forest land, including
9 but not limited to:

- 10 (a) Reforestation of forestland;
- 11 (b) Road construction and maintenance;
- 12 (c) Harvesting of forest tree species;
- 13 (d) Application of chemicals; and
- 14 (e) Disposal of slash.

15 ~~(6)~~ "Operation" means any commercial activity relating to the growing or harvesting of forest tree
16 species.]

17 ~~(7)~~⁽⁸⁾ "Landowner" means any individual, combination of individuals, partnership, corporation
18 or association of whatever nature that holds an ownership interest in forestland, including the state
19 and any political subdivision thereof.

20 ~~(7)~~⁽⁸⁾ "Operation" means any commercial activity relating to the growing or harvesting of
21 forest tree species.

22 ~~(8)~~⁽⁹⁾ "Operator" means any person, including a landowner or timber owner, who conducts
23 an operation.

24 ~~(9)~~⁽¹⁰⁾ "State Forester" means the State Forester or the duly authorized representative of
25 the State Forester.

26 ~~(10)~~⁽¹¹⁾ "Suitable hardwood seedlings" means any hardwood seedling that will eventually
27 yield logs or fiber, or both, sufficient in size and quality for the production of lumber,
28 plywood, pulp or other forest products.

29 ~~(8)~~⁽¹²⁾ "Timber owner" means any individual, combination of individuals, partnership, corpo-
30 ration or association of whatever nature, other than a landowner, that holds an ownership interest
31 in any forest tree species on forestland.

32 ~~(12)~~⁽¹³⁾ "Visually sensitive corridor" means forestland located within the area extending 150
33 feet measured on the slope from the outermost right of way boundary of a scenic highway
34 referred to in section 17 of this 1991 Act.

35 ~~(9)~~⁽¹⁴⁾ "Written plan" means a plan submitted by an operator, for written approval by the
36 State Forester, which describes how the operation will be conducted, including the means to protect
37 resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of
38 this 1991 Act, if applicable.

39 SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are added to and made a
40 part of ORS 527.610 to 527.730.

41 SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be adminis-
42 tered by the State Forester as standards applying to all operations in the state, including those on
43 forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
44 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to

1 implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act
2 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
3 other regulations pertaining to forest practices under applicable state law.

4 (2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for
5 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
6 cial thinning.

7 **SECTION 4.** (1) No clear-cut unit within a single ownership shall exceed 120 acres in size, ex-
8 cept as provided in section 7 of this 1991 Act.

9 (2) No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit
10 if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Prac-
11 tices Act would exceed 120 acres in size, unless the prior clear-cut unit has been reforested as re-
12 quired by all applicable regulations and:

13 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
14 either

15 (b) The resultant reproduction has attained an average height of at least four feet; or

16 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
17 "free to grow" as defined by the board.

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

20 (4) The provisions of this section shall not apply when the land is being converted to conifers
21 or managed hardwoods from brush or understocked hardwoods, or when the clear-cut harvest results
22 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
23 Forester determines was beyond the landowner's control and has substantially impaired productivity
24 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
25 be required for such conversion or clear-cut operations that exceed 120 acres in size.

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

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

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

33 **SECTION 5.** (1) In a clear-cut harvest unit exceeding ¹⁰~~15~~ acres, the operator shall leave, on
34 average per acre harvested, at least:

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

37 (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
38 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
39 this size are not available on the site.

40 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
41 logs may be left in one or more clusters rather than distributed throughout the unit. The location
42 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
43 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
44 in addition to all other requirements pertaining to forest operations and may not be met by counting

1 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
2 527.710 (3).

3 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clear-cut harvests.
4 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
5 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
6 1991 Act, the standards for the reforestation of clear-cuts shall include the following:

7 (a) Reforestation, including site preparation, of clear-cut units shall commence within 12 months
8 after the completion of harvest and shall be completed by the end of the second planting season
9 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
10 least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-
11 distributed over the area, which are "free to grow" as defined by the board.

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

19 (2) The board, by rule, may establish alternate standards for the reforestation of clear-cuts, in
20 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
21 standards will better assure the continuous growing and harvesting of forest tree species and the
22 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
23 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

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

38 (5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2).
39 Nothing in this section is intended to affect the administration and enforcement of regulations per-
40 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
41 result of operations other than such clear-cuts.

42 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut unit
43 within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved
44 by the State Forester if all the requirements of this section and any additional requirements estab-

sn ~~(3)~~ (2) Notwithstanding subsection (2) of this section:

Insert
(2)

(a) The State Forester shall consult with operators on the selection of green trees and snags required to be left pursuant to this section whenever the State Forester believes that retaining certain trees or groups of trees would provide increased benefits to wildlife;

(b) Operators may submit, and the State Forester may approve, alternate plans to meet the requirements of this section. The State Forester may approve alternate plans to waive, in whole or in part, the requirements of this section for one clear-cut harvest operation if the plan provides for an equal or greater number of trees to be left in another clear-cut harvest operation which, in the opinion of the State Forester, would, in the aggregate, achieve better overall benefits for wildlife; and

(c) For clear-cut harvest operations adjacent to Class ~~1~~¹ streams, the State Forester may require up to 25 percent of the green trees required to be left pursuant to this section to be left in or adjacent to the riparian management area of the Class ~~1~~¹ stream if such requirement would provide increased benefits to wildlife. Such trees shall be in addition to trees otherwise required by rule to be left in riparian management areas. The operator shall have sole discretion to determine which trees to leave, either in or adjacent to a riparian management area, pursuant to this paragraph.

SECTION 5a. Section 5 of this 1991 Act is repealed July 1, 1995.

to implement the standards established under subsection (1) of this section, without making the findings required in subsection (2) of this section, if those procedures or regulations are consistent with the standards established in subsection (1) of this section.

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

(5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2). Nothing in this section is intended to affect the administration and enforcement of regulations pertaining to the maintenance of minimum stocking levels or the reforestation of sites required as a result of operations other than such clear-cuts.

SECTION 7. (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut unit within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved by the State Forester if all the requirements of this section and any additional requirements estab-

1 lished by the board are met. Proposed clear-cut units that are within 300 feet of the perimeter of a
2 prior clear-cut unit, and that would result in a total combined clear-cut area under a single owner-
3 ship exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the
4 additional requirements are met for the combined clear-cut area. No clear-cut unit within a single
5 ownership shall exceed 240 contiguous acres. No clear-cut unit shall be allowed within 300 feet of
6 the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject to
7 regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-cut
8 unit has been reforested by all applicable regulations and:

9 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
10 either

11 (b) The resultant reproduction has attained an average height of at least four feet; or

12 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
13 "free to grow" as defined by the board.

14 (2) The requirements of this section are in addition to all other requirements of the Oregon
15 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
16 applied in lieu of such other requirements only to the extent the requirements of this section are
17 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
18 (5) of this 1991 Act.

19 (3) The board shall require that a written plan be submitted prior to approval of a clear-cut
20 operation under this section. The board may establish by rule any additional standards applying to
21 operations under this section.

22 (4) The State Forester shall approve the clear-cut operation if the proposed clear-cut would
23 provide better overall results in meeting the requirements and objectives of the Oregon Forest
24 Practices Act.

25 (5) The board shall specify by rule the information to be submitted for approval of clear-cut
26 operations under this section, including evidence of past satisfactory compliance with the Oregon
27 Forest Practices Act.

28 **SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
29 amend rules as necessary to assure that only bona fide, established and continuously maintained
30 changes from forest uses are provided an exemption from reforestation requirements. The board
31 shall set specific time periods for the completion of land use conversions. Among other factors, the
32 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

44 (2) The board may require that, prior to commencing an operation where a change in land use

1 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
2 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
3 ration and reforestation for the area subject to an exemption from reforestation due to a change in
4 land use, and shall require that provisions be made for the administration and collection on such
5 bond or security deposit in the event that the change in land use is not established or continuously
6 maintained within a time certain.

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

10 **SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
11 waters of the state, create at least three classifications and establish rules applicable to each clas-
12 sification. The board shall give particular consideration to perennial streams, not currently classi-
13 fied as Class 1, which have an average gradient of not more than eight percent and which are
14 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
15 requirements for vegetative buffers along such streams consistent with the health of the forest ^{(3) revision}
16 ~~removal of merchantable trees and protection of streambank and channel.~~

17 (2) The board shall review current Class 1 stream and associated riparian protection rules and,
18 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources. ^{(4) revision}

19 (3) Until the board adopts rules pursuant to this section, the following interim protection shall
20 apply to operations near streams which are important to threatened, endangered, sensitive or game
21 fish species and to streams with an average gradient of not more than eight percent and which are
22 important to water quality and fish needs in downstream Class 1 streams:

23 (a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on
24 both sides of the stream;

25 (b) All nonmerchantable herbaceous vegetation shall be retained;

26 (c) Ground-based equipment shall not be operated within the buffer without approval of the State
27 Forestry Department;

28 (d) Logs shall not be yarded across streams unless the logs are fully suspended in order to
29 minimize disturbance to streambanks, stream channels and streambank vegetation;

30 (e) Streams shall not be crossed without approval of the State Forestry Department; and

31 ~~(f) Merchantable trees may be removed consistent with protection of the buffer, streambanks and~~
32 ~~stream channels.~~

33 (4) The State Forestry Department shall consult with the appropriate state agencies in deter-
34 mining which streams are affected by this section.

35 (5) The interim protection in subsection (3) of this section terminates on the effective date of
36 permanent rules adopted by the board for the protection of these streams.

37 (6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
38 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
39 legislative changes.

40 **SECTION 10.** ORS 527.630 is amended to read:

41 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
42 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
43 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
44 public policy of the State of Oregon to encourage economically efficient forest practices that assure

1 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
2 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
3 ration and reforestation for the area subject to an exemption from reforestation due to a change in
4 land use, and shall require that provisions be made for the administration and collection on such
5 bond or security deposit in the event that the change in land use is not established or continuously
6 maintained within a time certain.

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

10 SECTION 9. (1) Not later than September 1, 1992, the board shall review its classification of
11 waters of the state, create at least three classifications and establish rules applicable to each clas-
12 sification. The board shall give particular consideration to perennial streams, not currently classi-
13 fied as Class 1, which have an average gradient of not more than eight percent and which are
14 important to water quality and fish needs in downstream Class 1 and the protection of fish
15 and wildlife. The board shall consider whether additional classifications
16 shall be subject to the requirements of ORS 527.670. riparian protection rules and,
17 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources.
18

19 (3) Until the board adopts rules pursuant to this section, which include but are not limited
20 to fish and wildlife habitat, species biodiversity and stream morphology
21 important to water quality and fish needs in downs
22

23 (a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on
24 both sides of the stream;

25 (b) All nonmerchantable herbaceous vegetation shall be retained;

26 (c) Ground-based equipment shall not be operated within the buffer without approval of the State
27 Forestry Department;

28 (d) Logs shall not be yarded across streams unless the logs are fully suspended in order to
29 minimize disturbance to streambanks, stream channels and streambank vegetation;

30 (f) Removal of merchantable trees may be permitted consistent with
31 protection of the buffer, streambanks and stream channels with prior ap-
32 proval of the State Forester and consistent with protection of forest re-
33 sources pursuant to ORS 527.630.

34 (5) The interim protection in subsection (3) of this section terminates on the effective date of
36 permanent rules adopted by the board for the protection of these streams.

37 (6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
38 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
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42 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
43 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
44 public policy of the State of Oregon to encourage economically efficient forest practices that assure

1 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
2 such purposes as the leading use on privately owned land, consistent with sound management of soil,
3 air, water, [and] fish and wildlife resources and scenic resources within visually sensitive cor-
4 ridors as provided in section 17 of this 1991 Act that assures the continuous benefits of those
5 resources for future generations of Oregonians.

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

11 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
12 it is declared to be in the public interest to vest in the board exclusive authority to develop and
13 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
14 agencies and local governments which are concerned with the forest environment.

15 (4) The board may adopt and enforce rules addressing scenic considerations only in ac-
16 cordance with section 17 of this 1991 Act.

17 SECTION 11. ORS 527.670 is amended to read:

18 527.670. (1) The board shall designate the types of operations for which notice shall be required
19 under this section.

20 (2) The board shall determine by rule what types of operations require a written plan to be ap-
21 proved by the State Forester.

22 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
23 for operations [within]:

24 [(a)] (A) Within one hundred feet of a Class 1 stream, unless the board, by rule, provides that
25 a written plan is not required because there is no reasonable likelihood that such operations would
26 damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

27 [(b)] (B) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710
28 (3)(a)[.];

29 (C) On lands determined by the State Forester to be within high risk sites, unless the
30 board, by rule, provides that a written plan is not required because there is no reasonable
31 likelihood that such operations would damage a resource described in ORS 527.710 (2); or

32 (D) On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.

33 (b) Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection
34 are not subject to appeal under ORS 527.700 (3).

35 (4) The distances set forth in [paragraphs (a) and (b)] subparagraphs (A) and (B) of paragraph
36 (a) of subsection (3) of this section are solely for the purpose of defining an area within which a
37 hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules
38 adopted pursuant to ORS 527.710 (3)(c).

39 (5) For the purpose of determining the distances set forth in [paragraphs (a) and (b)] subpara-
40 graphs (A) and (B) of paragraph (a) of subsection (3) of this section "site" means the specific re-
source site and not any additional buffer area.

41 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the
42 State Forester. The notification shall be on forms provided by the State Forester and shall include
43 the name and address of the operator, timber owner and landowner, the legal description of the
44

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1 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
2 such purposes as the leading use on privately owned land, consistent with sound management of soil,
3 air, water, [and] fish and wildlife resources and scenic resources within visually sensitive cor-
4 ridors as provided in section 17 of this 1991 Act that assures the continuous benefits of those
5 resources for future generations of Oregonians.

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

11 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
12 it is declared to be in the public interest to vest in the board exclusive authority to develop and
13 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
14 agencies and local governments which are concerned with the forest environment.

15 (4) The board may adopt and enforce rules addressing scenic considerations only in ac-
16 cordance with section 17 of this 1991 Act.

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18 527.670. (1) The board shall designate the types of operations for which notice shall be required
19 under this section.

20 (2) The board shall determine by rule what types of operations require a written plan to be ap-
21 proved by the State Forester.

22 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
23 for operations [within]:

24 [(a)] (A) Within one hundred feet of a Class 1 stream, unless the board, by rule, provides that
25 a written plan is not required because there is no reasonable likelihood that such operations would
26 damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

27 [(b)] (B) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710
28 (3)(a)[.];

29 (C) On lands determined by the State Forester to be within high risk sites, unless the
30 board, by rule, provides that a written plan is not required because there is no reasonable
31 likelihood that such operations would damage a resource described in ORS 527.710 (2); or

32 (D) On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.

33 (b) Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection
34 are not subject to appeal under ORS 527.700 (3).

30 (c) The board shall adopt rules and standards for which a written plan

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1 may be required for final clear-cut harvest operations of any stand of an X
2 average age less than 40 years. The written plan for such an operation must
3 address the environmental consequences of the harvest and the economic
4 costs and benefits. For owner or landowner, before commencing an operation, shall notify the
5 State Forester. The notification shall be on forms provided by the State Forester and shall include
6 the name and address of the operator, timber owner and landowner, the legal description of the

1 operating area, and any other information considered by the State Forester to be necessary for the
2 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
3 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
4 timber owner or landowner did not submit the notification. ~~The State Forester shall send a copy~~
5 ~~of notices involving chemical applications to persons within five miles of the chemical appli-~~
6 ~~cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a~~
7 ~~person has requested that notification in writing.~~ ^{Person in} The State Forester shall also send to the op-
8 erator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.

9 ~~Upon receipt of a notification indicating the intent of a landowner to clear-cut harvest im-~~
10 ~~mature timber, as defined by the board, the State Forester shall provide the landowner with~~
11 ~~information regarding the economic and environmental effects of immature timber harvest.~~

12 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-
13 tify the State Forester of any subsequent change in the information contained in the notification.

14 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)
15 or (7) of this section, the State Forester shall send a copy of the notice or written plan to the De-
16 partment of Revenue, the county assessor for the county in which the operation is located and per-
17 sons who requested of the State Forester in writing that they be sent copies of notice and written
18 plan and who have paid any applicable fee established by the State Forester for such service. The
19 State Forester may establish a fee for sending copies of notices and written plans under this sub-
20 section not to exceed the actual and reasonable costs.

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

27 (10) Whenever an operator, timber owner or landowner is required to submit a written plan of
28 operations to the State Forester under ~~subsection (3) of this section,~~ ^{subparagraph (A) or (B) of paragraph (a) of} the State Forester shall not
29 approve any such written plan until 14 calendar days following the date the written plan was filed
30 with the State Forester. An operation may commence upon approval of the written plan.

31 (11)(a) The State Forester shall issue a decision on a written plan within three working days
32 after the end of the 14-day period described in subsection (10) of this section.

33 (b) If the State Forester fails to issue a decision within five working days after the end of the
34 14-day period described in subsection (10) of this section, the written plan shall be deemed approved
35 and the operation may be commenced.

36 (12) When the operation is required to have a written plan under subparagraph (A) or (B) of
37 paragraph (a) of subsection (3) of this section and comments have been timely filed under subsection
38 (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

39 (a) Send a copy of the approved written plan to persons who submitted timely written comments
40 under subsection (9) of this section pertaining to the operation; and

41 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
42 copies of all timely comments submitted under subsection (9) of this section.

43 **SECTION 12. ORS 527.690 is amended to read:**

44 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of

1 operating area, and any other information considered by the State Forester to be necessary for the
 2 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
 3 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
 4 timber owner or landowner did not submit the notification. The State Forester shall send a copy
 5 of notices involving chemical applications to r The board shall adopt rules specifying
 6 ci the information to be contained in the notice. All information filed with the
 7 pe State Forester pertaining to chemical applications shall be public record.
 8 el

~~9 Upon receipt of a notification indicating the intent of a landowner to clear-cut harvest im-
 10 mature timber, as defined by the board, the State Forester shall provide the landowner with
 11 information regarding the economic and environmental effects of immature timber harvest.~~

12 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-
 13 tify the State Forester of any subsequent change in the information contained in the notification.

14 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)
 15 or (7) of this section, the State Forester shall send a copy of the notice or written plan to the De-
 16 partment of Revenue, the county assessor for the county in which the operation is located and per-
 17 sons who requested of the State Forester in writing that they be sent copies of notice and written
 18 plan and who have paid any applicable fee established by the State Forester for such service. The
 19 State Forester may establish a fee for sending copies of notices and written plans under this sub-
 20 section not to exceed the actual and reasonable costs.

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

27 (10) Whenever an operator, timber owner or landowner is required to submit a written plan of
 28 operations to the State Forester under ~~subsection (3) of this section~~ subparagraph (A) or (B) of paragraph (a) of
 29 subsection (3) of this section, the State Forester shall not
 30 approve any such written plan until 14 calendar days following the date the written plan was filed
 with the State Forester. An operation may commence upon approval of the written plan.

31 (11)(a) The State Forester shall issue a decision on a written plan within three working days
 32 after the end of the 14-day period described in subsection (10) of this section.

33 (b) If the State Forester fails to issue a decision within five working days after the end of the
 34 14-day period described in subsection (10) of this section, the written plan shall be deemed approved
 35 and the operation may be commenced.

36 (12) When the operation is required to have a written plan under subparagraph (A) or (B) of
 37 paragraph (a) of subsection (3) of this section and comments have been timely filed under subsection
 38 (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

- 39 (a) Send a copy of the approved written plan to persons who submitted timely written comments
- 40 under subsection (9) of this section pertaining to the operation; and
- 41 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
- 42 copies of all timely comments submitted under subsection (9) of this section.

43 **SECTION 12.** ORS 527.690 is amended to read:

44 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of

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1 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
2 **requirements**, and if the operator or landowner does not comply with the order within the period
3 specified in such order and the order has not been appealed to the board within 30 days, the State
4 Forester based upon a determination by the forester of what action will best carry out the purposes
5 of ORS 527.630 shall:

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

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

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

22 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
23 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
24 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
25 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
26 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
27 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
28 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
29 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
30 authorized by this section. **If the State Forester's action to repair the damage or correct the**
31 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
32 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
33 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
34 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
35 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
36 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
37 **ceedings to recover the amount specified in the demand.**

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

1 in which the expenditures were made within six months after the date of delivery of the itemized
2 statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided
3 in ORS chapter 88.

4 [(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted
5 within six months from the date of filing under subsection (4) of this section.]

6 (5) All moneys recovered under this section shall be paid into the State Forestry De-
7 partment Account.

8 SECTION 13. ORS 527.710 is amended to read:

9 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
10 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
11 istered by the State Forester establishing [minimum] standards for forest practices in each region
12 or subregion.

13 (2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
14 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
15 sources:

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

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

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

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

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

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

- 40 (a) Air and water pollution programs administered by the Department of Environmental Quality
41 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;
- 42 (b) Mining operation programs administered by the Department of Geology and Mineral Indus-
43 tries under ORS 516.010 to 516.130 and ORS chapter 517;
- 44 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat

1 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-
2 der ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

3 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
4 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
5 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

6 (e) The programs administered by the Columbia River Gorge Commission under Public Law
7 99-663 and ORS 196.110 and 196.150;

8 (f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-
9 tive programs administered by the State Land Board and the Division of State Lands under ORS
10 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

11 (g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS
12 448.273 to 448.990;

13 (h) Natural heritage conservation programs administered by the Natural Heritage Advisory
14 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

15 (i) Open space land tax incentive programs administered by cities and counties under ORS
16 308.740 to 308.790; and

17 (j) Water resources programs administered by the Water Resources Department under ORS
18 536.220 to 536.540.

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

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

26 (7) The board may enter into cooperative agreements or contracts necessary in carrying out the
27 purposes specified in ORS 527.630. **The State Forestry Department shall enter into agreements**
28 **with appropriate state agencies for joint monitoring of the effectiveness of forest practice**
29 **rules in protecting forest resources and water quality.**

30 **SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610 to 527.730 and is
31 amended to read:

32 527.715. The board shall establish, by rule, the standards and procedures to implement the pro-
33 visions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016,
34 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722,] **527.724, 527.735, [and]**
35 **527.992 and sections 3 to 9 and 17 of this 1991 Act.**

36 **SECTION 15.** (1) The State Forester, in cooperation with the Department of Environmental
37 Quality and the State Department of Fish and Wildlife, shall conduct a study of harvest rates and
38 cumulative effects related to forest practices on forestland in Oregon, and submit a progress report
39 to the Sixty-seventh Legislative Assembly and a final report to the Sixty-eighth Legislative Assembly
40 on the results of the study, along with recommendations for addressing any problems that may be
41 identified during the course of such study.

42 (2) The study shall include, but be not limited to, an analysis of:

43 (a) The annual rates of harvest of commercial tree species on Oregon's private forestlands
44 compared to the annual rates of growth on such forestlands;

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1 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-

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13 (8) If based upon the analysis required in section 15 (2)(f) of this 1991
14 Act, and as the results become available, the board determines that addi-
15 tional rules are necessary to protect forest resources pursuant to ORS
16 527.630, the board shall adopt forest practice rules that reduce to the degree
17 practicable the adverse impacts of cumulative effects of forest practices on
18 air and water quality, soil productivity, fish and wildlife resources and
19 watersheds. Such rules shall include a process for determining areas where
20 adverse impacts from cumulative effects have occurred or are likely to occur,
21 and may require that a written plan be submitted for harvests in such areas.

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

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

30 (c) The board, in consultation with appropriate state agencies, shall
1 study and identify methods for restoring or enhancing fish and wildlife pop-
2 ulations through restoration and rehabilitation of sites beneficial to fish and
3 wildlife.

4 "(d) The board shall adopt rules to implement the findings of this sub-
5 section.

6 "(10) The board shall adopt rules that provide the State Forester with
7 authority to condition the approval of plans required under ORS 527.670 (2)
8 and (3) when the State Forester makes a determination that there is evidence
9 of a potential threat to resources protected under this section by controlling
10 method, timing and extent of harvest when the forester determines such
11 limitations are necessary to achieve the objectives of ORS 527.630."

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compared to the annual rates of growth on such forestlands;

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1 in which the expenditures were made within six months after the date of delivery of the itemized
2 statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided
3 in ORS chapter 88.

4 [(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted
5 within six months from the date of filing under subsection (4) of this section.]

6 (5) All moneys recovered under this section shall be paid into the State Forestry De-
7 partment Account.

8 SECTION 13. ORS 527.710 is amended to read:

9 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
10 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
11 istered by the State Forester establishing [minimum] standards for forest practices in each region
12 or subregion.

13 (2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
14 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
15 sources:

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

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

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

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

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

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

- 40 (a) Air and water pollution programs administered by the Department of Environmental Quality
41 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;
- 42 (b) Mining operation programs administered by the Department of Geology and Mineral Indus-
43 tries under ORS 516.010 to 516.130 and ORS chapter 517;
- 44 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat

(b) The effect of such harvest rates on employment and community stability;

(c) Age and species composition of commercial forest trees species at final clear-cut harvest, the rationale for such harvests and any problems caused by premature harvesting;

(d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill the terms of highly leveraged contracts to purchase such resources;

(e) The effectiveness of current forest practices rules; and

(f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and wildlife. The study of cumulative effects shall be conducted in at least three distinct geographic areas in the state.

(g) The appropriate limitations on clear-cut size.
(3) As results from the analyses in paragraphs (e) and (f) of subsection (2) of this section become

available, the board shall adopt additional rules it deems necessary to protect forest resources pursuant to ORS 527.630. Nothing in this section shall be construed to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

(4) For purposes of the study required by this section, "cumulative effects" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions. Nothing in this section shall be construed to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

(5) This section is repealed January 1, 1995.

SECTION 16. Section 9, chapter 920, Oregon Laws 1989, is repealed.

SECTION 17. (1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:

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

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

(2) In consultation with the Department of Transportation, the board shall establish procedures and regulations as necessary to implement the requirements of subsection (3) of this section, consistent with the safety of the motoring public, including provisions for alternate plans providing equivalent or better results within visually sensitive corridors extending 150 feet from the outermost ~~shoulder of the roadway~~ *right of way boundary* along both sides and for the full length of the scenic highways designated in subsection (1) of this section.

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

(b) Overstory trees initially required to be left under paragraph (a) of this subsection may be removed when the reproduction understory reaches an average height of at least 10 feet and has at least 250 stems per acre.

(c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or at least 40 square feet of basal area, 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.

(b) The effect of such harvest rates on employment and community stability;

(c) Age and species composition of commercial forest trees species at final clear-cut harvest, the rationale for such harvests and any problems caused by premature harvesting;

(d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill the terms of highly leveraged contracts to purchase such resources;

(e) The effectiveness of current forest practices rules; and

(f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and

SECTION 15a. Section 8, chapter 920, Oregon Laws 1989, is amended to read:

Sec. 8. (1) The department shall collect a nonrefundable registration fee for forest land to be burned lying within the restricted area described under ORS 477.515 (3). **However, the State Forester, by rule, shall provide an exemption from payment of the fee for burning of understory materials that occurs on forestland for which regular, periodic burning of understory materials is required for forest health.**

(2) Any owner of Class 1 forest land under ORS 526.324 and any agency managing Class 1 forest land under ORS 526.324 lying within the restricted area as described in the plan required under ORS 477.515 (3) shall register with the State Forester, in accordance with rules adopted by the State Forester, the number of acres to be burned prior to December 31 of the same year.

(3) The State Forester shall establish by rule the amount of fees to be collected under this section. The fees shall not exceed:

(a) Fifty cents per acre for registration.

(b) ~~[\$1.50]~~ **\$5** per acre for forest land classified as Class 1 under ORS 526.324 that has been treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515 (1).

(4) Federal lands included within the restricted area under the provision of the smoke management plan approved under ORS 477.515 (3)(a) shall also be subject to the fees authorized under subsection (3) of this section for forest land to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean Air Act.

(5) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the Oregon Forest Smoke Management Account established under section 7, **chapter 920, Oregon Laws 1989** [of this 1989 Act].

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1 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
2 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
3 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
4 completed by the end of the first planting season after the completion of harvest. A minimum of 400
5 trees per acre shall be planted. By the end of the fifth growing season after the completion of
6 planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over the
7 area, which are "free to grow" as defined by the board. When harvests within the visually sensitive
8 corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the
9 corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive
10 corridor has been reforested as required under this paragraph and the stand has attained an average
11 height of at least 10 feet and has at least 250 stems per acre.

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

15 **SECTION 18.** The State Forestry Department shall conduct a study and shall submit to the
16 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
17 this state. The study shall use existing information to assess the availability of native Pacific yew
18 on public and private lands in this state.

19 **SECTION 19.** ORS 527.724 is amended to read:

20 527.724. Subject to sections 20 and 21 of this 1991 Act, any forest operations on forestlands
21 within this state shall be conducted in full compliance with the rules and standards of the Envi-
22 ronmental Quality Commission relating to air and water pollution control. In addition to all other
23 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
24 and sanctions available under statute or rule to the Department of Environmental Quality or the
25 Environmental Quality Commission.

26 **SECTION 20.** (1) The board shall establish best management practices and other rules applying
27 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
28 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
29 ment and maintenance of water quality standards established by the Environmental Quality Com-
30 mission for the waters of the state. Such best management practices shall consist of forest practices
31 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
32 board in establishing best management practices shall include, where applicable, but not be limited
33 to:

- 34 (a) Beneficial uses of waters potentially impacted;
- 35 (b) Technical, economic and institutional feasibility; and
- 36 (c) Natural variations in geomorphology and hydrology.

37 (2) The board shall consult with the Environmental Quality Commission in adoption and review
38 of best management practices and other rules to address nonpoint source discharges of pollutants
39 resulting from forest operations on forestlands.

40 (3)(a) ~~Upon written petition of any interested person or agency, the board, in accordance with~~
41 ~~ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-~~
42 ~~tion. The petition must allege with reasonable specificity that nonpoint source discharges of~~
43 ~~pollutants resulting from forest operations being conducted in accordance with the best management~~
44 ~~practices are a significant contributor to violations of such standards.~~
Notwithstanding ORS 183.310(7), for rulemaking under ORS 183.390 in addition to all other requirements of law.

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1 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
2 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
3 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
4 completed by the end of the first planting season after the completion of harvest. A minimum of 400
5 trees per acre shall be planted. By the end of the fifth growing season after the completion of
6 planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over the
7 area, which are "free to grow" as defined by the board. When harvests within the visually sensitive
8 corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the
9 corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive
10 corridor has been reforested as required under this paragraph and the stand has attained an average
11 height of at least 10 feet and has at least 250 stems per acre.

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13 the visually sensitive corridor for purposes of fulfilling the requirements of this section, when car-
14 ried out in compliance with the provisions of the Oregon Forest Practices Act.

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16 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
17 this state. The study shall use existing information to assess the availability of native Pacific yew
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21 within this state shall be conducted in full compliance with the rules and standards of the Envi-
22 ronmental Quality Commission relating to air and water pollution control. In addition to all other
23 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
24 and sanctions available under statute or rule to the Department of Environmental Quality or the
25 Environmental Quality Commission.

26 **SECTION 20.** (1) The board shall establish best management practices and other rules applying
27 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
28 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
29 ment and maintenance of water quality standards established by the Environmental Quality Com-
30 mission for the waters of the state. Such best management practices shall consist of forest practices
31 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
32 board in establishing best management practices shall include, where applicable, but not be limited
33 to:

22 (b) The effects of past forest practices on beneficial uses of water;

23 (c) Appropriate practices employed by other forest managers;

37 (2) The board shall consult with the Environmental Quality Commission in adoption and review
38 of best management practices and other rules to address nonpoint source discharges of pollutants
39 resulting from forest operations on forestlands.

40 (3)(a) ~~Upon written petition of any interested person or agency, the board, in accordance with~~
41 ~~ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-~~
42 ~~tion. The petition must allege with reasonable specificity that nonpoint source discharges of~~
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44 ~~practices are a significant contributor to violations of such standards.~~

Notwithstanding ORS 183.310(7), for rulemaking under ORS 183.390 on addition to all other requirements of law.

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1 (b) Notwithstanding ^{the time limitations of} ORS 183.390, the board shall complete its review of a petition and either
2 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
3 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
4 was filed.

5 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
6 operations being conducted in accordance with the best management practices are neither signif-
7 icantly responsible for particular water quality standards not being met nor are a significant con-
8 tributor to violations of such standards, the board shall issue an order dismissing the petition.

9 (d) If the petition for review of best management practices is made by the Environmental Quality
10 Commission, the board shall not terminate the review without the concurrence of the commission,
11 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

12 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
13 order that includes findings regarding specific allegations in the petition and shall state the board's
14 reasons for any conclusions to the contrary.

15 (f) If, pursuant to review, the board determines that best management practices should be re-
16 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
17 revised best management practices must be adopted not later than two years from the filing date
18 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
19 mission, finds that special circumstances require additional time.

20 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
21 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
22 cable to prevent significant damage to beneficial uses identified by the commission while the board
23 is revising its best management practices and rules as provided for in this section.

24 (h) The board shall include in its triennial review of administrative rules ^{*in accordance with ORS 183.545*} an analysis of the ef-
25 fectiveness of the best management practices and other rules applying to forest practices adopted
26 to maintain water quality standards established by the Environmental Quality Commission.

27 **SECTION 21.** A forest operator conducting, or in good faith proposing to conduct, operations
28 in accordance with best management practices currently in effect shall not be considered in vio-
29 lation of any water quality standards. When the board adopts new best management practices and
30 other rules applying to forest operations, such rules shall apply to all current or proposed forest
31 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
32 ter quality standards against a forest operator conducting operations after the time provided in
33 section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
34 ther has not adopted revised management practices or has not made a finding that such revised best
35 management practices are not required.

36 **SECTION 22.** Sections ^{*22 a,*} 23 and 24 of this Act are added to and made a part of ORS 468.700 to
37 468.778 ^{*(11)*}

38 **SECTION 23.** Upon request of the State Board of Forestry, the Environmental Quality Com-
39 mission shall review any water quality standard that affects forest operations on forestlands. The
40 commission's review may be limited to or coordinated with the triennial or any other regularly
41 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 24 of
42 this 1991 Act and applicable federal law.

43 **SECTION 24.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
44 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or

the time limitations of

1 (b) Notwithstanding ^{the time limitations of} ORS 183.390, the board shall complete its review of a petition and either
2 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
3 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
4 was filed.

5 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
6 operations being conducted in accordance with the best management practices are neither signif-
7 icantly responsible for particular water quality standards not being met nor are a significant con-
8 tributor to violations of such standards, the board shall issue an order dismissing the petition.

9 (d) If the petition for review of best management practices is made by the Environmental Quality
10 Commission, the board shall not terminate the review without the concurrence of the commission,
11 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

12 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
13 order that includes findings regarding specific allegations in the petition and shall state the board's
14 reasons for any conclusions to the contrary.

15 (f) If, pursuant to review, the board determines that best management practices should be re-
16 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
17 revised best management practices must be adopted not later than two years from the filing date
18 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
19 mission, finds that special circumstances require additional time.

20 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
21 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
22 cable to prevent significant damage to beneficial uses identified by the commission while the board
23 is revising its best management practices and rules as provided for in this section.

24 (h) The board shall include in its triennial review of administrative rules ^{in accordance with ORS 183.545} an analysis of the ef-
25 fectiveness of the best management practices and other rules applying to forest practices adopted
26 to maintain water quality standards established by the Environmental Quality Commission.

27 **SECTION 21.** A forest operator conducting, or in good faith proposing to conduct, operations
28 in accordance with best management practices currently in effect shall not be considered in vio-
29 lation of any water quality standards. When the board adopts new best management practices and
30 other rules applying to forest operations, such rules shall apply to all current or proposed forest
31 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
32 ter quality standards against a forest operator conducting operations after the time provided in
33 section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
34 ther has not adopted revised management practices or has not made a finding that such revised best
35 management practices are not required.

36 **SECTION 22a.** As used in sections 23 and 24 of this 1991 Act,
37 ^{Insert} **(1)** "forestlands" and "operation" have the meaning for those terms provided in
38 ORS 527.620.

39 **(2)** The commission's review may be limited to or coordinated with the triennial or any other regularly
40 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 24 of
41 this 1991 Act and applicable federal law.

42 **SECTION 24.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
43 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or
44

1 department may, by rule or order, impose and enforce limitations or other controls which may in-
2 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
3 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
4 federal regulations and guidelines issued pursuant thereto.

5 (2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the En-
6 vironmental Quality Commission nor the Department of Environmental Quality shall promulgate or
7 enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
8 operations on forestlands in this state. *Supplemental* Any limitations or controls applying to nonpoint source dis-
9 charges or pollutants resulting from forest operations are subject to sections 20 and 21 of this 1991
10 Act. However, nothing in this section is intended to affect the authority of the commission or the
11 department provided by law to impose and enforce limitations or other controls on water pollution
12 from sources other than forest operations.

13 (3) When the Environmental Quality Commission establishes instream water quality standards
14 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
15 available scientific information including, but not limited to, stream flow, geomorphology and other
16 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
17 conditions.

18 (4) When the Environmental Quality Commission establishes instream water quality standards,
19 it will also issue guidelines describing how the department and the commission will determine
20 whether water quality standards in waters affected by nonpoint source activities are being met. In
21 developing these guidelines, the commission shall include, where applicable, those physical charac-
22 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
23 factors which represent the variability and complexity of forested and other appropriate hydrologic
24 systems.

25 **SECTION 25.** (1) The State Board of Forestry, after consultation with the State Department of
26 Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
27 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
28 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
29 lation declines if that is the case; assign the relative importance of forest practices to these declines,
30 compared to other leading causes; identify the relative importance of various habitat characteristics
31 in streams in limiting anadromous fish production; determine how forest practices have affected fish
32 production; determine how forest practices have affected these habitat characteristics and
33 anadromous fish populations before and since 1972; identify the extent to which forest practices are
34 limiting the recovery of depressed anadromous fish populations; and make recommendations as to
35 how forest practices can assist in recovery of anadromous fish populations.

36 (2) The board shall contract with an independent and disinterested organization to assemble a
37 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
38 to write a report of its findings.

39 (3) Nothing in this section shall be construed to limit the ability of the board to promulgate
40 rules relating to forest practices which appropriately protect fish and wildlife populations.

41 **SECTION 26.** (1) The study required by section 25 of this 1991 Act shall be financed from such
42 moneys as are referred to in this section and sections 28 and 33 of this 1991 Act.

43 (2) The State Board of Forestry shall request:

44 (a) The United States Forest Service to pay 25 percent of the study cost.

1 (b) The Bureau of Land Management to pay 15 percent of the study cost.

2 (c) The Bonneville Power Administration to pay 25 percent of the study cost.

3 **SECTION 27.** Section 28 of this Act is added to and made a part of ORS 321.005 to 321.185.

4 **SECTION 28.** (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is
5 levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products har-
6 vested on forestland during the period beginning July 1, 1991, and ending June 30, 1993, in the
7 amount provided in subsection (2) of this section.

8 (2) The rate of tax levied in subsection (1) of this section shall be 13 cents per thousand feet,
9 board measure, on all merchantable forest products harvested on forestland.

10 (3) The tax shall be measured by and be applicable to each per thousand feet, board measure,
11 and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4)
12 and (5).

13 (4) The tax levied by subsection (1) of this section shall be due and payable to the department
14 in the manner and procedure, including penalties and interest, as set forth for the collection of the
15 privilege tax in ORS 321.005 to 321.185.

16 (5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the
17 State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After
18 payment of refunds, which shall be paid in the same manner as other forest products harvest tax
19 refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1)
20 of this section shall be deposited to the account referred to in ORS 526.060.

21 **SECTION 29.** ORS 527.722 is amended to read:

22 527.722. (1) Notwithstanding any provisions of ORS chapters 196, 197, 215 and 227, and except
23 as provided in subsections (2), (3) and (4) [and (3)] of this section, no unit of local government shall
24 adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate,
25 subject to approval or in any other way affect forest practices on forestlands located outside of an
26 acknowledged urban growth boundary.

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

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

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

35 [(a)] (c) The establishment or alteration of structures other than temporary onsite structures
36 which are auxiliary to and used during the term of a particular forest operation;

37 [(b)] (d) The siting or alteration of dwellings;

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

41 [(d)] (f) Partitions and subdivisions of the land; or].

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

44 [(3)] (4) Counties can prohibit forest practices on land for which an acknowledged exception to

1 an agricultural or forestland goal has been taken.

2 (5) To insure that all forest operations in this state are regulated to achieve protection
3 of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon
4 Forest Practices Act applies to forestlands inside any urban growth boundary unless a local
5 government has adopted regulations for forest practices. Such local regulations shall:

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

7 (b) Be acknowledged as being in compliance with land use planning goals.

8 (6) Local governments which have, before the effective date of this 1991 Act, adopted a
9 comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest
10 practices consistent with subsections (1) to (5) of this section shall inform the State Forester
11 of such policies and regulations within 60 days of the effective date of this 1991 Act. Exist-
12 ence or adoption of such policies or regulations relieves the State Forester of responsibility
13 to administer the Oregon Forest Practices Act within the affected area.

14 (7) The Director of the Department of Land Conservation and Development shall provide
15 the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such no-
16 tices concern the adoption, amendment or repeal of a comprehensive land use regulation al-
17 lowing, prohibiting or regulating forest practices.

18 SECTION 30. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and 527.990.

19 SECTION 31. In addition to and not in lieu of any other appropriations or moneys made avail-
20 able by law or from other sources, there is appropriated to the State Forestry Department for the
21 biennium beginning July 1, 1991, out of the General Fund, the sum of \$1,140,000. Such sum may only
22 be expended for forest practices operations to carry out the provisions of this Act.

23 SECTION 32. In addition to and not in lieu of any other appropriations or moneys made avail-
24 able by law or from other sources, there is appropriated to the State Department of Fish and
25 Wildlife, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$102,322. Such
26 sum may only be expended by the Habitat Conservation Division to carry out the provisions of this
27 Act.

28 SECTION 33. In addition to and not in lieu of any other appropriations or moneys made avail-
29 able by law or from other sources, there is appropriated to the Department of Environmental Qual-
30 ity for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$219,903. Such sum
31 may only be expended to carry out the provisions of this Act.

32 SECTION 34. The limitation on expenditure otherwise provided by law, for the biennium be-
33 ginning July 1, 1991, as the maximum limit for payment of expenses from fees, moneys or other re-
34 venues, including Miscellaneous Receipts, excluding federal funds, collected or received by the State
35 Forestry Department, for forest practices operations, is increased by \$1,525,802.

36 SECTION 35. The limitation on expenditures otherwise provided by law, for the biennium be-
37 ginning July 1, 1991, as the maximum limit for the payment of expenses from federal funds received
38 by the State Forestry Department is increased by \$390,000. Such sum may only be expended to carry
39 out the provisions of this Act.

40

OREGON HOUSE OF REPRESENTATIVES
1991-92 SESSION
ROLL CALL

SB 1125 C* MOTION BY Schroeder

SATURDAY, JUNE 29, 1991

REPASSAGE

YEAS - 53 NAYS - 1 ABSENT - 0 EXCUSED - 1 EXCUSED-HOUSE BUS - 5

Y	Barnes	Y	Hosticka	B	Parkinson
Y	Baum	Y	Hugo	B	Parks
Y	Bauman	Y	Johnson, E.	Y	Pickard
Y	Bell	Y	Johnson, R.	Y	Repine
Y	Brian	B	Jones, D.	Y	Rijken
Y	Bunn	N	Jones, D.E.	Y	Roberts
Y	Burton	Y	Josi	Y	Schoon
Y	Calouri	Y	Katz	Y	Schroeder
Y	Carter	Y	Mannix	Y	Shibley
Y	Cease	Y	Markham	Y	Shiprack
Y	Clark	Y	Mason	Y	Sowa
Y	Clarno	Y	McTeague	Y	Stein
Y	Courtney	Y	Meek	Y	Sunseri
Y	Derfler	Y	Miller	Y	Taylor
Y	Dominy	Y	Minnis	B	Van Vliet
Y	Dwyer	Y	Naito	Y	VanLeeuwen
Y	Edmunson	Y	Nelson	Y	Walden
Y	Ford	Y	Norris	Y	Watt
Y	Gilmour	Y	Novick	B	Whitty
E	Hayden	Y	Oakley	Y	Mr. Speaker

YEAS, 53, Barnes, Baum, Bauman, Bell, Brian, Bunn, Burton, Calouri, Carter, Cease, Clark, Clarno, Courtney, Derfler, Dominy, Dwyer, Edmunson, Ford, Gilmour, Hosticka, Hugo, Johnson, E., Johnson, R., Josi, Katz, Mannix, Markham, Mason, McTeague, Meek, Miller, Minnis, Naito, Nelson, Norris, Novick, Oakley, Pickard, Repine, Rijken, Roberts, Schoon, Schroeder, Shibley, Shiprack, Sowa, Stein, Sunseri, Taylor, VanLeeuwen, Walden, Watt, Mr. Speaker.

NAYS, 1, Jones, D.E..

ABSENT, 0.

EXCUSED, 1, Hayden.

EXCUSED FOR BUSINESS OF THE HOUSE, 5, Jones, D., Parkinson, Parks, Van Vliet, Whitty.

SEQUENCE #1537

Oregon State Senate
1991 Regular Session

MEASURE NO: SB 1125 C*
CARRIER: Cohen
ACTION: (RS) To adopt Conf Com Rept & repass

DATE: 06-28-91
RCS# 1466

	Aye	Nay	Abs	Exc	Bus		Aye	Nay	Abs	Exc	Bus
BRADBURY	X					JOLIN	X				
BRENNEMAN					X	KENNEMER	X				
BROCKMAN	X					KERANS	X				
BUNN	X					KINTIGH	X				
CEASE	X					MCCOY	X				
COHEN	X					OTTO	X				
DUFF	X					PHILLIPS	X				
DUKES					X	ROBERTS	X				
FAWBUSH	X					SHOEMAKER					X
GOLD					X	SMITH	X				
GRENSKY	X					SPRINGER	X				
HAMBY	X					TIMMS	X				
HANNON	X					TROW	X				
HILL, J.					X	YIH	X				
HILL, L.	X					KITZHABER (P)	X				
						TOTALS =>	25	0	0	0	5

Nays: 0

Absent: 0

Excused: 0

Leg. Bus: 5 BRENNEMAN; DUKES; GOLD; HILL, J.; SHOEMAKER

CONFERENCE COMMITTEE REPORT

Salem, Oregon, June 28, 1991

President Kitzhaber:

Your Conference Committee to whom was referred C-engrossed Senate Bill 1125, having had the same under consideration, respectfully reports it back with the recommendation that the Senate concur in the House amendments dated June 24 and that the bill be amended as follows and repassed. *Hard*

Dick Spurger
Senator

Walt Hood
Representative

Opeloke
Senator

Bill Dwyer
Representative

Tina Smith
Senator

John Merk
Representative

Bob Knight

COHEN *Schoed*
Will Lead Discussion: (In Senate) (In House)

**PROPOSED CONFERENCE COMMITTEE AMENDMENTS TO
C-ENGROSSED SENATE BILL 1125**

1 On page 1 of the printed C-engrossed bill, line 3, after "527.724" insert
2 "and section 8, chapter 920, Oregon Laws 1989".

3 On page 2, after line 1, insert:

4 "(3) 'Cumulative effects' means the impact on the environment which re-
5 sults from the incremental impact of the forest practice when added to other
6 past, present and reasonably foreseeable future forest practices regardless
7 of what governmental agency or person undertakes such other actions."

8 In line 2, delete "(3)" and insert "(4)".

9 In line 4, delete "(4)" and insert "(5)".

10 In line 8, delete "(5)" and insert "(6)".

11 In line 17, restore "(7)" and delete "(6)".

12 In line 20, delete "(7)" and insert "(8)".

13 In line 22, delete "(8)" and insert "(9)".

14 In line 24, delete "(9)" and insert "(10)".

15 In line 26, delete "(10)" and insert "(11)".

16 In line 29, delete "(11)" and insert "(12)".

17 In line 32, delete "(12)" and insert "(13)".

18 In line 35, delete "(13)" and insert "(14)".

19 On page 3, line 33, delete "15" and insert "10".

20 On page 4, after line 2, insert:

21 "(3) Notwithstanding subsection (2) of this section:

22 "(a) The State Forester shall consult with operators on the selection of
23 green trees and snags required to be left pursuant to this section whenever
24 the State Forester believes that retaining certain trees or groups of trees

1 would provide increased benefits to wildlife;

2 “(b) Operators may submit, and the State Forester may approve, alternate
3 plans to meet the requirements of this section. The State Forester may ap-
4 prove alternate plans to waive, in whole or in part, the requirements of this
5 section for one clear-cut harvest operation if the plan provides for an equal
6 or greater number of trees to be left in another clear-cut harvest operation
7 which, in the opinion of the State Forester, would, in the aggregate, achieve
8 better overall benefits for wildlife; and

9 “(c) For clear-cut harvest operations adjacent to Class ~~1~~¹ streams, the X
10 State Forester may require up to 25 percent of the green trees required to
11 be left pursuant to this section to be left in or adjacent to the riparian
12 management area of the Class ~~1~~¹ stream if such requirement would provide X
13 increased benefits to wildlife. Such trees shall be in addition to trees other-
14 wise required by rule to be left in riparian management areas. The operator
15 shall have sole discretion to determine which trees to leave, either in or
16 adjacent to a riparian management area, pursuant to this paragraph.

17 “SECTION 5a. Section 5 of this 1991 Act is repealed July 1, 1995.”

18 On page 6, line 15, delete “, re-” and insert “and the protection of fish
19 and wildlife. The board shall consider whether additional classifications
20 shall be subject to the requirements of ORS 527.670.”

21 Delete line 16.

22 In line 18, after “resources” insert “, which include but are not limited
23 to fish and wildlife habitat, species biodiversity and stream morphology”.

24 Delete lines 31 and 32 and insert:

25 “(f) Removal of merchantable trees may be permitted consistent with
26 protection of the buffer, streambanks and stream channels with prior ap-
27 proval of the State Forester and consistent with protection of forest re-
28 sources pursuant to ORS 527.630.”

29 On page 7, after line 34, insert:

30 “(c) The board shall adopt rules and standards for which a written plan

X for consistency

1 may be required for final clear-cut~~g~~ harvest operations of any stand of an
2 average age less than 40 years. The written plan for such an operation must
3 address the environmental consequences of the harvest and the economic
4 costs and benefits.”.

5 On page 8, line 5, delete “five” and insert “10”.

6 In line 7, after the period insert “The board shall adopt rules specifying
7 the information to be contained in the notice. All information filed with the
8 State Forester pertaining to chemical applications shall be public record.”.

9 Delete lines 9 through 11.

10 In line 28, after “under” insert “subparagraph (A) or (B) of paragraph (a)
11 of”.

12 On page 11, after line 29, insert:

13 “(8) If based upon the analysis required in section 15 (2)(f) of this 1991
14 Act, and as the results become available, the board determines that addi-
15 tional rules are necessary to protect forest resources pursuant to ORS
16 527.630, the board shall adopt forest practice rules that reduce to the degree
17 practicable the adverse impacts of cumulative effects of forest practices on
18 air and water quality, soil productivity, fish and wildlife resources and
19 watersheds. Such rules shall include a process for determining areas where
20 adverse impacts from cumulative effects have occurred or are likely to occur,
21 and may require that a written plan be submitted for harvests in such areas.

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

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

30 “(c) The board, in consultation with appropriate state agencies, shall

1 study and identify methods for restoring or enhancing fish and wildlife pop-
2 ulations through restoration and rehabilitation of sites beneficial to fish and
3 wildlife.

4 “(d) The board shall adopt rules to implement the findings of this sub-
5 section.

6 “(10) The board shall adopt rules that provide the State Forester with
7 authority to condition the approval of plans required under ORS 527.670 (2)
8 and (3) when the State Forester makes a determination that there is evidence
9 of a potential threat to resources protected under this section by controlling
10 method, timing and extent of harvest when the forester determines such
11 limitations are necessary to achieve the objectives of ORS 527.630.”.

12 On page 12, line 6, delete “and”.

13 In line 9, delete the period and insert “; and”^{le}

14 ~~After line 9, insert.~~

15 “(g) The appropriate limitations on clear-cut size.”.

16 After line 20, insert:

17 **“SECTION 15a.** Section 8, chapter 920, Oregon Laws 1989, is amended to
18 read:

19 “Sec. 8. (1) The department shall collect a nonrefundable registration fee
20 for forest land to be burned lying within the restricted area described under
21 ORS 477.515 (3). **However, the State Forester, by rule, shall provide an**
22 **exemption from payment of the fee for burning of understory materi-**
23 **als that occurs on forestland for which regular, periodic burning of**
24 **understory materials is required for forest health.**

25 “(2) Any owner of Class 1 forest land under ORS 526.324 and any agency
26 managing Class 1 forest land under ORS 526.324 lying within the restricted
27 area as described in the plan required under ORS 477.515 (3) shall register
28 with the State Forester, in accordance with rules adopted by the State
29 Forester, the number of acres to be burned prior to December 31 of the same
30 year.

1 “(3) The State Forester shall establish by rule the amount of fees to be
2 collected under this section. The fees shall not exceed:

3 “(a) Fifty cents per acre for registration.

4 “(b) [~~\$1.50~~] \$5 per acre for forest land classified as Class 1 under ORS
5 526.324 that has been treated by any prescription burn method authorized by
6 the issuance of a permit under ORS 477.515 (1).

7 “(4) Federal lands included within the restricted area under the provision
8 of the smoke management plan approved under ORS 477.515 (3)(a) shall also
9 be subject to the fees authorized under subsection (3) of this section for
10 forest land to be treated by any prescription burn method subject to the
11 provisions of the State of Oregon Clean Air Act Implementation Plan and
12 the Federal Clean Air Act.

13 “(5) Notwithstanding ORS 291.238, moneys collected under this section
14 shall be deposited in the Oregon Forest Smoke Management Account estab-
15 lished under section 7, **chapter 920, Oregon Laws 1989** [*of this 1989 Act*].”.

16 In line 25, after “34,” insert “35.”

17 In line 31, delete “shoulder of the roadway” and insert “right^{of}/_{way}
18 boundary”.

19 In line 33, delete “health” and insert “healthy”.

20 On page 13, line 6, delete “east” and insert “least”.

21 After line 34, insert:

22 “(b) The effects of past forest practices on beneficial uses of water;

23 “(c) Appropriate practices employed by other forest managers;”.

24 In line 35, delete “(b)” and insert “(d)”.

25 In line 36, delete “(c)” and insert “(e)”.

26 In line 40, after “(a)” insert “Notwithstanding ORS 183.310 (7),” and after
27 “petition” insert “for rulemaking under ORS 183.390” and delete “, in ac-
28 cordance with”.

29 In line 41, delete “ORS 183.310 to 183.550,”.

30 In line 42, after the period insert “In addition to all other requirements

3
words

1 of law,”.

2 On page 14, line 1, after “Notwithstanding” insert “the time limitations
3 of”.

4 In line 24, after “rules” insert “in accordance with ORS 183.545”.

5 In line ~~37~~³⁶, after “Sections” insert “22a,”.

6 After line ~~39~~³⁷, insert:

7 **“SECTION 22a.** As used in sections 23 and 24 of this 1991 Act,
8 ‘forestlands’ and ‘operation’ have the meaning for those terms provided in
9 ORS 527.620.”.

10 On page 15, line 8, after the period insert “Implementation of”.

11

**PROPOSED CONFERENCE COMMITTEE AMENDMENTS TO
C-ENGROSSED SENATE BILL 1125**

1 On page 1 of the printed C-engrossed bill, line 3, after "527.724" insert
2 "and section 8, chapter 920, Oregon Laws 1989".

3 On page 2, after line 1, insert:

4 "(3) 'Cumulative effects' means the impact on the environment which re-
5 sults from the incremental impact of the forest practice when added to other
6 past, present and reasonably foreseeable future forest practices regardless
7 of what governmental agency or person undertakes such other actions."

8 In line 2, delete "(3)" and insert "(4)".

9 In line 4, delete "(4)" and insert "(5)".

10 In line 8, delete "(5)" and insert "(6)".

11 In line 17, restore "(7)" and delete "(6)".

12 In line 20, delete "(7)" and insert "(8)".

13 In line 22, delete "(8)" and insert "(9)".

14 In line 24, delete "(9)" and insert "(10)".

15 In line 26, delete "(10)" and insert "(11)".

16 In line 29, delete "(11)" and insert "(12)".

17 In line 32, delete "(12)" and insert "(13)".

18 In line 35, delete "(13)" and insert "(14)".

19 On page 3, line 33, delete "15" and insert "10".

20 On page 4, after line 2, insert:

21 "(3) Notwithstanding subsection (2) of this section:

22 "(a) The State Forester shall consult with operators on the selection of
23 green trees and snags required to be left pursuant to this section whenever
24 the State Forester believes that retaining certain trees or groups of trees

1 would provide increased benefits to wildlife;

2 “(b) Operators may submit, and the State Forester may approve, alternate
3 plans to meet the requirements of this section. The State Forester may ap-
4 prove alternate plans to waive, in whole or in part, the requirements of this
5 section for one clear-cut harvest operation if the plan provides for an equal
6 or greater number of trees to be left in another clear-cut harvest operation
7 which, in the opinion of the State Forester, would, in the aggregate, achieve
8 better overall benefits for wildlife; and

9 “(c) For clear-cut harvest operations adjacent to Class I streams, the
10 State Forester may require up to 25 percent of the green trees required to
11 be left pursuant to this section to be left in or adjacent to the riparian
12 management area of the Class I stream if such requirement would provide
13 increased benefits to wildlife. Such trees shall be in addition to trees other-
14 wise required by rule to be left in riparian management areas. The operator
15 shall have sole discretion to determine which trees to leave, either in or
16 adjacent to a riparian management area, pursuant to this paragraph.

17 “**SECTION 5a.** Section 5 of this 1991 Act is repealed July 1, 1995.”.

18 On page 6, line 15, delete “, re-” and insert “and the protection of fish
19 and wildlife. The board shall consider whether additional classifications
20 shall be subject to the requirements of ORS 527.670.”.

21 Delete line 16.

22 In line 18, after “resources” insert “, which include but are not limited
23 to fish and wildlife habitat, species biodiversity and stream morphology”.

24 Delete lines 31 and 32 and insert:

25 “(f) Removal of merchantable trees may be permitted consistent with
26 protection of the buffer, streambanks and stream channels with prior ap-
27 proval of the State Forester and consistent with protection of forest re-
28 sources pursuant to ORS 527.630.”.

29 On page 7, after line 34, insert:

30 “(c) The board shall adopt rules and standards for which a written plan

1 may be required for final clear-cut, harvest operations of any stand of an
2 average age less than 40 years. The written plan for such an operation must
3 address the environmental consequences of the harvest and the economic
4 costs and benefits.”.

5 On page 8, line 5, delete “five” and insert “10”.

6 In line 7, after the period insert “The board shall adopt rules specifying
7 the information to be contained in the notice. All information filed with the
8 State Forester pertaining to chemical applications shall be public record.”.

9 Delete lines 9 through 11.

10 In line 28, after “under” insert “subparagraph (A) or (B) of paragraph (a)
11 of”.

12 On page 11, after line 29, insert:

13 “(8) If based upon the analysis required in section 15 (2)(f) of this 1991
14 Act, and as the results become available, the board determines that addi-
15 tional rules are necessary to protect forest resources pursuant to ORS
16 527.630, the board shall adopt forest practice rules that reduce to the degree
17 practicable the adverse impacts of cumulative effects of forest practices on
18 air and water quality, soil productivity, fish and wildlife resources and
19 watersheds. Such rules shall include a process for determining areas where
20 adverse impacts from cumulative effects have occurred or are likely to occur,
21 and may require that a written plan be submitted for harvests in such areas.

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

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

30 “(c) The board, in consultation with appropriate state agencies, shall

1 study and identify methods for restoring or enhancing fish and wildlife pop-
2 ulations through restoration and rehabilitation of sites beneficial to fish and
3 wildlife.

4 “(d) The board shall adopt rules to implement the findings of this sub-
5 section.

6 “(10) The board shall adopt rules that provide the State Forester with
7 authority to condition the approval of plans required under ORS 527.670 (2)
8 and (3) when the State Forester makes a determination that there is evidence
9 of a potential threat to resources protected under this section by controlling
10 method, timing and extent of harvest when the forester determines such
11 limitations are necessary to achieve the objectives of ORS 527.630.”

12 On page 12, line 6, delete “and”.

13 In line 9, delete the period and insert “; and”

14 After line 9, insert:

15 “(g) The appropriate limitations on clear-cut size.”

16 After line 20, insert:

17 “**SECTION 15a.** Section 8, chapter 920, Oregon Laws 1989, is amended to
18 read:

19 “Sec. 8. (1) The department shall collect a nonrefundable registration fee
20 for forest land to be burned lying within the restricted area described under
21 ORS 477.515 (3). **However, the State Forester, by rule, shall provide an**
22 **exemption from payment of the fee for burning of understory materi-**
23 **als that occurs on forestland for which regular, periodic burning of**
24 **understory materials is required for forest health.**

25 “(2) Any owner of Class 1 forest land under ORS 526.324 and any agency
26 managing Class 1 forest land under ORS 526.324 lying within the restricted
27 area as described in the plan required under ORS 477.515 (3) shall register
28 with the State Forester, in accordance with rules adopted by the State
29 Forester, the number of acres to be burned prior to December 31 of the same
30 year.

1 “(3) The State Forester shall establish by rule the amount of fees to be
2 collected under this section. The fees shall not exceed:

3 “(a) Fifty cents per acre for registration.

4 “(b) [~~\$1.50~~] \$5 per acre for forest land classified as Class 1 under ORS
5 526.324 that has been treated by any prescription burn method authorized by
6 the issuance of a permit under ORS 477.515 (1).

7 “(4) Federal lands included within the restricted area under the provision
8 of the smoke management plan approved under ORS 477.515 (3)(a) shall also
9 be subject to the fees authorized under subsection (3) of this section for
10 forest land to be treated by any prescription burn method subject to the
11 provisions of the State of Oregon Clean Air Act Implementation Plan and
12 the Federal Clean Air Act.

13 “(5) Notwithstanding ORS 291.238, moneys collected under this section
14 shall be deposited in the Oregon Forest Smoke Management Account estab-
15 lished under section 7, **chapter 920, Oregon Laws 1989** [*of this 1989 Act*].”.

16 In line 25, after “34,” insert “35,”.

17 In line 31, delete “shoulder of the roadway” and insert “right-of-way
18 boundary”.

19 In line 33, delete “health” and insert “healthy”.

20 On page 13, line 6, delete “east” and insert “least”.

21 After line 34, insert:

22 “(b) The effects of past forest practices on beneficial uses of water;

23 “(c) Appropriate practices employed by other forest managers;”.

24 In line 35, delete “(b)” and insert “(d)”.

25 In line 36, delete “(c)” and insert “(e)”.

26 In line 40, after “(a)” insert “Notwithstanding ORS 183.310 (7),” and after
27 “petition” insert “for rulemaking under ORS 183.390” and delete “, in ac-
28 cordance with”.

29 In line 41, delete “ORS 183.310 to 183.550,”.

30 In line 42, after the period insert “In addition to all other requirements

1 of law,”.

2 On page 14, line 1, after “Notwithstanding” insert “the time limitations
3 of”.

4 In line 24, after “rules” insert “in accordance with ORS 183.545”.

5 In line 37, after “Sections” insert “22a,”.

6 After line 39, insert:

7 “**SECTION 22a.** As used in sections 23 and 24 of this 1991 Act,
8 ‘forestlands’ and ‘operation’ have the meaning for those terms provided in
9 ORS 527.620.”.

10 On page 15, line 8, after the period insert “Implementation of”.

11

OREGON HOUSE OF REPRESENTATIVES
1991-92 SESSION
ROLL CALL

SB 1125 C CARRIED BY Schroeder

TUESDAY, JUNE 25, 1991

PASSAGE

YEAS - 48 NAYS - 12 ABSENT - 0 EXCUSED - 0 EXCUSED-HOUSE BUS - 0

Y Barnes	N Hosticka	Y Parkinson
Y Baum	Y Hugo	Y Parks
Y Bauman	Y Johnson, E.	N Pickard
Y Bell	Y Johnson, R.	Y Repine
Y Brian	Y Jones, D.	Y Rijken
Y Bunn	N Jones, D.E.	Y Roberts
Y Burton	Y Josi	Y Schoon
Y Calouri	N Katz	Y Schroeder
N Carter	Y Mannix	N Shibley
N Cease	Y Markham	Y Shiprack
Y Clark	Y Mason	N Sowa
Y Clarno	N McTeague	N Stein
Y Courtney	Y Meek	Y Sunseri
Y Derfler	Y Miller	Y Taylor
Y Dominy	Y Minnis	Y Van Vliet
Y Dwyer	N Naito	Y VanLeeuwen
Y Edmunson	Y Nelson	Y Walden
Y Ford	Y Norris	Y Watt
Y Gilmour	N Novick	Y Whitty
Y Hayden	Y Oakley	Y Mr. Speaker

YEAS, 48, Barnes, Baum, Bauman, Bell, Brian, Bunn, Burton, Calouri, Clark, Clarno, Courtney, Derfler, Dominy, Dwyer, Edmunson, Ford, Gilmour, Hayden, Hugo, Johnson, E., Johnson, R., Jones, D., Josi, Mannix, Markham, Mason, Meek, Miller, Minnis, Nelson, Norris, Oakley, Parkinson, Parks, Repine, Rijken, Roberts, Schoon, Schroeder, Shiprack, Sunseri, Taylor, Van Vliet, VanLeeuwen, Walden, Watt, Whitty, Mr. Speaker.

NAYS, 12, Carter, Cease, Hosticka, Jones, D.E., Katz, McTeague, Naito, Novick, Pickard, Shibley, Sowa, Stein.

ABSENT, 0.

EXCUSED, 0.

EXCUSED FOR BUSINESS OF THE HOUSE, 0.

SEQUENCE #1360

C-Engrossed
Senate Bill 1125

Ordered by the House June 24
Including Senate Amendments dated May 29 and
House Amendments dated June 14 and June 24

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution.

Requires State Board of Forestry by September 1, 1992, to review state water classifications.

Requires State Forester to notify individuals of chemical applications within five miles of application if individuals request notice.

Requires State Forestry Department to conduct and submit to Legislative Assembly recommendation regarding native Pacific yew species in state.

Requires State Board of Forestry after consultation with State Department of Fish and Wildlife to commission scientific inquiry on effects of forest practices on anadromous fish runs in western Oregon.

Levies privilege tax on harvesting of merchantable forest products harvested between July 1, 1991, and June 30, 1993.

Authorizes local governments to allow, prohibit or regulate forest practices within acknowledged urban growth boundary or within city limits of cities with population of 100,000 or more. Applies Oregon Forest Practices Act to forestland inside urban growth boundary unless local government has adopted regulations.

Appropriates moneys.

Limits expenditures.

A BILL FOR AN ACT

1
2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670,
3 527.690, 527.710, 527.715, 527.722 and 527.724; repealing section 9, chapter 920, Oregon Laws
4 1989; appropriating money; and limiting expenditures.

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

6 **SECTION 1.** ORS 527.620 is amended to read:

7 527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

8 [(1) "State Forester" means the State Forester or the duly authorized representative of the State
9 Forester.]

10 [(2) "Operator" means any person, including a landowner or timber owner, who conducts an op-
11 eration.]

12 [(3)] (1) "Board" means the State Board of Forestry.

13 (2) "Clear-cut" means any harvest unit in western Oregon that leaves fewer than 50 trees
14 per acre that are well-distributed over the unit and that measure at least 11 inches at DBH
15 or that measure less than 40 square feet of basal area per acre. "Clear-cut" means any
16 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-
17 distributed over the unit and that measure at least 10 inches at DBH. For purposes of this
18 subsection, no tree shall be counted unless the top one-third of the bole of the tree supports
19 a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

1 be considered 20-inch trees.

2 (3) "DBH" means the diameter at breast height which is measured as the width of a
3 standing tree at four and one-half feet above the ground, on the uphill side.

4 (4) "Forestland" means land which is used for the growing and harvesting of forest tree species,
5 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
6 or regulations are applied. Forest tree species does not include Christmas trees on land used solely
7 for the production of cultured Christmas trees as defined in ORS 215.203 (3).

8 (5) "Forest practice" means any operation conducted on or pertaining to forest land, including
9 but not limited to:

- 10 (a) Reforestation of forestland;
- 11 (b) Road construction and maintenance;
- 12 (c) Harvesting of forest tree species;
- 13 (d) Application of chemicals; and
- 14 (e) Disposal of slash.

15 [(6) "Operation" means any commercial activity relating to the growing or harvesting of forest tree
16 species.]

17 [(7)] (6) "Landowner" means any individual, combination of individuals, partnership, corporation
18 or association of whatever nature that holds an ownership interest in forestland, including the state
19 and any political subdivision thereof.

20 (7) "Operation" means any commercial activity relating to the growing or harvesting of
21 forest tree species.

22 (8) "Operator" means any person, including a landowner or timber owner, who conducts
23 an operation.

24 (9) "State Forester" means the State Forester or the duly authorized representative of
25 the State Forester.

26 (10) "Suitable hardwood seedlings" means any hardwood seedling that will eventually
27 yield logs or fiber, or both, sufficient in size and quality for the production of lumber,
28 plywood, pulp or other forest products.

29 [(8)] (11) "Timber owner" means any individual, combination of individuals, partnership, corpo-
30 ration or association of whatever nature, other than a landowner, that holds an ownership interest
31 in any forest tree species on forestland.

32 (12) "Visually sensitive corridor" means forestland located within the area extending 150
33 feet measured on the slope from the outermost right of way boundary of a scenic highway
34 referred to in section 17 of this 1991 Act.

35 [(9)] (13) "Written plan" means a plan submitted by an operator, for written approval by the
36 State Forester, which describes how the operation will be conducted, including the means to protect
37 resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of
38 this 1991 Act, if applicable.

39 SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are added to and made a
40 part of ORS 527.610 to 527.730.

41 SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be adminis-
42 tered by the State Forester as standards applying to all operations in the state, including those on
43 forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
44 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to

1 implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act
2 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
3 other regulations pertaining to forest practices under applicable state law.

4 (2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for
5 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
6 cial thinning.

7 **SECTION 4.** (1) No clear-cut unit within a single ownership shall exceed 120 acres in size, ex-
8 cept as provided in section 7 of this 1991 Act.

9 (2) No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit
10 if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Prac-
11 tices Act would exceed 120 acres in size, unless the prior clear-cut unit has been reforested as re-
12 quired by all applicable regulations and:

13 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
14 either

15 (b) The resultant reproduction has attained an average height of at least four feet; or

16 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
17 "free to grow" as defined by the board.

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

20 (4) The provisions of this section shall not apply when the land is being converted to conifers
21 or managed hardwoods from brush or understocked hardwoods, or when the clear-cut harvest results
22 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
23 Forester determines was beyond the landowner's control and has substantially impaired productivity
24 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
25 be required for such conversion or clear-cut operations that exceed 120 acres in size.

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

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

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

33 **SECTION 5.** (1) In a clear-cut harvest unit exceeding 15 acres, the operator shall leave, on
34 average per acre harvested, at least:

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

37 (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
38 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
39 this size are not available on the site.

40 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
41 logs may be left in one or more clusters rather than distributed throughout the unit. The location
42 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
43 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
44 in addition to all other requirements pertaining to forest operations and may not be met by counting

1 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
2 527.710 (3).

3 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clear-cut harvests.
4 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
5 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
6 1991 Act, the standards for the reforestation of clear-cuts shall include the following:

7 (a) Reforestation, including site preparation, of clear-cut units shall commence within 12 months
8 after the completion of harvest and shall be completed by the end of the second planting season
9 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
10 least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-
11 distributed over the area, which are "free to grow" as defined by the board.

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

19 (2) The board, by rule, may establish alternate standards for the reforestation of clear-cuts, in
20 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
21 standards will better assure the continuous growing and harvesting of forest tree species and the
22 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
23 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

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

38 (5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2).
39 Nothing in this section is intended to affect the administration and enforcement of regulations per-
40 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
41 result of operations other than such clear-cuts.

42 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut unit
43 within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved
44 by the State Forester if all the requirements of this section and any additional requirements estab-

1 lished by the board are met. Proposed clear-cut units that are within 300 feet of the perimeter of a
2 prior clear-cut unit, and that would result in a total combined clear-cut area under a single owner-
3 ship exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the
4 additional requirements are met for the combined clear-cut area. No clear-cut unit within a single
5 ownership shall exceed 240 contiguous acres. No clear-cut unit shall be allowed within 300 feet of
6 the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject to
7 regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-cut
8 unit has been reforested by all applicable regulations and:

9 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
10 either

11 (b) The resultant reproduction has attained an average height of at least four feet; or

12 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
13 "free to grow" as defined by the board.

14 (2) The requirements of this section are in addition to all other requirements of the Oregon
15 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
16 applied in lieu of such other requirements only to the extent the requirements of this section are
17 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
18 (5) of this 1991 Act.

19 (3) The board shall require that a written plan be submitted prior to approval of a clear-cut
20 operation under this section. The board may establish by rule any additional standards applying to
21 operations under this section.

22 (4) The State Forester shall approve the clear-cut operation if the proposed clear-cut would
23 provide better overall results in meeting the requirements and objectives of the Oregon Forest
24 Practices Act.

25 (5) The board shall specify by rule the information to be submitted for approval of clear-cut
26 operations under this section, including evidence of past satisfactory compliance with the Oregon
27 Forest Practices Act.

28 **SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
29 amend rules as necessary to assure that only bona fide, established and continuously maintained
30 changes from forest uses are provided an exemption from reforestation requirements. The board
31 shall set specific time periods for the completion of land use conversions. Among other factors, the
32 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

44 (2) The board may require that, prior to commencing an operation where a change in land use

1 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
2 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
3 ration and reforestation for the area subject to an exemption from reforestation due to a change in
4 land use, and shall require that provisions be made for the administration and collection on such
5 bond or security deposit in the event that the change in land use is not established or continuously
6 maintained within a time certain.

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

10 **SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
11 waters of the state, create at least three classifications and establish rules applicable to each clas-
12 sification. The board shall give particular consideration to perennial streams, not currently classi-
13 fied as Class 1, which have an average gradient of not more than eight percent and which are
14 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
15 requirements for vegetative buffers along such streams consistent with the health of the forest, re-
16 moval of merchantable trees and protection of streambank and channel.

17 (2) The board shall review current Class 1 stream and associated riparian protection rules and,
18 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources.

19 (3) Until the board adopts rules pursuant to this section, the following interim protection shall
20 apply to operations near streams which are important to threatened, endangered, sensitive or game
21 fish species and to streams with an average gradient of not more than eight percent and which are
22 important to water quality and fish needs in downstream Class 1 streams:

23 (a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on
24 both sides of the stream;

25 (b) All nonmerchantable herbaceous vegetation shall be retained;

26 (c) Ground-based equipment shall not be operated within the buffer without approval of the State
27 Forestry Department;

28 (d) Logs shall not be yarded across streams unless the logs are fully suspended in order to
29 minimize disturbance to streambanks, stream channels and streambank vegetation;

30 (e) Streams shall not be crossed without approval of the State Forestry Department; and

31 (f) Merchantable trees may be removed consistent with protection of the buffer, streambanks and
32 stream channels.

33 (4) The State Forestry Department shall consult with the appropriate state agencies in deter-
34 mining which streams are affected by this section.

35 (5) The interim protection in subsection (3) of this section terminates on the effective date of
36 permanent rules adopted by the board for the protection of these streams.

37 (6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
38 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
39 legislative changes.

40 **SECTION 10.** ORS 527.630 is amended to read:

41 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
42 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
43 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
44 public policy of the State of Oregon to encourage economically efficient forest practices that assure

1 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
2 such purposes as the leading use on privately owned land, consistent with sound management of soil,
3 air, water, [and] fish and wildlife resources and scenic resources within visually sensitive cor-
4 ridors as provided in section 17 of this 1991 Act that assures the continuous benefits of those
5 resources for future generations of Oregonians.

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

11 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
12 it is declared to be in the public interest to vest in the board exclusive authority to develop and
13 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
14 agencies and local governments which are concerned with the forest environment.

15 (4) The board may adopt and enforce rules addressing scenic considerations only in ac-
16 cordance with section 17 of this 1991 Act.

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

18 527.670. (1) The board shall designate the types of operations for which notice shall be required
19 under this section.

20 (2) The board shall determine by rule what types of operations require a written plan to be ap-
21 proved by the State Forester.

22 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
23 for operations [within]:

24 [(a)] (A) Within one hundred feet of a Class 1 stream, unless the board, by rule, provides that
25 a written plan is not required because there is no reasonable likelihood that such operations would
26 damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

27 [(b)] (B) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710
28 (3)(a)[.];

29 (C) On lands determined by the State Forester to be within high risk sites, unless the
30 board, by rule, provides that a written plan is not required because there is no reasonable
31 likelihood that such operations would damage a resource described in ORS 527.710 (2); or

32 (D) On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.

33 (b) Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection
34 are not subject to appeal under ORS 527.700 (3).

35 (4) The distances set forth in [paragraphs (a) and (b)] subparagraphs (A) and (B) of paragraph
36 (a) of subsection (3) of this section are solely for the purpose of defining an area within which a
37 hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules
38 adopted pursuant to ORS 527.710 (3)(c).

39 (5) For the purpose of determining the distances set forth in [paragraphs (a) and (b)] subpara-
40 graphs (A) and (B) of paragraph (a) of subsection (3) of this section "site" means the specific re-
41 source site and not any additional buffer area.

42 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the
43 State Forester. The notification shall be on forms provided by the State Forester and shall include
44 the name and address of the operator, timber owner and landowner, the legal description of the

1 operating area, and any other information considered by the State Forester to be necessary for the
2 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
3 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
4 timber owner or landowner did not submit the notification. **The State Forester shall send a copy**
5 **of notices involving chemical applications to persons within five miles of the chemical appli-**
6 **cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a**
7 **person has requested that notification in writing.** The State Forester shall also send to the op-
8 erator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.
9 **Upon receipt of a notification indicating the intent of a landowner to clear-cut harvest im-**
10 **mature timber, as defined by the board, the State Forester shall provide the landowner with**
11 **information regarding the economic and environmental effects of immature timber harvest.**

12 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-
13 tify the State Forester of any subsequent change in the information contained in the notification.

14 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)
15 or (7) of this section, the State Forester shall send a copy of the notice or written plan to the De-
16 partment of Revenue, the county assessor for the county in which the operation is located and per-
17 sons who requested of the State Forester in writing that they be sent copies of notice and written
18 plan and who have paid any applicable fee established by the State Forester for such service. The
19 State Forester may establish a fee for sending copies of notices and written plans under this sub-
20 section not to exceed the actual and reasonable costs.

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

27 (10) Whenever an operator, timber owner or landowner is required to submit a written plan of
28 operations to the State Forester under subsection (3) of this section, the State Forester shall not
29 approve any such written plan until 14 calendar days following the date the written plan was filed
30 with the State Forester. An operation may commence upon approval of the written plan.

31 (11)(a) The State Forester shall issue a decision on a written plan within three working days
32 after the end of the 14-day period described in subsection (10) of this section.

33 (b) If the State Forester fails to issue a decision within five working days after the end of the
34 14-day period described in subsection (10) of this section, the written plan shall be deemed approved
35 and the operation may be commenced.

36 (12) When the operation is required to have a written plan under subparagraph (A) or (B) of
37 paragraph (a) of subsection (3) of this section and comments have been timely filed under subsection
38 (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

39 (a) Send a copy of the approved written plan to persons who submitted timely written comments
40 under subsection (9) of this section pertaining to the operation; and

41 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
42 copies of all timely comments submitted under subsection (9) of this section.

43 **SECTION 12. ORS 527.690 is amended to read:**

44 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of

1 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
2 **requirements**, and if the operator or landowner does not comply with the order within the period
3 specified in such order and the order has not been appealed to the board within 30 days, the State
4 Forester based upon a determination by the forester of what action will best carry out the purposes
5 of ORS 527.630 shall:

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

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

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

22 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
23 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
24 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
25 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
26 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
27 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
28 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
29 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
30 authorized by this section. **If the State Forester's action to repair the damage or correct the**
31 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
32 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
33 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
34 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
35 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
36 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
37 **ceedings to recover the amount specified in the demand.**

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

1 in which the expenditures were made within six months after the date of delivery of the itemized
2 statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided
3 in ORS chapter 88.

4 *[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted*
5 *within six months from the date of filing under subsection (4) of this section.]*

6 **(5) All moneys recovered under this section shall be paid into the State Forestry De-**
7 **partment Account.**

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

9 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
10 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
11 istered by the State Forester establishing [*minimum*] standards for forest practices in each region
12 or subregion.

13 (2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
14 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
15 sources:

16 (a) Air quality;

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

18 (c) Soil productivity; and

19 (d) Fish and wildlife.

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

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

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

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

28 (D) Significant wetlands.

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

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

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

40 (a) Air and water pollution programs administered by the Department of Environmental Quality
41 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

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

44 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat

1 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-
2 der ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

3 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
4 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
5 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

6 (e) The programs administered by the Columbia River Gorge Commission under Public Law
7 99-663 and ORS 196.110 and 196.150;

8 (f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-
9 tive programs administered by the State Land Board and the Division of State Lands under ORS
10 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

11 (g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS
12 448.273 to 448.990;

13 (h) Natural heritage conservation programs administered by the Natural Heritage Advisory
14 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

15 (i) Open space land tax incentive programs administered by cities and counties under ORS
16 308.740 to 308.790; and

17 (j) Water resources programs administered by the Water Resources Department under ORS
18 536.220 to 536.540.

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

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

26 (7) The board may enter into cooperative agreements or contracts necessary in carrying out the
27 purposes specified in ORS 527.630. **The State Forestry Department shall enter into agreements**
28 **with appropriate state agencies for joint monitoring of the effectiveness of forest practice**
29 **rules in protecting forest resources and water quality.**

30 **SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610 to 527.730 and is
31 amended to read:

32 527.715. The board shall establish, by rule, the standards and procedures to implement the pro-
33 visions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016,
34 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722,] 527.724, 527.735, [and]
35 527.992 and sections 3 to 9 and 17 of this 1991 Act.

36 **SECTION 15.** (1) The State Forester, in cooperation with the Department of Environmental
37 Quality and the State Department of Fish and Wildlife, shall conduct a study of harvest rates and
38 cumulative effects related to forest practices on forestland in Oregon, and submit a progress report
39 to the Sixty-seventh Legislative Assembly and a final report to the Sixty-eighth Legislative Assembly
40 on the results of the study, along with recommendations for addressing any problems that may be
41 identified during the course of such study.

42 (2) The study shall include, but be not limited to, an analysis of:

43 (a) The annual rates of harvest of commercial tree species on Oregon's private forestlands
44 compared to the annual rates of growth on such forestlands;

1 (b) The effect of such harvest rates on employment and community stability;

2 (c) Age and species composition of commercial forest trees species at final clear-cut harvest, the
3 rationale for such harvests and any problems caused by premature harvesting;

4 (d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
5 the terms of highly leveraged contracts to purchase such resources;

6 (e) The effectiveness of current forest practices rules; and

7 (f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and
8 wildlife. The study of cumulative effects shall be conducted in at least three distinct geographic
9 areas in the state.

10 (3) As results from the analyses in paragraphs (e) and (f) of subsection (2) of this section become
11 available, the board shall adopt additional rules it deems necessary to protect forest resources pur-
12 suant to ORS 527.630. Nothing in this section shall be construed to limit the board's responsibility
13 to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

14 (4) For purposes of the study required by this section, "cumulative effects" means the impact
15 on the environment which results from the incremental impact of the forest practice when added to
16 other past, present and reasonably foreseeable future forest practices regardless of what govern-
17 mental agency or person undertakes such other actions. Nothing in this section shall be construed
18 to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon
19 Forest Practices Act.

20 (5) This section is repealed January 1, 1995.

21 **SECTION 16.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

22 **SECTION 17.** (1) The following highways are hereby designated as scenic highways for purposes
23 of the Oregon Forest Practices Act:

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

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

27 (2) In consultation with the Department of Transportation, the board shall establish procedures
28 and regulations as necessary to implement the requirements of subsection (3) of this section, con-
29 sistent with the safety of the motoring public, including provisions for alternate plans providing
30 equivalent or better results within visually sensitive corridors extending 150 feet from the outermost
31 shoulder of the roadway along both sides and for the full length of the scenic highways designated
32 in subsection (1) of this section.

33 (3)(a) For harvest operations within a visually sensitive corridor, at least 50 health trees of at
34 least 11 inches at DBH, or that measure at least 40 square feet in basal area, shall be temporarily
35 left on each acre. Harvest areas shall be cleared of major harvest debris within 30 days of the
36 completion of the harvest or within 60 days of the cessation of active harvesting activity on the site,
37 regardless of whether the harvest operation is complete.

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 250 stems per acre.

41 (c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the
42 corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or
43 at least 40 square feet of basal area, no trees are required to be left in the visually sensitive corri-
44 dor, or trees initially required to be left under paragraph (a) of this subsection may be removed.

1 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
2 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
3 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
4 completed by the end of the first planting season after the completion of harvest. A minimum of 400
5 trees per acre shall be planted. By the end of the fifth growing season after the completion of
6 planting, at east 250 healthy conifer seedlings shall be established per acre, well-distributed over the
7 area, which are "free to grow" as defined by the board. When harvests within the visually sensitive
8 corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the
9 corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive
10 corridor has been reforested as required under this paragraph and the stand has attained an average
11 height of at least 10 feet and has at least 250 stems per acre.

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

15 **SECTION 18.** The State Forestry Department shall conduct a study and shall submit to the
16 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
17 this state. The study shall use existing information to assess the availability of native Pacific yew
18 on public and private lands in this state.

19 **SECTION 19.** ORS 527.724 is amended to read:

20 527.724. **Subject to sections 20 and 21 of this 1991 Act,** any forest operations on forestlands
21 within this state shall be conducted in full compliance with the rules and standards of the Envi-
22 ronmental Quality Commission relating to air and water pollution control. In addition to all other
23 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
24 and sanctions available under statute or rule to the Department of Environmental Quality or the
25 Environmental Quality Commission.

26 **SECTION 20.** (1) The board shall establish best management practices and other rules applying
27 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
28 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
29 ment and maintenance of water quality standards established by the Environmental Quality Com-
30 mission for the waters of the state. Such best management practices shall consist of forest practices
31 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
32 board in establishing best management practices shall include, where applicable, but not be limited
33 to:

- 34 (a) Beneficial uses of waters potentially impacted;
35 (b) Technical, economic and institutional feasibility; and
36 (c) Natural variations in geomorphology and hydrology.

37 (2) The board shall consult with the Environmental Quality Commission in adoption and review
38 of best management practices and other rules to address nonpoint source discharges of pollutants
39 resulting from forest operations on forestlands.

40 (3)(a) Upon written petition of any interested person or agency, the board, in accordance with
41 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
42 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
43 pollutants resulting from forest operations being conducted in accordance with the best management
44 practices are a significant contributor to violations of such standards.

1 (b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
2 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
3 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
4 was filed.

5 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
6 operations being conducted in accordance with the best management practices are neither signif-
7 icantly responsible for particular water quality standards not being met nor are a significant con-
8 tributor to violations of such standards, the board shall issue an order dismissing the petition.

9 (d) If the petition for review of best management practices is made by the Environmental Quality
10 Commission, the board shall not terminate the review without the concurrence of the commission,
11 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

12 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
13 order that includes findings regarding specific allegations in the petition and shall state the board's
14 reasons for any conclusions to the contrary.

15 (f) If, pursuant to review, the board determines that best management practices should be re-
16 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
17 revised best management practices must be adopted not later than two years from the filing date
18 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
19 mission, finds that special circumstances require additional time.

20 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
21 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
22 cable to prevent significant damage to beneficial uses identified by the commission while the board
23 is revising its best management practices and rules as provided for in this section.

24 (h) The board shall include in its triennial review of administrative rules an analysis of the ef-
25 fectiveness of the best management practices and other rules applying to forest practices adopted
26 to maintain water quality standards established by the Environmental Quality Commission.

27 **SECTION 21.** A forest operator conducting, or in good faith proposing to conduct, operations
28 in accordance with best management practices currently in effect shall not be considered in vio-
29 lation of any water quality standards. When the board adopts new best management practices and
30 other rules applying to forest operations, such rules shall apply to all current or proposed forest
31 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
32 ter quality standards against a forest operator conducting operations after the time provided in
33 section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
34 ther has not adopted revised management practices or has not made a finding that such revised best
35 management practices are not required.

36 **SECTION 22.** Sections 23 and 24 of this Act are added to and made a part of ORS 468.700 to
37 468.778.

38 **SECTION 23.** Upon request of the State Board of Forestry, the Environmental Quality Com-
39 mission shall review any water quality standard that affects forest operations on forestlands. The
40 commission's review may be limited to or coordinated with the triennial or any other regularly
41 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 24 of
42 this 1991 Act and applicable federal law.

43 **SECTION 24.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
44 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or

1 department may, by rule or order, impose and enforce limitations or other controls which may in-
2 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
3 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
4 federal regulations and guidelines issued pursuant thereto.

5 (2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the En-
6 vironmental Quality Commission nor the Department of Environmental Quality shall promulgate or
7 enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
8 operations on forestlands in this state. Any limitations or controls applying to nonpoint source dis-
9 charges or pollutants resulting from forest operations are subject to sections 20 and 21 of this 1991
10 Act. However, nothing in this section is intended to affect the authority of the commission or the
11 department provided by law to impose and enforce limitations or other controls on water pollution
12 from sources other than forest operations.

13 (3) When the Environmental Quality Commission establishes instream water quality standards
14 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
15 available scientific information including, but not limited to, stream flow, geomorphology and other
16 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
17 conditions.

18 (4) When the Environmental Quality Commission establishes instream water quality standards,
19 it will also issue guidelines describing how the department and the commission will determine
20 whether water quality standards in waters affected by nonpoint source activities are being met. In
21 developing these guidelines, the commission shall include, where applicable, those physical charac-
22 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
23 factors which represent the variability and complexity of forested and other appropriate hydrologic
24 systems.

25 **SECTION 25.** (1) The State Board of Forestry, after consultation with the State Department of
26 Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
27 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
28 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
29 lation declines if that is the case; assign the relative importance of forest practices to these declines,
30 compared to other leading causes; identify the relative importance of various habitat characteristics
31 in streams in limiting anadromous fish production; determine how forest practices have affected fish
32 production; determine how forest practices have affected these habitat characteristics and
33 anadromous fish populations before and since 1972; identify the extent to which forest practices are
34 limiting the recovery of depressed anadromous fish populations; and make recommendations as to
35 how forest practices can assist in recovery of anadromous fish populations.

36 (2) The board shall contract with an independent and disinterested organization to assemble a
37 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
38 to write a report of its findings.

39 (3) Nothing in this section shall be construed to limit the ability of the board to promulgate
40 rules relating to forest practices which appropriately protect fish and wildlife populations.

41 **SECTION 26.** (1) The study required by section 25 of this 1991 Act shall be financed from such
42 moneys as are referred to in this section and sections 28 and 33 of this 1991 Act.

43 (2) The State Board of Forestry shall request:

44 (a) The United States Forest Service to pay 25 percent of the study cost.

1 (b) The Bureau of Land Management to pay 15 percent of the study cost.

2 (c) The Bonneville Power Administration to pay 25 percent of the study cost.

3 **SECTION 27.** Section 28 of this Act is added to and made a part of ORS 321.005 to 321.185.

4 **SECTION 28.** (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is
5 levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products har-
6 vested on forestland during the period beginning July 1, 1991, and ending June 30, 1993, in the
7 amount provided in subsection (2) of this section.

8 (2) The rate of tax levied in subsection (1) of this section shall be 13 cents per thousand feet,
9 board measure, on all merchantable forest products harvested on forestland.

10 (3) The tax shall be measured by and be applicable to each per thousand feet, board measure,
11 and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4)
12 and (5).

13 (4) The tax levied by subsection (1) of this section shall be due and payable to the department
14 in the manner and procedure, including penalties and interest, as set forth for the collection of the
15 privilege tax in ORS 321.005 to 321.185.

16 (5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the
17 State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After
18 payment of refunds, which shall be paid in the same manner as other forest products harvest tax
19 refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1)
20 of this section shall be deposited to the account referred to in ORS 526.060.

21 **SECTION 29.** ORS 527.722 is amended to read:

22 527.722. (1) Notwithstanding any provisions of ORS chapters 196, 197, 215 and 227, and except
23 as provided in subsections (2), (3) and (4) [*and (3)*] of this section, no unit of local government shall
24 adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate,
25 subject to approval or in any other way affect forest practices on forestlands located outside of an
26 acknowledged urban growth boundary.

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

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

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

35 [(a)] (c) The establishment or alteration of structures other than temporary onsite structures
36 which are auxiliary to and used during the term of a particular forest operation;

37 [(b)] (d) The siting or alteration of dwellings;

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

41 [(d)] (f) Partitions and subdivisions of the land; *or*].

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

44 [(3)] (4) Counties can prohibit forest practices on land for which an acknowledged exception to,

1 an agricultural or forestland goal has been taken.

2 (5) To insure that all forest operations in this state are regulated to achieve protection
3 of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon
4 Forest Practices Act applies to forestlands inside any urban growth boundary unless a local
5 government has adopted regulations for forest practices. Such local regulations shall:

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

7 (b) Be acknowledged as being in compliance with land use planning goals.

8 (6) Local governments which have, before the effective date of this 1991 Act, adopted a
9 comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest
10 practices consistent with subsections (1) to (5) of this section shall inform the State Forester
11 of such policies and regulations within 60 days of the effective date of this 1991 Act. Exist-
12 ence or adoption of such policies or regulations relieves the State Forester of responsibility
13 to administer the Oregon Forest Practices Act within the affected area.

14 (7) The Director of the Department of Land Conservation and Development shall provide
15 the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such no-
16 tices concern the adoption, amendment or repeal of a comprehensive land use regulation al-
17 lowing, prohibiting or regulating forest practices.

18 SECTION 30. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and 527.990.

19 SECTION 31. In addition to and not in lieu of any other appropriations or moneys made avail-
20 able by law or from other sources, there is appropriated to the State Forestry Department for the
21 biennium beginning July 1, 1991, out of the General Fund, the sum of \$1,140,000. Such sum may only
22 be expended for forest practices operations to carry out the provisions of this Act.

23 SECTION 32. In addition to and not in lieu of any other appropriations or moneys made avail-
24 able by law or from other sources, there is appropriated to the State Department of Fish and
25 Wildlife, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$102,322. Such
26 sum may only be expended by the Habitat Conservation Division to carry out the provisions of this
27 Act.

28 SECTION 33. In addition to and not in lieu of any other appropriations or moneys made avail-
29 able by law or from other sources, there is appropriated to the Department of Environmental Qual-
30 ity for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$219,903. Such sum
31 may only be expended to carry out the provisions of this Act.

32 SECTION 34. The limitation on expenditure otherwise provided by law, for the biennium be-
33 ginning July 1, 1991, as the maximum limit for payment of expenses from fees, moneys or other re-
34 venues, including Miscellaneous Receipts, excluding federal funds, collected or received by the State
35 Forestry Department, for forest practices operations, is increased by \$1,525,802.

36 SECTION 35. The limitation on expenditures otherwise provided by law, for the biennium be-
37 ginning July 1, 1991, as the maximum limit for the payment of expenses from federal funds received
38 by the State Forestry Department is increased by \$390,000. Such sum may only be expended to carry
39 out the provisions of this Act.

40

STATE OF OREGON
LEGISLATIVE REVENUE OFFICE
H-197 STATE CAPITOL BUILDING
SALEM, OREGON 97310

S. Agriculture
331

REVENUE ANALYSIS OF PROPOSED LEGISLATION
1991 REGULAR SESSION

BILL NUMBER	TAX AREA	ECONOMIST	DATE
SB 1125-C*	Timber	DRAKE	6-28-91

Description:

Makes numerous changes to the forest practices act expanding the scope and control the State Forester has over private timber land and private timber land management. Increases Forest Products Harvest Tax an additional 13 cents/1,000 bd. feet for 1991-93 biennium and dedicates revenues from the increase to carry out the expanded State Forester regulation, and partially fund a number of environmental studies mandated by the bill.

Revenue Impact:

General Fund - None

Other Funds - About \$1.36 million additional to the State Forester for expanded regulation in 1991-93 and studies. No impact in future bienniums.

**1991 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Legislative Fiscal Office**

MEASURE NUMBER: SB 1125
STATUS: C*-Engrossed - Conference Committee Report
SUBJECT: Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut, and harvest practices along visually sensitive corridors and which may affect water pollution.
GOVERNMENT UNIT AFFECTED: Department of Forestry, Department of Fish and Wildlife, Department of Environmental Quality
PREPARED BY: Ken Rocco
REVIEWED BY: Ann Glaze, Kay Hutchison
DATE: 6/28/91

	<u>1991-93</u>	<u>1993-95</u>
EFFECT ON EXPENDITURES:		
Dept. of Forestry -		
General Fund	\$ 1,140,000	
Other Funds	1,525,802	
Federal Funds	<u>390,000</u>	
TOTAL All Funds	\$ 3,055,802	
 Dept. of Fish & Wildlife -		
General Fund	\$ 102,322	
 Dept. of Environmental Quality -		
General Fund	\$ 219,903	
TOTAL General Fund	\$ 1,462,225	
TOTAL Other Funds	\$ 1,525,802	
TOTAL Federal Funds	<u>390,000</u>	
TOTAL All Funds	\$ 3,378,027	

Note: The Department of Forestry's Forest Practices Program is split-funded with 60% General Fund and 40% Other Funds (harvest tax); as the measure does not specify a funding source, all other agency expenditures are assumed to be General Fund.

EFFECT ON REVENUES:

Dept. of Forestry -	
Smoke Management Program	
Slash Burning Fee Increase OF	\$ 410,000

EFFECT ON POSITIONS:

Dept. of Forestry	20.13 FTE
Dept. of Fish & Wildlife	1.00 FTE
Dept. of Environmental Quality	2.00 FTE

GOVERNOR'S BUDGET: Measure is not included in Governor's budget.

COMMENTS:

The measure, as amended, revises the Oregon Forest Practices Act with regard to certain reforestation, clearcut, and harvest practices and includes provisions concerning stream classification, water quality authority, and wildlife habitats.

All expenditures and positions are unchanged from those included in the Budget Report issued for SB 1125 (see the attached report for additional information).

Amendments to the measure increase the slash burning fee on forestland \$1.50 to \$5.00 per acre. The Department of Forestry estimates the increase would generate an additional \$410,000 for the Oregon Forest Smoke Management Account. This additional revenue is not included in the Budget Report, but is included in the Department of Forestry's appropriation bill.

STATE OF OREGON
LEGISLATIVE REVENUE OFFICE
H-197 STATE CAPITOL BUILDING
SALEM, OREGON 97310

REVENUE ANALYSIS OF PROPOSED LEGISLATION
1991 REGULAR SESSION

BILL NUMBER	TAX AREA	ECONOMIST	DATE
SB 1125-C	Timber	DRAKE	6-24-91

Description:

Makes numerous changes to the forest practices act expanding the scope and control the State Forester has over private timber land and private timber land management. Increases Forest Products Harvest Tax an additional 13 cents/1,000 bd. feet for 1991-93 biennium and dedicates revenues from the increase to carry out the expanded State Forester regulation, and partially fund a number of environmental studies mandated by the bill.

Revenue Impact:

General Fund - None

Other Funds - About \$1.36 million additional to the State Forester for expanded regulation in 1991-93 and studies. No impact in future bienniums.

OREGON LEGISLATIVE ASSEMBLY
STAFF MEASURE SUMMARY
CONFERENCE COMMITTEE ON SB 1125

MEASURE: 1125-D

Meeting Dates: 6/26, 6/27, 6/28

Vote: Ayes: Senator Cohen, Springer, Kintigh, Smith
Representative Dwyer, Meek, Schroeder

Nays: none

Prepared By: Peter F. Green, Committee Administrator

WHAT THE BILL DOES:

Senate Bill 1125 amends the Oregon Forest Practices Act: The major provisions of the bill are as follows:

STREAM CLASSIFICATION: Directs Board of Forestry to designate at least three stream classes by September 1, 1992. Requires Board to review its current riparian protection rules. Interim protection will be provided for certain streams not now designated as Class 1. On these streams merchantable timber may only be harvested with prior approval of the state forester and consistent with protection of the forest.

CLEARCUTS: Sets certain limits on contiguous clearcuts until prior clearcut has been reforested. Exceptions are made for conversion, understocked lands or lands damaged by fire or insects. Requires Board to study clearcut size limitations and make recommendations to the 1995 Legislature. Sets limit in statute at 120 acres with exceptions allowed up to 240 acres. Written plans are required for clearcuts over 120 acres.

WATER QUALITY AUTHORITY: Modifies relationship between Departments of Environmental Quality and Forestry on regulation of water quality. Requires the Board to establish best management practices. Provides that if a forest operator conducts operations in accordance with best management practices then the operation cannot be considered to be in violation of any water quality standard. Prohibits the EQC from promulgating rules regarding effluent limitations upon nonpoint source discharges from forest operations unless required by Federal law.

WILDLIFE HABITAT: Requires certain snags and green trees to be left in clearcuts over 10 acres. Allows Forester to require some of these trees to be grouped and left in the riparian area. The section is repealed on January 1, 1995.

Modifies Board rulemaking mandate by requiring that rules provide for identification of streams in which restoration of habitat would be environmentally beneficial, to identify methods of restoration, to encourage landowners to enter into cooperative agreements to restore, and to adopt rules to implement the findings.

REFORESTATION: Sets certain reforestation requirements in statute. Requires that reforestation commence within 12 months and be completed by the end of the second planting season. Requires Board to encourage planting of species resistant to root pathogens.

WRITTEN PLANS: Adds to existing written plan requirement that plans be prepared for clearcuts that

This summary has not been adopted or officially endorsed by action of the committee.

exceed 120 acres, for high risk sites as determined by the state forester, for cutting of immature timber under circumstances determined by the Board; and for other streams as designated by Board. Extends review period from 14 to 30 days. Allows persons living within 10 miles of chemical application to request copies of notice.

CUMULATIVE EFFECTS AND FOREST MANAGEMENT: Provides the state forester with authority to condition approval of written plans by limiting timing, method, and extent of harvest so as to achieve protection of forest resources under the Act. Requires Board to adopt rules that reduce to the extent practicable adverse effects of cumulative effects, based on the results of a study.

LAND USE CONVERSIONS: Tightens requirements on landowners wishing to convert forest land to non-forest uses.

SCENIC VALUES: Creates scenic highway system and designates certain highways. Requires buffers to be certain size along highway before they can be harvested.

STUDIES: Requires that the Board in conjunction with ODF&W and DEQ conduct a study of harvest rates and cumulative effects, the effectiveness of forest practice rules, and appropriate size limitations for clearcuts. In addition the following studies are required:

- * Evaluation of best management practices on certain forest resources.
- * Study of existing information on native Pacific Yew.
- * Study of effect of forest practices on anadromous fish runs.

SMOKE MANAGEMENT: Increases fees for slash burning from \$1.50 to \$5.50 per acre.

The bill also levies a harvest tax to pay for its provisions, and \$1,140,000 from the General Fund. The bill also appropriates \$102,322 to ODF&W, and \$219,903 to DEQ. The expenditure limitation for fees is raised by \$1.5 million.

AMENDMENTS: The Senate passed version gave the board authority on clearcut sizes and snag retention, and required consideration of habitat. It also phased out slash burning except for fire prevention. The House version deleted cumulative effects language and the ability of the State Forester to condition written plans. It also placed clearcut limitations, snag retention and scenic highway protection in statute rather than rule.

BACKGROUND: The Oregon Legislature passed the current forest practices act in 1971. Since that time the Board of Forestry has addressed certain forest practice issues. In 1984 it made significant modifications to address landslides. In 1986 the Board adopted new riparian protection rules. The first significant statutory changes were made in 1987 (HB 3396). The Board was reconstituted and the Board was given exclusive responsibility for protecting forest resources. Written plan requirements were expanded, and the Board was required to inventory certain resources.

Since that time public concern about the impacts of timber harvest has increased significantly. Issues such as the cumulative effects of timber harvest and its impact on fish and wildlife habitat have been topics of public discussion. Harvesting of immature timber and clearcut size have also been concerns. During the last few years uncertainty over the roles of DEQ and the Board with respect to water quality regulation has heightened.

This summary has not been adopted or officially endorsed by action of the committee.

BUDGET REPORT - Joint Committee on Ways and Means - 66th Legislative Assembly

Agency: Forestry Department
 Department of Fish and Wildlife
 Department of Environmental Quality

Budget Page: -- LFO Analysis Page: -- Bill No.: SB 1125-C Biennium: 1991-93

Subcommittee: Natural Resources/Economic Development
 Prepared by: (Executive Department)
 David V. Small *[Signature]*

Sens: Fawbush, Trow
 Reviewed by: (Legislative Fiscal Office)
 Ann Glaze *[Signature]*

Reps: Jones, Shiprack
 Sen. Clifford Trow, Chairperson

Date: June 22, 1991

	1989-91		1991-93		Committee Change from 1989-91 Est.
	Estimated Expenditures	Governor's Printed Budget Rec.	Committee Recommendation	Differences from Governor's Rec.	

BUDGET SUMMARY					
FORESTRY DEPARTMENT					
General Fund	\$ --	\$ --	\$ 1,140,000	\$ +1,140,000	+100.0%
Other Funds	--	--	1,525,802	+1,525,802	+100.0%
Federal Funds	--	--	390,000	+390,000	+100.0%
Total	\$ --	\$ --	\$ 3,055,802	\$ +3,055,802	+100.0%
DEPARTMENT OF FISH AND WILDLIFE					
General Fund	\$ --	\$ --	\$ 102,322	\$ +102,322	+100.0%
DEPARTMENT OF ENVIRONMENTAL QUALITY					
General Fund	\$ --	\$ --	\$ 219,903	\$ +219,903	+100.0%

Committee Change
from
1989-91
Gov. Rec. Est.

1991-93
Committee
Recommendation
Differences from
Governor's Rec.

1989-91
Estimated
Expenditures
Governor's Printed
Budget Rec.

BUDGET SUMMARY

POSITION SUMMARY

FORESTRY DEPARTMENT

Authorized positions -- --
Full-time equivalent positions -- --

24.00 +24.00
20.13 +20.13

DEPARTMENT OF FISH AND WILDLIFE

Authorized positions -- --
Full-time equivalent positions -- --

1.00 +1.00
1.00 +1.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

Authorized positions -- --
Full-time equivalent positions -- --

3.00 +3.00
2.00 +2.00

SUMMARY OF SUBCOMMITTEE ACTION

Senate Bill 1125 makes major changes to the Oregon Forest Practices Act. The changes address concerns for the overall effect of wide spread forest operations, especially clear-cut harvests, on water quality and fish and wildlife resources.

The Subcommittee amended the bill to finance the proposed changes. Major Forestry Department operations expenses include: (1) revising administrative rules to implement new stream classifications, reforestation requirements, and other revised management practices; and (2) inspecting harvest sites to ensure that streams are protected and reforestation has been successful. Operation expenses total \$1.8 million, and are financed with the traditional 60 percent General Fund, 40 percent harvest tax funding shares.

The bill also funds studies on the impact of forest practices on anadromous fish, harvest rates, and the availability of the Pacific Yew. Study funding is from harvest tax receipts (\$754,879), Federal funds (\$390,000), and General Fund (\$60,000). Senate Bill 1125 increases the timber harvest tax rate by \$.13 per thousand board feet to finance forest practices operations and studies.

The Department of Fish and Wildlife is responsible for evaluating the effects of timber operations on streams and fish habitats with \$102,322 General Fund and 1.00 full-time equivalent position. The Department of Environmental Quality will review water quality standards, review forest operation proposals for water quality impacts, and make field inspections with \$219,903 General Fund and 2.00 full-time equivalent positions.

HOUSE AMENDMENTS TO B-ENGROSSED SENATE BILL 1125

By JOINT COMMITTEE ON WAYS AND MEANS

June 24

- 1 On page 1 of the printed B-engrossed bill, line 4, after the semicolon delete "and" and before the
2 period insert "; and limiting expenditures".
- 3 On page 15, line 42, delete "27 and 29" and insert "28 and 33".
- 4 On page 16, delete lines 3 through 6.
- 5 In line 7, delete "28" and insert "27" and delete "29" and insert "28".
- 6 In line 8, delete "29" and insert "28".
- 7 In line 12, delete "two" and insert "13".
- 8 In line 24, delete "321.185" and insert "526.060".
- 9 In line 25, delete "30" and insert "29".
- 10 On page 17, line 22, delete "31" and insert "30".
- 11 After line 22, insert:
- 12 "SECTION 31. In addition to and not in lieu of any other appropriations or moneys made
13 available by law or from other sources, there is appropriated to the State Forestry Department for
14 the biennium beginning July 1, 1991, out of the General Fund, the sum of \$1,140,000. Such sum may
15 only be expended for forest practices operations to carry out the provisions of this Act.
- 16 "SECTION 32. In addition to and not in lieu of any other appropriations or moneys made
17 available by law or from other sources, there is appropriated to the State Department of Fish and
18 Wildlife, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$102,322. Such
19 sum may only be expended by the Habitat Conservation Division to carry out the provisions of this
20 Act.
- 21 "SECTION 33. In addition to and not in lieu of any other appropriations or moneys made
22 available by law or from other sources, there is appropriated to the Department of Environmental
23 Quality for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$219,903. Such
24 sum may only be expended to carry out the provisions of this Act.
- 25 "SECTION 34. The limitation on expenditure otherwise provided by law, for the biennium be-
26 ginning July 1, 1991, as the maximum limit for payment of expenses from fees, moneys or other re-
27 venues, including Miscellaneous Receipts, excluding federal funds, collected or received by the State
28 Forestry Department, for forest practices operations, is increased by \$1,525,802.
- 29 "SECTION 35. The limitation on expenditures otherwise provided by law, for the biennium be-
30 ginning July 1, 1991, as the maximum limit for the payment of expenses from federal funds received
31 by the State Forestry Department is increased by \$390,000. Such sum may only be expended to carry
32 out the provisions of this Act."
- 33
-

1

CB-Engrossed
Senate Bill 1125

Ordered by the House June 14²⁴
Including Senate Amendments dated May 29 and House Amendments
dated June 14 and June 24

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution.

Requires State Board of Forestry by September 1, 1992, to review state water classifications.

Requires State Forester to notify individuals of chemical applications within [15] 5 miles of application if individuals request notice.

Requires State Forestry Department to conduct and submit to Legislative Assembly recommendation regarding native Pacific yew species in state.

Requires State Board of Forestry after consultation with State Department of Fish and Wildlife to commission scientific inquiry on effects of forest practices on anadromous fish runs in western Oregon.

Appropriates moneys.

Levies privilege tax on harvesting of merchantable forest products harvested between July 1, 1991, and June 30, 1993.

Authorizes local governments to allow, prohibit or regulate forest practices within acknowledged urban growth boundary or within city limits of cities with population of 100,000 or more. Applies Oregon Forest Practices Act to forestland inside urban growth boundary unless local government has adopted regulations.

A BILL FOR AN ACT

1
2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670,
3 527.690, 527.710, 527.715, 527.722 and 527.724; repealing section 9, chapter 920, Oregon Laws
4 1989; ~~and~~ appropriating money *and limiting expenditures*

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

6 **SECTION 1.** ORS 527.620 is amended to read:

7 527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

8 [(1) "State Forester" means the State Forester or the duly authorized representative of the State
9 Forester.]

10 [(2) "Operator" means any person, including a landowner or timber owner, who conducts an op-
11 eration.]

12 [(3)] (1) "Board" means the State Board of Forestry.

13 (2) "Clear-cut" means any harvest unit in western Oregon that leaves fewer than 50 trees
14 per acre that are well-distributed over the unit and that measure at least 11 inches at DBH
15 or that measure less than 40 square feet of basal area per acre. "Clear-cut" means any
16 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-
17 distributed over the unit and that measure at least 10 inches at DBH. For purposes of this
18 subsection, no tree shall be counted unless the top one-third of the bole of the tree supports
19 a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

1 be considered 20-inch trees.

2 (3) "DBH" means the diameter at breast height which is measured as the width of a
3 standing tree at four and one-half feet above the ground, on the uphill side.

4 (4) "Forestland" means land which is used for the growing and harvesting of forest tree species,
5 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
6 or regulations are applied. Forest tree species does not include Christmas trees on land used solely
7 for the production of cultured Christmas trees as defined in ORS 215.203 (3).

8 (5) "Forest practice" means any operation conducted on or pertaining to forest land, including
9 but not limited to:

- 10 (a) Reforestation of forestland;
- 11 (b) Road construction and maintenance;
- 12 (c) Harvesting of forest tree species;
- 13 (d) Application of chemicals; and
- 14 (e) Disposal of slash.

15 [(6) "Operation" means any commercial activity relating to the growing or harvesting of forest tree
16 species.]

17 [(7)] (6) "Landowner" means any individual, combination of individuals, partnership, corporation
18 or association of whatever nature that holds an ownership interest in forestland, including the state
19 and any political subdivision thereof.

20 (7) "Operation" means any commercial activity relating to the growing or harvesting of
21 forest tree species.

22 (8) "Operator" means any person, including a landowner or timber owner, who conducts
23 an operation.

24 (9) "State Forester" means the State Forester or the duly authorized representative of
25 the State Forester.

26 (10) "Suitable hardwood seedlings" means any hardwood seedling that will eventually
27 yield logs or fiber, or both, sufficient in size and quality for the production of lumber,
28 plywood, pulp or other forest products.

29 [(8)] (11) "Timber owner" means any individual, combination of individuals, partnership, corpo-
30 ration or association of whatever nature, other than a landowner, that holds an ownership interest
31 in any forest tree species on forestland.

32 (12) "Visually sensitive corridor" means forestland located within the area extending 150
33 feet measured on the slope from the outermost right of way boundary of a scenic highway
34 referred to in section 17 of this 1991 Act.

35 [(9)] (13) "Written plan" means a plan submitted by an operator, for written approval by the
36 State Forester, which describes how the operation will be conducted, including the means to protect
37 resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of
38 this 1991 Act, if applicable.

39 SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are added to and made a
40 part of ORS 527.610 to 527.730.

41 SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be adminis-
42 tered by the State Forester as standards applying to all operations in the state, including those on
43 forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
44 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to

1 implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act
2 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
3 other regulations pertaining to forest practices under applicable state law.

4 (2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for
5 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
6 cial thinning.

7 **SECTION 4.** (1) No clear-cut unit within a single ownership shall exceed 120 acres in size, ex-
8 cept as provided in section 7 of this 1991 Act.

9 (2) No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit
10 if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Prac-
11 tices Act would exceed 120 acres in size, unless the prior clear-cut unit has been reforested as re-
12 quired by all applicable regulations and:

13 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
14 either

15 (b) The resultant reproduction has attained an average height of at least four feet; or

16 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
17 "free to grow" as defined by the board.

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

20 (4) The provisions of this section shall not apply when the land is being converted to conifers
21 or managed hardwoods from brush or understocked hardwoods, or when the clear-cut harvest results
22 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
23 Forester determines was beyond the landowner's control and has substantially impaired productivity
24 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
25 be required for such conversion or clear-cut operations that exceed 120 acres in size.

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

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

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

33 **SECTION 5.** (1) In a clear-cut harvest unit exceeding 15 acres, the operator shall leave, on
34 average per acre harvested, at least:

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

37 (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
38 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
39 this size are not available on the site.

40 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
41 logs may be left in one or more clusters rather than distributed throughout the unit. The location
42 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
43 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
44 in addition to all other requirements pertaining to forest operations and may not be met by counting

1 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
2 527.710 (3).

3 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clear-cut harvests.
4 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
5 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
6 1991 Act, the standards for the reforestation of clear-cuts shall include the following:

7 (a) Reforestation, including site preparation, of clear-cut units shall commence within 12 months
8 after the completion of harvest and shall be completed by the end of the second planting season
9 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
10 least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-
11 distributed over the area, which are "free to grow" as defined by the board.

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

19 (2) The board, by rule, may establish alternate standards for the reforestation of clear-cuts, in
20 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
21 standards will better assure the continuous growing and harvesting of forest tree species and the
22 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
23 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

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

38 (5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2).
39 Nothing in this section is intended to affect the administration and enforcement of regulations per-
40 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
41 result of operations other than such clear-cuts.

42 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut unit
43 within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved
44 by the State Forester if all the requirements of this section and any additional requirements estab-

1 lished by the board are met. Proposed clear-cut units that are within 300 feet of the perimeter of a
2 prior clear-cut unit, and that would result in a total combined clear-cut area under a single owner-
3 ship exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the
4 additional requirements are met for the combined clear-cut area. No clear-cut unit within a single
5 ownership shall exceed 240 contiguous acres. No clear-cut unit shall be allowed within 300 feet of
6 the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject to
7 regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-cut
8 unit has been reforested by all applicable regulations and:

9 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
10 either

11 (b) The resultant reproduction has attained an average height of at least four feet; or

12 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
13 "free to grow" as defined by the board.

14 (2) The requirements of this section are in addition to all other requirements of the Oregon
15 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
16 applied in lieu of such other requirements only to the extent the requirements of this section are
17 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
18 (5) of this 1991 Act.

19 (3) The board shall require that a written plan be submitted prior to approval of a clear-cut
20 operation under this section. The board may establish by rule any additional standards applying to
21 operations under this section.

22 (4) The State Forester shall approve the clear-cut operation if the proposed clear-cut would
23 provide better overall results in meeting the requirements and objectives of the Oregon Forest
24 Practices Act.

25 (5) The board shall specify by rule the information to be submitted for approval of clear-cut
26 operations under this section, including evidence of past satisfactory compliance with the Oregon
27 Forest Practices Act.

28 **SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
29 amend rules as necessary to assure that only bona fide, established and continuously maintained
30 changes from forest uses are provided an exemption from reforestation requirements. The board
31 shall set specific time periods for the completion of land use conversions. Among other factors, the
32 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

44 (2) The board may require that, prior to commencing an operation where a change in land use

1 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
2 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
3 ration and reforestation for the area subject to an exemption from reforestation due to a change in
4 land use, and shall require that provisions be made for the administration and collection on such
5 bond or security deposit in the event that the change in land use is not established or continuously
6 maintained within a time certain.

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

10 **SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
11 waters of the state, create at least three classifications and establish rules applicable to each clas-
12 sification. The board shall give particular consideration to perennial streams, not currently classi-
13 fied as Class 1, which have an average gradient of not more than eight percent and which are
14 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
15 requirements for vegetative buffers along such streams consistent with the health of the forest, re-
16 moval of merchantable trees and protection of streambank and channel.

17 (2) The board shall review current Class 1 stream and associated riparian protection rules and,
18 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources.

19 (3) Until the board adopts rules pursuant to this section, the following interim protection shall
20 apply to operations near streams which are important to threatened, endangered, sensitive or game
21 fish species and to streams with an average gradient of not more than eight percent and which are
22 important to water quality and fish needs in downstream Class 1 streams:

23 (a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on
24 both sides of the stream;

25 (b) All nonmerchantable herbaceous vegetation shall be retained;

26 (c) Ground-based equipment shall not be operated within the buffer without approval of the State
27 Forestry Department;

28 (d) Logs shall not be yarded across streams unless the logs are fully suspended in order to
29 minimize disturbance to streambanks, stream channels and streambank vegetation;

30 (e) Streams shall not be crossed without approval of the State Forestry Department; and

31 (f) Merchantable trees may be removed consistent with protection of the buffer, streambanks and
32 stream channels.

33 (4) The State Forestry Department shall consult with the appropriate state agencies in deter-
34 mining which streams are affected by this section.

35 (5) The interim protection in subsection (3) of this section terminates on the effective date of
36 permanent rules adopted by the board for the protection of these streams.

37 (6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
38 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
39 legislative changes.

40 **SECTION 10.** ORS 527.630 is amended to read:

41 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
42 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
43 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
44 public policy of the State of Oregon to encourage economically efficient forest practices that assure

1 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
2 such purposes as the leading use on privately owned land, consistent with sound management of soil,
3 air, water, [and] fish and wildlife resources **and scenic resources within visually sensitive cor-**
4 **ridors as provided in section 17 of this 1991 Act** that assures the continuous benefits of those
5 resources for future generations of Oregonians.

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

11 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
12 it is declared to be in the public interest to vest in the board exclusive authority to develop and
13 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
14 agencies and local governments which are concerned with the forest environment.

15 (4) **The board may adopt and enforce rules addressing scenic considerations only in ac-**
16 **cordance with section 17 of this 1991 Act.**

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

18 527.670. (1) The board shall designate the types of operations for which notice shall be required
19 under this section.

20 (2) The board shall determine by rule what types of operations require a written plan to be ap-
21 proved by the State Forester.

22 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
23 for operations [within]:

24 [(a)] (A) **Within** one hundred feet of a Class 1 stream, unless the board, by rule, provides that
25 a written plan is not required because there is no reasonable likelihood that such operations would
26 damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

27 [(b)] (B) **Within** three hundred feet of a resource site inventoried pursuant to ORS 527.710
28 (3)(a)[.];

29 (C) **On lands determined by the State Forester to be within high risk sites, unless the**
30 **board, by rule, provides that a written plan is not required because there is no reasonable**
31 **likelihood that such operations would damage a resource described in ORS 527.710 (2); or**

32 (D) **On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.**

33 (b) **Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection**
34 **are not subject to appeal under ORS 527.700 (3).**

35 (4) The distances set forth in [paragraphs (a) and (b)] subparagraphs (A) and (B) of paragraph
36 (a) of subsection (3) of this section are solely for the purpose of defining an area within which a
37 hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules
38 adopted pursuant to ORS 527.710 (3)(c).

39 (5) For the purpose of determining the distances set forth in [paragraphs (a) and (b)] subpara-
40 **graphs (A) and (B) of paragraph (a)** of subsection (3) of this section "site" means the specific re-
41 source site and not any additional buffer area.

42 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the
43 State Forester. The notification shall be on forms provided by the State Forester and shall include
44 the name and address of the operator, timber owner and landowner, the legal description of the

1 operating area, and any other information considered by the State Forester to be necessary for the
2 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
3 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
4 timber owner or landowner did not submit the notification. **The State Forester shall send a copy**
5 **of notices involving chemical applications to persons within five miles of the chemical appli-**
6 **cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a**
7 **person has requested that notification in writing.** The State Forester shall also send to the op-
8 erator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.
9 **Upon receipt of a notification indicating the intent of a landowner to clear-cut harvest im-**
10 **mature timber, as defined by the board, the State Forester shall provide the landowner with**
11 **information regarding the economic and environmental effects of immature timber harvest.**

12 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-
13 tify the State Forester of any subsequent change in the information contained in the notification.

14 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)
15 or (7) of this section, the State Forester shall send a copy of the notice or written plan to the De-
16 partment of Revenue, the county assessor for the county in which the operation is located and per-
17 sons who requested of the State Forester in writing that they be sent copies of notice and written
18 plan and who have paid any applicable fee established by the State Forester for such service. The
19 State Forester may establish a fee for sending copies of notices and written plans under this sub-
20 section not to exceed the actual and reasonable costs.

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

27 (10) Whenever an operator, timber owner or landowner is required to submit a written plan of
28 operations to the State Forester under subsection (3) of this section, the State Forester shall not
29 approve any such written plan until 14 calendar days following the date the written plan was filed
30 with the State Forester. An operation may commence upon approval of the written plan.

31 (11)(a) The State Forester shall issue a decision on a written plan within three working days
32 after the end of the 14-day period described in subsection (10) of this section.

33 (b) If the State Forester fails to issue a decision within five working days after the end of the
34 14-day period described in subsection (10) of this section, the written plan shall be deemed approved
35 and the operation may be commenced.

36 (12) When the operation is required to have a written plan under subparagraph (A) or (B) of
37 paragraph (a) of subsection (3) of this section and comments have been timely filed under subsection
38 (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

39 (a) Send a copy of the approved written plan to persons who submitted timely written comments
40 under subsection (9) of this section pertaining to the operation; and

41 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
42 copies of all timely comments submitted under subsection (9) of this section.

43 **SECTION 12.** ORS 527.690 is amended to read:

44 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of

1 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
2 **requirements**, and if the operator or landowner does not comply with the order within the period
3 specified in such order and the order has not been appealed to the board within 30 days, the State
4 Forester based upon a determination by the forester of what action will best carry out the purposes
5 of ORS 527.630 shall:

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

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

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

22 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
23 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
24 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
25 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
26 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
27 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
28 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
29 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
30 authorized by this section. **If the State Forester's action to repair the damage or correct the**
31 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
32 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
33 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
34 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
35 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
36 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
37 **ceedings to recover the amount specified in the demand.**

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

1 in which the expenditures were made within six months after the date of delivery of the itemized
2 statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided
3 in ORS chapter 88.

4 *[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted*
5 *within six months from the date of filing under subsection (4) of this section.]*

6 **(5) All moneys recovered under this section shall be paid into the State Forestry De-**
7 **partment Account.**

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

9 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
10 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
11 istered by the State Forester establishing [*minimum*] standards for forest practices in each region
12 or subregion.

13 (2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
14 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
15 sources:

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

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

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

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

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

28 (D) Significant wetlands.

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

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

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

40 (a) Air and water pollution programs administered by the Department of Environmental Quality
41 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

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

44 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat

1 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-
2 der ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

3 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
4 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
5 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

6 (e) The programs administered by the Columbia River Gorge Commission under Public Law
7 99-663 and ORS 196.110 and 196.150;

8 (f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-
9 tive programs administered by the State Land Board and the Division of State Lands under ORS
10 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

11 (g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS
12 448.273 to 448.990;

13 (h) Natural heritage conservation programs administered by the Natural Heritage Advisory
14 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

15 (i) Open space land tax incentive programs administered by cities and counties under ORS
16 308.740 to 308.790; and

17 (j) Water resources programs administered by the Water Resources Department under ORS
18 536.220 to 536.540.

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

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

26 (7) The board may enter into cooperative agreements or contracts necessary in carrying out the
27 purposes specified in ORS 527.630. **The State Forestry Department shall enter into agreements**
28 **with appropriate state agencies for joint monitoring of the effectiveness of forest practice**
29 **rules in protecting forest resources and water quality.**

30 **SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610 to 527.730 and is
31 amended to read:

32 527.715. The board shall establish, by rule, the standards and procedures to implement the pro-
33 visions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016,
34 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722,] **527.724**, 527.735, [and]
35 527.992 **and sections 3 to 9 and 17 of this 1991 Act.**

36 **SECTION 15.** (1) The State Forester, in cooperation with the Department of Environmental
37 Quality and the State Department of Fish and Wildlife, shall conduct a study of harvest rates and
38 cumulative effects related to forest practices on forestland in Oregon, and submit a progress report
39 to the Sixty-seventh Legislative Assembly and a final report to the Sixty-eighth Legislative Assembly
40 on the results of the study, along with recommendations for addressing any problems that may be
41 identified during the course of such study.

42 (2) The study shall include, but be not limited to, an analysis of:

43 (a) The annual rates of harvest of commercial tree species on Oregon's private forestlands
44 compared to the annual rates of growth on such forestlands;

1 (b) The effect of such harvest rates on employment and community stability;

2 (c) Age and species composition of commercial forest trees species at final clear-cut harvest, the
3 rationale for such harvests and any problems caused by premature harvesting;

4 (d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
5 the terms of highly leveraged contracts to purchase such resources;

6 (e) The effectiveness of current forest practices rules; and

7 (f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and
8 wildlife. The study of cumulative effects shall be conducted in at least three distinct geographic
9 areas in the state.

10 (3) As results from the analyses in paragraphs (e) and (f) of subsection (2) of this section be-
11 come available, the board shall adopt additional rules it deems necessary to protect forest resources
12 pursuant to ORS 527.630. Nothing in this section shall be construed to limit the board's responsi-
13 bility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

14 (4) For purposes of the study required by this section, "cumulative effects" means the impact
15 on the environment which results from the incremental impact of the forest practice when added to
16 other past, present and reasonably foreseeable future forest practices regardless of what govern-
17 mental agency or person undertakes such other actions. Nothing in this section shall be construed
18 to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon
19 Forest Practices Act.

20 (5) This section is repealed January 1, 1995.

21 **SECTION 16.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

22 **SECTION 17.** (1) The following highways are hereby designated as scenic highways for purposes
23 of the Oregon Forest Practices Act:

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

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

27 (2) In consultation with the Department of Transportation, the board shall establish procedures
28 and regulations as necessary to implement the requirements of subsection (3) of this section, con-
29 sistent with the safety of the motoring public, including provisions for alternate plans providing
30 equivalent or better results within visually sensitive corridors extending 150 feet from the outermost
31 shoulder of the roadway along both sides and for the full length of the scenic highways designated
32 in subsection (1) of this section.

33 (3)(a) For harvest operations within a visually sensitive corridor, at least 50 health trees of at
34 least 11 inches at DBH, or that measure at least 40 square feet in basal area, shall be temporarily
35 left on each acre. Harvest areas shall be cleared of major harvest debris within 30 days of the
36 completion of the harvest or within 60 days of the cessation of active harvesting activity on the site,
37 regardless of whether the harvest operation is complete.

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 250 stems per acre.

41 (c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the
42 corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or
43 at least 40 square feet of basal area, no trees are required to be left in the visually sensitive corri-
44 dor, or trees initially required to be left under paragraph (a) of this subsection may be removed.

1 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
2 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
3 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
4 completed by the end of the first planting season after the completion of harvest. A minimum of 400
5 trees per acre shall be planted. By the end of the fifth growing season after the completion of
6 planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over the
7 area, which are "free to grow" as defined by the board. When harvests within the visually sensitive
8 corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the
9 corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive
10 corridor has been reforested as required under this paragraph and the stand has attained an average
11 height of at least 10 feet and has at least 250 stems per acre.

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

15 **SECTION 18.** The State Forestry Department shall conduct a study and shall submit to the
16 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
17 this state. The study shall use existing information to assess the availability of native Pacific yew
18 on public and private lands in this state.

19 **SECTION 19.** ORS 527.724 is amended to read:

20 527.724. **Subject to sections 20 and 21 of this 1991 Act,** any forest operations on forestlands
21 within this state shall be conducted in full compliance with the rules and standards of the Envi-
22 ronmental Quality Commission relating to air and water pollution control. In addition to all other
23 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
24 and sanctions available under statute or rule to the Department of Environmental Quality or the
25 Environmental Quality Commission.

26 **SECTION 20.** (1) The board shall establish best management practices and other rules applying
27 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
28 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
29 ment and maintenance of water quality standards established by the Environmental Quality Com-
30 mission for the waters of the state. Such best management practices shall consist of forest practices
31 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
32 board in establishing best management practices shall include, where applicable, but not be limited
33 to:

- 34 (a) Beneficial uses of waters potentially impacted;
- 35 (b) Technical, economic and institutional feasibility; and
- 36 (c) Natural variations in geomorphology and hydrology.

37 (2) The board shall consult with the Environmental Quality Commission in adoption and review
38 of best management practices and other rules to address nonpoint source discharges of pollutants
39 resulting from forest operations on forestlands.

40 (3)(a) Upon written petition of any interested person or agency, the board, in accordance with
41 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
42 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
43 pollutants resulting from forest operations being conducted in accordance with the best management
44 practices are a significant contributor to violations of such standards.

1 (b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
2 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
3 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
4 was filed.

5 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
6 operations being conducted in accordance with the best management practices are neither signif-
7 icantly responsible for particular water quality standards not being met nor are a significant con-
8 tributor to violations of such standards, the board shall issue an order dismissing the petition.

9 (d) If the petition for review of best management practices is made by the Environmental Quality
10 Commission, the board shall not terminate the review without the concurrence of the commission,
11 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

12 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
13 order that includes findings regarding specific allegations in the petition and shall state the board's
14 reasons for any conclusions to the contrary.

15 (f) If, pursuant to review, the board determines that best management practices should be re-
16 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
17 revised best management practices must be adopted not later than two years from the filing date
18 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
19 mission, finds that special circumstances require additional time.

20 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
21 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
22 cable to prevent significant damage to beneficial uses identified by the commission while the board
23 is revising its best management practices and rules as provided for in this section.

24 (h) The board shall include in its triennial review of administrative rules an analysis of the ef-
25 fectiveness of the best management practices and other rules applying to forest practices adopted
26 to maintain water quality standards established by the Environmental Quality Commission.

27 **SECTION 21.** A forest operator conducting, or in good faith proposing to conduct, operations
28 in accordance with best management practices currently in effect shall not be considered in vio-
29 lation of any water quality standards. When the board adopts new best management practices and
30 other rules applying to forest operations, such rules shall apply to all current or proposed forest
31 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
32 ter quality standards against a forest operator conducting operations after the time provided in
33 section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
34 ther has not adopted revised management practices or has not made a finding that such revised best
35 management practices are not required.

36 **SECTION 22.** Sections 23 and 24 of this Act are added to and made a part of ORS 468.700 to
37 468.778.

38 **SECTION 23.** Upon request of the State Board of Forestry, the Environmental Quality Com-
39 mission shall review any water quality standard that affects forest operations on forestlands. The
40 commission's review may be limited to or coordinated with the triennial or any other regularly
41 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 24 of
42 this 1991 Act and applicable federal law.

43 **SECTION 24.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
44 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or

1 department may, by rule or order, impose and enforce limitations or other controls which may
2 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
3 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
4 federal regulations and guidelines issued pursuant thereto.

5 (2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the En-
6 vironmental Quality Commission nor the Department of Environmental Quality shall promulgate or
7 enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
8 operations on forestlands in this state. Any limitations or controls applying to nonpoint source dis-
9 charges or pollutants resulting from forest operations are subject to sections 20 and 21 of this 1991
10 Act. However, nothing in this section is intended to affect the authority of the commission or the
11 department provided by law to impose and enforce limitations or other controls on water pollution
12 from sources other than forest operations.

13 (3) When the Environmental Quality Commission establishes instream water quality standards
14 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
15 available scientific information including, but not limited to, stream flow, geomorphology and other
16 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
17 conditions.

18 (4) When the Environmental Quality Commission establishes instream water quality standards,
19 it will also issue guidelines describing how the department and the commission will determine
20 whether water quality standards in waters affected by nonpoint source activities are being met. In
21 developing these guidelines, the commission shall include, where applicable, those physical charac-
22 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
23 factors which represent the variability and complexity of forested and other appropriate hydrologic
24 systems.

25 **SECTION 25.** (1) The State Board of Forestry, after consultation with the State Department of
26 Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
27 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
28 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
29 lation declines if that is the case; assign the relative importance of forest practices to these declines,
30 compared to other leading causes; identify the relative importance of various habitat characteristics
31 in streams in limiting anadromous fish production; determine how forest practices have affected fish
32 production; determine how forest practices have affected these habitat characteristics and
33 anadromous fish populations before and since 1972; identify the extent to which forest practices are
34 limiting the recovery of depressed anadromous fish populations; and make recommendations as to
35 how forest practices can assist in recovery of anadromous fish populations.

36 (2) The board shall contract with an independent and disinterested organization to assemble a
37 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
38 to write a report of its findings.

39 (3) Nothing in this section shall be construed to limit the ability of the board to promulgate
40 rules relating to forest practices which appropriately protect fish and wildlife populations.

41 **SECTION 26.** (1) The study required by section 25 of this 1991 Act shall be financed from such
42 moneys as are referred to in this section and sections ^{28 and 33} ~~27 and 29~~ of this 1991 Act. X

43 (2) The State Board of Forestry shall request:

44 (a) The United States Forest Service to pay 25 percent of the study cost.

(b) The Bureau of Land Management to pay 15 percent of the study cost.

(c) The Bonneville Power Administration to pay 25 percent of the study cost.

~~SECTION 27. In addition to and not in lieu of any other appropriations or moneys made available by law or from other sources, there is appropriated to the State Forestry Department, for the biennium beginning July 1, 1991, out of the General Fund, the sum of \$. . . Such sum may only be expended to pay the costs of the study required by section 25 of this Act.~~

~~SECTION 28.~~ ²⁷ Section ²⁸ 29 of this Act is added to and made a part of ORS 321.005 to 321.185.

~~SECTION 28.~~ (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forestland during the period beginning July 1, 1991, and ending June 30, 1993, in the amount provided in subsection (2) of this section.

(2) The rate of tax levied in subsection (1) of this section shall be ~~two~~ ¹³ cents per thousand feet, board measure, on all merchantable forest products harvested on forestland.

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4) and (5).

(4) The tax levied by subsection (1) of this section shall be due and payable to the department in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.185.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After payment of refunds, which shall be paid in the same manner as other forest products harvest tax refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1) of this section shall be deposited to the account referred to in ORS ~~321.185~~ ^{526.060}.

~~SECTION 29.~~ ²⁹ ORS 527.722 is amended to read:

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

(2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use [~~regulations~~] **regulation** to forestland to allow, prohibit or regulate:

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

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

[(a)] (c) The establishment or alteration of structures other than temporary onsite structures which are auxiliary to and used during the term of a particular forest operation;

[(b)] (d) The siting or alteration of dwellings;

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

1 [(d)] (f) Partitions and subdivisions of the land[; or].

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

4 [(3)] (4) Counties can prohibit forest practices on land for which an acknowledged exception to
5 an agricultural or forestland goal has been taken.

6 (5) To insure that all forest operations in this state are regulated to achieve protection
7 of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon
8 Forest Practices Act applies to forestlands inside any urban growth boundary unless a local
9 government has adopted regulations for forest practices. Such local regulations shall:

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

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

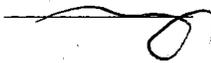
12 (6) Local governments which have, before the effective date of this 1991 Act, adopted a
13 comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest
14 practices consistent with subsections (1) to (5) of this section shall inform the State Forester
15 of such policies and regulations within 60 days of the effective date of this 1991 Act. Exist-
16 ence or adoption of such policies or regulations relieves the State Forester of responsibility
17 to administer the Oregon Forest Practices Act within the affected area.

18 (7) The Director of the Department of Land Conservation and Development shall provide
19 the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such no-
20 tices concern the adoption, amendment or repeal of a comprehensive land use regulation al-
21 lowing, prohibiting or regulating forest practices.

22 SECTION 31. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and 527.990.

23

910



Insert
①

1 [d)] (f) Partitions and subdivisions of the land; or].

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

4 [3)] (4) Counties can prohibit forest practices on land for which an acknowledged exception to
5 an agricultural or forestland goal has been taken.

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7 of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon
8 Forest Practices Act applies to forestlands inside any urban growth boundary unless a local
9 government has adopted regulations for forest practices. Such local regulations shall:

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13 comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest
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21 lowing, prohibiting or regulating forest practices.

22 SECTION 31. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and 527.990.

23 ~~PD~~

Insert
①

① SECTION 31. In addition to and not in lieu of any other appropriations
or moneys made available by law or from other sources, there is appropriated
to the State Forestry Department for the biennium beginning July 1, 1991,
out of the General Fund, the sum of \$1,140,000. Such sum may only be ex-
pended for forest practices operations to carry out the provisions of this Act.

SECTION 32. In addition to and not in lieu of any other appropriations
or moneys made available by law or from other sources, there is appropriated
to the State Department of Fish and Wildlife, for the biennium beginning
July 1, 1991, out of the General Fund, the sum of \$102,322. Such sum may
only be expended by the Habitat Conservation Division to carry out the
provisions of this Act.

SECTION 33. In addition to and not in lieu of any other appropriations
or moneys made available by law or from other sources, there is appropriated
to the Department of Environmental Quality for the biennium beginning July
1, 1991, out of the General Fund, the sum of \$219,903. Such sum may only
be expended to carry out the provisions of this Act.

SECTION 34. The limitation on expenditure otherwise provided by law,
for the biennium beginning July 1, 1991, as the maximum limit for payment
of expenses from fees, moneys or other revenues, including Miscellaneous
Receipts, excluding federal funds, collected or received by the State Forestry
Department, for forest practices operations, is increased by \$1,525,802.

SECTION 35. The limitation on expenditures otherwise provided by law,
for the biennium beginning July 1, 1991, as the maximum limit for the pay-
ment of expenses from federal funds received by the State Forestry Department
is increased by \$390,000. Such sum may only be expended to carry out the
provisions of this Act. R

HOUSE COMMITTEE REPORT

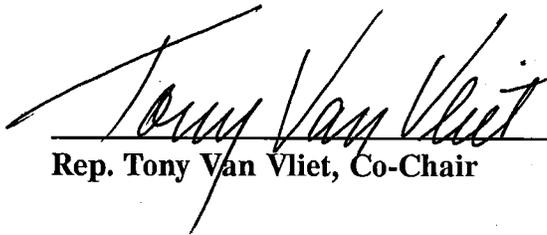
June 24, 1991

Speaker Campbell:

Your Joint Committee on Ways and Means to whom was referred SB 1125 B-Eng. having had the same under consideration, respectfully reports it back with recommendation that it

DO PASS WITH AMENDMENTS AND BE PRINTED ENGROSSED

Rep. Shiprack
Carrier of Measure



Rep. Tony Van Vliet, Co-Chair

FOR INFORMATION ONLY - NOT PART OF COMMITTEE REPORT

VOTING AYE: 6 - Gilmour, Bunn, E.Johnson, Calouri, Minnis, VanVliet
VOTING NAY: 0
EXCUSED: 2 - D.E.Jones, Shiprack
ABSENT: 0

(Senate Vote: Ayes - 7; Nays - 0; Excused - 1; Absent - 0)

FOR OFFICE USE ONLY

Action Code:

**PROPOSED AMENDMENTS TO
B-ENGROSSED SENATE BILL 1125**

1 On page 1 of the printed B-engrossed bill, line 4, after the semicolon de-
2 lete "and" and before the period insert ^{and} "limiting expenditures".

3 On page 15, line 42, delete "27 and 29" and insert "28 and 33".

4 On page 16, delete lines 3 through 6.

5 In line 7, delete "28" and insert "27" and delete "29" and insert "28".

6 In line 8, delete "29" and insert "28".

7 In line 12, delete "two" and insert "13".

8 In line 24, delete "321.185" and insert "526.060".

9 In line 25, delete "30" and insert "29".

10 On page 17, line 22, delete "31" and insert "30".

11 After line 22, insert:

12 "SECTION 31. In addition to and not in lieu of any other appropriations
13 or moneys made available by law or from other sources, there is appropriated
14 to the State Forestry Department for the biennium beginning July 1, 1991,
15 out of the General Fund, the sum of \$1,140,000. Such sum may only be ex-
16 pended for forest practices operations to carry out the provisions of this Act.

17 "SECTION 32. In addition to and not in lieu of any other appropriations
18 or moneys made available by law or from other sources, there is appropriated
19 to the State Department of Fish and Wildlife, for the biennium beginning
20 July 1, 1991, out of the General Fund, the sum of \$102,322. Such sum may
21 only be expended by the Habitat Conservation Division to carry out the
22 provisions of this Act.

23 "SECTION 33. In addition to and not in lieu of any other appropriations
24 or moneys made available by law or from other sources, there is appropriated
to the Department of Environmental Quality for the biennium beginning July



1 1, 1991, out of the General Fund, the sum of \$219,903. Such sum may only
2 be expended to carry out the provisions of this Act.

3 "SECTION 34. The limitation on expenditure otherwise provided by law,
4 for the biennium beginning July 1, 1991, as the maximum limit for payment
5 of expenses from fees, moneys or other revenues, including Miscellaneous
6 Receipts, excluding federal funds, collected or received by the State Forestry
7 Department, for forest practices operations, is increased by \$1,525,802.

8 "SECTION 35. The limitation on expenditures otherwise provided by law,
9 for the biennium beginning July 1, 1991, as the maximum limit for the pay-
10 ment^{of} expenses from federal funds received by the State Forestry Department
11 is increased by \$390,000. Such sum may only be expended to carry out the
12 provisions of this Act."
13

B-Engrossed Senate Bill 1125

Ordered by the House June 14
Including Senate Amendments dated May 29 and House Amendments
dated June 14

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution.

Requires State Board of Forestry by September 1, 1992, to review state water classifications.

Requires State Forester to notify individuals of chemical applications within [15] 5 miles of application if individuals request notice.

Requires State Forestry Department to conduct and submit to Legislative Assembly recommendation regarding native Pacific yew species in state.

Requires State Board of Forestry after consultation with State Department of Fish and Wildlife to commission scientific inquiry on effects of forest practices on anadromous fish runs in western Oregon.

Appropriates moneys.

Levies privilege tax on harvesting of merchantable forest products harvested between July 1, 1991, and June 30, 1993.

Authorizes local governments to allow, prohibit or regulate forest practices within acknowledged urban growth boundary or within city limits of cities with population of 100,000 or more. Applies Oregon Forest Practices Act to forestland inside urban growth boundary unless local government has adopted regulations.

A BILL FOR AN ACT

1
2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670,
3 527.690, 527.710, 527.715, 527.722 and 527.724; repealing section 9, chapter 920, Oregon Laws
4 1989; and appropriating money.

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

6 **SECTION 1.** ORS 527.620 is amended to read:

7 527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

8 [(1) "State Forester" means the State Forester or the duly authorized representative of the State
9 Forester.]

10 [(2) "Operator" means any person, including a landowner or timber owner, who conducts an op-
11 eration.]

12 [(3)] (1) "Board" means the State Board of Forestry.

13 (2) "Clear-cut" means any harvest unit in western Oregon that leaves fewer than 50 trees
14 per acre that are well-distributed over the unit and that measure at least 11 inches at DBH
15 or that measure less than 40 square feet of basal area per acre. "Clear-cut" means any
16 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-
17 distributed over the unit and that measure at least 10 inches at DBH. For purposes of this
18 subsection, no tree shall be counted unless the top one-third of the bole of the tree supports
19 a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

1 be considered 20-inch trees.

2 (3) "DBH" means the diameter at breast height which is measured as the width of a
3 standing tree at four and one-half feet above the ground, on the uphill side.

4 (4) "Forestland" means land which is used for the growing and harvesting of forest tree species,
5 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
6 or regulations are applied. Forest tree species does not include Christmas trees on land used solely
7 for the production of cultured Christmas trees as defined in ORS 215.203 (3).

8 (5) "Forest practice" means any operation conducted on or pertaining to forest land, including
9 but not limited to:

- 10 (a) Reforestation of forestland;
- 11 (b) Road construction and maintenance;
- 12 (c) Harvesting of forest tree species;
- 13 (d) Application of chemicals; and
- 14 (e) Disposal of slash.

15 [(6) "Operation" means any commercial activity relating to the growing or harvesting of forest tree
16 species.]

17 [(7)] (6) "Landowner" means any individual, combination of individuals, partnership, corporation
18 or association of whatever nature that holds an ownership interest in forestland, including the state
19 and any political subdivision thereof.

20 (7) "Operation" means any commercial activity relating to the growing or harvesting of
21 forest tree species.

22 (8) "Operator" means any person, including a landowner or timber owner, who conducts
23 an operation.

24 (9) "State Forester" means the State Forester or the duly authorized representative of
25 the State Forester.

26 (10) "Suitable hardwood seedlings" means any hardwood seedling that will eventually
27 yield logs or fiber, or both, sufficient in size and quality for the production of lumber,
28 plywood, pulp or other forest products.

29 [(8)] (11) "Timber owner" means any individual, combination of individuals, partnership, corpo-
30 ration or association of whatever nature, other than a landowner, that holds an ownership interest
31 in any forest tree species on forestland.

32 (12) "Visually sensitive corridor" means forestland located within the area extending 150
33 feet measured on the slope from the outermost right of way boundary of a scenic highway
34 referred to in section 17 of this 1991 Act.

35 [(9)] (13) "Written plan" means a plan submitted by an operator, for written approval by the
36 State Forester, which describes how the operation will be conducted, including the means to protect
37 resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of
38 this 1991 Act, if applicable.

39 SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are added to and made a
40 part of ORS 527.610 to 527.730.

41 SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be adminis-
42 tered by the State Forester as standards applying to all operations in the state, including those on
43 forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
44 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to

1 implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act
2 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
3 other regulations pertaining to forest practices under applicable state law.

4 (2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for
5 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
6 cial thinning.

7 **SECTION 4.** (1) No clear-cut unit within a single ownership shall exceed 120 acres in size, ex-
8 cept as provided in section 7 of this 1991 Act.

9 (2) No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit
10 if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Prac-
11 tices Act would exceed 120 acres in size, unless the prior clear-cut unit has been reforested as re-
12 quired by all applicable regulations and:

13 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
14 either

15 (b) The resultant reproduction has attained an average height of at least four feet; or

16 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
17 "free to grow" as defined by the board.

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

20 (4) The provisions of this section shall not apply when the land is being converted to conifers
21 or managed hardwoods from brush or understocked hardwoods, or when the clear-cut harvest results
22 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
23 Forester determines was beyond the landowner's control and has substantially impaired productivity
24 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
25 be required for such conversion or clear-cut operations that exceed 120 acres in size.

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

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

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

33 **SECTION 5.** (1) In a clear-cut harvest unit exceeding 15 acres, the operator shall leave, on
34 average per acre harvested, at least:

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

37 (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
38 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
39 this size are not available on the site.

40 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
41 logs may be left in one or more clusters rather than distributed throughout the unit. The location
42 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
43 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
44 in addition to all other requirements pertaining to forest operations and may not be met by counting

1 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
2 527.710 (3).

3 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clear-cut harvests.
4 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
5 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
6 1991 Act, the standards for the reforestation of clear-cuts shall include the following:

7 (a) Reforestation, including site preparation, of clear-cut units shall commence within 12 months
8 after the completion of harvest and shall be completed by the end of the second planting season
9 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
10 least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-
11 distributed over the area, which are "free to grow" as defined by the board.

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

19 (2) The board, by rule, may establish alternate standards for the reforestation of clear-cuts, in
20 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
21 standards will better assure the continuous growing and harvesting of forest tree species and the
22 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
23 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

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

38 (5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2).
39 Nothing in this section is intended to affect the administration and enforcement of regulations per-
40 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
41 result of operations other than such clear-cuts.

42 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut unit
43 within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved
44 by the State Forester if all the requirements of this section and any additional requirements estab-

1 lished by the board are met. Proposed clear-cut units that are within 300 feet of the perimeter of a
2 prior clear-cut unit, and that would result in a total combined clear-cut area under a single owner-
3 ship exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the
4 additional requirements are met for the combined clear-cut area. No clear-cut unit within a single
5 ownership shall exceed 240 contiguous acres. No clear-cut unit shall be allowed within 300 feet of
6 the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject to
7 regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-cut
8 unit has been reforested by all applicable regulations and:

9 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
10 either

11 (b) The resultant reproduction has attained an average height of at least four feet; or

12 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
13 "free to grow" as defined by the board.

14 (2) The requirements of this section are in addition to all other requirements of the Oregon
15 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
16 applied in lieu of such other requirements only to the extent the requirements of this section are
17 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
18 (5) of this 1991 Act.

19 (3) The board shall require that a written plan be submitted prior to approval of a clear-cut
20 operation under this section. The board may establish by rule any additional standards applying to
21 operations under this section.

22 (4) The State Forester shall approve the clear-cut operation if the proposed clear-cut would
23 provide better overall results in meeting the requirements and objectives of the Oregon Forest
24 Practices Act.

25 (5) The board shall specify by rule the information to be submitted for approval of clear-cut
26 operations under this section, including evidence of past satisfactory compliance with the Oregon
27 Forest Practices Act.

28 **SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
29 amend rules as necessary to assure that only bona fide, established and continuously maintained
30 changes from forest uses are provided an exemption from reforestation requirements. The board
31 shall set specific time periods for the completion of land use conversions. Among other factors, the
32 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

44 (2) The board may require that, prior to commencing an operation where a change in land use

1 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
2 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
3 ration and reforestation for the area subject to an exemption from reforestation due to a change in
4 land use, and shall require that provisions be made for the administration and collection on such
5 bond or security deposit in the event that the change in land use is not established or continuously
6 maintained within a time certain.

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

10 **SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
11 waters of the state, create at least three classifications and establish rules applicable to each clas-
12 sification. The board shall give particular consideration to perennial streams, not currently classi-
13 fied as Class 1, which have an average gradient of not more than eight percent and which are
14 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
15 requirements for vegetative buffers along such streams consistent with the health of the forest, re-
16 moval of merchantable trees and protection of streambank and channel.

17 (2) The board shall review current Class 1 stream and associated riparian protection rules and,
18 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources.

19 (3) Until the board adopts rules pursuant to this section, the following interim protection shall
20 apply to operations near streams which are important to threatened, endangered, sensitive or game
21 fish species and to streams with an average gradient of not more than eight percent and which are
22 important to water quality and fish needs in downstream Class 1 streams:

23 (a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on
24 both sides of the stream;

25 (b) All nonmerchantable herbaceous vegetation shall be retained;

26 (c) Ground-based equipment shall not be operated within the buffer without approval of the State
27 Forestry Department;

28 (d) Logs shall not be yarded across streams unless the logs are fully suspended in order to
29 minimize disturbance to streambanks, stream channels and streambank vegetation;

30 (e) Streams shall not be crossed without approval of the State Forestry Department; and

31 (f) Merchantable trees may be removed consistent with protection of the buffer, streambanks and
32 stream channels.

33 (4) The State Forestry Department shall consult with the appropriate state agencies in deter-
34 mining which streams are affected by this section.

35 (5) The interim protection in subsection (3) of this section terminates on the effective date of
36 permanent rules adopted by the board for the protection of these streams.

37 (6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
38 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
39 legislative changes.

40 **SECTION 10.** ORS 527.630 is amended to read:

41 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
42 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
43 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
44 public policy of the State of Oregon to encourage economically efficient forest practices that assure

1 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
2 such purposes as the leading use on privately owned land, consistent with sound management of soil,
3 air, water, [and] fish and wildlife resources **and scenic resources within visually sensitive cor-**
4 **ridors as provided in section 17 of this 1991 Act** that assures the continuous benefits of those
5 resources for future generations of Oregonians.

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

11 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
12 it is declared to be in the public interest to vest in the board exclusive authority to develop and
13 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
14 agencies and local governments which are concerned with the forest environment.

15 (4) **The board may adopt and enforce rules addressing scenic considerations only in ac-**
16 **cordance with section 17 of this 1991 Act.**

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

18 527.670. (1) The board shall designate the types of operations for which notice shall be required
19 under this section.

20 (2) The board shall determine by rule what types of operations require a written plan to be ap-
21 proved by the State Forester.

22 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
23 for operations [within]:

24 [(a)] **(A) Within** one hundred feet of a Class 1 stream, unless the board, by rule, provides that
25 a written plan is not required because there is no reasonable likelihood that such operations would
26 damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

27 [(b)] **(B) Within** three hundred feet of a resource site inventoried pursuant to ORS 527.710
28 (3)(a).];

29 **(C) On lands determined by the State Forester to be within high risk sites, unless the**
30 **board, by rule, provides that a written plan is not required because there is no reasonable**
31 **likelihood that such operations would damage a resource described in ORS 527.710 (2); or**

32 **(D) On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.**

33 **(b) Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection**
34 **are not subject to appeal under ORS 527.700 (3).**

35 (4) The distances set forth in [paragraphs (a) and (b)] **subparagraphs (A) and (B) of paragraph**
36 **(a) of subsection (3) of this section** are solely for the purpose of defining an area within which a
37 hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules
38 adopted pursuant to ORS 527.710 (3)(c).

39 (5) For the purpose of determining the distances set forth in [paragraphs (a) and (b)] **subpara-**
40 **graphs (A) and (B) of paragraph (a) of subsection (3) of this section** "site" means the specific re-
41 source site and not any additional buffer area.

42 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the
43 State Forester. The notification shall be on forms provided by the State Forester and shall include
44 the name and address of the operator, timber owner and landowner, the legal description of the

1 operating area, and any other information considered by the State Forester to be necessary for the
2 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
3 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
4 timber owner or landowner did not submit the notification. **The State Forester shall send a copy**
5 **of notices involving chemical applications to persons within five miles of the chemical appli-**
6 **cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a**
7 **person has requested that notification in writing.** The State Forester shall also send to the op-
8 erator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.
9 **Upon receipt of a notification indicating the intent of a landowner to clear-cut harvest im-**
10 **mature timber, as defined by the board, the State Forester shall provide the landowner with**
11 **information regarding the economic and environmental effects of immature timber harvest.**

12 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-
13 tify the State Forester of any subsequent change in the information contained in the notification.

14 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)
15 or (7) of this section, the State Forester shall send a copy of the notice or written plan to the De-
16 partment of Revenue, the county assessor for the county in which the operation is located and per-
17 sons who requested of the State Forester in writing that they be sent copies of notice and written
18 plan and who have paid any applicable fee established by the State Forester for such service. The
19 State Forester may establish a fee for sending copies of notices and written plans under this sub-
20 section not to exceed the actual and reasonable costs.

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

27 (10) Whenever an operator, timber owner or landowner is required to submit a written plan of
28 operations to the State Forester under subsection (3) of this section, the State Forester shall not
29 approve any such written plan until 14 calendar days following the date the written plan was filed
30 with the State Forester. An operation may commence upon approval of the written plan.

31 (11)(a) The State Forester shall issue a decision on a written plan within three working days
32 after the end of the 14-day period described in subsection (10) of this section.

33 (b) If the State Forester fails to issue a decision within five working days after the end of the
34 14-day period described in subsection (10) of this section, the written plan shall be deemed approved
35 and the operation may be commenced.

36 (12) When the operation is required to have a written plan under subparagraph (A) or (B) of
37 paragraph (a) of subsection (3) of this section and comments have been timely filed under subsection
38 (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

39 (a) Send a copy of the approved written plan to persons who submitted timely written comments
40 under subsection (9) of this section pertaining to the operation; and

41 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
42 copies of all timely comments submitted under subsection (9) of this section.

43 **SECTION 12. ORS 527.690 is amended to read:**

44 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of

1 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
2 **requirements**, and if the operator or landowner does not comply with the order within the period
3 specified in such order and the order has not been appealed to the board within 30 days, the State
4 Forester based upon a determination by the forester of what action will best carry out the purposes
5 of ORS 527.630 shall:

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

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

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

22 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
23 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
24 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
25 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
26 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
27 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
28 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
29 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
30 authorized by this section. **If the State Forester's action to repair the damage or correct the**
31 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
32 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
33 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
34 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
35 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
36 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
37 **ceedings to recover the amount specified in the demand.**

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

1 in which the expenditures were made within six months after the date of delivery of the itemized
2 statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided
3 in ORS chapter 88.

4 *[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted*
5 *within six months from the date of filing under subsection (4) of this section.]*

6 **(5) All moneys recovered under this section shall be paid into the State Forestry De-**
7 **partment Account.**

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

9 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
10 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
11 istered by the State Forester establishing [*minimum*] standards for forest practices in each region
12 or subregion.

13 (2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
14 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
15 sources:

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

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

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

- 26 (B) Sensitive bird nesting, roosting and watering sites;
- 27 (C) Biological sites that are ecologically and scientifically significant; and
- 28 (D) Significant wetlands.

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

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

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

40 (a) Air and water pollution programs administered by the Department of Environmental Quality
41 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

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

44 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat

1 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-
2 der ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

3 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
4 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
5 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

6 (e) The programs administered by the Columbia River Gorge Commission under Public Law
7 99-663 and ORS 196.110 and 196.150;

8 (f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-
9 tive programs administered by the State Land Board and the Division of State Lands under ORS
10 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

11 (g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS
12 448.273 to 448.990;

13 (h) Natural heritage conservation programs administered by the Natural Heritage Advisory
14 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

15 (i) Open space land tax incentive programs administered by cities and counties under ORS
16 308.740 to 308.790; and

17 (j) Water resources programs administered by the Water Resources Department under ORS
18 536.220 to 536.540.

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

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

26 (7) The board may enter into cooperative agreements or contracts necessary in carrying out the
27 purposes specified in ORS 527.630. **The State Forestry Department shall enter into agreements**
28 **with appropriate state agencies for joint monitoring of the effectiveness of forest practice**
29 **rules in protecting forest resources and water quality.**

30 **SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610 to 527.730 and is
31 amended to read:

32 527.715. The board shall establish, by rule, the standards and procedures to implement the pro-
33 visions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016,
34 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722,] **527.724**, 527.735, [and]
35 527.992 **and sections 3 to 9 and 17 of this 1991 Act.**

36 **SECTION 15.** (1) The State Forester, in cooperation with the Department of Environmental
37 Quality and the State Department of Fish and Wildlife, shall conduct a study of harvest rates and
38 cumulative effects related to forest practices on forestland in Oregon, and submit a progress report
39 to the Sixty-seventh Legislative Assembly and a final report to the Sixty-eighth Legislative Assembly
40 on the results of the study, along with recommendations for addressing any problems that may be
41 identified during the course of such study.

42 (2) The study shall include, but be not limited to, an analysis of:

43 (a) The annual rates of harvest of commercial tree species on Oregon's private forestlands
44 compared to the annual rates of growth on such forestlands;

1 (b) The effect of such harvest rates on employment and community stability;

2 (c) Age and species composition of commercial forest trees species at final clear-cut harvest, the
3 rationale for such harvests and any problems caused by premature harvesting;

4 (d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
5 the terms of highly leveraged contracts to purchase such resources;

6 (e) The effectiveness of current forest practices rules; and

7 (f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and
8 wildlife. The study of cumulative effects shall be conducted in at least three distinct geographic
9 areas in the state.

10 (3) As results from the analyses in paragraphs (e) and (f) of subsection (2) of this section be-
11 come available, the board shall adopt additional rules it deems necessary to protect forest resources
12 pursuant to ORS 527.630. Nothing in this section shall be construed to limit the board's responsi-
13 bility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

14 (4) For purposes of the study required by this section, "cumulative effects" means the impact
15 on the environment which results from the incremental impact of the forest practice when added to
16 other past, present and reasonably foreseeable future forest practices regardless of what govern-
17 mental agency or person undertakes such other actions. Nothing in this section shall be construed
18 to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon
19 Forest Practices Act.

20 (5) This section is repealed January 1, 1995.

21 **SECTION 16.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

22 **SECTION 17.** (1) The following highways are hereby designated as scenic highways for purposes
23 of the Oregon Forest Practices Act:

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

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

27 (2) In consultation with the Department of Transportation, the board shall establish procedures
28 and regulations as necessary to implement the requirements of subsection (3) of this section, con-
29 sistent with the safety of the motoring public, including provisions for alternate plans providing
30 equivalent or better results within visually sensitive corridors extending 150 feet from the outermost
31 shoulder of the roadway along both sides and for the full length of the scenic highways designated
32 in subsection (1) of this section.

33 (3)(a) For harvest operations within a visually sensitive corridor, at least 50 health trees of at
34 least 11 inches at DBH, or that measure at least 40 square feet in basal area, shall be temporarily
35 left on each acre. Harvest areas shall be cleared of major harvest debris within 30 days of the
36 completion of the harvest or within 60 days of the cessation of active harvesting activity on the site,
37 regardless of whether the harvest operation is complete.

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 250 stems per acre.

41 (c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the
42 corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or
43 at least 40 square feet of basal area, no trees are required to be left in the visually sensitive corri-
44 dor, or trees initially required to be left under paragraph (a) of this subsection may be removed.

1 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
2 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
3 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
4 completed by the end of the first planting season after the completion of harvest. A minimum of 400
5 trees per acre shall be planted. By the end of the fifth growing season after the completion of
6 planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over the
7 area, which are "free to grow" as defined by the board. When harvests within the visually sensitive
8 corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the
9 corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive
10 corridor has been reforested as required under this paragraph and the stand has attained an average
11 height of at least 10 feet and has at least 250 stems per acre.

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

15 **SECTION 18.** The State Forestry Department shall conduct a study and shall submit to the
16 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
17 this state. The study shall use existing information to assess the availability of native Pacific yew
18 on public and private lands in this state.

19 **SECTION 19.** ORS 527.724 is amended to read:

20 527.724. **Subject to sections 20 and 21 of this 1991 Act,** any forest operations on forestlands
21 within this state shall be conducted in full compliance with the rules and standards of the Envi-
22 ronmental Quality Commission relating to air and water pollution control. In addition to all other
23 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
24 and sanctions available under statute or rule to the Department of Environmental Quality or the
25 Environmental Quality Commission.

26 **SECTION 20.** (1) The board shall establish best management practices and other rules applying
27 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
28 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
29 ment and maintenance of water quality standards established by the Environmental Quality Com-
30 mission for the waters of the state. Such best management practices shall consist of forest practices
31 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
32 board in establishing best management practices shall include, where applicable, but not be limited
33 to:

- 34 (a) Beneficial uses of waters potentially impacted;
35 (b) Technical, economic and institutional feasibility; and
36 (c) Natural variations in geomorphology and hydrology.

37 (2) The board shall consult with the Environmental Quality Commission in adoption and review
38 of best management practices and other rules to address nonpoint source discharges of pollutants
39 resulting from forest operations on forestlands.

40 (3)(a) Upon written petition of any interested person or agency, the board, in accordance with
41 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
42 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
43 pollutants resulting from forest operations being conducted in accordance with the best management
44 practices are a significant contributor to violations of such standards.

1 (b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
2 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
3 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
4 was filed.

5 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
6 operations being conducted in accordance with the best management practices are neither signif-
7 icantly responsible for particular water quality standards not being met nor are a significant con-
8 tributor to violations of such standards, the board shall issue an order dismissing the petition.

9 (d) If the petition for review of best management practices is made by the Environmental Quality
10 Commission, the board shall not terminate the review without the concurrence of the commission,
11 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

12 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
13 order that includes findings regarding specific allegations in the petition and shall state the board's
14 reasons for any conclusions to the contrary.

15 (f) If, pursuant to review, the board determines that best management practices should be re-
16 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
17 revised best management practices must be adopted not later than two years from the filing date
18 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
19 mission, finds that special circumstances require additional time.

20 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
21 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
22 cable to prevent significant damage to beneficial uses identified by the commission while the board
23 is revising its best management practices and rules as provided for in this section.

24 (h) The board shall include in its triennial review of administrative rules an analysis of the ef-
25 fectiveness of the best management practices and other rules applying to forest practices adopted
26 to maintain water quality standards established by the Environmental Quality Commission.

27 **SECTION 21.** A forest operator conducting, or in good faith proposing to conduct, operations
28 in accordance with best management practices currently in effect shall not be considered in vio-
29 lation of any water quality standards. When the board adopts new best management practices and
30 other rules applying to forest operations, such rules shall apply to all current or proposed forest
31 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
32 ter quality standards against a forest operator conducting operations after the time provided in
33 section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
34 ther has not adopted revised management practices or has not made a finding that such revised best
35 management practices are not required.

36 **SECTION 22.** Sections 23 and 24 of this Act are added to and made a part of ORS 468.700 to
37 468.778.

38 **SECTION 23.** Upon request of the State Board of Forestry, the Environmental Quality Com-
39 mission shall review any water quality standard that affects forest operations on forestlands. The
40 commission's review may be limited to or coordinated with the triennial or any other regularly
41 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 24 of
42 this 1991 Act and applicable federal law.

43 **SECTION 24.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
44 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or

1 department may, by rule or order, impose and enforce limitations or other controls which may in-
2 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
3 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
4 federal regulations and guidelines issued pursuant thereto.

5 (2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the En-
6 vironmental Quality Commission nor the Department of Environmental Quality shall promulgate or
7 enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
8 operations on forestlands in this state. Any limitations or controls applying to nonpoint source dis-
9 charges or pollutants resulting from forest operations are subject to sections 20 and 21 of this 1991
10 Act. However, nothing in this section is intended to affect the authority of the commission or the
11 department provided by law to impose and enforce limitations or other controls on water pollution
12 from sources other than forest operations.

13 (3) When the Environmental Quality Commission establishes instream water quality standards
14 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
15 available scientific information including, but not limited to, stream flow, geomorphology and other
16 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
17 conditions.

18 (4) When the Environmental Quality Commission establishes instream water quality standards,
19 it will also issue guidelines describing how the department and the commission will determine
20 whether water quality standards in waters affected by nonpoint source activities are being met. In
21 developing these guidelines, the commission shall include, where applicable, those physical charac-
22 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
23 factors which represent the variability and complexity of forested and other appropriate hydrologic
24 systems.

25 **SECTION 25.** (1) The State Board of Forestry, after consultation with the State Department of
26 Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
27 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
28 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
29 lation declines if that is the case; assign the relative importance of forest practices to these declines,
30 compared to other leading causes; identify the relative importance of various habitat characteristics
31 in streams in limiting anadromous fish production; determine how forest practices have affected fish
32 production; determine how forest practices have affected these habitat characteristics and
33 anadromous fish populations before and since 1972; identify the extent to which forest practices are
34 limiting the recovery of depressed anadromous fish populations; and make recommendations as to
35 how forest practices can assist in recovery of anadromous fish populations.

36 (2) The board shall contract with an independent and disinterested organization to assemble a
37 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
38 to write a report of its findings.

39 (3) Nothing in this section shall be construed to limit the ability of the board to promulgate
40 rules relating to forest practices which appropriately protect fish and wildlife populations.

41 **SECTION 26.** (1) The study required by section 25 of this 1991 Act shall be financed from such
42 moneys as are referred to in this section and sections 27 and 29 of this 1991 Act.

43 (2) The State Board of Forestry shall request:

44 (a) The United States Forest Service to pay 25 percent of the study cost.

1 (b) The Bureau of Land Management to pay 15 percent of the study cost.

2 (c) The Bonneville Power Administration to pay 25 percent of the study cost.

3 **SECTION 27.** In addition to and not in lieu of any other appropriations or moneys made avail-
4 able by law or from other sources, there is appropriated to the State Forestry Department, for the
5 biennium beginning July 1, 1991, out of the General Fund, the sum of \$_____. Such sum may only
6 be expended to pay the costs of the study required by section 25 of this Act.

7 **SECTION 28.** Section 29 of this Act is added to and made a part of ORS 321.005 to 321.185.

8 **SECTION 29.** (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is
9 levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products har-
10 vested on forestland during the period beginning July 1, 1991, and ending June 30, 1993, in the
11 amount provided in subsection (2) of this section.

12 (2) The rate of tax levied in subsection (1) of this section shall be two cents per thousand feet,
13 board measure, on all merchantable forest products harvested on forestland.

14 (3) The tax shall be measured by and be applicable to each per thousand feet, board measure,
15 and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4)
16 and (5).

17 (4) The tax levied by subsection (1) of this section shall be due and payable to the department
18 in the manner and procedure, including penalties and interest, as set forth for the collection of the
19 privilege tax in ORS 321.005 to 321.185.

20 (5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the
21 State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After
22 payment of refunds, which shall be paid in the same manner as other forest products harvest tax
23 refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1)
24 of this section shall be deposited to the account referred to in ORS 321.185.

25 **SECTION 30.** ORS 527.722 is amended to read:

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

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

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

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

39 [(a)] (c) The establishment or alteration of structures other than temporary onsite structures
40 which are auxiliary to and used during the term of a particular forest operation;

41 [(b)] (d) The siting or alteration of dwellings;

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

1 ~~[(d)]~~ (f) Partitions and subdivisions of the land[; or].

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

4 ~~[(3)]~~ (4) Counties can prohibit forest practices on land for which an acknowledged exception to
5 an agricultural or forestland goal has been taken.

6 (5) To insure that all forest operations in this state are regulated to achieve protection
7 of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon
8 Forest Practices Act applies to forestlands inside any urban growth boundary unless a local
9 government has adopted regulations for forest practices. Such local regulations shall:

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

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

12 (6) Local governments which have, before the effective date of this 1991 Act, adopted a
13 comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest
14 practices consistent with subsections (1) to (5) of this section shall inform the State Forester
15 of such policies and regulations within 60 days of the effective date of this 1991 Act. Exist-
16 ence or adoption of such policies or regulations relieves the State Forester of responsibility
17 to administer the Oregon Forest Practices Act within the affected area.

18 (7) The Director of the Department of Land Conservation and Development shall provide
19 the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such no-
20 tices concern the adoption, amendment or repeal of a comprehensive land use regulation al-
21 lowing, prohibiting or regulating forest practices.

22 SECTION 31. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and 527.990.

23

House Committee on Agriculture, Forestry & Natural Resources

Working Title: Forest Practices Act
Meeting Dates: 6/4/91 (PH), 6/6/91 (PH/WS), 6/7/91 (WS)
Action: Do pass with amendments; be referred to Ways and Means by prior reference
Vote: 5 - 0
Yeas: Reps. Josi, Meek, Norris, VanLeeuwen, Schroeder
Nays: 0
Exc.: Reps. Dominy, Dwyer
Carrier:
Prepared By: Beth Patrino, Committee Administrator

WHAT THE BILL DOES: SB 1125-B modifies provisions of the Oregon Forest Practices Act. The major provisions of the bill are as follows:

Stream Classification: Directs the Board of Forestry to create at least three stream classifications and establish rules applicable to each classification by September 1, 1992. Requires Board to review its current riparian protection rules. Interim protection is provided for streams important to threatened, endangered, sensitive or game fish species and streams with an average gradient of not more than eight percent which are important to water quality and fish needs in downstream Class 1 streams.

Clearcuts: Sets limits on contiguous clearcuts until prior clearcut has been reforested. Exceptions are made for conversion, understocked lands and lands damaged by fire or insects. Establishes a 120 acre limit on clearcut size within a single ownership with exceptions permitted up to 240 acres under certain conditions.

Water Quality: Modifies relationship between the Departments of Environmental Quality and Forestry on the regulation of water quality. Requires Board to establish best management practices. Provides that if a forest operator conducts operations in accordance with best management practices, the operation cannot be considered to be in violation of any water quality standards. Prohibits the Environmental Quality Commission from promulgating rules regarding effluent limitations upon non-point source discharges from forest operations unless required by federal law.

Wildlife Habitat: Sets standards for snag and downed log or tree retention for clearcut harvest exceeding 15 acres.

Reforestation: Directs the Board to adopt standards for reforestation of clearcut harvests. Sets certain reforestation requirements in statute. Requires that reforestation commence within 12 months and be completed by the end of the second planting season. By the end of the fifth growing season, at least 200 healthy conifers or suitable hardwood seedlings must be established per acre. Allows Board to establish alternate standards for clearcuts, upon certain findings.

Written Plans: Adds to existing written plan requirement that plans be prepared for clearcuts in excess of 120 acres and for high risk sites as determined by the State Forester. Allows persons holding downstream water rights within five miles of chemical application to request copies of notice.

This summary has not been adopted or officially endorsed by action of the committee.

Land Use Conversions: Tightens requirements on landowners wishing to convert forest land to non-forest uses.

Scenic Values: Designates certain highways as scenic highways for the purposes of the Forest Practices Act. Sets standards for harvest operations within visually scenic corridors within 150 feet of highway rights of way.

Forest Practices within UGB'S: Provides that the Forest Practices Act applies to forest land whether it is inside or outside of an urban growth boundary unless a local government has adopted its own forest practices policies and regulations.

Studies: Requires the following studies:

- Joint monitoring of effectiveness of forest practices rules
- Harvest rates and cumulative effects related to forest practices
- Study of existing information on native Pacific Yew
- Effects of forest practices on anadromous fish runs

Harvest Tax: Levies a harvest tax of two cents per thousand board feet on all merchantable forest products. Deposits revenues into Forest Research and Experiment Account to fund study of the effect of forest practices on anadromous fish runs.

ISSUES DISCUSSED: A range of issues related to forest practices, including the issues listed above.

EFFECT OF COMMITTEE AMENDMENTS: Put specific standards into statute, rather than authorizing the Board of Forestry to adopt standards by rule. Delete authority for Board to adopt rules to minimize the adverse impacts of cumulative effects. Limit snag and downed logs or trees requirements to clearcuts exceeding 15 acres. Replace requirement that sites infested with root pathogens be reforested with a resistant or immune tree species with direction to Board to encourage such planting. Replace prohibition on planting of species susceptible to an insect or disease if planting would facilitate the spreading of the disease or insect and there are immune or tolerant commercial species adapted to the site with direction the Board to encourage such plantings. Limit Board's authority to adopt and enforce rules addressing scenic considerations to scenic highway provisions of this Act. Change requirement that State Forester notify downstream surface water right holders of chemical applications within 15 miles of application to within 5 miles. Change review period for written plans from 30 to 14 days. Delete provisions requiring that the Board adopt rules for the restoration of various resources, and overall maintenance and restoration of fish and wildlife habitat. Delete provisions relating to smoke management. Add provisions related to application of Forest Practices Act within an urban growth boundary.

BACKGROUND: The Oregon Legislature passed the current Forest Practices Act (FPA) in 1971. The first significant statutory changes were made to the FPA in 1987 (HB 3396). The Board of Forestry was reconstituted and given exclusive responsibility for protecting forest resources. Written plan requirements were expanded, and the Board was required to inventory certain resources.

This summary has not been adopted or officially endorsed by action of the committee.

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 1125

By COMMITTEE ON AGRICULTURE, FORESTRY AND NATURAL RESOURCES

June 14

1 On page 1 of the printed A-engrossed bill, line 3, after "527.710," insert "527.715, 527.722 and"
2 and delete "and section 8, chapter 920, Oregon Laws 1989".

3 Delete lines 6 through 22 and delete pages 2 through 16 and insert:

4 "SECTION 1. ORS 527.620 is amended to read:

5 "527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

6 "[~~(1)~~ 'State Forester' means the State Forester or the duly authorized representative of the State
7 Forester.]

8 "[~~(2)~~ 'Operator' means any person, including a landowner or timber owner, who conducts an op-
9 eration.]

10 "[~~(3)~~ (1) 'Board' means the State Board of Forestry.

11 "(2) 'Clear-cut' means any harvest unit in western Oregon that leaves fewer than 50 trees
12 per acre that are well-distributed over the unit and that measure at least 11 inches at DBH
13 or that measure less than 40 square feet of basal area per acre. 'Clear-cut' means any har-
14 vest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-distributed
15 over the unit and that measure at least 10 inches at DBH. For purposes of this subsection,
16 no tree shall be counted unless the top one-third of the bole of the tree supports a green, live
17 crown. For purposes of computing basal area, trees larger than 20 inches shall be considered
18 20-inch trees.

19 "(3) 'DBH' means the diameter at breast height which is measured as the width of a
20 standing tree at four and one-half feet above the ground, on the uphill side.

21 "(4) 'Forestland' means land which is used for the growing and harvesting of forest tree species,
22 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
23 or regulations are applied. Forest tree species does not include Christmas trees on land used solely
24 for the production of cultured Christmas trees as defined in ORS 215.203 (3).

25 "(5) 'Forest practice' means any operation conducted on or pertaining to forest land, including
26 but not limited to:

27 "(a) Reforestation of forestland;

28 "(b) Road construction and maintenance;

29 "(c) Harvesting of forest tree species;

30 "(d) Application of chemicals; and

31 "(e) Disposal of slash.

32 "[~~(6)~~ 'Operation' means any commercial activity relating to the growing or harvesting of forest tree
33 species.]

34 "[~~(7)~~ (6) 'Landowner' means any individual, combination of individuals, partnership, corporation

1 or association of whatever nature that holds an ownership interest in forestland, including the state
2 and any political subdivision thereof.

3 **"(7) 'Operation' means any commercial activity relating to the growing or harvesting of**
4 **forest tree species.**

5 **"(8) 'Operator' means any person, including a landowner or timber owner, who conducts**
6 **an operation.**

7 **"(9) 'State Forester' means the State Forester or the duly authorized representative of**
8 **the State Forester.**

9 **"(10) 'Suitable hardwood seedlings' means any hardwood seedling that will eventually**
10 **yield logs or fiber, or both, sufficient in size and quality for the production of lumber,**
11 **plywood, pulp or other forest products.**

12 **"[(8)] (11) 'Timber owner' means any individual, combination of individuals, partnership, corpo-**
13 **ration or association of whatever nature, other than a landowner, that holds an ownership interest**
14 **in any forest tree species on forestland.**

15 **"(12) 'Visually sensitive corridor' means forestland located within the area extending 150**
16 **feet measured on the slope from the outermost right of way boundary of a scenic highway**
17 **referred to in section 17 of this 1991 Act.**

18 **"[(9)] (13) 'Written plan' means a plan submitted by an operator, for written approval by the**
19 **State Forester, which describes how the operation will be conducted, including the means to protect**
20 **resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of**
21 **this 1991 Act, if applicable.**

22 **"SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are added to and made**
23 **a part of ORS 527.610 to 527.730.**

24 **"SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be admin-**
25 **istered by the State Forester as standards applying to all operations in the state, including those**
26 **on forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the**
27 **board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to**
28 **implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act**
29 **shall affect the powers and duties of the board to adopt, or the State Forester to administer, all**
30 **other regulations pertaining to forest practices under applicable state law.**

31 **"(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is**
32 **for growth enhancement treatments, as defined by the State Forester, such as thinning or precom-**
33 **mmercial thinning.**

34 **"SECTION 4. (1) No clear-cut unit within a single ownership shall exceed 120 acres in size,**
35 **except as provided in section 7 of this 1991 Act.**

36 **"(2) No clear-cut unit shall be allowed within 300 feet of the perimeter of a prior clear-cut unit**
37 **if the combined acreage of the clear-cut areas subject to regulation under the Oregon Forest Prac-**
38 **tices Act would exceed 120 acres in size, unless the prior clear-cut unit has been reforested as re-**
39 **quired by all applicable regulations and:**

40 **"(a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and**
41 **either**

42 **"(b) The resultant reproduction has attained an average height of at least four feet; or**

43 **"(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is**
44 **'free to grow' as defined by the board.**

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

3 “(4) The provisions of this section shall not apply when the land is being converted to conifers
4 or managed hardwoods from brush or understocked hardwoods, or when the clear-cut harvest results
5 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
6 Forester determines was beyond the landowner’s control and has substantially impaired productivity
7 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
8 be required for such conversion or clear-cut operations that exceed 120 acres in size.

9 “(5) The provisions of this section do not apply to any operation where the operator demon-
10 strates to the State Forester that:

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

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

16 “SECTION 5. (1) In a clear-cut harvest unit exceeding 15 acres, the operator shall leave, on
17 average per acre harvested, at least:

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

20 “(b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at
21 least 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if
22 trees of this size are not available on the site.

23 “(2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
24 logs may be left in one or more clusters rather than distributed throughout the unit. The location
25 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
26 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
27 in addition to all other requirements pertaining to forest operations and may not be met by counting
28 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
29 527.710 (3).

30 “SECTION 6. (1) The board shall adopt standards for the reforestation of clear-cut harvests.
31 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
32 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
33 1991 Act, the standards for the reforestation of clear-cuts shall include the following:

34 “(a) Reforestation, including site preparation, of clear-cut units shall commence within 12
35 months after the completion of harvest and shall be completed by the end of the second planting
36 season after the completion of harvest. By the end of the fifth growing season after planting or
37 seeding, at least 200 healthy conifer or suitable hardwood seedlings shall be established per acre,
38 well-distributed over the area, which are ‘free to grow’ as defined by the board.

39 “(b) Landowners may submit plans for alternate practices that do not conform to the standards
40 established under paragraph (a) of this subsection or the alternate standards adopted under sub-
41 section (2) of this section, including but not limited to variances in the time in which reforestation
42 is to be commenced or completed or plans to reforest sites by natural reforestation. Such alternate
43 plans may be approved if the State Forester determines that the plan will achieve equivalent or
44 better regeneration results for the particular conditions of the site, or the plan carries out an au-

1 thorized research project conducted by a public agency or educational institution.

2 “(2) The board, by rule, may establish alternate standards for the reforestation of clear-cuts, in
3 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
4 standards will better assure the continuous growing and harvesting of forest tree species and the
5 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
6 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

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

21 “(5) The requirements of this section apply only to clear-cuts as defined in ORS 527.620 (2).
22 Nothing in this section is intended to affect the administration and enforcement of regulations per-
23 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
24 result of operations other than such clear-cuts.

25 **“SECTION 7. (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clear-cut**
26 **unit within a single ownership that exceeds 120 acres but does not exceed 240 acres may be ap-**
27 **proved by the State Forester if all the requirements of this section and any additional requirements**
28 **established by the board are met. Proposed clear-cut units that are within 300 feet of the perimeter**
29 **of a prior clear-cut unit, and that would result in a total combined clear-cut area under a single**
30 **ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester**
31 **if the additional requirements are met for the combined clear-cut area. No clear-cut unit within a**
32 **single ownership shall exceed 240 contiguous acres. No clear-cut unit shall be allowed within 300**
33 **feet of the perimeter of a prior clear-cut unit if the combined acreage of the clear-cut areas subject**
34 **to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior**
35 **clear-cut unit has been reforested by all applicable regulations and:**

36 “(a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
37 either

38 “(b) The resultant reproduction has attained an average height of at least four feet; or

39 “(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
40 ‘free to grow’ as defined by the board.

41 “(2) The requirements of this section are in addition to all other requirements of the Oregon
42 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
43 applied in lieu of such other requirements only to the extent the requirements of this section are
44 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or

1 (5) of this 1991 Act.

2 “(3) The board shall require that a written plan be submitted prior to approval of a clear-cut
3 operation under this section. The board may establish by rule any additional standards applying to
4 operations under this section.

5 “(4) The State Forester shall approve the clear-cut operation if the proposed clear-cut would
6 provide better overall results in meeting the requirements and objectives of the Oregon Forest
7 Practices Act.

8 “(5) The board shall specify by rule the information to be submitted for approval of clear-cut
9 operations under this section, including evidence of past satisfactory compliance with the Oregon
10 Forest Practices Act.

11 **“SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
12 amend rules as necessary to assure that only bona fide, established and continuously maintained
13 changes from forest uses are provided an exemption from reforestation requirements. The board
14 shall set specific time periods for the completion of land use conversions. Among other factors, the
15 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

27 “(2) The board may require that, prior to commencing an operation where a change in land use
28 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
29 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
30 ration and reforestation for the area subject to an exemption from reforestation due to a change in
31 land use, and shall require that provisions be made for the administration and collection on such
32 bond or security deposit in the event that the change in land use is not established or continuously
33 maintained within a time certain.

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

37 **“SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
38 waters of the state, create at least three classifications and establish rules applicable to each clas-
39 sification. The board shall give particular consideration to perennial streams, not currently classi-
40 fied as Class 1, which have an average gradient of not more than eight percent and which are
41 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
42 requirements for vegetative buffers along such streams consistent with the health of the forest, re-
43 moval of merchantable trees and protection of streambank and channel.

44 “(2) The board shall review current Class 1 stream and associated riparian protection rules and,

1 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources.

2 “(3) Until the board adopts rules pursuant to this section, the following interim protection shall
3 apply to operations near streams which are important to threatened, endangered, sensitive or game
4 fish species and to streams with an average gradient of not more than eight percent and which are
5 important to water quality and fish needs in downstream Class 1 streams:

6 “(a) A buffer three times the stream width or 25 feet, whichever is greater, shall be retained on
7 both sides of the stream;

8 “(b) All nonmerchantable herbaceous vegetation shall be retained;

9 “(c) Ground-based equipment shall not be operated within the buffer without approval of the
10 State Forestry Department;

11 “(d) Logs shall not be yarded across streams unless the logs are fully suspended in order to
12 minimize disturbance to streambanks, stream channels and streambank vegetation;

13 “(e) Streams shall not be crossed without approval of the State Forestry Department; and

14 “(f) Merchantable trees may be removed consistent with protection of the buffer, streambanks
15 and stream channels.

16 “(4) The State Forestry Department shall consult with the appropriate state agencies in deter-
17 mining which streams are affected by this section.

18 “(5) The interim protection in subsection (3) of this section terminates on the effective date of
19 permanent rules adopted by the board for the protection of these streams.

20 “(6) The board shall report to the Sixty-seventh Legislative Assembly on the results of the
21 board’s reviews pursuant to this section and section 8 of this 1991 Act, including any recommen-
22 dations for legislative changes.

23 “SECTION 10. ORS 527.630 is amended to read:

24 “527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
25 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
26 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
27 public policy of the State of Oregon to encourage economically efficient forest practices that assure
28 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
29 such purposes as the leading use on privately owned land, consistent with sound management of soil,
30 air, water, [and] fish and wildlife resources **and scenic resources within visually sensitive cor-
31 ridors as provided in section 17 of this 1991 Act** that assures the continuous benefits of those
32 resources for future generations of Oregonians.

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

38 “(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and
39 527.990, it is declared to be in the public interest to vest in the board exclusive authority to develop
40 and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
41 agencies and local governments which are concerned with the forest environment.

42 “(4) **The board may adopt and enforce rules addressing scenic considerations only in ac-
43 cordance with section 17 of this 1991 Act.**

44 “SECTION 11. ORS 527.670 is amended to read:

1 "527.670. (1) The board shall designate the types of operations for which notice shall be required
2 under this section.

3 "(2) The board shall determine by rule what types of operations require a written plan to be
4 approved by the State Forester.

5 "(3)(a) The board's determination under subsection (2) of this section shall require a written
6 plan for operations [within]:

7 "[a] (A) Within one hundred feet of a Class 1 stream, unless the board, by rule, provides that
8 a written plan is not required because there is no reasonable likelihood that such operations would
9 damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

10 "[b] (B) Within three hundred feet of a resource site inventoried pursuant to ORS 527.710
11 (3)(a).];

12 "(C) On lands determined by the State Forester to be within high risk sites, unless the
13 board, by rule, provides that a written plan is not required because there is no reasonable
14 likelihood that such operations would damage a resource described in ORS 527.710 (2); or

15 "(D) On lands to be clear-cut in excess of 120 acres pursuant to section 7 of this 1991 Act.

16 "(b) Plans submitted under subparagraphs (C) and (D) of paragraph (a) of this subsection
17 are not subject to appeal under ORS 527.700 (3).

18 "(4) The distances set forth in [paragraphs (a) and (b)] subparagraphs (A) and (B) of para-
19 graph (a) of subsection (3) of this section are solely for the purpose of defining an area within which
20 a hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules
21 adopted pursuant to ORS 527.710 (3)(c).

22 "(5) For the purpose of determining the distances set forth in [paragraphs (a) and (b)] subpar-
23 agraphs (A) and (B) of paragraph (a) of subsection (3) of this section 'site' means the specific re-
24 source site and not any additional buffer area.

25 "(6) An operator, timber owner or landowner, before commencing an operation, shall notify the
26 State Forester. The notification shall be on forms provided by the State Forester and shall include
27 the name and address of the operator, timber owner and landowner, the legal description of the
28 operating area, and any other information considered by the State Forester to be necessary for the
29 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
30 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
31 timber owner or landowner did not submit the notification. **The State Forester shall send a copy
32 of notices involving chemical applications to persons within five miles of the chemical appli-
33 cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a
34 person has requested that notification in writing.** The State Forester shall also send to the op-
35 erator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.
36 **Upon receipt of a notification indicating the intent of a landowner to clear-cut harvest im-
37 mature timber, as defined by the board, the State Forester shall provide the landowner with
38 information regarding the economic and environmental effects of immature timber harvest.**

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

41 "(8) Within three working days of receipt of a notice or a written plan filed under subsection
42 (6) or (7) of this section, the State Forester shall send a copy of the notice or written plan to the
43 Department of Revenue, the county assessor for the county in which the operation is located and
44 persons who requested of the State Forester in writing that they be sent copies of notice and written

1 plan and who have paid any applicable fee established by the State Forester for such service. The
2 State Forester may establish a fee for sending copies of notices and written plans under this sub-
3 section not to exceed the actual and reasonable costs.

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

10 “(10) Whenever an operator, timber owner or landowner is required to submit a written plan
11 of operations to the State Forester under subsection (3) of this section, the State Forester shall not
12 approve any such written plan until 14 calendar days following the date the written plan was filed
13 with the State Forester. An operation may commence upon approval of the written plan.

14 “(11)(a) The State Forester shall issue a decision on a written plan within three working days
15 after the end of the 14-day period described in subsection (10) of this section.

16 “(b) If the State Forester fails to issue a decision within five working days after the end of the
17 14-day period described in subsection (10) of this section, the written plan shall be deemed approved
18 and the operation may be commenced.

19 “(12) When the operation is required to have a written plan under subparagraph (A) or (B) of
20 paragraph (a) of subsection (3) of this section and comments have been timely filed under subsection
21 (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

22 “(a) Send a copy of the approved written plan to persons who submitted timely written com-
23 ments under subsection (9) of this section pertaining to the operation; and

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

26 “**SECTION 12.** ORS 527.690 is amended to read:

27 “527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of
28 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
29 **requirements**, and if the operator or landowner does not comply with the order within the period
30 specified in such order and the order has not been appealed to the board within 30 days, the State
31 Forester based upon a determination by the forester of what action will best carry out the purposes
32 of ORS 527.630 shall:

33 “(a) Maintain an action in the Circuit Court for Marion County or the circuit court for the
34 county in which the violation occurred for an order requiring the landowner or operator to comply
35 with the terms of the forester’s order or to restrain violations thereof; or

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

44 “(2) The board shall review the matter presented to it pursuant to subsection (1) of this section

1 and shall determine whether to authorize the State Forester to proceed to repair the damage or
2 correct the unsatisfactory condition and the amount authorized for expenditure. The board shall af-
3 ford the operator, timber owner or landowner the opportunity to appear before the board for the
4 purpose of presenting facts pertaining to the alleged violation and the proposed expenditure.

5 “(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfac-
6 tory condition, the State Forester shall proceed, either with forces of the State Forester or by con-
7 tract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep
8 a complete account of direct expenditures incurred, and upon completion of the work, shall prepare
9 an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
10 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
11 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
12 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
13 authorized by this section. **If the State Forester’s action to repair the damage or correct the**
14 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
15 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
16 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
17 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
18 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
19 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
20 **ceedings to recover the amount specified in the demand.**

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

31 “[5] *Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted*
32 *within six months from the date of filing under subsection (4) of this section.*”

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

35 “SECTION 13. ORS 527.710 is amended to read:

36 “527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
37 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
38 istered by the State Forester establishing [minimum] standards for forest practices in each region
39 or subregion.

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

43 “(a) Air quality;

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

1 “(c) Soil productivity; and

2 “(d) Fish and wildlife.

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

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

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

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

11 “(D) Significant wetlands.

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

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

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

23 “(a) Air and water pollution programs administered by the Department of Environmental Quality
24 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

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

27 “(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish
28 habitat improvement tax incentive programs administered by the State Department of Fish and
29 Wildlife under ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

30 “(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
31 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
32 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

33 “(e) The programs administered by the Columbia River Gorge Commission under Public Law
34 99-663 and ORS 196.110 and 196.150;

35 “(f) Removal and fill, natural heritage conservation and natural heritage conservation tax in-
36 centive programs administered by the State Land Board and the Division of State Lands under ORS
37 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

38 “(g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS
39 448.273 to 448.990;

40 “(h) Natural heritage conservation programs administered by the Natural Heritage Advisory
41 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

42 “(i) Open space land tax incentive programs administered by cities and counties under ORS
43 308.740 to 308.790; and

44 “(j) Water resources programs administered by the Water Resources Department under ORS

1 536.220 to 536.540.

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

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

9 "(7) The board may enter into cooperative agreements or contracts necessary in carrying out
10 the purposes specified in ORS 527.630. **The State Forestry Department shall enter into agree-**
11 **ments with appropriate state agencies for joint monitoring of the effectiveness of forest**
12 **practice rules in protecting forest resources and water quality.**

13 "**SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610 to 527.730 and is
14 amended to read:

15 "527.715. The board shall establish, by rule, the standards and procedures to implement the
16 provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009,
17 526.016, 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722,] **527.724**, 527.735,
18 [and] 527.992 and sections 3 to 9 and 17 of this 1991 Act.

19 "**SECTION 15.** (1) The State Forester, in cooperation with the Department of Environmental
20 Quality and the State Department of Fish and Wildlife, shall conduct a study of harvest rates and
21 cumulative effects related to forest practices on forestland in Oregon, and submit a progress report
22 to the Sixty-seventh Legislative Assembly and a final report to the Sixty-eighth Legislative Assembly
23 on the results of the study, along with recommendations for addressing any problems that may be
24 identified during the course of such study.

25 "(2) The study shall include, but be not limited to, an analysis of:

26 "(a) The annual rates of harvest of commercial tree species on Oregon's private forestlands
27 compared to the annual rates of growth on such forestlands;

28 "(b) The effect of such harvest rates on employment and community stability;

29 "(c) Age and species composition of commercial forest trees species at final clear-cut harvest,
30 the rationale for such harvests and any problems caused by premature harvesting;

31 "(d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
32 the terms of highly leveraged contracts to purchase such resources;

33 "(e) The effectiveness of current forest practices rules; and

34 "(f) The impact of cumulative effects of harvest operations on air, soil, water, and fish and
35 wildlife. The study of cumulative effects shall be conducted in at least three distinct geographic
36 areas in the state.

37 "(3) As results from the analyses in paragraphs (e) and (f) of subsection (2) of this section be-
38 come available, the board shall adopt additional rules it deems necessary to protect forest resources
39 pursuant to ORS 527.630. Nothing in this section shall be construed to limit the board's responsi-
40 bility to carry out any other rulemaking requirements of the Oregon Forest Practices Act.

41 "(4) For purposes of the study required by this section, 'cumulative effects' means the impact
42 on the environment which results from the incremental impact of the forest practice when added to
43 other past, present and reasonably foreseeable future forest practices regardless of what govern-
44 mental agency or person undertakes such other actions. Nothing in this section shall be construed

1 to limit the board's responsibility to carry out any other rulemaking requirements of the Oregon
2 Forest Practices Act.

3 "(5) This section is repealed January 1, 1995.

4 "**SECTION 16.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

5 "**SECTION 17.** (1) The following highways are hereby designated as scenic highways for pur-
6 poses of the Oregon Forest Practices Act:

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

8 "(b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 36, 38, 42, 58, 62, 82, 97, 101, 126, 138, 140,
9 199, 230, 234 and 395.

10 "(2) In consultation with the Department of Transportation, the board shall establish procedures
11 and regulations as necessary to implement the requirements of subsection (3) of this section, con-
12 sistent with the safety of the motoring public, including provisions for alternate plans providing
13 equivalent or better results within visually sensitive corridors extending 150 feet from the outermost
14 shoulder of the roadway along both sides and for the full length of the scenic highways designated
15 in subsection (1) of this section.

16 "(3)(a) For harvest operations within a visually sensitive corridor, at least 50 health trees of at
17 least 11 inches at DBH, or that measure at least 40 square feet in basal area, shall be temporarily
18 left on each acre. Harvest areas shall be cleared of major harvest debris within 30 days of the
19 completion of the harvest or within 60 days of the cessation of active harvesting activity on the site,
20 regardless of whether the harvest operation is complete.

21 "(b) Overstory trees initially required to be left under paragraph (a) of this subsection may be
22 removed when the reproduction understory reaches an average height of at least 10 feet and has
23 at least 250 stems per acre.

24 "(c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the
25 corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or
26 at least 40 square feet of basal area, no trees are required to be left in the visually sensitive corri-
27 dor, or trees initially required to be left under paragraph (a) of this subsection may be removed.
28 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
29 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
30 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
31 completed by the end of the first planting season after the completion of harvest. A minimum of 400
32 trees per acre shall be planted. By the end of the fifth growing season after the completion of
33 planting, at east 250 healthy conifer seedlings shall be established per acre, well-distributed over the
34 area, which are 'free to grow' as defined by the board. When harvests within the visually sensitive
35 corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from the
36 corridor to 300 feet from the corridor, shall not be clear-cut until the adjacent visually sensitive
37 corridor has been reforested as required under this paragraph and the stand has attained an average
38 height of at least 10 feet and has at least 250 stems per acre.

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

42 "**SECTION 18.** The State Forestry Department shall conduct a study and shall submit to the
43 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
44 this state. The study shall use existing information to assess the availability of native Pacific yew

1 on public and private lands in this state.

2 "SECTION 19. ORS 527.724 is amended to read:

3 "527.724. Subject to sections 20 and 21 of this 1991 Act, any forest operations on forestlands
4 within this state shall be conducted in full compliance with the rules and standards of the Envi-
5 ronmental Quality Commission relating to air and water pollution control. In addition to all other
6 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
7 and sanctions available under statute or rule to the Department of Environmental Quality or the
8 Environmental Quality Commission.

9 "SECTION 20. (1) The board shall establish best management practices and other rules applying
10 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
11 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
12 ment and maintenance of water quality standards established by the Environmental Quality Com-
13 mission for the waters of the state. Such best management practices shall consist of forest practices
14 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
15 board in establishing best management practices shall include, where applicable, but not be limited
16 to:

17 "(a) Beneficial uses of waters potentially impacted;

18 "(b) Technical, economic and institutional feasibility; and

19 "(c) Natural variations in geomorphology and hydrology.

20 "(2) The board shall consult with the Environmental Quality Commission in adoption and review
21 of best management practices and other rules to address nonpoint source discharges of pollutants
22 resulting from forest operations on forestlands.

23 "(3)(a) Upon written petition of any interested person or agency, the board, in accordance with
24 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
25 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
26 pollutants resulting from forest operations being conducted in accordance with the best management
27 practices are a significant contributor to violations of such standards.

28 "(b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
29 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
30 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
31 was filed.

32 "(c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
33 operations being conducted in accordance with the best management practices are neither signif-
34 icantly responsible for particular water quality standards not being met nor are a significant con-
35 tributor to violations of such standards, the board shall issue an order dismissing the petition.

36 "(d) If the petition for review of best management practices is made by the Environmental
37 Quality Commission, the board shall not terminate the review without the concurrence of the com-
38 mission, unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

39 "(e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue
40 an order that includes findings regarding specific allegations in the petition and shall state the
41 board's reasons for any conclusions to the contrary.

42 "(f) If, pursuant to review, the board determines that best management practices should be re-
43 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
44 revised best management practices must be adopted not later than two years from the filing date

1 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
2 mission, finds that special circumstances require additional time.

3 “(g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
4 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
5 cable to prevent significant damage to beneficial uses identified by the commission while the board
6 is revising its best management practices and rules as provided for in this section.

7 “(h) The board shall include in its triennial review of administrative rules an analysis of the
8 effectiveness of the best management practices and other rules applying to forest practices adopted
9 to maintain water quality standards established by the Environmental Quality Commission.

10 “**SECTION 21.** A forest operator conducting, or in good faith proposing to conduct, operations
11 in accordance with best management practices currently in effect shall not be considered in vio-
12 lation of any water quality standards. When the board adopts new best management practices and
13 other rules applying to forest operations, such rules shall apply to all current or proposed forest
14 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
15 ter quality standards against a forest operator conducting operations after the time provided in
16 section 20 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
17 ther has not adopted revised management practices or has not made a finding that such revised best
18 management practices are not required.

19 “**SECTION 22.** Sections 23 and 24 of this Act are added to and made a part of ORS 468.700 to
20 468.778.

21 “**SECTION 23.** Upon request of the State Board of Forestry, the Environmental Quality Com-
22 mission shall review any water quality standard that affects forest operations on forestlands. The
23 commission’s review may be limited to or coordinated with the triennial or any other regularly
24 scheduled review of the state’s water quality standards, consistent with ORS 468.735, section 24 of
25 this 1991 Act and applicable federal law.

26 “**SECTION 24.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
27 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or
28 department may, by rule or order, impose and enforce limitations or other controls which may in-
29 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
30 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
31 federal regulations and guidelines issued pursuant thereto.

32 “(2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the
33 Environmental Quality Commission nor the Department of Environmental Quality shall promulgate
34 or enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
35 operations on forestlands in this state. Any limitations or controls applying to nonpoint source dis-
36 charges or pollutants resulting from forest operations are subject to sections 20 and 21 of this 1991
37 Act. However, nothing in this section is intended to affect the authority of the commission or the
38 department provided by law to impose and enforce limitations or other controls on water pollution
39 from sources other than forest operations.

40 “(3) When the Environmental Quality Commission establishes instream water quality standards
41 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
42 available scientific information including, but not limited to, stream flow, geomorphology and other
43 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
44 conditions.

1 “(4) When the Environmental Quality Commission establishes instream water quality standards,
2 it will also issue guidelines describing how the department and the commission will determine
3 whether water quality standards in waters affected by nonpoint source activities are being met. In
4 developing these guidelines, the commission shall include, where applicable, those physical charac-
5 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
6 factors which represent the variability and complexity of forested and other appropriate hydrologic
7 systems.

8 “**SECTION 25.** (1) The State Board of Forestry, after consultation with the State Department
9 of Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
10 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
11 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
12 lation declines if that is the case; assign the relative importance of forest practices to these declines,
13 compared to other leading causes; identify the relative importance of various habitat characteristics
14 in streams in limiting anadromous fish production; determine how forest practices have affected fish
15 production; determine how forest practices have affected these habitat characteristics and
16 anadromous fish populations before and since 1972; identify the extent to which forest practices are
17 limiting the recovery of depressed anadromous fish populations; and make recommendations as to
18 how forest practices can assist in recovery of anadromous fish populations.

19 “(2) The board shall contract with an independent and disinterested organization to assemble a
20 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
21 to write a report of its findings.

22 “(3) Nothing in this section shall be construed to limit the ability of the board to promulgate
23 rules relating to forest practices which appropriately protect fish and wildlife populations.

24 “**SECTION 26.** (1) The study required by section 25 of this 1991 Act shall be financed from such
25 moneys as are referred to in this section and sections 27 and 29 of this 1991 Act.

26 “(2) The State Board of Forestry shall request:

27 “(a) The United States Forest Service to pay 25 percent of the study cost.

28 “(b) The Bureau of Land Management to pay 15 percent of the study cost.

29 “(c) The Bonneville Power Administration to pay 25 percent of the study cost.

30 “**SECTION 27.** In addition to and not in lieu of any other appropriations or moneys made
31 available by law or from other sources, there is appropriated to the State Forestry Department, for
32 the biennium beginning July 1, 1991, out of the General Fund, the sum of \$_____. Such sum may
33 only be expended to pay the costs of the study required by section 25 of this Act.

34 “**SECTION 28.** Section 29 of this Act is added to and made a part of ORS 321.005 to 321.185.

35 “**SECTION 29.** (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is
36 levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products har-
37 vested on forestland during the period beginning July 1, 1991, and ending June 30, 1993, in the
38 amount provided in subsection (2) of this section.

39 “(2) The rate of tax levied in subsection (1) of this section shall be two cents per thousand feet,
40 board measure, on all merchantable forest products harvested on forestland.

41 “(3) The tax shall be measured by and be applicable to each per thousand feet, board measure,
42 and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4)
43 and (5).

44 “(4) The tax levied by subsection (1) of this section shall be due and payable to the department

1 in the manner and procedure, including penalties and interest, as set forth for the collection of the
2 privilege tax in ORS 321.005 to 321.185.

3 “(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the
4 State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After
5 payment of refunds, which shall be paid in the same manner as other forest products harvest tax
6 refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1)
7 of this section shall be deposited to the account referred to in ORS 321.185.

8 “SECTION 30. ORS 527.722 is amended to read:

9 “527.722. (1) Notwithstanding any provisions of ORS chapters 196, 197, 215 and 227, and except
10 as provided in subsections (2), (3) and (4) [and (3)] of this section, no unit of local government shall
11 adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate,
12 subject to approval or in any other way affect forest practices on forestlands located outside of an
13 acknowledged urban growth boundary.

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

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

18 “(b) Forest practices on lands located outside of an acknowledged urban growth bound-
19 ary, and within the city limits as they exist on July 1, 1991, of a city with a population of
20 100,000 or more, for which an acknowledged exception to an agriculture or forestland goal
21 has been taken;

22 “[a] (c) The establishment or alteration of structures other than temporary onsite structures
23 which are auxiliary to and used during the term of a particular forest operation;

24 “[b] (d) The siting or alteration of dwellings;

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

28 “[d] (f) Partitions and subdivisions of the land; or].

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

31 “[3] (4) Counties can prohibit forest practices on land for which an acknowledged exception
32 to an agricultural or forestland goal has been taken.

33 “(5) To insure that all forest operations in this state are regulated to achieve protection
34 of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon
35 Forest Practices Act applies to forestlands inside any urban growth boundary unless a local
36 government has adopted regulations for forest practices. Such local regulations shall:

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

38 “(b) Be acknowledged as being in compliance with land use planning goals.

39 “(6) Local governments which have, before the effective date of this 1991 Act, adopted a
40 comprehensive plan policy or land use regulation allowing, prohibiting or regulating forest
41 practices consistent with subsections (1) to (5) of this section shall inform the State Forester
42 of such policies and regulations within 60 days of the effective date of this 1991 Act. Exist-
43 ence or adoption of such policies or regulations relieves the State Forester of responsibility
44 to administer the Oregon Forest Practices Act within the affected area.

1 **"(7) The Director of the Department of Land Conservation and Development shall provide**
2 **the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such no-**
3 **tices concern the adoption, amendment or repeal of a comprehensive land use regulation al-**
4 **lowing, prohibiting or regulating forest practices.**

5 **"SECTION 31. ORS 527.992 is added to and made a part of ORS 527.610 to 527.730 and**
6 **527.990."**

7

X-Engrossed
Senate Bill 1125

Ordered by the Senate May 29
Including Senate Amendments dated May 29

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution. *[Establishes Forest Practices Enforcement Fund for specified purposes.]*

[Declares emergency, effective on passage.]

Requires State Board of Forestry by September 1, 1992, to review state water classifications.

Requires State Forester to notify individuals of chemical applications within 15 miles of application if individuals request notice.

Requires State Forestry Department to conduct and submit to Legislative Assembly recommendation regarding native Pacific yew species in state.

Requires State Board of Forestry after consultation with State Department of Fish and Wildlife to commission scientific inquiry on effects of forest practices on anadromous fish runs in western Oregon.

Appropriates moneys.

A BILL FOR AN ACT

Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670, 527.690, 527.710, ^{527.715, 527.722, 527.724} and ~~section 8, chapter 920, Oregon Laws 1989~~; repealing section 9, chapter 920, Oregon Laws 1989; and appropriating money.

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

SECTION 1. ORS 527.620 is amended to read:

527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

[(1) "State Forester" means the State Forester or the duly authorized representative of the State Forester.]

[(2) "Operator" means any person, including a landowner or timber owner, who conducts an operation.]

[(3)] (1) "Board" means the State Board of Forestry.

(2) "Clearcut" means any harvest unit in western Oregon that leaves fewer than 50 trees per acre that are well-distributed over the unit and that measure at least 11 inches at DBH or that measure less than 40 square feet of basal area per acre. "Clearcut" means any harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-distributed over the unit and that measure at least 10 inches at DBH. For purposes of this subsection, no tree shall be counted unless the top one-third of the bole of the tree supports a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall be considered 20-inch trees.

(3) "Cumulative effects" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably

~~foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions.~~

(4) "DBH" means the diameter at breast height which is measured as the width of a standing tree or log measured at four and one-half feet above the ground, on the uphill side.

[(4)] (5) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied. Forest tree species does not include Christmas trees on land used solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).

[(5)] (6) "Forest practice" means any operation conducted on or pertaining to forest land, including but not limited to:

- (a) Reforestation of forestland;
- (b) Road construction and maintenance;
- (c) Harvesting of forest tree species;
- (d) Application of chemicals; and
- (e) Disposal of slash.

[(6)] (7) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.

(8) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

[(7)] (9) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.

(10) "State Forester" means the State Forester or the duly authorized representative of the State Forester.

(11) "Suitable hardwood seedlings" means any hardwood seedling that will eventually yield logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other forest products.

[(8)] (12) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.

(13) "Visually sensitive corridor" means forestland located within the area extending 150 feet from the outermost right of way boundary of a scenic highway referred to in section 19 of this 1991 Act.

[(9)] (14) "Written plan" means a plan submitted by an operator, for written approval by the State Forester, which describes how the operation will be conducted, including the means to protect resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of this 1991 Act, if applicable.

SECTION 2. Sections 3 to 9, 13, 14, 19, 20, 22, 23, 27 and 28 of this Act are added to and made a part of ORS 527.610 to 527.730.

SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act 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 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act

1 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
2 other regulations pertaining to forest practices under applicable state law.

3 (2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for
4 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
5 cial thinning.

6 (3) The board shall conduct a study to determine the appropriate size limitations for clearcuts
7 for each region of the state within a single ownership on contiguous acres. Consistent with ORS
8 527.630, the study shall consider the rate of harvest, the cumulative effects of forest operations, the
9 impacts on fish and wildlife populations and habitat and scenic values. Not later than September 1,
10 1992, the board shall adopt rules regarding the size of permissible clearcuts within a single owner-
11 ship on contiguous acres. However, the size or sizes adopted by rule shall not exceed 120 acres.
12 Except as provided in section 7 of this 1991 Act, and notwithstanding any other provision of the
13 Oregon Forest Practices Act, until the rules referred to in this section are adopted, no clearcut
14 within a single ownership on contiguous acres shall exceed 120 acres.

15 **SECTION 4.** (1) No clearcut unit within a single ownership on contiguous acres shall exceed
16 the size established by board rule, except as provided in section 7 of this 1991 Act.

17 (2) No clearcut unit shall be allowed within 300 feet of the perimeter of a prior clearcut unit if
18 the combined acreage of the clearcut areas subject to regulation under the Oregon Forest Practices
19 Act would exceed the size for clearcuts established by board rule, unless the prior clearcut unit has
20 been reforested as required by all applicable regulations and:

21 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
22 either

23 (b) The resultant reproduction has attained an average height of at least four feet; or

24 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
25 "free to grow" as defined by the board.

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

28 (4) The provisions of this section shall not apply when the land is being converted to conifers
29 or managed hardwoods from brush or understocked hardwoods, or when the clearcut harvest results
30 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
31 Forester determines was beyond the landowner's control and has substantially impaired productivity
32 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
33 be required for such conversion or clearcut operations that exceed the limit on clearcut size estab-
34 lished by board rule.

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

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

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

42 **SECTION 5.** (1)(a) The board shall adopt rules for the retention and replacement of snags and
43 dead and down material in riparian and upland areas in sufficient quantities to address wildlife
44 needs by July 1, 1993.

1 (b) ~~Until the board adopts rules required under this section, the board shall require operators~~
2 to leave, on average per acre harvested, at least:

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

5 (B) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
6 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
7 this size are not available on the site.

8 (c) Until the rules required by paragraph (a) of this subsection have been adopted, an operator
9 shall leave snags, green trees, downed logs or downed trees as prescribed in subparagraphs (A) and
10 (B) of paragraph (b) of this subsection.

11 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
12 logs may be left in one or more clusters rather than distributed throughout the unit. The location
13 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
14 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
15 in addition to all other requirements pertaining to forest operations and may not be met by counting
16 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
17 527.710 (3).

18 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clearcut harvests.
19 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
20 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
21 1991 Act, the standards for the reforestation of clearcuts shall include the following:

22 (a) Reforestation, including site preparation, of clearcut units shall commence within 12 months
23 after the completion of harvest and shall be completed by the end of the second planting season
24 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
25 least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-
26 distributed over the area, which are "free to grow" as defined by the board.

27 (b) A written plan shall be required for reforestation activities that do not conform to the
28 standards established under paragraph (a) of this subsection or the alternate standards adopted un-
29 der subsection (2) of this section, including but not limited to variances in the time in which
30 reforestation is to be commenced or completed or plans to reforest sites by natural reforestation.
31 Such alternate plans may be approved if the State Forester determines that the plan will achieve
32 equivalent or better regeneration results for the particular conditions of the site, or the plan carries
33 out an authorized research project conducted by a public agency or educational institution.

34 (2) The board, by rule, may establish alternate standards for the reforestation of clearcuts, in
35 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
36 standards will better assure the continuous growing and harvesting of forest tree species and the
37 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
38 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

5 (4)(a) Sites infested with root pathogens shall be reforested with a resistant or immune tree
6 species. Seedlings of Douglas fir or other susceptible species planted on or within 50 feet of a site
7 known to be infested with root pathogens shall not be counted toward the reforestation requirement.

8 (b) The board shall prohibit the planting of a species susceptible to an insect or disease if the
9 planting of a susceptible species would facilitate the spread of the disease or insect pest and there
10 are immune or tolerant commercial species adapted to the site.

11 (5) The requirements of this section apply only to clearcuts as defined in ORS 527.620 (2).
12 Nothing in this section is intended to affect the administration and enforcement of regulations per-
13 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
14 result of operations other than such clearcuts.

15 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clearcut unit
16 within a single ownership on contiguous acres that exceeds twice the number of acres for clearcut
17 established by board rule may be approved by the State Forester if all the requirements of this
18 section and any additional requirements established by the board are met. Proposed clearcut units
19 that are within 300 feet of the perimeter of a prior clearcut unit, and that would result in a total
20 combined clearcut area under a single ownership exceeding 120 acres but not exceeding 240 acres,
21 may be approved by the State Forester if the additional requirements are met for the combined
22 clearcut area. No clearcut unit within a single ownership on contiguous acres shall exceed the
23 number of acres for clearcut established by board rule. No clearcut unit shall be allowed within
24 300 feet of the perimeter of a prior clearcut unit if the combined acreage of the clearcut areas
25 subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the
26 prior clearcut unit has been reforested by all applicable regulations and:

27 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
28 either

29 (b) The resultant reproduction has attained an average height of at least four feet; or

30 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
31 "free to grow" as defined by the board.

32 (2) The requirements of this section are in addition to all other requirements of the Oregon
33 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
34 applied in lieu of such other requirements only to the extent the requirements of this section are
35 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
36 (5) of this 1991 Act.

37 (3) The board shall require that a written plan be submitted prior to approval of a clearcut op-
38 eration under this section. The board may establish by rule any additional standards applying to
39 operations under this section.

40 (4) The State Forester shall approve the clearcut operation if the proposed clearcut would pro-
41 vide better overall results in meeting the requirements and objectives of the Oregon Forest Prac-
42 tices Act.

43 (5) The board shall specify by rule the information to be submitted for approval of clearcut op-
44 erations under this section, including evidence of past satisfactory compliance with the Oregon

Forest Practices Act.

2 **SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
3 amend rules as necessary to assure that only bona fide, established and continuously maintained
4 changes from forest uses are provided an exemption from reforestation requirements. The board
5 shall set specific time periods for the completion of land use conversions. Among other factors, the
6 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

18 (2) The board shall require that, prior to commencing an operation where a change in land use
19 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
20 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
21 ration and reforestation for the area subject to an exemption from reforestation due to a change in
22 land use, and provisions be made for the administration and collection on such bond or security
23 deposit in the event that the change in land use is not established or continuously maintained within
24 a time certain.

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

28 **SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
29 waters of the state, create at least three classifications and establish rules applicable to each clas-
30 sification. The board shall give particular consideration to perennial streams, not currently classi-
31 fied as Class 1, which have an average gradient of not more than eight percent and which are
32 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
33 requirements for vegetative buffers along such streams consistent with the health of the forest.

34 (2) The board shall review current Class 1 stream and associated riparian protection rules and,
35 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources, which
36 include but are not limited to fish and wildlife habitat, species biodiversity and stream morphology.

37 (3) Until the board adopts rules pursuant to this section, the rules regarding operations near
38 Class 1 streams shall apply to operations near streams that are within one-quarter mile of Class 1
39 streams or which are important to water quality or threatened, endangered, sensitive or game fish
40 species. The State Forestry Department shall consult with the appropriate state agencies in deter-
41 mining which streams are affected by this section.

42 (4) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
43 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
44 legislative changes.

SECTION 10. ORS 527.630 is amended to read:

2 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
3 and other social and economic benefits, by helping to maintain forest tree species, soil, air, [and]
4 water **and scenic** resources and by providing a habitat for wildlife and aquatic life. Therefore, it is
5 declared to be the public policy of the State of Oregon to encourage economically efficient forest
6 practices that assure the continuous growing and harvesting of forest tree species and the mainte-
7 nance of forest land for such purposes as the leading use on privately owned land, consistent with
8 sound management of soil, air, water, [and] fish and wildlife resources **and scenic resources within**
9 **visually sensitive corridors as provided in section 19 of this 1991 Act** that assures the contin-
10 uous benefits of those resources for future generations of Oregonians.

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

16 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
17 it is declared to be in the public interest to vest in the board exclusive authority to develop and
18 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
19 agencies and local governments which are concerned with the forest environment.

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

21 527.670. (1) The board shall designate the types of operations for which notice shall be required
22 under this section.

23 (2) The board shall determine by rule what types of operations require a written plan to be ap-
24 proved by the State Forester.

25 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
26 for operations [within]:

27 [(a)] (A) **Within** one hundred feet of a Class 1 stream **and any other waters of this state**
28 **determined by the board under section 9 of this 1991 Act**, unless the board, by rule, provides
29 that a written plan is not required because there is no reasonable likelihood that such operations
30 would damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

31 [(b)] (B) **Within** three hundred feet of a resource site inventoried pursuant to ORS 527.710
32 (3)(a).];

33 (C) **On lands determined by the State Forester to be within high risk sites, unless the**
34 **board, by rule, provides that a written plan is not required because there is no reasonable**
35 **likelihood that such operations would damage a resource described in ORS 527.710 (2);**

36 (D) **Involving final clearcut of any stand of an average age that is less than 60 percent**
37 **of the age of culmination of mean annual increment. The written plan for such an operation**
38 **must address the environmental consequences of the harvest and the economic costs and**
39 **benefits; and**

40 (E) **On lands to be clearcut in excess of 120 acres pursuant to section 7 of this 1991 Act.**

41 (b) **Plans submitted under this section are not subject to appeal under ORS 527.700.**

42 (4) The distances set forth in [paragraphs] **paragraph (a) [and (b)] of subsection (3) of this sec-**
43 **tion are solely for the purpose of defining an area within which a hearing may be requested under**
44 **ORS 527.700 and not the area to be protected by the board's rules adopted pursuant to ORS 527.710.**

(3)(c).

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

(6) An operator, timber owner or landowner, before commencing an operation, shall notify the State Forester. The notification shall be on forms provided by the State Forester and shall include the name and address of the operator, timber owner and landowner, the legal description of the operating area, and any other information considered by the State Forester to be necessary for the administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator, timber owner or landowner did not submit the notification. **The State Forester shall send a copy of notices involving chemical applications to persons within 15 miles of the chemical application who hold downstream surface water rights pursuant to ORS chapter 537, if such a person has requested that notification in writing. The board shall adopt rules specifying the information to be contained in the notice. All information filed with the State Forester pertaining to chemical applications shall be public record.** The State Forester shall also send to the operator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.

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

(8) Within three working days of receipt of a notice or a written plan filed under subsection (6) or (7) of this section, the State Forester shall send a copy of the notice or written plan to the Department of Revenue, the county assessor for the county in which the operation is located and persons who requested of the State Forester in writing that they be sent copies of notice and written plan and who have paid any applicable fee established by the State Forester for such service. The State Forester may establish a fee for sending copies of notices and written plans under this subsection not to exceed the actual and reasonable costs.

(9) Persons may submit written comments pertaining to the operation to the State Forester within [14] 30 calendar days of the date the notice or written plan was 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) Whenever 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, the State Forester shall not approve any such written plan until [14] 30 calendar days following the date the written plan was filed with the State Forester. An operation may commence upon approval of the written plan.

(11)(a) The State Forester shall issue a decision on a written plan within three working days after the end of the [14-day] 30-day period described in subsection (10) of this section.

(b) If the State Forester fails to issue a decision within five working days after the end of the [14-day] 30-day period described in subsection (10) of this section, the written plan shall be deemed approved and the operation may be commenced.

(12) When the operation is required to have a written plan under subsection (3) of this section and comments have been timely filed under subsection (9) of this section pertaining to the operation,

requiring a written plan, the State Forester shall:

2 (a) Send a copy of the approved written plan to persons who submitted timely written comments
3 under subsection (9) of this section pertaining to the operation; and

4 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
5 copies of all timely comments submitted under subsection (9) of this section.

6 **SECTION 11a.** ORS 527.690 is amended to read:

7 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of
8 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
9 **requirements**, and if the operator or landowner does not comply with the order within the period
10 specified in such order and the order has not been appealed to the board within 30 days, the State
11 Forester based upon a determination by the forester of what action will best carry out the purposes
12 of ORS 527.630 shall:

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

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

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

29 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
30 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
31 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
32 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
33 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
34 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
35 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
36 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
37 authorized by this section. **If the State Forester's action to repair the damage or correct the**
38 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
39 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
40 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
41 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
42 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
43 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
44 **ceedings to recover the amount specified in the demand.**

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

~~[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within six months from the date of filing under subsection (4) of this section.]~~

SECTION 12. ORS 527.710 is amended to read:

527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be administered by the State Forester establishing *[minimum]* standards for forest practices in each region or subregion.

(2) The rules shall assure the continuous growing and harvesting of forest tree species. Consistent with ORS 527.630, the rules shall provide for the overall maintenance or restoration 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 **populations and appropriate habitat.**

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

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

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

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

(4) The board shall adopt forest practices rules that:

(a) Minimize adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds. The rules shall include a process for determining areas where adverse impacts from cumulative effects have oc-

1 ~~currred or are likely to occur, and shall require that a written plan be submitted for harvests~~
2 ~~in such areas; and~~

3 ~~(b) Provide the State Forester with authority to condition the approval of written plans~~
4 ~~required under ORS 527.670 (2) and (3) by limiting rate, timing and extent of harvest when~~
5 ~~the forester determines such limitations are necessary to achieve the objectives of ORS~~
6 ~~527.630.~~

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

11 ~~(a) Air and water pollution programs administered by the Department of Environmental Quality~~
12 ~~under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;~~

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

15 ~~(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat~~
16 ~~improvement tax incentive programs administered by the State Department of Fish and Wildlife un-~~
17 ~~der ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;~~

18 ~~(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-~~
19 ~~ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to~~
20 ~~390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;~~

21 ~~(e) The programs administered by the Columbia River Gorge Commission under Public Law~~
22 ~~99-663 and ORS 196.110 and 196.150;~~

23 ~~(f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-~~
24 ~~tive programs administered by the State Land Board and the Division of State Lands under ORS~~
25 ~~196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;~~

26 ~~(g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS~~
27 ~~448.273 to 448.990;~~

28 ~~(h) Natural heritage conservation programs administered by the Natural Heritage Advisory~~
29 ~~Council under ORS 273.553 to 273.591, 307.550 and 307.560;~~

30 ~~(i) Open space land tax incentive programs administered by cities and counties under ORS~~
31 ~~308.740 to 308.790; and~~

32 ~~(j) Water resources programs administered by the Water Resources Department under ORS~~
33 ~~536.220 to 536.540.~~

34 ~~[(5)] (6) In carrying out the provisions of subsection [(4)] (5) of this section, the board shall~~
35 ~~consider and accommodate the rules and programs of other agencies to the extent deemed by the~~
36 ~~board to be appropriate and consistent with the purposes of ORS 527.630.~~

37 ~~[(6)] (7) The board shall adopt rules to meet the purposes of another agency's regulatory pro-~~
38 ~~gram where it is the intent of the board to administer the other agency's program on forestland and~~
39 ~~where the other agency concurs by rule. An operation performed in compliance with the board's~~
40 ~~rules shall be deemed to comply with the other agency's program.~~

41 ~~[(7)] (8) The board may enter into cooperative agreements or contracts necessary in carrying~~
42 ~~out the purposes specified in ORS 527.630. The State Forestry Department shall enter into~~
43 ~~agreements with appropriate state agencies for joint monitoring of the effectiveness of forest~~
44 ~~practice rules in protecting forest resources and water quality.~~

1 **SECTION 13.** (1) The State Forester shall conduct a study of harvest rates on private forestland
2 in Oregon, and shall report to the State Board of Forestry and the Sixty-seventh Legislative As-
3 sembly on the results of such study, along with recommendations for addressing any problems that
4 may be identified during the course of such study.

5 (2) The study shall include, but not be limited to, an analysis of:

6 (a) The annual rates of harvest on Oregon's private forestlands compared to the annual rates
7 of growth on such forestlands;

8 (b) The effect of such harvest rates on employment and community stability;

9 (c) The impact of such harvest rates on water quality, fisheries and wildlife; and

10 (d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
11 the terms of highly leveraged contracts to purchase such resources.

12 (3) The study shall be completed no later than December 31, 1992.

13 **SECTION 14.** The State Forestry Department, in cooperation with appropriate state agencies,
14 shall evaluate the effects of timber harvest operations on fish and wildlife populations and habitat
15 and water quality. The evaluation shall examine best management practices and alternative methods
16 of forest management and timber harvest and include examination of existing research. The agen-
17 cies shall submit a progress report to the Sixty-seventh Legislative Assembly and a final report to
18 the Sixty-eighth Legislative Assembly. The reports shall include any recommendations for appropri-
19 ate modifications to best management practices, and forest practice rules and statutes. Nothing in
20 this section shall be construed to limit the authority of the board to adopt rules relating to cumu-
21 lative effects and fish and wildlife protection under ORS 527.710.

22 **SECTION 15.** Section 8, chapter 920, Oregon Laws 1989, is amended to read:

23 Sec. 8. (1) The department shall collect a nonrefundable registration fee for forestland to be
24 burned lying within the restricted area described under ORS 477.515 (3). **However, the State**
25 **Forester, by rule, shall provide an exemption from payment of the fee for burning of under-**
26 **story materials that occurs on forestland for which regular, periodic burning of understory**
27 **materials is required for forest health.**

28 (2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1
29 forestland under ORS 526.324 lying within the restricted area as described in the plan required un-
30 der ORS 477.515 (3) shall register with the State Forester, in accordance with rules adopted by the
31 State Forester, the number of acres to be burned prior to December 31 of the same year.

32 (3) The State Forester shall establish by rule the amount of fees to be collected under this sec-
33 tion. The fees shall not exceed:

34 (a) Fifty cents per acre for registration.

35 (b) ~~[\$1.50]~~ \$5 per acre for forestland classified as Class 1 under ORS 526.324 that has been
36 treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515
37 (1).

38 (4) Federal lands included within the restricted area under the provision of the smoke manage-
39 ment plan approved under ORS 477.515 (3)(a) shall also be subject to the fees authorized under
40 subsection (3) of this section for forestland to be treated by any prescription burn method subject
41 to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean
42 Air Act.

43 (5) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the
44 Oregon Forest Smoke Management Account established under section 7, chapter 920, Oregon Laws

1 1989 [of this 1989 Act].

2 **SECTION 16.** Section 17 of this Act is added to and made a part of sections 2 to 8, chapter 920,
3 Oregon Laws 1989.

4 **SECTION 17.** Notwithstanding any other provision of law, the State Forester shall establish by
5 rule a system for reducing the number of acres of forestland accepted for logging slash burning
6 registration so that in 1996 and each year thereafter, the State Forester shall authorize logging
7 slash burning only when the purpose of the burn is forest fire prevention.

8 **SECTION 18.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

9 **SECTION 19.** (1) The following highways are hereby designated as scenic highways for purposes
10 of the Oregon Forest Practices Act:

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

12 (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 36, 38, 42, 58, 62, 82, 97, 101, 126, 138, 140,
13 199, 230, 234 and 395.

14 (2) In consultation with the Department of Transportation, the board shall establish procedures
15 and regulations as necessary to protect scenic values and the safety of the motoring public along
16 visually sensitive corridors. Rules may include provisions for alternate plans providing equivalent
17 or better results, applying to harvest operations on forestlands within visually sensitive corridors
18 extending 150 feet from the outermost right of way boundary of the roadway along both sides and
19 for the full length of the scenic highways designated in subsection (1) of this section.

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

23 **SECTION 20.** The State Forestry Department shall conduct a study and shall submit to the
24 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
25 this state. The study shall use existing information to assess the availability of native Pacific yew
26 on public and private lands in this state.

27 **SECTION 21.** ORS 527.724 is amended to read:

28 527.724. **Subject to sections 22 and 23 of this 1991 Act,** any forest operations on forest lands
29 within this state shall be conducted in full compliance with the rules and standards of the Envi-
30 ronmental Quality Commission relating to air and water pollution control. In addition to all other
31 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
32 and sanctions available under statute or rule to the Department of Environmental Quality or the
33 Environmental Quality Commission.

34 **SECTION 22.** (1) The board shall establish best management practices and other rules applying
35 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
36 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
37 ment and maintenance of water quality standards established by the Environmental Quality Com-
38 mission for the waters of the state. Such best management practices shall consist of forest practices
39 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
40 board in establishing best management practices shall include, where applicable, but not be limited
41 to:

42 (a) Beneficial uses of waters potentially impacted;

43 (b) The effects of past forest practices on beneficial uses of water;

44 (c) ~~Appropriate practices employed by other forest managers;~~

1 (d) Technical, economic and institutional feasibility; and

2 (e) Natural variations in geomorphology and hydrology.

3 (2) The board shall consult with the Environmental Quality Commission in adoption and review
4 of best management practices and other rules to address nonpoint source discharges of pollutants
5 resulting from forest operations on forestlands.

6 (3)(a) Upon written petition of any interested person or agency, the board, in accordance with
7 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
8 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
9 pollutants resulting from forest operations being conducted in accordance with the best management
10 practices are a significant contributor to violations of such standards.

11 (b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
12 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
13 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
14 was filed.

15 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
16 operations being conducted in accordance with the best management practices are neither signif-
17 icantly responsible for particular water quality standards not being met nor are a significant con-
18 tributor to violations of such standards, the board shall issue an order dismissing the petition.

19 (d) If the petition for review of best management practices is made by the Environmental Quality
20 Commission, the board shall not terminate the review without the concurrence of the commission,
21 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

22 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
23 order that includes findings regarding specific allegations in the petition and shall state the board's
24 reasons for any conclusions to the contrary.

25 (f) If, pursuant to review, the board determines that best management practices should be re-
26 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
27 revised best management practices must be adopted not later than two years from the filing date
28 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
29 mission, finds that special circumstances require additional time.

30 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
31 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
32 cable to prevent significant damage to beneficial uses identified by the commission while the board
33 is revising its best management practices and rules as provided for in this section.

34 (h) The board shall include in its triennial review of administrative rules an analysis of the ef-
35 fectiveness of the best management practices and other rules applying to forest practices adopted
36 to maintain water quality standards established by the Environmental Quality Commission.

37 **SECTION 23.** A forest operator conducting, or in good faith proposing to conduct, operations
38 in accordance with best management practices currently in effect shall not be considered in vio-
39 lation of any water quality standards. When the board adopts new best management practices and
40 other rules applying to forest operations, such rules shall apply to all current or proposed forest
41 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
42 ter quality standards against a forest operator conducting operations after the time provided in
43 section 22 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
44 ther has not adopted revised management practices or has not made a finding that such revised best

management practices are not required.

2 **SECTION 24.** Sections 25 and 26 of this Act are added to and made a part of ORS 468.700 to
3 468.778.

4 **SECTION 25.** Upon request of the State Board of Forestry, the Environmental Quality Com-
5 mission shall review any water quality standard that affects forest operations on forestlands. The
6 commission's review may be limited to or coordinated with the triennial or any other regularly
7 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 26 of
8 this 1991 Act and applicable federal law.

9 **SECTION 26.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
10 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or
11 department may, by rule or order, impose and enforce limitations or other controls which may in-
12 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
13 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
14 federal regulations and guidelines issued pursuant thereto.

15 (2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the En-
16 vironmental Quality Commission nor the Department of Environmental Quality shall promulgate or
17 enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
18 operations on forestlands in this state. Implementation of any limitations or controls applying to
19 nonpoint source discharges or pollutants resulting from forest operations are subject to sections 22
20 and 23 of this 1991 Act. However, nothing in this section is intended to affect the authority of the
21 commission or the department provided by law to impose and enforce limitations or other controls
22 on water pollution from sources other than forest operations.

23 (3) When the Environmental Quality Commission establishes instream water quality standards
24 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
25 available scientific information including, but not limited to, stream flow, geomorphology and other
26 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
27 conditions.

28 (4) When the Environmental Quality Commission establishes instream water quality standards,
29 it will also issue guidelines describing how the department and the commission will determine
30 whether water quality standards in waters affected by nonpoint source activities are being met. In
31 developing these guidelines, the commission shall include, where applicable, those physical charac-
32 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
33 factors which represent the variability and complexity of forested and other appropriate hydrologic
34 systems.

35 **SECTION 27.** (1) The State Board of Forestry, after consultation with the State Department of
36 Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
37 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
38 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
39 lation declines if that is the case; assign the relative importance of forest practices to these declines,
40 compared to other leading causes; identify the relative importance of various habitat characteristics
41 in streams in limiting anadromous fish production; determine how forest practices have affected fish
42 production; determine how forest practices have affected these habitat characteristics and
43 anadromous fish populations before and since 1972; identify the extent to which forest practices are
44 limiting the recovery of depressed anadromous fish populations; and make recommendations as to

edit

1 how forest practices can assist in recovery of anadromous fish populations.

2 (2) The board shall contract with an independent and disinterested organization to assemble a
3 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
4 to write a report of its findings.

5 (3) Nothing in this section shall be construed to limit the ability of the board to promulgate
6 rules relating to forest practices which restore or protect fish and wildlife populations or habitat.

7 **SECTION 28.** (1) The study required by section 27 of this 1991 Act shall be financed from such
8 moneys as are referred to in this section and section 29 of this 1991 Act.

9 (2) The State Board of Forestry shall request:

10 (a) The United States Forest Service to pay 25 percent of the study cost.

11 (b) The Bureau of Land Management to pay 15 percent of the study cost.

12 (c) The Bonneville Power Administration to pay 25 percent of the study cost.

13 **SECTION 29.** In addition to and not in lieu of any other appropriations or moneys made avail-
14 able by law or from other sources, there is appropriated to the State Forestry Department, for the
15 biennium beginning July 1, 1991, out of the General Fund, the sum of \$ _____. Such sum may only
16 be expended to pay the costs of the study required by section 27 of this Act.

17

5 SECTION 1. ORS 527.620 is amended to read:

6 527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

7 [(1) "State Forester" means the State Forester or the duly authorized rep-
8 resentative of the State Forester.]

9 [(2) "Operator" means any person, including a landowner or timber owner,
10 who conducts an operation.]

11 [(3)] (1) "Board" means the State Board of Forestry.

12 [(2) "Clear-cut" means any harvest unit in western Oregon that
13 leaves fewer than 50 trees per acre that are well-distributed over the
14 unit and that measure at least 11 inches at DBH or that measure less
15 than 40 square feet of basal area per acre. "Clear-cut" means any
16 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre
17 that are well-distributed over the unit and that measure at least 10
18 inches at DBH. For purposes of this subsection, no tree shall be
19 counted unless the top one-third of the bole of the tree supports a
20 green, live crown. For purposes of computing basal area, trees larger
21 than 20 inches shall be considered 20-inch trees.

22 [(3) "DBH" means the diameter at breast height which is measured
23 as the width of a standing tree at four and one-half feet above the
24 ground, on the uphill side.

1 “(4) ‘Forestland’ means land which is used for the growing and harvesting
2 of forest tree species, regardless of how the land is zoned or taxed or how
3 any state or local statutes, ordinances, rules or regulations are applied.
4 Forest tree species does not include Christmas trees on land used solely for
5 the production of cultured Christmas trees as defined in ORS 215.203 (3).

6 “(5) ‘Forest practice’ means any operation conducted on or pertaining to
7 forest land, including but not limited to:

8 “(a) Reforestation of forestland;

9 “(b) Road construction and maintenance;

10 “(c) Harvesting of forest tree species;

11 “(d) Application of chemicals; and

12 “(e) Disposal of slash.

13 “[(6) ‘Operation’ means any commercial activity relating to the growing or
14 harvesting of forest tree species.]

15 “[(7)] (6) ‘Landowner’ means any individual, combination of individuals,
16 partnership, corporation or association of whatever nature that holds an
17 ownership interest in forestland, including the state and any political sub-
18 division thereof.

19 “(7) ‘Operation’ means any commercial activity relating to the
20 growing or harvesting of forest tree species.

21 “(8) ‘Operator’ means any person, including a landowner or timber
22 owner, who conducts an operation.

23 “(9) ‘State Forester’ means the State Forester or the duly author-
24 ized representative of the State Forester.

25 “(10) ‘Suitable hardwood seedlings’ means any hardwood seedling
26 that will eventually yield logs or fiber, or both, sufficient in size and
27 quality for the production of lumber, plywood, pulp or other forest
28 products.

29 “[(8)] (11) ‘Timber owner’ means any individual, combination of individ-
30 uals, partnership, corporation or association of whatever nature, other than

1 a landowner, that holds an ownership interest in any forest tree species on
2 forestland.

3 **"(12) 'Visually sensitive corridor' means forestland located within**
4 **the area extending 150 feet measured on the slope from the outermost**
5 **right of way boundary of a scenic highway referred to in section 17 of**
6 **this 1991 Act.**

7 **"[(9)] (13) 'Written plan' means a plan submitted by an operator, for**
8 **written approval by the State Forester, which describes how the operation**
9 **will be conducted, including the means to protect resource sites described in**
10 **ORS 527.710 (3)(a) and information required by sections 6 and 7 of this**
11 **1991 Act, if applicable.**

12 **"SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are**
13 **added to and made a part of ORS 527.610 to 527.730.**

14 **"SECTION 3. (1) The standards established in sections 4 to 7 of this 1991**
15 **Act shall be administered by the State Forester as standards applying to all**
16 **operations in the state, including those on forestland owned by the state or**
17 **any political subdivision thereof. Pursuant to ORS 527.710 the board shall**
18 **adopt, repeal or amend forest practice rules as necessary to be consistent**
19 **with and to implement the standards established in sections 4 to 7 of this**
20 **1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the**
21 **board to adopt, or the State Forester to administer, all other regulations**
22 **pertaining to forest practices under applicable state law.**

23 **"(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to**
24 **cutting of trees that is for growth enhancement treatments, as defined by the**
25 **State Forester, such as thinning or precommercial thinning.**

26 **"SECTION 4. (1) No clear-cut unit within a single ownership shall exceed**
27 **120 acres in size, except as provided in section 7 of this 1991 Act.**

28 **"(2) No clear-cut unit shall be allowed within 300 feet of the perimeter**
29 **of a prior clear-cut unit if the combined acreage of the clear-cut areas sub-**
30 **ject to regulation under the Oregon Forest Practices Act would exceed 120**

1 acres in size, unless the prior clear-cut unit has been reforested as required
2 by all applicable regulations and:

3 “(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
4 tablished per acre; and either

5 “(b) The resultant reproduction has attained an average height of at least
6 four feet; or

7 “(c) At least 48 months have elapsed since the seedlings were planted and
8 the reproduction is ‘free to grow’ as defined by the board.

9 “(3) Any acreage attributable to riparian areas or to resource sites listed
10 in ORS 527.710 (3) that is located within a harvest unit shall not be counted
11 in calculating the size of a clear-cut unit.

12 “(4) The provisions of this section shall not apply when the land is being
13 converted to conifers or managed hardwoods from brush or understocked
14 hardwoods, or when the clear-cut harvest results from disasters such as fire,
15 insect infestation, disease, windstorm or other occurrence that the State
16 Forester determines was beyond the landowner’s control and has substan-
17 tially impaired productivity or safety on the unit or jeopardizes nearby
18 forestland. The prior approval of the State Forester shall be required for
19 such conversion or clear-cut operations that exceed 120 acres in size.

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

22 “(a) The trees are subject to a cutting right created by written contract
23 prior to October 1, 1990, which provides that the trees must be paid for re-
24 gardless of whether the trees are cut, or subject to a cutting right created
25 by reservation in a deed prior to October 1, 1990; and

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

29 “SECTION 5. (1) In a clear-cut harvest unit exceeding 15 acres, the op-
30 erator shall leave, on average per acre harvested, at least:

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

3 “(b) Two downed logs or downed trees, at least 50 percent of which are
4 conifers, that are at least 12 inches in diameter at the widest point and at
5 least 16 feet long, or equivalent volume if trees of this size are not available
6 on the site.

7 “(2) In meeting the requirements of subsection (1) of this section, the re-
8 quired snags, trees and logs may be left in one or more clusters rather than
9 distributed throughout the unit. The location and distribution of the material
10 shall be in the sole discretion of the landowner or operator, consistent with
11 safety and fire hazard regulations. The requirements of subsection (1) of this
12 section are in addition to all other requirements pertaining to forest oper-
13 ations and may not be met by counting snags, trees or logs otherwise re-
14 quired to be left in riparian areas or resource sites listed in ORS 527.710 (3).

15 “SECTION 6. (1) The board shall adopt standards for the reforestation
16 of clear-cut harvests. Unless the board makes the findings for alternate
17 standards under subsection (2) of this section, and except to the extent that
18 more stringent reforestation requirements apply under section 4 (2) of this
19 1991 Act, the standards for the reforestation of clear-cuts shall include the
20 following:

21 “(a) ~~Landowners may submit plans for separation~~, *Reforestation, including site preparation*, of clear-cut units shall
22 commence within 12 months after the completion of harvest and shall be
23 completed by the end of the second planting season after the completion of
24 harvest. By the end of the fifth growing season after planting or seeding, at
25 least 200 healthy conifer or suitable hardwood seedlings shall be established
26 per acre, well-distributed over the area, which are ‘free to grow’ as defined
27 by the board.

28 “(b) Landowners may submit plans for alternate practices that do not
29 conform to the standards established under paragraph (a) of this subsection
30 or the alternate standards adopted under subsection (2) of this section, in-

1 cluding but not limited to variances in the time in which reforestation is to
2 be commenced or completed or plans to reforest sites by natural
3 reforestation. Such alternate plans may be approved if the State Forester
4 determines that the plan will achieve equivalent or better regeneration re-
5 sults for the particular conditions of the site, or the plan carries out an au-
6 thorized research project conducted by a public agency or educational
7 institution.

8 “(2) The board, by rule, may establish alternate standards for the
9 reforestation of clear-cuts, in lieu of the standards established in subsection
10 (1) of this section, upon finding that the alternate standards will better as-
11 sure the continuous growing and harvesting of forest tree species and the
12 maintenance of forestland for such purposes, consistent with sound manage-
13 ment of soil, air, water, fish and wildlife resources based on one or more of
14 the following findings:

15 “(a) Alternate standards are warranted based on scientific data concern-
16 ing biologically effective regeneration;

17 “(b) Different standards are warranted for particular geographic areas of
18 the state due to variations in climate, elevation, geology or other physical
19 factors; or

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

22 “(3) Pursuant to ORS 527.710, the board may adopt definitions, procedures
23 and further regulations to implement the standards established under sub-
24 section (1) of this section, without making the findings required in sub-
25 section (2) of this section, if those procedures or regulations are consistent
26 with the standards established in subsection (1) of this section.

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

1 are adapted to the site.

2 “(5) The requirements of this section apply only to clear-cuts as defined
3 in ORS 527.620 (2). Nothing in this section is intended to affect the admin-
4 istration and enforcement of regulations pertaining to the maintenance of
5 minimum stocking levels or the reforestation of sites required as a result of
6 operations other than such clear-cuts.

7 “SECTION 7. (1) Notwithstanding the requirements of section 4 of this
8 1991 Act, a clear-cut unit within a single ownership that exceeds 120 acres
9 but does not exceed 240 acres may be approved by the State Forester if all
10 the requirements of this section and any additional requirements established
11 by the board are met. Proposed clear-cut units that are within 300 feet of the
12 perimeter of a prior clear-cut unit, and that would result in a total combined
13 clear-cut area under a single ownership exceeding 120 acres but not exceed-
14 ing 240 acres, may be approved by the State Forester if the additional re-
15 quirements are met for the combined clear-cut area. No clear-cut unit within
16 a single ownership shall exceed 240 contiguous acres. No clear-cut unit shall
17 be allowed within 300 feet of the perimeter of a prior clear-cut unit if the
18 combined acreage of the clear-cut areas subject to regulation under the
19 Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-
20 cut unit has been reforested by all applicable regulations and:

21 “(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
22 tablished per acre; and either

23 “(b) The resultant reproduction has attained an average height of at least
24 four feet; or

25 “(c) At least 48 months have elapsed since the seedlings were planted and
26 the reproduction is ‘free to grow’ as defined by the board.

27 “(2) The requirements of this section are in addition to all other re-
28 quirements of the Oregon Forest Practices Act and the rules adopted there-
29 under. The requirements of this section shall be applied in lieu of such other
30 requirements only to the extent the requirements of this section are more

1 stringent. Nothing in this section shall apply to operations conducted under
2 section 4 (4) or (5) of this 1991 Act.

3 “(3) The board shall require that a written plan be submitted prior to
4 approval of a clear-cut operation under this section. The board may establish
5 by rule any additional standards applying to operations under this section.

6 “(4) The State Forester shall approve the clear-cut operation if the pro-
7 posed clear-cut would provide better overall results in meeting the require-
8 ments and objectives of the Oregon Forest Practices Act.

9 “(5) The board shall specify by rule the information to be submitted for
10 approval of clear-cut operations under this section, including evidence of
11 past satisfactory compliance with the Oregon Forest Practices Act.

12 **SECTION 8.** (1) The board shall review its rules governing changes in
13 land use and adopt or amend rules as necessary to assure that only bona fide,
14 established and continuously maintained changes from forest uses are pro-
15 vided an exemption from reforestation requirements. The board shall set
16 specific time periods for the completion of land use conversions. Among
17 other factors, the board shall condition exemptions from reforestation re-
18 quirements upon:

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

23 “(b) Demonstrating progress toward the change in land use within the
24 time required for planting of trees, and substantial completion and contin-
25 uous maintenance of the change in land use in a time certain;

26 “(c) Allowing an exemption for only the smallest land area necessary to
27 carry out the change in land use, and requiring that additional land area
28 within the harvest unit remains subject to all applicable reforestation re-
29 quirements; and

30 “(d) Allowing an exemption only to the extent that the proposed land use

1 is not compatible with the maintenance of forest cover.

2 “(2) The board may require that, prior to commencing an operation where
3 a change in land use is proposed, a bond, cash deposit, irrevocable letter of
4 credit or other security be filed with the State Forester in an amount de-
5 termined by the State Forester sufficient to cover the cost of site preparation
6 and reforestation for the area subject to an exemption from reforestation due
7 to a change in land use, and shall require that provisions be made for the
8 administration and collection on such bond or security deposit in the event
9 that the change in land use is not established or continuously maintained
10 within a time certain.

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

14 “**SECTION 9.** (1) Not later than September 1, 1992, the board shall review
15 its classification of waters of the state, create at least three classifications
16 and establish rules applicable to each classification. The board shall give
17 particular consideration to perennial streams, not currently classified as
18 Class 1, which have an average gradient of not more than eight percent and
19 which are important to water quality and fish needs in downstream Class 1
20 streams. The board shall consider requirements for vegetative buffers along
21 such streams consistent with the health of the forest, removal of
22 merchantable trees and protection of stream bank and channel.

23 “(2) The board shall review current Class 1 stream and associated riparian
24 protection rules and, where appropriate, shall improve protection of soil, air,
25 water, fish and wildlife resources.

26 “(3) Until the board adopts rules pursuant to this section, the following
27 interim protection shall apply to operations near streams which are impor-
28 tant to threatened, endangered, sensitive or game fish species and to streams
29 with an average gradient of not more than eight percent and which are im-
30 portant to water quality and fish needs in downstream Class 1 streams:

1 “(a) A buffer three times the stream width or 25 feet, whichever is
2 greater, shall be retained on both sides of the stream;

3 “(b) All nonmerchantable herbaceous vegetation shall be retained;

4 “(c) Ground-based equipment shall not be operated within the buffer
5 without approval of the State Department of Forestry; X to

6 “(d) Logs shall not be yarded across streams unless the logs are fully
7 suspended in order to minimize disturbance to stream banks, stream channels X
8 and streambank vegetation;

9 “(e) Streams shall not be crossed without approval of the State Depart-
10 ment of Forestry; and X

11 “(f) Merchantable trees may be removed consistent with protection of the
12 buffer, streambanks and stream channels.

13 “(4) The State Department of Forestry shall consult with the appropriate X to
14 state agencies in determining which streams are affected by this section.

15 “(5) The interim protection in subsection (3) of this section terminates on
16 the effective date of permanent rules adopted by the board for the protection
17 of these streams.

18 “(6) The board shall report to the Sixty-seventh Legislative Assembly on
19 the results of the board's reviews pursuant to this section and section 8 of
20 this 1991 Act, including any recommendations for legislative changes.

21 “SECTION 10. ORS 527.630 is amended to read:

22 “527.630. (1) Forests make a vital contribution to Oregon by providing
23 jobs, products, tax base and other social and economic benefits, by helping
24 to maintain forest tree species, soil, air and water resources and by providing
25 a habitat for wildlife and aquatic life. Therefore, it is declared to be the
26 public policy of the State of Oregon to encourage economically efficient
27 forest practices that assure the continuous growing and harvesting of forest
28 tree species and the maintenance of forestland for such purposes as the
29 leading use on privately owned land, consistent with sound management of
30 soil, air, water, [and] fish and wildlife resources and scenic resources

1 within visually sensitive corridors as provided in section 17 of this 1991
2 Act that assures the continuous benefits of those resources for future gen-
3 erations of Oregonians.

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

10 “(3) To encourage forest practices implementing the policy of ORS 527.610
11 to 527.730 and 527.990, it is declared to be in the public interest to vest in
12 the board exclusive authority to develop and enforce statewide and regional
13 rules pursuant to ORS 527.710 and to coordinate with other state agencies
14 and local governments which are concerned with the forest environment.

15 “(4) The board may adopt and enforce rules addressing scenic con-
16 siderations only in accordance with section 17 of this 1991 Act.

17 “SECTION 11. ORS 527.670 is amended to read:

18 “527.670. (1) The board shall designate the types of operations for which
19 notice shall be required under this section.

20 “(2) The board shall determine by rule what types of operations require
21 a written plan to be approved by the State Forester.

22 “(3)(a) The board’s determination under subsection (2) of this section
23 shall require a written plan for operations [within]:

24 “[a] (A) Within one hundred feet of a Class 1 stream, unless the board,
25 by rule, provides that a written plan is not required because there is no
26 reasonable likelihood that such operations would damage a resource de-
27 scribed in ORS 527.710 (2), within the riparian management area; [or]

28 “[b] (B) Within three hundred feet of a resource site inventoried pur-
29 suant to ORS 527.710 (3)(a)[.];

30 “(C) On lands determined by the State Forester to be within high

1 risk sites, unless the board, by rule, provides that a written plan is
2 not required because there is no reasonable likelihood that such op-
3 erations would damage a resource described in ORS 527.710 (2); or

4 "(D) On lands to be clear-cut in excess of 120 acres pursuant to
5 section 7 of this 1991 Act.

6 "(b) Plans submitted under subparagraphs (C) and (D) of paragraph
7 (a) of this subsection are not subject to appeal under ORS 527.700. (3)

8 "(4) The distances set forth in [paragraphs (a) and (b)]
9 (A) and (B) of paragraph (a) of subsection (3) of this secti
10 the purpose of defining an area within which a hearing r
11 under ORS 527.700 and not the area to be protected by
12 adopted pursuant to ORS 527.710 (3)(c).

13 "(5) For the purpose of determining the distances set forth in
14 (a) and (b)] subparagraphs (A) and (B) of paragraph (a) of subsection (3)
15 of this section 'site' means the specific resource site and not any additional
16 buffer area.

17 "(6) An operator, timber owner or landowner, before commencing an op-
18 eration, shall notify the State Forester. The notification shall be on forms
19 provided by the State Forester and shall include the name and address of the
20 operator, timber owner and landowner, the legal description of the operating
21 area, and any other information considered by the State Forester to be nec-
22 essary for the administration of the rules promulgated by the board pursuant
23 to ORS 527.710. Promptly upon receipt of such notice, the State Forester
24 shall send a copy of the notice to whichever of the operator, timber owner
25 or landowner did not submit the notification. The State Forester shall
26 send a copy of notices involving chemical applications to persons
27 within five miles of the chemical application who hold downstream
28 surface water rights pursuant to ORS chapter 537, if such a person has
29 requested that notification in writing. The State Forester shall also send
30 to the operator, the timber owner and the landowner a copy of the rules

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1 applicable to the proposed operation. Upon receipt of a notification indi-
2 cating the intent of a landowner to clear-cut harvest immature timber,
3 as defined by the board, the State Forester shall provide the landowner
4 with information regarding the economic and environmental effects
5 of immature timber harvest.

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

9 “(8) Within three working days of receipt of a notice or a written plan
10 filed under subsection (6) or (7) of this section, the State Forester shall send
11 a copy of the notice or written plan to the Department of Revenue, the
12 county assessor for the county in which the operation is located and persons
13 who requested of the State Forester in writing that they be sent copies of
14 notice and written plan and who have paid any applicable fee established by
15 the State Forester for such service. The State Forester may establish a fee
16 for sending copies of notices and written plans under this subsection not to
17 exceed the actual and reasonable costs.

18 “(9) Persons may submit written comments pertaining to the operation to
19 the State Forester within 14 calendar days of the date the notice or written
20 plan was filed with the State Forester under subsection (2), (6) or (7) of this
21 section. Notwithstanding the provisions of this subsection, the State Forester
22 may waive any waiting period for operations not requiring a written plan
23 under subsection (3) of this section, **except those operations involving**
24 **aerial application of chemicals.**

25 “(10) Whenever an operator, timber owner or landowner is required to
26 submit a written plan of operations to the State Forester under subsection
27 (3) of this section, the State Forester shall not approve any such written plan
28 until 14 calendar days following the date the written plan was filed with the
29 State Forester. An operation may commence upon approval of the written
30 plan.

1 “(11)(a) The State Forester shall issue a decision on a written plan within
2 three working days after the end of the 14-day period described in subsection
3 (10) of this section.

4 “(b) If the State Forester fails to issue a decision within five working
5 days after the end of the 14-day period described in subsection (10) of this
6 section, the written plan shall be deemed approved and the operation may
7 be commenced.

8 “(12) When the operation is required to have a written plan under sub-
9 paragraph (A) or (B) of paragraph (a) of subsection (3) of this section and
10 comments have been timely filed under subsection (9) of this section per-
11 taining to the operation requiring a written plan, the State Forester shall:

12 “(a) Send a copy of the approved written plan to persons who submitted
13 timely written comments under subsection (9) of this section pertaining to
14 the operation; and

15 “(b) Send to the operator, timber owner and landowner a copy of the ap-
16 proved written plan and copies of all timely comments submitted under sub-
17 section (9) of this section.

18 “**SECTION 12.** ORS 527.690 is amended to read:

19 “527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b)
20 directs the repair of damage or correction of an unsatisfactory condition,
21 **including compliance with reforestation requirements**, and if the oper-
22 ator or landowner does not comply with the order within the period specified
23 in such order and the order has not been appealed to the board within 30
24 days, the State Forester based upon a determination by the forester of what
25 action will best carry out the purposes of ORS 527.630 shall:

26 “(a) Maintain an action in the Circuit Court for Marion County or the
27 circuit court for the county in which the violation occurred for an order
28 requiring the landowner or operator to comply with the terms of the
29 forester’s order or to restrain violations thereof; or

30 “(b) Estimate the cost to repair the damage or the unsatisfactory condi-

1 tion as directed by the order and shall notify the operator, timber owner and
2 landowner in writing of the amount of the estimate. Upon agreement of the
3 operator, timber owner or the landowner to pay the cost, the State Forester
4 may proceed to repair the damage or the unsatisfactory condition. In the
5 event approval of the expenditure is not obtained within 30 days after no-
6 tification to the operator, timber owner and landowner under this section,
7 the State Forester shall present to the board the alleged violation, the esti-
8 mate of the expenditure to repair the damage or unsatisfactory condition and
9 the justification for the expenditure.

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

17 “(3) If the board authorizes the State Forester to repair the damage or
18 correct the unsatisfactory condition, the State Forester shall proceed, either
19 with forces of the State Forester or by contract, to repair the damage or
20 correct the unsatisfactory condition. The State Forester shall keep a com-
21 plete account of direct expenditures incurred, and upon completion of the
22 work, shall prepare an itemized statement thereof and shall deliver a copy
23 to the operator, timber owner and landowner. In no event shall the expend-
24 itures exceed the amount authorized by subsection (2) of this section. An
25 itemized statement of the direct expenditures incurred by the State Forester,
26 certified by the State Forester, shall be accepted as prima facie evidence of
27 such expenditures in any proceeding authorized by this section. **If the State**
28 **Forester's action to repair the damage or correct the unsatisfactory**
29 **condition arose from an operation for which a bond, cash deposit or**
30 **other security was required under section 8 of this 1991 Act, the State**

1 Forester shall retain any applicable portion of a cash deposit and the
2 surety on the bond or holder of the other security deposit shall pay the
3 amount of the bond or other security deposit to the State Forester
4 upon demand. If the amount specified in the demand is not paid within
5 30 days following the demand, the Attorney General, upon request by
6 the State Forester, shall institute proceedings to recover the amount
7 specified in the demand.

8 “(4) The expenditures in cases covered by this section, including cases
9 where the amount collected on a bond, deposit or other security was
10 not sufficient to cover authorized expenditures, shall constitute a gen-
11 eral lien upon the real and personal property of the operator, timber owner
12 and landowner within the county in which the damage occurred. A written
13 notice of the lien, containing a statement of the demand, the description of
14 the property upon which the expenditures were made and the name of the
15 parties against whom the lien attaches, shall be certified under oath by the
16 State Forester and filed in the office of the county clerk of the county or
17 counties in which the expenditures were made within six months after the
18 date of delivery of the itemized statement referred to in subsection (3) of this
19 section, and may be foreclosed in the manner provided in ORS chapter 88.

20 “[~~(5) Liens provided for in this section shall cease to exist unless suit for~~ *State*
21 ~~foreclosure is instituted within six months from the date of filing under sub-~~ *would con*
22 ~~section (4) of this section.]~~ *of this*”

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

25 “SECTION 13. ORS 527.710 is amended to read:

26 “527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and
27 527.990 (1), the board shall adopt, in accordance with applicable provisions
28 of ORS 183.310 to 183.550, rules to be administered by the State Forester es-
29 tablishing [*minimum*] standards for forest practices in each region or subre-
30 gion.

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

4 “(a) Air quality;

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

7 “(c) Soil productivity; and

8 “(d) Fish and wildlife.

9 “(3)(a) In addition to its rulemaking responsibilities under subsection (2)
10 of this section, the board shall collect and analyze the best available infor-
11 mation and establish inventories of the following resource sites needing
12 protection:

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

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

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

19 “(D) Significant wetlands.

20 “(b) The board shall determine whether forest practices would conflict
21 with resource sites in the inventories required by paragraph (a) of this sub-
22 section. If the board determines that one or more forest practices would
23 conflict with resource sites in the inventory, the board shall consider the
24 consequences of the conflicting uses and determine appropriate levels of
25 protection.

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

30 “(4) Before adopting rules under subsection (1) of this section, the board

1 shall consult with other agencies of this state or any of its political subdi-
2 visions that have functions with respect to the purposes specified in ORS
3 527.630 or programs affected by forest operations. Agencies and programs
4 subject to consultation under this subsection include, but are not limited to:

5 “(a) Air and water pollution programs administered by the Department
6 of Environmental Quality under ORS 468.700 to 468.778, 468.780, 468.815 and
7 477.515 to 477.532;

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

11 “(c) Game fish and wildlife, commercial fishing, licensing, wildlife and
12 bird refuge and fish habitat improvement tax incentive programs adminis-
13 tered by the State Department of Fish and Wildlife under ORS 272.060,
14 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

15 “(d) Park land, Willamette River Greenway, scenic waterway and recre-
16 ation trail programs administered by the State Parks and Recreation De-
17 partment under ORS 358.475 to 358.565, 390.310 to 390.368, 390.805 to 390.925,
18 390.950 to 390.990 and ORS 390.121;

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

21 “(f) Removal and fill, natural heritage conservation and natural heritage
22 conservation tax incentive programs administered by the State Land Board
23 and the Division of State Lands under ORS 196.670 to 196.765, 273.553 to
24 273.591, 307.550, 307.560 and 541.700 to 541.990;

25 “(g) Federal Safe Drinking Water Act programs administered by the
26 Health Division under ORS 448.273 to 448.990;

27 “(h) Natural heritage conservation programs administered by the Natural
28 Heritage Advisory Council under ORS 273.553 to 273.591, 307.550 and 307.560;

29 “(i) Open space land tax incentive programs administered by cities and
30 counties under ORS 308.740 to 308.790; and

1 “(j) Water resources programs administered by the Water Resources De-
2 partment under ORS 536.220 to 536.540.

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

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

12 “(7) The board may enter into cooperative agreements or contracts nec-
13 essary in carrying out the purposes specified in ORS 527.630. **The State**
14 **Forestry Department shall enter into agreements with appropriate**
15 **state agencies for joint monitoring of the effectiveness of forest prac-**
16 **tice rules in protecting forest resources and water quality.**

17 “**SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610
18 to 527.730 and is amended to read:

19 “527.715. The board shall establish, by rule, the standards and procedures
20 to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, ~~477.090,~~
21 477.440, 477.455, 477.460, 526.009, 526.016, 527.620, 527.630, 527.660, ~~527.670,~~
22 527.683 to [527.687, 527.700 to 527.722,] **527.724**, 527.735, [and] 527.992 and
23 **sections 3 to 9 and 17 of this 1991 Act.**

24 “**SECTION 15.** (1) The State Forester, in cooperation with the Depart-
25 ment of Environmental Quality and the State Department of Fish and
26 Wildlife, shall conduct a study of harvest rates and cumulative effects re-
27 lated to forest practices on forestland in Oregon, and submit a progress re-
28 port to the Sixty-seventh Legislative Assembly and a final report to the
29 Sixty-eighth Legislative Assembly on the results of the study, along with
30 recommendations for addressing any problems that may be identified during

1 the course of such study.

2 “(2) The study shall include, but be not limited to, an analysis of:

3 “(a) The annual rates of harvest of commercial tree species on Oregon’s
4 private forestlands compared to the annual rates of growth on such
5 forestlands;

6 “(b) The effect of such harvest rates on employment and community sta-
7 bility;

8 “(c) Age and species composition of commercial forest trees species at
9 final clear-cut harvest, the rationale for such harvests and any problems
10 caused by premature harvesting;

11 “(d) The extent to which private forest resources in Oregon are being
12 rapidly liquidated to fulfill the terms of highly leveraged contracts to pur-
13 chase such resources;

14 “(e) The effectiveness of current forest practices rules; and

15 “(f) The impact of cumulative effects of harvest operations on air, soil,
16 water, and fish and wildlife. The study of cumulative effects shall be con-
17 ducted in at least three distinct geographic areas in the state.

18 “(3) As results from the analyses in ^{paragraphs (e) and (f) of} subsections ~~(2)(e) and (f)~~ of this sec- X
19 tion become available, the board shall adopt additional rules it deems nec-
20 essary to protect forest resources pursuant to ORS 527.630. Nothing in this
21 section shall be construed to limit the board’s responsibility to carry out any
22 other rulemaking requirements of the Oregon Forest Practices Act.

23 “(4) For purposes of the study required by this section, ‘cumulative X
24 effects’ means the impact on the environment which results from the incre-
25 mental impact of the forest practice when added to other past, present and
26 reasonably foreseeable future forest practices regardless of what govern-
27 mental agency or person undertakes such other actions. Nothing in this
28 section shall be construed to limit the board’s responsibility to carry out any
29 other rulemaking requirements of the Oregon Forest Practices Act.

30 “(5) This section is repealed January 1, 1995.

1 "SECTION 16. Section 9, chapter 920, Oregon Laws 1989, is repealed.

2 "SECTION 17. (1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:

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

4 "(b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 36, 38, 42, 58, 62, 82, 5
6 97, 101, 126, 138, 140, 199, 230, 234 and 395.

7 "(2) In consultation with the Department of Transportation, the board
8 shall establish procedures and regulations as necessary to implement the
9 requirements of subsection (3) of this section, consistent with the safety of
10 the motoring public, including provisions for alternate plans providing
11 equivalent or better results within visually sensitive corridors extending 150
12 feet from the outermost shoulder of the roadway along both sides and for the
13 full length of the scenic highways designated in subsection (1) of this section.

14 "(3)(a) For harvest operations within a visually sensitive corridor, at least
15 50 health trees of at least 11 inches at DBH, or that measure at least 40
16 square feet in basal area, shall be temporarily left on each acre. Harvest
17 areas 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
18 activity on the site, regardless of whether the harvest operation is complete.

19
20 "(b) Overstory trees initially required to be left under paragraph (a) of
21 this subsection may be removed when the reproduction understory reaches
22 an average height of at least 10 feet and has at least 250 stems per acre.

23 "(c) When the adjacent stand, extending from 150 feet from the corridor
24 to 300 feet from the corridor, has attained an average height of at least 10
25 feet and has at least 200 stems per acre or at least 40 square feet of basal
26 area, no trees are required to be left in the visually sensitive corridor, or
27 trees initially required to be left under ^{the paragraph and} paragraph (a) of this subsection may
28 be removed. Harvest areas within the visually sensitive corridor shall be
29 cleared of major harvest debris within 30 days of the completion of the harvest
30 or within 60 days of the cessation of active harvesting activity on the

1 site, regardless of whether the harvest operation is complete. Reforestation
2 shall be completed by the end of the first planting season after the com-
3 pletion of harvest. A minimum of 400 trees per acre shall be planted. By the
4 end of the fifth growing season after the completion of planting, at east 250
5 healthy conifer seedlings shall be established per acre, well-distributed over
6 the area, which are "free to grow" as defined by the board. When harvests
7 within the visually sensitive corridor are carried out under this paragraph
8 the adjacent stand, extending from 150 feet from the corridor to 300 feet from
9 the corridor, shall not be clear-cut until the adjacent visually sensitive cor-
10 ridor has been reforested as required under this paragraph and the stand has
11 attained an average height of at least 10 feet and has at least 250 stems per
12 acre.

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

17 "**SECTION 18.** The State Forestry Department shall conduct a study and
18 shall submit to the Sixty-seventh Legislative Assembly a recommendation
19 regarding the native Pacific yew species in this state. The study shall use
20 existing information to assess the availability of native Pacific yew on public
21 and private lands in this state.

22 "**SECTION 19.** ORS 527.724 is amended to read:

23 "527.724. **Subject to sections 20 and 21 of this 1991 Act,** any forest op-
24 erations on forestlands within this state shall be conducted in full compli-
25 ance with the rules and standards of the Environmental Quality Commission
26 relating to air and water pollution control. In addition to all other remedies
27 provided by law, any violation of those rules or standards shall be subject
28 to all remedies and sanctions available under statute or rule to the Depart-
29 ment of Environmental Quality or the Environmental Quality Commission.

30 "**SECTION 20.** (1) The board shall establish best management practices

1 and other rules applying to forest practices as necessary to insure that to
2 the maximum extent practicable nonpoint source discharges of pollutants
3 resulting from forest operations on forestlands do not impair the achieve-
4 ment and maintenance of water quality standards established by the Envi-
5 ronmental Quality Commission for the waters of the state. Such best
6 management practices shall consist of forest practices rules adopted to pre-
7 vent or reduce pollution of waters of the state. Factors to be considered by
8 the board in establishing best management practices shall include, where
9 applicable, but not be limited to:

10 "(a) Beneficial uses of waters potentially impacted;

11 "(b) Technical, economic and institutional feasibility; and

12 "(c) Natural variations in geomorphology and hydrology.

13 "(2) The board shall consult with the Environmental Quality Commission
14 in adoption and review of best management practices and other rules to ad-
15 dress nonpoint source discharges of pollutants resulting from forest oper-
16 ations on forestlands.

17 "(3)(a) Upon written petition of any interested person or agency, the
18 board, in accordance with ORS 183.310 to 183.550, shall review the best
19 management practices adopted pursuant to this section. The petition must
20 allege with reasonable specificity that nonpoint source discharges of
21 pollutants resulting from forest operations being conducted in accordance
22 with the best management practices are a significant contributor to vio-
23 lations of such standards.

24 "(b) Notwithstanding ORS 183.390, the board shall complete its review of
25 a petition and either dismiss the petition in accordance with paragraph (c)
26 of this subsection or commence rulemaking in accordance with paragraph (f)
27 of this subsection within 90 days of the date the petition for review was filed.

28 "(c) Except as provided in paragraph (d) of this subsection, if the board
29 determines that forest operations being conducted in accordance with the
30 best management practices are neither significantly responsible for partic-

1 ular water quality standards not being met nor are a significant contributor
2 to violations of such standards, the board shall issue an order dismissing the
3 petition.

4 “(d) If the petition for review of best management practices is made by
5 the Environmental Quality Commission, the board shall not terminate the
6 review without the concurrence of the commission, unless the board com-
7 mences rulemaking in accordance with paragraph (f) of this subsection.

8 “(e) If a petition for review is dismissed, upon conclusion of the review,
9 the board shall issue an order that includes findings regarding specific
10 allegations in the petition and shall state the board’s reasons for any con-
11 clusions to the contrary.

12 “(f) If, pursuant to review, the board determines that best management
13 practices should be reviewed, the board shall commence rulemaking pro-
14 ceedings for that purpose. Rules specifying the revised best management
15 practices must be adopted not later than two years from the filing date of
16 the petition for review unless the board, with concurrence of the Environ-
17 mental Quality Commission, finds that special circumstances require addi-
18 tional time.

19 “(g) Notwithstanding the time limitation established in paragraph (f) of
20 this subsection, at the request of the Environmental Quality Commission, the
21 board shall take action as quickly as practicable to prevent significant
22 damage to beneficial uses identified by the commission while the board is
23 revising its best management practices and rules as provided for in this
24 section.

25 “(h) The board shall include in its triennial review of administrative rules
26 an analysis of the effectiveness of the best management practices and other
27 rules applying to forest practices adopted to maintain water quality stan-
28 dards established by the Environmental Quality Commission.

29 “SECTION 21. A forest operator conducting, or in good faith proposing
30 to conduct, operations in accordance with best management practices cur-

1 rently in effect shall not be considered in violation of any water quality
2 standards. When the board adopts new best management practices and other
3 rules applying to forest operations, such rules shall apply to all current or
4 proposed forest operations upon their effective dates. However, nothing in
5 this section prevents enforcement of water quality standards against a forest
6 operator conducting operations after the time provided in section 20 (3)(f)
7 of this 1991 Act for adoption of revised best management practices if the
8 board either has not adopted revised management practices or has not made
9 a finding that such revised best management practices are not required.

10 "SECTION 22. Sections 23 and 24 of this Act are added to and made a
11 part of ORS 468.700 to 468.778.

12 "SECTION 23. Upon request of the State Board of Forestry, the Envi-
13 ronmental Quality Commission shall review any water quality standard that
14 affects forest operations on forestlands. The commission's review may be
15 limited to or coordinated with the triennial or any other regularly scheduled
16 review of the state's water quality standards, consistent with ORS 468.735,
17 section 24 of this 1991 Act and applicable federal law.

18 "SECTION 24. (1) Except as provided in subsection (2) of this section,
19 as necessary to achieve and maintain standards of water quality or purity
20 adopted under ORS 468.735, the commission or department may, by rule or
21 order, impose and enforce limitations or other controls which may include
22 total maximum daily loads, wasteload allocations for point sources and load
23 allocations for nonpoint sources, as provided in the federal Water Pollution
24 Control Act (33 U.S.C. § 1321) and federal regulations and guidelines issued
25 pursuant thereto.

26 "(2) Unless required to do so by the provisions of the Federal Clean Water
27 Act, neither the Environmental Quality Commission nor the Department of
28 Environmental Quality shall promulgate or enforce any effluent limitation
29 upon nonpoint source discharges of pollutants resulting from forest oper-
30 ations on forestlands in this state. Any limitations or controls applying to

1 nonpoint source discharges or pollutants resulting from forest operations are
2 subject to sections 20 and 21 of this 1991 Act. However, nothing in this
3 section is intended to affect the authority of the commission or the depart-
4 ment provided by law to impose and enforce limitations or other controls on
5 water pollution from sources other than forest operations.

6 “(3) When the Environmental Quality Commission establishes instream
7 water quality standards to protect designated beneficial uses in the waters
8 of the state, it shall consider, where applicable, available scientific informa-
9 tion including, but not limited to, stream flow, geomorphology and other
10 factors representing the variability and complexity of hydrologic systems and
11 intrinsic water quality conditions.

12 “(4) When the Environmental Quality Commission establishes instream
13 water quality standards, it will also issue guidelines describing how the de-
14 partment and the commission will determine whether water quality standards
15 in waters affected by nonpoint source activities are being met. In developing
16 these guidelines, the commission shall include, where applicable, those
17 physical characteristics such as stream flow, geomorphology, seasons, fre-
18 quency, duration, magnitude and other factors which represent the variabil-
19 ity and complexity of forested and other appropriate hydrologic systems.

20 **“SECTION 25. (1) The State Board of Forestry, after consultation with**
21 **the State Department of Fish and Wildlife, shall commission a scientific in-**
22 **quiry on the state of knowledge, using existing information, of the relative**
23 **effects of forest practices on anadromous fish runs in western Oregon. The**
24 **study will identify the leading causes, both on-shore and off-shore, for**
25 **anadromous fish population declines if that is the case; assign the relative**
26 **importance of forest practices to these declines, compared to other leading**
27 **causes; identify the relative importance of various habitat characteristics in**
28 **streams in limiting anadromous fish production; determine how forest prac-**
29 **tices have affected fish production; determine how forest practices have af-**
30 **ected these habitat characteristics and anadromous fish populations before**

1 and since 1972; identify the extent to which forest practices are limiting the
2 recovery of depressed anadromous fish populations; and make recommen-
3 dations as to how forest practices can assist in recovery of anadromous fish
4 populations.

5 “(2) The board shall contract with an independent and disinterested or-
6 ganization to assemble a panel of well-qualified scientists to conduct the
7 work described in subsection (1) of this section and to write a report of its
8 findings.

9 “(3) Nothing in this section shall be construed to limit the ability of the
10 board to promulgate rules relating to forest practices which appropriately
11 protect fish and wildlife populations.

12 “SECTION 26. (1) The study required by section 25 of this 1991 Act shall
13 be financed from such moneys as are referred to in this section and sections
14 27 and 29 of this 1991 Act.

15 “(2) The State Board of Forestry shall request:

16 “(a) The United States Forest Service to pay 25 percent of the study cost.

17 “(b) The Bureau of Land Management to pay 15 percent of the study cost.

18 “(c) The Bonneville Power Administration to pay 25 percent of the study
19 cost.

20 “SECTION 27. In addition to and not in lieu of any other appropriations
21 or moneys made available by law or from other sources, there is appropriated
22 to the State Forestry Department, for the biennium beginning July 1, 1991,
23 out of the General Fund, the sum of \$ _____. Such sum may only be expended
24 to pay the costs of the study required by section 25 of this Act.

25 “SECTION 28. Section 29 of this Act is added to and made a part of ORS
26 321.005 to 321.185.

27 “SECTION 29. (1) In addition to the taxes levied under ORS 321.015 (1)
28 to (3), there hereby is levied a privilege tax upon taxpayers on the harvesting
29 of all merchantable forest products harvested on forestland during the period
30 beginning July 1, 1991, and ending June 30, 1993, in the amount provided in

1 subsection (2) of this section.

2 “(2) The rate of tax levied in subsection (1) of this section shall be two
3 cents per thousand feet, board measure, on all merchantable forest products
4 harvested on forestland.

5 “(3) The tax shall be measured by and be applicable to each per thousand
6 feet, board measure, and such shall be subject to and determined by the
7 procedures and provisions of ORS 321.015 (4) and (5).

8 “(4) The tax levied by subsection (1) of this section shall be due and
9 payable to the department in the manner and procedure, including penalties
10 and interest, as set forth for the collection of the privilege tax in ORS
11 321.005 to 321.185.

12 “(5) The revenue from the tax levied by subsection (1) of this section shall
13 be remitted to the State Treasurer who shall deposit it in a suspense account
14 established under ORS 321.145 (1). After payment of refunds, which shall be
15 paid in the same manner as other forest products harvest tax refunds are
16 paid in ORS 321.145 (2), the balance of the additional tax imposed under
17 subsection (1) of this section shall be deposited to the account referred to in
18 ORS 321.185. X

19 “SECTION 30. ORS 527.722 is amended to read:

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

26 “(2) Nothing in subsection (1) of this section prohibits local governments
27 from adopting and applying a comprehensive plan or land use [regulations]
28 regulation to forestland to allow, prohibit or regulate:

29 “(a) Forest practices on lands located within an acknowledged ur-
30 ban growth boundary;

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

6 “[(a)] (c) The establishment or alteration of structures other than tempo-
7 rary onsite structures which are auxiliary to and used during the term of a
8 particular forest operation;

9 “[(b)] (d) The siting or alteration of dwellings;

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

14 “[(d)] (f) Partitions and subdivisions of the land[; or].

15 “[(e)] (3) Nothing in [this] subsection (2) of this section shall prohibit
16 a local government from enforcing the provisions of ORS 455.310 to 455.715
17 and the rules adopted thereunder.

18 “[(3)] (4) Counties can prohibit forest practices on land for which an ac-
19 knowledged exception to an agricultural or forestland goal has been taken.

20 “(5) To insure that all forest operations in this state are regulated
21 to achieve protection of soil, air, water, fish and wildlife resources, in
22 addition to all other forestlands, the Oregon Forest Practices Act ap-
23 plies to forestlands inside any urban growth boundary unless a local
24 government has adopted regulations for forest practices. Such local
25 regulations shall:

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

27 “(b) Be acknowledged as being in compliance with land use planning
28 goals.

29 “(6) Local governments which have, before the effective date of this
30 1991 Act, adopted a comprehensive plan policy or land use regulation

1 allowing, prohibiting or regulating forest practices consistent with
2 subsections (1) to (5) of this section shall inform the State Forester
3 of such policies and regulations within 60 days of the effective date of
4 this 1991 Act. Existence or adoption of such policies or regulations
5 relieves the State Forester of responsibility to administer the Oregon
6 Forest Practices Act within the affected area.

7 “(7) The director of the Department of Land Conservation and De-
8 velopment shall provide the State Forester copies of notices submitted
9 pursuant to ORS 197.615, whenever such notices concern the adoption,
10 amendment or repeal of a comprehensive land use regulation allowing,
11 prohibiting or regulating forest practices.

12 “SECTION 31. ORS 527.992 is added to and made a part of ORS 527.610
13 to 527.730 and 527.990. *Q*

14

HOUSE COMMITTEE REPORT

June 10, 1991

Speaker Campbell:

Your committee on Agriculture, Forestry & Natural Resources to whom was referred SB 1125-A having had the same under consideration, respectfully reports it back with recommendation that it

**DO PASS WITH AMENDMENTS AND BE PRINTED ENGROSSED
BE REFERRED TO COMMITTEE ON WAYS AND MEANS BY PRIOR REFERENCE**

Rep.
Carrier of Measure


Rep. Schroeder, Chairperson

FOR INFORMATION ONLY - NOT PART OF COMMITTEE REPORT

VOTING AYE: 5 - Reps. Josi, Meek, Norris, VanLeeuwen, Schroeder
VOTING NAY: 0
EXCUSED: 2 - Reps. Dominy, Dwyer
ABSENT: 0

FOR OFFICE USE ONLY

Action Code:

SB 1125-A17
(LC 3265)
6/10/91 (CW/lc)

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1125**

1 On page 1 of the printed A-engrossed bill, line 3, after "527.710," insert
2 "527.715, 527.722 and" and delete "and section 8, chapter 920, Oregon Laws
3 1989".

4 Delete lines 6 through 22 and delete pages 2 through 16 and insert:

5 **"SECTION 1. ORS 527.620 is amended to read:**

6 **"527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:**

7 **"[(1) 'State Forester' means the State Forester or the duly authorized rep-**
8 **resentative of the State Forester.]**

9 **"[(2) 'Operator' means any person, including a landowner or timber owner,**
10 **who conducts an operation.]**

11 **"[(3)] (1) 'Board' means the State Board of Forestry.**

12 **"(2) 'Clear-cut' means any harvest unit in western Oregon that**
13 **leaves fewer than 50 trees per acre that are well-distributed over the**
14 **unit and that measure at least 11 inches at DBH or that measure less**
15 **than 40 square feet of basal area per acre. 'Clear-cut' means any**
16 **harvest unit in eastern Oregon that leaves fewer than 15 trees per acre**
17 **that are well-distributed over the unit and that measure at least 10**
18 **inches at DBH. For purposes of this subsection, no tree shall be**
19 **counted unless the top one-third of the bole of the tree supports a**
20 **green, live crown. For purposes of computing basal area, trees larger**
21 **than 20 inches shall be considered 20-inch trees.**

22 **"(3) 'DBH' means the diameter at breast height which is measured**
23 **as the width of a standing tree at four and one-half feet above the**
24 **ground, on the uphill side.**

(4) 'Forestland' means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.

4 Forest tree species does not include Christmas trees on land used solely for
5 the production of cultured Christmas trees as defined in ORS 215.203 (3).

6 "(5) 'Forest practice' means any operation conducted on or pertaining to
7 forest land, including but not limited to:

8 "(a) Reforestation of forestland;

9 "(b) Road construction and maintenance;

10 "(c) Harvesting of forest tree species;

11 "(d) Application of chemicals; and

12 "(e) Disposal of slash.

13 "[(6) 'Operation' means any commercial activity relating to the growing or
14 harvesting of forest tree species.]

15 "[(7) (6) 'Landowner' means any individual, combination of individuals,
16 partnership, corporation or association of whatever nature that holds an
17 ownership interest in forestland, including the state and any political sub-
18 division thereof.

19 "(7) 'Operation' means any commercial activity relating to the
20 growing or harvesting of forest tree species.

21 "(8) 'Operator' means any person, including a landowner or timber
22 owner, who conducts an operation.

23 "(9) 'State Forester' means the State Forester or the duly author-
24 ized representative of the State Forester.

25 "(10) 'Suitable hardwood seedlings' means any hardwood seedling
26 that will eventually yield logs or fiber, or both, sufficient in size and
27 quality for the production of lumber, plywood, pulp or other forest
28 products.

29 "[(8) (11) 'Timber owner' means any individual, combination of individ-
30 uals, partnership, corporation or association of whatever nature, other than

1 a landowner, that holds an ownership interest in any forest tree species on
2 forestland.

3 **"(12) 'Visually sensitive corridor' means forestland located within**
4 **the area extending 150 feet measured on the slope from the outermost**
5 **right of way boundary of a scenic highway referred to in section 17 of**
6 **this 1991 Act.**

7 **"[(9)] (13) 'Written plan' means a plan submitted by an operator, for**
8 **written approval by the State Forester, which describes how the operation**
9 **will be conducted, including the means to protect resource sites described in**
10 **ORS 527.710 (3)(a) and information required by sections 6 and 7 of this**
11 **1991 Act, if applicable.**

12 **"SECTION 2. Sections 3 to 9, 15, 17, 18, 20, 21, 25 and 26 of this Act are**
13 **added to and made a part of ORS 527.610 to 527.730.**

14 **"SECTION 3. (1) The standards established in sections 4 to 7 of this 1991**
15 **Act shall be administered by the State Forester as standards applying to all**
16 **operations in the state, including those on forestland owned by the state or**
17 **any political subdivision thereof. Pursuant to ORS 527.710 the board shall**
18 **adopt, repeal or amend forest practice rules as necessary to be consistent**
19 **with and to implement the standards established in sections 4 to 7 of this**
20 **1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the**
21 **board to adopt, or the State Forester to administer, all other regulations**
22 **pertaining to forest practices under applicable state law.**

23 **"(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to**
24 **cutting of trees that is for growth enhancement treatments, as defined by the**
25 **State Forester, such as thinning or precommercial thinning.**

26 **"SECTION 4. (1) No clear-cut unit within a single ownership shall exceed**
27 **120 acres in size, except as provided in section 7 of this 1991 Act.**

28 **"(2) No clear-cut unit shall be allowed within 300 feet of the perimeter**
29 **of a prior clear-cut unit if the combined acreage of the clear-cut areas sub-**
30 **ject to regulation under the Oregon Forest Practices Act would exceed 120**

1 acres in size, unless the prior clear-cut unit has been reforested as required
2 by all applicable regulations and:

3 “(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
4 tablished per acre; and either

5 “(b) The resultant reproduction has attained an average height of at least
6 four feet; or

7 “(c) At least 48 months have elapsed since the seedlings were planted and
8 the reproduction is ‘free to grow’ as defined by the board.

9 “(3) Any acreage attributable to riparian areas or to resource sites listed
10 in ORS 527.710 (3) that is located within a harvest unit shall not be counted
11 in calculating the size of a clear-cut unit.

12 “(4) The provisions of this section shall not apply when the land is being
13 converted to conifers or managed hardwoods from brush or understocked
14 hardwoods, or when the clear-cut harvest results from disasters such as fire,
15 insect infestation, disease, windstorm or other occurrence that the State
16 Forester determines was beyond the landowner’s control and has substan-
17 tially impaired productivity or safety on the unit or jeopardizes nearby
18 forestland. The prior approval of the State Forester shall be required for
19 such conversion or clear-cut operations that exceed 120 acres in size.

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

22 “(a) The trees are subject to a cutting right created by written contract
23 prior to October 1, 1990, which provides that the trees must be paid for re-
24 gardless of whether the trees are cut, or subject to a cutting right created
25 by reservation in a deed prior to October 1, 1990; and

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

29 “**SECTION 5.** (1) In a clear-cut harvest unit exceeding 15 acres, the op-
30 erator shall leave, on average per acre harvested, at least:

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

4 (b) Two downed logs or downed trees, at least 50 percent of which are
5 conifers, that are at least 12 inches in diameter at the widest point and at
6 least 16 feet long, or equivalent volume if trees of this size are not available
7 on the site.

8 “(2) In meeting the requirements of subsection (1) of this section, the re-
9 quired snags, trees and logs may be left in one or more clusters rather than
10 distributed throughout the unit. The location and distribution of the material
11 shall be in the sole discretion of the landowner or operator, consistent with
12 safety and fire hazard regulations. The requirements of subsection (1) of this
13 section are in addition to all other requirements pertaining to forest oper-
14 ations and may not be met by counting snags, trees or logs otherwise re-
15 quired to be left in riparian areas or resource sites listed in ORS 527.710 (3).

16 “SECTION 6. (1) The board shall adopt standards for the reforestation
17 of clear-cut harvests. Unless the board makes the findings for alternate
18 standards under subsection (2) of this section, and except to the extent that
19 more stringent reforestation requirements apply under section 4 (2) of this
20 1991 Act, the standards for the reforestation of clear-cuts shall include the
21 following:

22 *Reforestation & riparian site preparation*
~~“(a) Landowners may submit plans for separation,~~ of clear-cut units shall
23 commence within 12 months after the completion of harvest and shall be
24 completed by the end of the second planting season after the completion of
25 harvest. By the end of the fifth growing season after planting or seeding, at
26 least 200 healthy conifer or suitable hardwood seedlings shall be established
27 per acre, well-distributed over the area, which are ‘free to grow’ as defined
28 by the board.

29 “(b) Landowners may submit plans for alternate practices that do not
30 conform to the standards established under paragraph (a) of this subsection
or the alternate standards adopted under subsection (2) of this section, in-

1 cluding but not limited to variances in the time in which reforestation is to
2 be commenced or completed or plans to reforest sites by natural
3 reforestation. Such alternate plans may be approved if the State Forester
4 determines that the plan will achieve equivalent or better regeneration re-
5 sults for the particular conditions of the site, or the plan carries out an au-
6 thorized research project conducted by a public agency or educational
7 institution.

8 “(2) The board, by rule, may establish alternate standards for the
9 reforestation of clear-cuts, in lieu of the standards established in subsection
10 (1) of this section, upon finding that the alternate standards will better as-
11 sure the continuous growing and harvesting of forest tree species and the
12 maintenance of forestland for such purposes, consistent with sound manage-
13 ment of soil, air, water, fish and wildlife resources based on one or more of
14 the following findings:

15 “(a) Alternate standards are warranted based on scientific data concern-
16 ing biologically effective regeneration;

17 “(b) Different standards are warranted for particular geographic areas of
18 the state due to variations in climate, elevation, geology or other physical
19 factors; or

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

22 “(3) Pursuant to ORS 527.710, the board may adopt definitions, procedures
23 and further regulations to implement the standards established under sub-
24 section (1) of this section, without making the findings required in sub-
25 section (2) of this section, if those procedures or regulations are consistent
26 with the standards established in subsection (1) of this section.

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

1 are adapted to the site.

2 “(5) The requirements of this section apply only to clear-cuts as defined
3 in ORS 527.620 (2). Nothing in this section is intended to affect the admin-
4 istration and enforcement of regulations pertaining to the maintenance of
5 minimum stocking levels or the reforestation of sites required as a result of
6 operations other than such clear-cuts.

7 **“SECTION 7. (1)** Notwithstanding the requirements of section 4 of this
8 1991 Act, a clear-cut unit within a single ownership that exceeds 120 acres
9 but does not exceed 240 acres may be approved by the State Forester if all
10 the requirements of this section and any additional requirements established
11 by the board are met. Proposed clear-cut units that are within 300 feet of the
12 perimeter of a prior clear-cut unit, and that would result in a total combined
13 clear-cut area under a single ownership exceeding 120 acres but not exceed-
14 ing 240 acres, may be approved by the State Forester if the additional re-
15 quirements are met for the combined clear-cut area. No clear-cut unit within
16 a single ownership shall exceed 240 contiguous acres. No clear-cut unit shall
17 be allowed within 300 feet of the perimeter of a prior clear-cut unit if the
18 combined acreage of the clear-cut areas subject to regulation under the
19 Oregon Forest Practices Act would exceed 240 acres, unless the prior clear-
20 cut unit has been reforested by all applicable regulations and:

21 “(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
22 tablished per acre; and either

23 “(b) The resultant reproduction has attained an average height of at least
24 four feet; or

25 “(c) At least 48 months have elapsed since the seedlings were planted and
26 the reproduction is ‘free to grow’ as defined by the board.

27 “(2) The requirements of this section are in addition to all other re-
28 quirements of the Oregon Forest Practices Act and the rules adopted there-
29 under. The requirements of this section shall be applied in lieu of such other
30 requirements only to the extent the requirements of this section are more

1 stringent. Nothing in this section shall apply to operations conducted under
2 section 4 (4) or (5) of this 1991 Act.

3 “(3) The board shall require that a written plan be submitted prior to
4 approval of a clear-cut operation under this section. The board may establish
5 by rule any additional standards applying to operations under this section.

6 “(4) The State Forester shall approve the clear-cut operation if the pro-
7 posed clear-cut would provide better overall results in meeting the require-
8 ments and objectives of the Oregon Forest Practices Act.

9 “(5) The board shall specify by rule the information to be submitted for
10 approval of clear-cut operations under this section, including evidence of
11 past satisfactory compliance with the Oregon Forest Practices Act.

12 “**SECTION 8.** (1) The board shall review its rules governing changes in
13 land use and adopt or amend rules as necessary to assure that only bona fide,
14 established and continuously maintained changes from forest uses are pro-
15 vided an exemption from reforestation requirements. The board shall set
16 specific time periods for the completion of land use conversions. Among
17 other factors, the board shall condition exemptions from reforestation re-
18 quirements upon:

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

23 “(b) Demonstrating progress toward the change in land use within the
24 time required for planting of trees, and substantial completion and contin-
25 uous maintenance of the change in land use in a time certain;

26 “(c) Allowing an exemption for only the smallest land area necessary to
27 carry out the change in land use, and requiring that additional land area
28 within the harvest unit remains subject to all applicable reforestation re-
29 quirements; and

30 “(d) Allowing an exemption only to the extent that the proposed land use

1 is not compatible with the maintenance of forest cover.

2 “(2) The board may require that, prior to commencing an operation where
3 a change in land use is proposed, a bond, cash deposit, irrevocable letter of
4 credit or other security be filed with the State Forester in an amount de-
5 termined by the State Forester sufficient to cover the cost of site preparation
6 and reforestation for the area subject to an exemption from reforestation due
7 to a change in land use, and shall require that provisions be made for the
8 administration and collection on such bond or security deposit in the event
9 that the change in land use is not established or continuously maintained
10 within a time certain.

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

14 **“SECTION 9. (1)** Not later than September 1, 1992, the board shall review
15 its classification of waters of the state, create at least three classifications
16 and establish rules applicable to each classification. The board shall give
17 particular consideration to perennial streams, not currently classified as
18 Class 1, which have an average gradient of not more than eight percent and
19 which are important to water quality and fish needs in downstream Class 1
20 streams. The board shall consider requirements for vegetative buffers along
21 such streams consistent with the health of the forest, removal of
22 merchantable trees and protection of stream bank and channel.

23 “(2) The board shall review current Class 1 stream and associated riparian
24 protection rules and, where appropriate, shall improve protection of soil, air,
25 water, fish and wildlife resources.

26 “(3) Until the board adopts rules pursuant to this section, the following
27 interim protection shall apply to operations near streams which are impor-
28 tant to threatened, endangered, sensitive or game fish species and to streams
29 with an average gradient of not more than eight percent and which are im-
30 portant to water quality and fish needs in downstream Class 1 streams:

1 “(a) A buffer three times the stream width or 25 feet, whichever is
2 greater, shall be retained on both sides of the stream;

3 “(b) All nonmerchantable herbaceous vegetation shall be retained;

4 “(c) Ground-based equipment shall not be operated within the buffer
5 without approval of the State Department of Forestry;

6 “(d) Logs shall not be yarded across streams unless the logs are fully
7 suspended in order to minimize disturbance to stream banks, stream channels
8 and streambank vegetation;

9 “(e) Streams shall not be crossed without approval of the State Depart-
10 ment ~~of Forestry~~; and

11 “(f) Merchantable trees may be removed consistent with protection of the
12 buffer, streambanks and stream channels.

13 “(4) The State Department of Forestry shall consult with the appropriate
14 state agencies in determining which streams are affected by this section.

15 “(5) The interim protection in subsection (3) of this section terminates on
16 the effective date of permanent rules adopted by the board for the protection
17 of these streams.

18 “(6) The board shall report to the Sixty-seventh Legislative Assembly on
19 the results of the board’s reviews pursuant to this section and section 8 of
20 this 1991 Act, including any recommendations for legislative changes.

21 “SECTION 10. ORS 527.630 is amended to read:

22 “527.630. (1) Forests make a vital contribution to Oregon by providing
23 jobs, products, tax base and other social and economic benefits, by helping
24 to maintain forest tree species, soil, air and water resources and by providing
25 a habitat for wildlife and aquatic life. Therefore, it is declared to be the
26 public policy of the State of Oregon to encourage economically efficient
27 forest practices that assure the continuous growing and harvesting of forest
28 tree species and the maintenance of forestland for such purposes as the
29 leading use on privately owned land, consistent with sound management of
30 soil, air, water, [and] fish and wildlife resources **and scenic resources**

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1 **within visually sensitive corridors as provided in section 17 of this 1991**
2 **Act** that assures the continuous benefits of those resources for future gen-
3 erations of Oregonians.

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

10 “(3) To encourage forest practices implementing the policy of ORS 527.610
11 to 527.730 and 527.990, it is declared to be in the public interest to vest in
12 the board exclusive authority to develop and enforce statewide and regional
13 rules pursuant to ORS 527.710 and to coordinate with other state agencies
14 and local governments which are concerned with the forest environment.

15 **“(4) The board may adopt and enforce rules addressing scenic con-**
16 **siderations only in accordance with section 17 of this 1991 Act.**

17 **“SECTION 11.** ORS 527.670 is amended to read:

18 “527.670. (1) The board shall designate the types of operations for which
19 notice shall be required under this section.

20 “(2) The board shall determine by rule what types of operations require
21 a written plan to be approved by the State Forester.

22 “(3)(a) The board’s determination under subsection (2) of this section
23 shall require a written plan for operations [*within*]:

24 “[*(a)*] **(A) Within** one hundred feet of a Class 1 stream, unless the board,
25 by rule, provides that a written plan is not required because there is no
26 reasonable likelihood that such operations would damage a resource de-
27 scribed in ORS 527.710 (2), within the riparian management area; [*or*]

28 “[*(b)*] **(B) Within** three hundred feet of a resource site inventoried pur-
29 suant to ORS 527.710 (3)(a)[.];

30 **“(C) On lands determined by the State Forester to be within high**

1 risk sites, unless the board, by rule, provides that a written plan is
2 not required because there is no reasonable likelihood that such op-
3 erations would damage a resource described in ORS 527.710 (2); or

4 “(D) On lands to be clear-cut in excess of 120 acres pursuant to
5 section 7 of this 1991 Act.

6 “(b) Plans submitted under subparagraphs (C) and (D) of paragraph
7 (a) of this subsection are not subject to appeal under ORS 527.700. (3) [^] EF

8 “(4) The distances set forth in [paragraphs (a) and (b)] subparagraphs
9 (A) and (B) of paragraph (a) of subsection (3) of this section are solely for
10 the purpose of defining an area within which a hearing may be requested
11 under ORS 527.700 and not the area to be protected by the board’s rules
12 adopted pursuant to ORS 527.710 (3)(c).

13 “(5) For the purpose of determining the distances set forth in [paragraphs
14 (a) and (b)] subparagraphs (A) and (B) of paragraph (a) of subsection (3)
15 of this section ‘site’ means the specific resource site and not any additional
16 buffer area.

17 “(6) An operator, timber owner or landowner, before commencing an op-
18 eration, shall notify the State Forester. The notification shall be on forms
19 provided by the State Forester and shall include the name and address of the
20 operator, timber owner and landowner, the legal description of the operating
21 area, and any other information considered by the State Forester to be nec-
22 essary for the administration of the rules promulgated by the board pursuant
23 to ORS 527.710. Promptly upon receipt of such notice, the State Forester
24 shall send a copy of the notice to whichever of the operator, timber owner
25 or landowner did not submit the notification. **The State Forester shall**
26 **send a copy of notices involving chemical applications to persons**
27 **within five miles of the chemical application who hold downstream**
28 **surface water rights pursuant to ORS chapter 537, if such a person has**
29 **requested that notification in writing.** The State Forester shall also send
30 to the operator, the timber owner and the landowner a copy of the rules

1 applicable to the proposed operation. **Upon receipt of a notification indi-**
2 **cating the intent of a landowner to clear-cut harvest immature timber,**
3 **as defined by the board, the State Forester shall provide the landowner**
4 **with information regarding the economic and environmental effects**
5 **of immature timber harvest.**

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

9 “(8) Within three working days of receipt of a notice or a written plan
10 filed under subsection (6) or (7) of this section, the State Forester shall send
11 a copy of the notice or written plan to the Department of Revenue, the
12 county assessor for the county in which the operation is located and persons
13 who requested of the State Forester in writing that they be sent copies of
14 notice and written plan and who have paid any applicable fee established by
15 the State Forester for such service. The State Forester may establish a fee
16 for sending copies of notices and written plans under this subsection not to
17 exceed the actual and reasonable costs.

18 “(9) Persons may submit written comments pertaining to the operation to
19 the State Forester within 14 calendar days of the date the notice or written
20 plan was filed with the State Forester under subsection (2), (6) or (7) of this
21 section. Notwithstanding the provisions of this subsection, the State Forester
22 may waive any waiting period for operations not requiring a written plan
23 under subsection (3) of this section, **except those operations involving**
24 **aerial application of chemicals.**

25 “(10) Whenever an operator, timber owner or landowner is required to
26 submit a written plan of operations to the State Forester under subsection
27 (3) of this section, the State Forester shall not approve any such written plan
28 until 14 calendar days following the date the written plan was filed with the
29 State Forester. An operation may commence upon approval of the written
30 plan.

1 “(11)(a) The State Forester shall issue a decision on a written plan within
2 three working days after the end of the 14-day period described in subsection
3 (10) of this section.

4 “(b) If the State Forester fails to issue a decision within five working
5 days after the end of the 14-day period described in subsection (10) of this
6 section, the written plan shall be deemed approved and the operation may
7 be commenced.

8 “(12) When the operation is required to have a written plan under sub-
9 paragraph (A) or (B) of paragraph (a) of subsection (3) of this section and
10 comments have been timely filed under subsection (9) of this section per-
11 taining to the operation requiring a written plan, the State Forester shall:

12 “(a) Send a copy of the approved written plan to persons who submitted
13 timely written comments under subsection (9) of this section pertaining to
14 the operation; and

15 “(b) Send to the operator, timber owner and landowner a copy of the ap-
16 proved written plan and copies of all timely comments submitted under sub-
17 section (9) of this section.

18 “**SECTION 12.** ORS 527.690 is amended to read:

19 “527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b)
20 directs the repair of damage or correction of an unsatisfactory condition,
21 **including compliance with reforestation requirements**, and if the oper-
22 ator or landowner does not comply with the order within the period specified
23 in such order and the order has not been appealed to the board within 30
24 days, the State Forester based upon a determination by the forester of what
25 action will best carry out the purposes of ORS 527.630 shall:

26 “(a) Maintain an action in the Circuit Court for Marion County or the
27 circuit court for the county in which the violation occurred for an order
28 requiring the landowner or operator to comply with the terms of the
29 forester’s order or to restrain violations thereof; or

30 “(b) Estimate the cost to repair the damage or the unsatisfactory condi-

1 tion as directed by the order and shall notify the operator, timber owner and
2 landowner in writing of the amount of the estimate. Upon agreement of the
3 operator, timber owner or the landowner to pay the cost, the State Forester
4 may proceed to repair the damage or the unsatisfactory condition. In the
5 event approval of the expenditure is not obtained within 30 days after no-
6 tification to the operator, timber owner and landowner under this section,
7 the State Forester shall present to the board the alleged violation, the esti-
8 mate of the expenditure to repair the damage or unsatisfactory condition and
9 the justification for the expenditure.

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

17 “(3) If the board authorizes the State Forester to repair the damage or
18 correct the unsatisfactory condition, the State Forester shall proceed, either
19 with forces of the State Forester or by contract, to repair the damage or
20 correct the unsatisfactory condition. The State Forester shall keep a com-
21 plete account of direct expenditures incurred, and upon completion of the
22 work, shall prepare an itemized statement thereof and shall deliver a copy
23 to the operator, timber owner and landowner. In no event shall the expend-
24 itures exceed the amount authorized by subsection (2) of this section. An
25 itemized statement of the direct expenditures incurred by the State Forester,
26 certified by the State Forester, shall be accepted as prima facie evidence of
27 such expenditures in any proceeding authorized by this section. **If the State**
28 **Forester’s action to repair the damage or correct the unsatisfactory**
29 **condition arose from an operation for which a bond, cash deposit or**
30 **other security was required under section 8 of this 1991 Act, the State**

1 Forester shall retain any applicable portion of a cash deposit and the
2 surety on the bond or holder of the other security deposit shall pay the
3 amount of the bond or other security deposit to the State Forester
4 upon demand. If the amount specified in the demand is not paid within
5 30 days following the demand, the Attorney General, upon request by
6 the State Forester, shall institute proceedings to recover the amount
7 specified in the demand.

8 “(4) The expenditures in cases covered by this section, including cases
9 where the amount collected on a bond, deposit or other security was
10 not sufficient to cover authorized expenditures, shall constitute a gen-
11 eral lien upon the real and personal property of the operator, timber owner
12 and landowner within the county in which the damage occurred. A written
13 notice of the lien, containing a statement of the demand, the description of
14 the property upon which the expenditures were made and the name of the
15 parties against whom the lien attaches, shall be certified under oath by the
16 State Forester and filed in the office of the county clerk of the county or
17 counties in which the expenditures were made within six months after the
18 date of delivery of the itemized statement referred to in subsection (3) of this
19 section, and may be foreclosed in the manner provided in ORS chapter 88.

20 “[*(5) Liens provided for in this section shall cease to exist unless suit for*
21 *foreclosure is instituted within six months from the date of filing under sub-*
22 *section (4) of this section.*”]

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

25 “SECTION 13. ORS 527.710 is amended to read:

26 “527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and
27 527.990 (1), the board shall adopt, in accordance with applicable provisions
28 of ORS 183.310 to 183.550, rules to be administered by the State Forester es-
29 tablishing [*minimum*] standards for forest practices in each region or subre-
30 gion.

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

4 “(a) Air quality;

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

7 “(c) Soil productivity; and

8 “(d) Fish and wildlife.

9 “(3)(a) In addition to its rulemaking responsibilities under subsection (2)
10 of this section, the board shall collect and analyze the best available infor-
11 mation and establish inventories of the following resource sites needing
12 protection:

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

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

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

19 “(D) Significant wetlands.

20 “(b) The board shall determine whether forest practices would conflict
21 with resource sites in the inventories required by paragraph (a) of this sub-
22 section. If the board determines that one or more forest practices would
23 conflict with resource sites in the inventory, the board shall consider the
24 consequences of the conflicting uses and determine appropriate levels of
25 protection.

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

30 “(4) Before adopting rules under subsection (1) of this section, the board

1 shall consult with other agencies of this state or any of its political subdi-
2 visions that have functions with respect to the purposes specified in ORS
3 527.630 or programs affected by forest operations. Agencies and programs
4 subject to consultation under this subsection include, but are not limited to:

5 “(a) Air and water pollution programs administered by the Department
6 of Environmental Quality under ORS 468.700 to 468.778, 468.780, 468.815 and
7 477.515 to 477.532;

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

11 “(c) Game fish and wildlife, commercial fishing, licensing, wildlife and
12 bird refuge and fish habitat improvement tax incentive programs adminis-
13 tered by the State Department of Fish and Wildlife under ORS 272.060,
14 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

15 “(d) Park land, Willamette River Greenway, scenic waterway and recre-
16 ation trail programs administered by the State Parks and Recreation De-
17 partment under ORS 358.475 to 358.565, 390.310 to 390.368, 390.805 to 390.925,
18 390.950 to 390.990 and ORS 390.121;

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

21 “(f) Removal and fill, natural heritage conservation and natural heritage
22 conservation tax incentive programs administered by the State Land Board
23 and the Division of State Lands under ORS 196.670 to 196.765, 273.553 to
24 273.591, 307.550, 307.560 and 541.700 to 541.990;

25 “(g) Federal Safe Drinking Water Act programs administered by the
26 Health Division under ORS 448.273 to 448.990;

27 “(h) Natural heritage conservation programs administered by the Natural
28 Heritage Advisory Council under ORS 273.553 to 273.591, 307.550 and 307.560;

29 “(i) Open space land tax incentive programs administered by cities and
30 counties under ORS 308.740 to 308.790; and

1 “(j) Water resources programs administered by the Water Resources De-
2 partment under ORS 536.220 to 536.540.

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

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

12 “(7) The board may enter into cooperative agreements or contracts nec-
13 essary in carrying out the purposes specified in ORS 527.630. **The State**
14 **Forestry Department shall enter into agreements with appropriate**
15 **state agencies for joint monitoring of the effectiveness of forest prac-**
16 **tice rules in protecting forest resources and water quality.**

17 “**SECTION 14.** ORS 527.715 is added to and made a part of ORS 527.610
18 to 527.730 and is amended to read:

19 “527.715. The board shall establish, by rule, the standards and procedures
20 to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.090,
21 477.440, 477.455, 477.460, 526.009, 526.016, 527.620, 527.630, 527.660, 527.670,
22 527.683 to [527.687, 527.700 to 527.722,] **527.724**, 527.735, [and] 527.992 **and**
23 **sections 3 to 9 and 17 of this 1991 Act.**

24 “**SECTION 15.** (1) The State Forester, in cooperation with the Depart-
25 ment of Environmental Quality and the State Department of Fish and
26 Wildlife, shall conduct a study of harvest rates and cumulative effects re-
27 lated to forest practices on forestland in Oregon, and submit a progress re-
28 port to the Sixty-seventh Legislative Assembly and a final report to the
29 Sixty-eighth Legislative Assembly on the results of the study, along with
30 recommendations for addressing any problems that may be identified during

1 the course of such study.

2 “(2) The study shall include, but be not limited to, an analysis of:

3 “(a) The annual rates of harvest of commercial tree species on Oregon’s
4 private forestlands compared to the annual rates of growth on such
5 forestlands;

6 “(b) The effect of such harvest rates on employment and community sta-
7 bility;

8 “(c) Age and species composition of commercial forest trees species at
9 final clear-cut harvest, the rationale for such harvests and any problems
10 caused by premature harvesting;

11 “(d) The extent to which private forest resources in Oregon are being
12 rapidly liquidated to fulfill the terms of highly leveraged contracts to pur-
13 chase such resources;

14 “(e) The effectiveness of current forest practices rules; and

15 “(f) The impact of cumulative effects of harvest operations on air, soil,
16 water, and fish and wildlife. The study of cumulative effects shall be con-
17 ducted in at least three distinct geographic areas in the state.

18 “(3) As results from the analyses in ^{paragraphs (e) and (f)} ~~subsections (2)(e) and (f)~~ of this sec-
19 tion become available, the board shall adopt additional rules it deems nec-
20 essary to protect forest resources pursuant to ORS 527.630. Nothing in this
21 section shall be construed to limit the board’s responsibility to carry out any
22 other rulemaking requirements of the Oregon Forest Practices Act.

23 “(4) For purposes of the study required by this section, ‘cumulative
24 effects’ means the impact on the environment which results from the incre-
25 mental impact of the forest practice when added to other past, present and
26 reasonably foreseeable future forest practices regardless of what govern-
27 mental agency or person undertakes such other actions. Nothing in this
28 section shall be construed to limit the board’s responsibility to carry out any
29 other rulemaking requirements of the Oregon Forest Practices Act.

30 “(5) This section is repealed January 1, 1995.

1 "SECTION 16. Section 9, chapter 920, Oregon Laws 1989, is repealed.

2 "SECTION 17. (1) The following highways are hereby designated as sce-
3 nic highways for purposes of the Oregon Forest Practices Act:

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

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

7 "(2) In consultation with the Department of Transportation, the board
8 shall establish procedures and regulations as necessary to implement the
9 requirements of subsection (3) of this section, consistent with the safety of
10 the motoring public, including provisions for alternate plans providing
11 equivalent or better results within visually sensitive corridors extending 150
12 feet from the outermost shoulder of the roadway along both sides and for the
13 full length of the scenic highways designated in subsection (1) of this section.

14 "(3)(a) For harvest operations within a visually sensitive corridor, at least
15 50 health trees of at least 11 inches at DBH, or that measure at least 40
16 square feet in basal area, shall be temporarily left on each acre. Harvest
17 areas shall be cleared of major harvest debris within 30 days of the com-
18 pletion of the harvest or within 60 days of the cessation of active harvesting
19 activity on the site, regardless of whether the harvest operation is complete.

20 "(b) Overstory trees initially required to be left under paragraph (a) of
21 this subsection may be removed when the reproduction understory reaches
22 an average height of at least 10 feet and has at least 250 stems per acre.

23 "(c) When the adjacent stand, extending from 150 feet from the corridor
24 to 300 feet from the corridor, has attained an average height of at least 10
25 feet and has at least 200 stems per acre or at least 40 square feet of basal
26 area, no trees are required to be left in the visually sensitive corridor, or
27 trees initially required to be left under paragraph (a) of this subsection may
28 be removed. Harvest areas within the visually sensitive corridor shall be
29 cleared of major harvest debris within 30 days of the completion of the har-
30 vest or within 60 days of the cessation of active harvesting activity on the

1 site, regardless of whether the harvest operation is complete. Reforestation
2 shall be completed by the end of the first planting season after the com-
3 pletion of harvest. A minimum of 400 trees per acre shall be planted. By the
4 end of the fifth growing season after the completion of planting, at east 250
5 healthy conifer seedlings shall be established per acre, well-distributed over
6 the area, which are 'free to grow' as defined by the board. When harvests
7 within the visually sensitive corridor are carried out under this paragraph
8 the adjacent stand, extending from 150 feet from the corridor to 300 feet from
9 the corridor, shall not be clear-cut until the adjacent visually sensitive cor-
10 ridor has been reforested as required under this paragraph and the stand has
11 attained an average height of at least 10 feet and has at least 250 stems per
12 acre.

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

17 “**SECTION 18.** The State Forestry Department shall conduct a study and
18 shall submit to the Sixty-seventh Legislative Assembly a recommendation
19 regarding the native Pacific yew species in this state. The study shall use
20 existing information to assess the availability of native Pacific yew on public
21 and private lands in this state.

22 “**SECTION 19.** ORS 527.724 is amended to read:

23 “527.724. **Subject to sections 20 and 21 of this 1991 Act,** any forest op-
24 erations on forestlands within this state shall be conducted in full compli-
25 ance with the rules and standards of the Environmental Quality Commission
26 relating to air and water pollution control. In addition to all other remedies
27 provided by law, any violation of those rules or standards shall be subject
28 to all remedies and sanctions available under statute or rule to the Depart-
29 ment of Environmental Quality or the Environmental Quality Commission.

30 “**SECTION 20.** (1) The board shall establish best management practices

1 and other rules applying to forest practices as necessary to insure that to
2 the maximum extent practicable nonpoint source discharges of pollutants
3 resulting from forest operations on forestlands do not impair the achieve-
4 ment and maintenance of water quality standards established by the Envi-
5 ronmental Quality Commission for the waters of the state. Such best
6 management practices shall consist of forest practices rules adopted to pre-
7 vent or reduce pollution of waters of the state. Factors to be considered by
8 the board in establishing best management practices shall include, where
9 applicable, but not be limited to:

10 “(a) Beneficial uses of waters potentially impacted;

11 “(b) Technical, economic and institutional feasibility; and

12 “(c) Natural variations in geomorphology and hydrology.

13 “(2) The board shall consult with the Environmental Quality Commission
14 in adoption and review of best management practices and other rules to ad-
15 dress nonpoint source discharges of pollutants resulting from forest oper-
16 ations on forestlands.

17 “(3)(a) Upon written petition of any interested person or agency, the
18 board, in accordance with ORS 183.310 to 183.550, shall review the best
19 management practices adopted pursuant to this section. The petition must
20 allege with reasonable specificity that nonpoint source discharges of
21 pollutants resulting from forest operations being conducted in accordance
22 with the best management practices are a significant contributor to vio-
23 lations of such standards.

24 “(b) Notwithstanding ORS 183.390, the board shall complete its review of
25 a petition and either dismiss the petition in accordance with paragraph (c)
26 of this subsection or commence rulemaking in accordance with paragraph (f)
27 of this subsection within 90 days of the date the petition for review was filed.

28 “(c) Except as provided in paragraph (d) of this subsection, if the board
29 determines that forest operations being conducted in accordance with the
30 best management practices are neither significantly responsible for partic-

1 ular water quality standards not being met nor are a significant contributor
2 to violations of such standards, the board shall issue an order dismissing the
3 petition.

4 “(d) If the petition for review of best management practices is made by
5 the Environmental Quality Commission, the board shall not terminate the
6 review without the concurrence of the commission, unless the board com-
7 mences rulemaking in accordance with paragraph (f) of this subsection.

8 “(e) If a petition for review is dismissed, upon conclusion of the review,
9 the board shall issue an order that includes findings regarding specific
10 allegations in the petition and shall state the board’s reasons for any con-
11 clusions to the contrary.

12 “(f) If, pursuant to review, the board determines that best management
13 practices should be reviewed, the board shall commence rulemaking pro-
14 ceedings for that purpose. Rules specifying the revised best management
15 practices must be adopted not later than two years from the filing date of
16 the petition for review unless the board, with concurrence of the Environ-
17 mental Quality Commission, finds that special circumstances require addi-
18 tional time.

19 “(g) Notwithstanding the time limitation established in paragraph (f) of
20 this subsection, at the request of the Environmental Quality Commission, the
21 board shall take action as quickly as practicable to prevent significant
22 damage to beneficial uses identified by the commission while the board is
23 revising its best management practices and rules as provided for in this
24 section.

25 “(h) The board shall include in its triennial review of administrative rules
26 an analysis of the effectiveness of the best management practices and other
27 rules applying to forest practices adopted to maintain water quality stan-
28 dards established by the Environmental Quality Commission.

29 **SECTION 21.** A forest operator conducting, or in good faith proposing
30 to conduct, operations in accordance with best management practices cur-

1 rently in effect shall not be considered in violation of any water quality
2 standards. When the board adopts new best management practices and other
3 rules applying to forest operations, such rules shall apply to all current or
4 proposed forest operations upon their effective dates. However, nothing in
5 this section prevents enforcement of water quality standards against a forest
6 operator conducting operations after the time provided in section 20 (3)(f)
7 of this 1991 Act for adoption of revised best management practices if the
8 board either has not adopted revised management practices or has not made
9 a finding that such revised best management practices are not required.

10 **"SECTION 22.** Sections 23 and 24 of this Act are added to and made a
11 part of ORS 468.700 to 468.778.

12 **"SECTION 23.** Upon request of the State Board of Forestry, the Envi-
13 ronmental Quality Commission shall review any water quality standard that
14 affects forest operations on forestlands. The commission's review may be
15 limited to or coordinated with the triennial or any other regularly scheduled
16 review of the state's water quality standards, consistent with ORS 468.735,
17 section 24 of this 1991 Act and applicable federal law.

18 **"SECTION 24.** (1) Except as provided in subsection (2) of this section,
19 as necessary to achieve and maintain standards of water quality or purity
20 adopted under ORS 468.735, the commission or department may, by rule or
21 order, impose and enforce limitations or other controls which may include
22 total maximum daily loads, wasteload allocations for point sources and load
23 allocations for nonpoint sources, as provided in the federal Water Pollution
24 Control Act (33 U.S.C. § 1321) and federal regulations and guidelines issued
25 pursuant thereto.

26 **"(2)** Unless required to do so by the provisions of the Federal Clean Water
27 Act, neither the Environmental Quality Commission nor the Department of
28 Environmental Quality shall promulgate or enforce any effluent limitation
29 upon nonpoint source discharges of pollutants resulting from forest oper-
30 ations on forestlands in this state. Any limitations or controls applying to

1 nonpoint source discharges or pollutants resulting from forest operations are
2 subject to sections 20 and 21 of this 1991 Act. However, nothing in this
3 section is intended to affect the authority of the commission or the depart-
4 ment provided by law to impose and enforce limitations or other controls on
5 water pollution from sources other than forest operations.

6 “(3) When the Environmental Quality Commission establishes instream
7 water quality standards to protect designated beneficial uses in the waters
8 of the state, it shall consider, where applicable, available scientific informa-
9 tion including, but not limited to, stream flow, geomorphology and other
10 factors representing the variability and complexity of hydrologic systems and
11 intrinsic water quality conditions.

12 “(4) When the Environmental Quality Commission establishes instream
13 water quality standards, it will also issue guidelines describing how the de-
14 partment and the commission will determine whether water quality standards
15 in waters affected by nonpoint source activities are being met. In developing
16 these guidelines, the commission shall include, where applicable, those
17 physical characteristics such as stream flow, geomorphology, seasons, fre-
18 quency, duration, magnitude and other factors which represent the variabil-
19 ity and complexity of forested and other appropriate hydrologic systems.

20 **“SECTION 25.** (1) The State Board of Forestry, after consultation with
21 the State Department of Fish and Wildlife, shall commission a scientific in-
22 quiry on the state of knowledge, using existing information, of the relative
23 effects of forest practices on anadromous fish runs in western Oregon. The
24 study will identify the leading causes, both on-shore and off-shore, for
25 anadromous fish population declines if that is the case; assign the relative
26 importance of forest practices to these declines, compared to other leading
27 causes; identify the relative importance of various habitat characteristics in
28 streams in limiting anadromous fish production; determine how forest prac-
29 tices have affected fish production; determine how forest practices have af-
30 fected these habitat characteristics and anadromous fish populations before

1 and since 1972; identify the extent to which forest practices are limiting the
2 recovery of depressed anadromous fish populations; and make recommen-
3 dations as to how forest practices can assist in recovery of anadromous fish
4 populations.

5 “(2) The board shall contract with an independent and disinterested or-
6 ganization to assemble a panel of well-qualified scientists to conduct the
7 work described in subsection (1) of this section and to write a report of its
8 findings.

9 “(3) Nothing in this section shall be construed to limit the ability of the
10 board to promulgate rules relating to forest practices which appropriately
11 protect fish and wildlife populations.

12 “**SECTION 26.** (1) The study required by section 25 of this 1991 Act shall
13 be financed from such moneys as are referred to in this section and sections
14 27 and 29 of this 1991 Act.

15 “(2) The State Board of Forestry shall request:

16 “(a) The United States Forest Service to pay 25 percent of the study cost.

17 “(b) The Bureau of Land Management to pay 15 percent of the study cost.

18 “(c) The Bonneville Power Administration to pay 25 percent of the study
19 cost.

20 “**SECTION 27.** In addition to and not in lieu of any other appropriations
21 or moneys made available by law or from other sources, there is appropriated
22 to the State Forestry Department, for the biennium beginning July 1, 1991,
23 out of the General Fund, the sum of \$ _____. Such sum may only be expended
24 to pay the costs of the study required by section 25 of this Act.

25 “**SECTION 28.** Section 29 of this Act is added to and made a part of ORS
26 321.005 to 321.185.

27 “**SECTION 29.** (1) In addition to the taxes levied under ORS 321.015 (1)
28 to (3), there hereby is levied a privilege tax upon taxpayers on the harvesting
29 of all merchantable forest products harvested on forestland during the period
30 beginning July 1, 1991, and ending June 30, 1993, in the amount provided in

1 subsection (2) of this section.

2 “(2) The rate of tax levied in subsection (1) of this section shall be two
3 cents per thousand feet, board measure, on all merchantable forest products
4 harvested on forestland.

5 “(3) The tax shall be measured by and be applicable to each per thousand
6 feet, board measure, and such shall be subject to and determined by the
7 procedures and provisions of ORS 321.015 (4) and (5).

8 “(4) The tax levied by subsection (1) of this section shall be due and
9 payable to the department in the manner and procedure, including penalties
10 and interest, as set forth for the collection of the privilege tax in ORS
11 321.005 to 321.185.

12 “(5) The revenue from the tax levied by subsection (1) of this section shall
13 be remitted to the State Treasurer who shall deposit it in a suspense account
14 established under ORS 321.145 (1). After payment of refunds, which shall be
15 paid in the same manner as other forest products harvest tax refunds are
16 paid in ORS 321.145 (2), the balance of the additional tax imposed under
17 subsection (1) of this section shall be deposited to the account referred to in
18 ORS 321.185. 

19 **“SECTION 30. ORS 527.722 is amended to read:**

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

26 “(2) Nothing in subsection (1) of this section prohibits local governments
27 from adopting and applying a comprehensive plan or land use [*regulations*]
28 **regulation** to forestland to allow, prohibit or regulate:

29 **“(a) Forest practices on lands located within an acknowledged ur-**
30 **ban growth boundary;**

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

6 “[(a)] (c) The establishment or alteration of structures other than tempo-
7 rary onsite structures which are auxiliary to and used during the term of a
8 particular forest operation;

9 “[(b)] (d) The siting or alteration of dwellings;

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

14 “[(d)] (f) Partitions and subdivisions of the land[; or].

15 “[(e)] (3) Nothing in [this] subsection (2) of this section shall prohibit
16 a local government from enforcing the provisions of ORS 455.310 to 455.715
17 and the rules adopted thereunder.

18 “[(3)] (4) Counties can prohibit forest practices on land for which an ac-
19 knowledged exception to an agricultural or forestland goal has been taken.

20 “(5) To insure that all forest operations in this state are regulated
21 to achieve protection of soil, air, water, fish and wildlife resources, in
22 addition to all other forestlands, the Oregon Forest Practices Act ap-
23 plies to forestlands inside any urban growth boundary unless a local
24 government has adopted regulations for forest practices. Such local
25 regulations shall:

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

27 “(b) Be acknowledged as being in compliance with land use planning
28 goals.

29 “(6) Local governments which have, before the effective date of this
30 1991 Act, adopted a comprehensive plan policy or land use regulation

1 allowing, prohibiting or regulating forest practices consistent with
2 subsections (1) to (5) of this section shall inform the State Forester
3 of such policies and regulations within 60 days of the effective date of
4 this 1991 Act. Existence or adoption of such policies or regulations
5 relieves the State Forester of responsibility to administer the Oregon
6 Forest Practices Act within the affected area.

7 “(7) The director of the Department of Land Conservation and De-
8 velopment shall provide the State Forester copies of notices submitted
9 pursuant to ORS 197.615, whenever such notices concern the adoption,
10 amendment or repeal of a comprehensive land use regulation allowing,
11 prohibiting or regulating forest practices.

12 “SECTION 31. ORS 527.992 is added to and made a part of ORS 527.610
13 to 527.730 and 527.990.”
14

X

**1991 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Legislative Fiscal Office**

MEASURE NUMBER: SB 1125

STATUS: B-Engrossed

SUBJECT: Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut, and harvest practices along visually sensitive corridors and which may affect water pollution.

GOVERNMENT UNIT AFFECTED: Department of Forestry, Department of Fish and Wildlife, Department of Environmental Quality

PREPARED BY: Ken Rocco

REVIEWED BY: Ann Glaze, Kay Hutchison

DATE: 6/12/91

	<u>1991-93</u>	<u>1993-95</u>
EFFECT ON EXPENDITURES:		
Dept. of Forestry -		
Forest Practices Program		
Personal Services	\$ 1,796,827	\$ 1,645,620
Services & Supplies	1,340,765	656,192
Capital Outlay	<u>358,200</u>	<u>0</u>
TOTAL All Funds	\$ 3,495,792	\$ 2,301,812
Dept. of Fish & Wildlife -		
Personal Services	\$ 83,822	\$ 90,133
Services & Supplies	9,500	9,500
Capital Outlay	<u>9,000</u>	<u>0</u>
TOTAL General Fund	\$ 102,322	\$ 99,633
Dept. of Environmental Quality -		
Personal Services	\$ 157,569	\$ 252,833
Services & Supplies	43,224	70,997
Capital Outlay	<u>19,110</u>	<u>0</u>
TOTAL General Fund	\$ 219,903	\$ 323,830
TOTAL General Fund	\$ 2,119,700	\$ 1,804,550
TOTAL Other Funds	\$ 1,308,317	\$ 920,725
TOTAL Federal Funds	<u>390,000</u>	<u>0</u>
TOTAL All Funds	\$ 3,818,017	\$ 2,725,275

Note: The Department of Forestry's Forest Practices Program is split-funded with 60% General Fund and 40% Other Funds (harvest tax); as the measure does not specify a funding source, other agency expenditures are assumed to be General Fund.

EFFECT ON REVENUES: A revenue impact statement is being provided by the Legislative Revenue Office. The amended measure provides for an increase in the harvest tax of two cents per thousand board feet harvested between July 1, 1991, and June 30, 1993.

EFFECT ON POSITIONS:

Dept. of Forestry	24.69 FTE	20.16 FTE
Dept. of Fish & Wildlife	1.00 FTE	1.00 FTE
Dept. of Environmental Quality	2.00 FTE	3.00 FTE

GOVERNOR'S BUDGET: Measure is not included in Governor's budget.

COMMENTS:

The measure, as amended, revises the Oregon Forest Practices Act with regard to certain reforestation, clearcut, and harvest practices and includes provisions concerning stream classification, water quality authority, and wildlife habitats.

The Department of Forestry estimates implementing the amended measure's provisions would require adding the equivalent of 14.1 FTE Forest Practices Foresters (SR 23), 6.3 FTE Forest Staff Specialist 2s (SR 26), 2.0 FTE seasonal Student Workers (SR 11), and an additional 2.25 FTE of clerical time (SR 9-11) in 1991-93. For the 1993-95 biennium, the department anticipates staffing at 14.1 FTE Forest Practices Foresters, 4.0 FTE Forest Staff Specialists, and 2.05 FTE clerical support.

The amended measure's provisions set clearcut size limitations at 120 acres within a single ownership with exceptions permitting up to 240 acres. The measure also sets standards for snags and dead-and-down tree retention in clearcuts. The department is required to conduct rulemaking on these and other provisions involving water classification, visually sensitive areas, and written plans. Additional work will be conducted on inspecting reforestation, analyzing written plans, reclassifying and mapping streams, and inspecting operations along designated scenic highways and visually sensitive corridors.

The department will also participate in studies of harvest rates and timber harvest effects on water quality, fish, and fish habitats with the Departments of Fish and Wildlife and Environmental Quality (\$576,435), the status of the native Pacific yew (\$14,415), and the existing scientific knowledge on the effects of forest practices on anadromous fish runs (\$600,000 including an estimated \$390,000 from federal government sources). The measure provides for a General Fund appropriation of an unspecified amount to be used for the purposes of the forest practices study. Capital outlay costs of the department reflect the purchase of vehicles and data processing, technical, and office equipment.

The Department of Fish and Wildlife anticipates requiring an additional Fish & Wildlife Biologist 3 (SR 26) for rulemaking concerning riparian protection, evaluating the effects of timber operations on streams and fish habitats, and other responsibilities the measure places on the department.

The Department of Environmental Quality's impact assumes the addition of three permanent positions (2.0 FTE in 1991-93) including an Environmental Specialist 3 and two Environmental Specialist 2s. The department anticipates reviewing water quality nonpoint source standards, developing guidelines for provision of technical assistance on the standards, reviewing operation petitions for potential water quality impacts, making field inspections, and providing water sample analysis.

The amended measure increases the privilege tax on the harvest of merchantable forest products by an additional 2 cents per thousand board feet harvested between July 1, 1991, and June 30, 1993.

As amended, the measure also provides that the Oregon Forest Practices Act applies to forestland whether it is inside or outside of an urban growth boundary unless a local government has adopted its own forest practices policies and regulations. The Department of Forestry estimates this provision will increase the number of Forest Practices Act operations throughout the state by approximately 200 per year. The workload increase is anticipated to be minimal since it would be distributed among the 47 existing Forest Practices Foresters. The provision has no fiscal impact on the Department of Land Conservation and Development.

STATE OF OREGON
LEGISLATIVE REVENUE OFFICE
H-197 STATE CAPITOL BUILDING
SALEM, OREGON 97310

REVENUE ANALYSIS OF PROPOSED LEGISLATION
1991 REGULAR SESSION

BILL NUMBER	TAX AREA	ECONOMIST	DATE
SB 1125-B	Timber	DRAKE	6-13-91

Description:

Makes numerous changes to the forest practices act. Increases Forest Products Harvest Tax by 2 cents/1,000 bd. feet for 1991-93 biennium and dedicates revenues from the increase to study the effect of forest practices on fish runs.

Revenue Impact:

General Fund - None

Forest Research and Experiment Account (fish study) - Increase of about \$210,000 for the 1991-93 biennium. No impact in future bienniums.

Oregon State Senate
1991 Regular Session

MEASURE NO: SB 1125
CARRIER: Cohen, Kintigh
ACTION: (RS) Special Order of Business. Third Reading

DATE: 05-30-91
RCS# 712

	Aye	Nay	Abs	Exc	Bus		Aye	Nay	Abs	Exc	Bus
BRADBURY	X					JOLIN	X				
BRENNEMAN	X					KENNEMER	X				
BROCKMAN	X					KERANS	X				
BUNN	X					KINTIGH	X				
CEASE	X					MCCOY	X				
COHEN	X					OTTO	X				
DUFF	X					PHILLIPS	X				
DUKES	X					ROBERTS				X	
FAWBUSH	X					SHOEMAKER	X				
GOLD	X					SMITH	X				
GRENSKY	X					SPRINGER	X				
HAMBY					X	TIMMS	X				
HANNON		X				TROW	X				
HILL, J.	X					YIH	X				
HILL, L.	X					KITZHABER (P)	X				
						TOTALS =>	27	1	0	1	1

Nays: 1 HANNON
Absent: 0
Excused: 1 ROBERTS
Leg. Bus: 1 HAMBY

A-Engrossed
Senate Bill 1125

Ordered by the Senate May 29
Including Senate Amendments dated May 29

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution. [*Establishes Forest Practices Enforcement Fund for specified purposes.*]

[*Declares emergency, effective on passage.*]

Requires State Board of Forestry by September 1, 1992, to review state water classifications.

Requires State Forester to notify individuals of chemical applications within 15 miles of application if individuals request notice.

Requires State Forestry Department to conduct and submit to Legislative Assembly recommendation regarding native Pacific yew species in state.

Requires State Board of Forestry after consultation with State Department of Fish and Wildlife to commission scientific inquiry on effects of forest practices on anadromous fish runs in western Oregon.

Appropriates moneys.

A BILL FOR AN ACT

1

2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.670,
3 527.690, 527.710, 527.724 and section 8, chapter 920, Oregon Laws 1989; repealing section 9,
4 chapter 920, Oregon Laws 1989; and appropriating money.

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

6 **SECTION 1.** ORS 527.620 is amended to read:

7 527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

8 [(1) "*State Forester*" means the State Forester or the duly authorized representative of the State
9 Forester.]

10 [(2) "*Operator*" means any person, including a landowner or timber owner, who conducts an op-
11 eration.]

12 [(3)] (1) "Board" means the State Board of Forestry.

13 (2) "Clearcut" means any harvest unit in western Oregon that leaves fewer than 50 trees
14 per acre that are well-distributed over the unit and that measure at least 11 inches at DBH
15 or that measure less than 40 square feet of basal area per acre. "Clearcut" means any
16 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-
17 distributed over the unit and that measure at least 10 inches at DBH. For purposes of this
18 subsection, no tree shall be counted unless the top one-third of the bole of the tree supports
19 a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall
20 be considered 20-inch trees.

21 (3) "Cumulative effects" means the impact on the environment which results from the
22 incremental impact of the forest practice when added to other past, present and reasonably

1 foreseeable future forest practices regardless of what governmental agency or person
2 undertakes such other actions.

3 (4) "DBH" means the diameter at breast height which is measured as the width of a
4 standing tree or log measured at four and one-half feet above the ground, on the uphill side.

5 [(4)] (5) "Forestland" means land which is used for the growing and harvesting of forest tree
6 species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances,
7 rules or regulations are applied. Forest tree species does not include Christmas trees on land used
8 solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).

9 [(5)] (6) "Forest practice" means any operation conducted on or pertaining to forest land, in-
10 cluding but not limited to:

- 11 (a) Reforestation of forestland;
- 12 (b) Road construction and maintenance;
- 13 (c) Harvesting of forest tree species;
- 14 (d) Application of chemicals; and
- 15 (e) Disposal of slash.

16 [(6)] (7) "Operation" means any commercial activity relating to the growing or harvesting of
17 forest tree species.

18 (8) "Operator" means any person, including a landowner or timber owner, who conducts
19 an operation.

20 [(7)] (9) "Landowner" means any individual, combination of individuals, partnership, corporation
21 or association of whatever nature that holds an ownership interest in forestland, including the state
22 and any political subdivision thereof.

23 (10) "State Forester" means the State Forester or the duly authorized representative of
24 the State Forester.

25 (11) "Suitable hardwood seedlings" means any hardwood seedling that will eventually
26 yield logs or fiber, or both, sufficient in size and quality for the production of lumber,
27 plywood, pulp or other forest products.

28 [(8)] (12) "Timber owner" means any individual, combination of individuals, partnership, corpo-
29 ration or association of whatever nature, other than a landowner, that holds an ownership interest
30 in any forest tree species on forestland.

31 (13) "Visually sensitive corridor" means forestland located within the area extending 150
32 feet from the outermost right of way boundary of a scenic highway referred to in section 19
33 of this 1991 Act.

34 [(9)] (14) "Written plan" means a plan submitted by an operator, for written approval by the
35 State Forester, which describes how the operation will be conducted, including the means to protect
36 resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of
37 this 1991 Act, if applicable.

38 SECTION 2. Sections 3 to 9, 13, 14, 19, 20, 22, 23, 27 and 28 of this Act are added to and made
39 a part of ORS 527.610 to 527.730.

40 SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be adminis-
41 tered by the State Forester as standards applying to all operations in the state, including those on
42 forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
43 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to
44 implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act

1 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
2 other regulations pertaining to forest practices under applicable state law.

3 (2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is for
4 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
5 cial thinning.

6 (3) The board shall conduct a study to determine the appropriate size limitations for clearcuts
7 for each region of the state within a single ownership on contiguous acres. Consistent with ORS
8 527.630, the study shall consider the rate of harvest, the cumulative effects of forest operations, the
9 impacts on fish and wildlife populations and habitat and scenic values. Not later than September 1,
10 1992, the board shall adopt rules regarding the size of permissible clearcuts within a single owner-
11 ship on contiguous acres. However, the size or sizes adopted by rule shall not exceed 120 acres.
12 Except as provided in section 7 of this 1991 Act, and notwithstanding any other provision of the
13 Oregon Forest Practices Act, until the rules referred to in this section are adopted, no clearcut
14 within a single ownership on contiguous acres shall exceed 120 acres.

15 **SECTION 4.** (1) No clearcut unit within a single ownership on contiguous acres shall exceed
16 the size established by board rule, except as provided in section 7 of this 1991 Act.

17 (2) No clearcut unit shall be allowed within 300 feet of the perimeter of a prior clearcut unit if
18 the combined acreage of the clearcut areas subject to regulation under the Oregon Forest Practices
19 Act would exceed the size for clearcuts established by board rule, unless the prior clearcut unit has
20 been reforested as required by all applicable regulations and:

21 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
22 either

23 (b) The resultant reproduction has attained an average height of at least four feet; or

24 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
25 "free to grow" as defined by the board.

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

28 (4) The provisions of this section shall not apply when the land is being converted to conifers
29 or managed hardwoods from brush or understocked hardwoods, or when the clearcut harvest results
30 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
31 Forester determines was beyond the landowner's control and has substantially impaired productivity
32 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
33 be required for such conversion or clearcut operations that exceed the limit on clearcut size estab-
34 lished by board rule.

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

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

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

42 **SECTION 5.** (1)(a) The board shall adopt rules for the retention and replacement of snags and
43 dead and down material in riparian and upland areas in sufficient quantities to address wildlife
44 needs by July 1, 1993.

1 (b) Until the board adopts rules required under this section, the board shall require operators
2 to leave, on average per acre harvested, at least:

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

5 (B) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
6 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
7 this size are not available on the site.

8 (c) Until the rules required by paragraph (a) of this subsection have been adopted, an operator
9 shall leave snags, green trees, downed logs or downed trees as prescribed in subparagraphs (A) and
10 (B) of paragraph (b) of this subsection.

11 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
12 logs may be left in one or more clusters rather than distributed throughout the unit. The location
13 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
14 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
15 in addition to all other requirements pertaining to forest operations and may not be met by counting
16 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
17 527.710 (3).

18 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clearcut harvests.
19 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
20 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
21 1991 Act, the standards for the reforestation of clearcuts shall include the following:

22 (a) Reforestation, including site preparation, of clearcut units shall commence within 12 months
23 after the completion of harvest and shall be completed by the end of the second planting season
24 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
25 least 200 healthy conifer or suitable hardwood seedlings shall be established per acre, well-
26 distributed over the area, which are "free to grow" as defined by the board.

27 (b) A written plan shall be required for reforestation activities that do not conform to the
28 standards established under paragraph (a) of this subsection or the alternate standards adopted un-
29 der subsection (2) of this section, including but not limited to variances in the time in which
30 reforestation is to be commenced or completed or plans to reforest sites by natural reforestation.
31 Such alternate plans may be approved if the State Forester determines that the plan will achieve
32 equivalent or better regeneration results for the particular conditions of the site, or the plan carries
33 out an authorized research project conducted by a public agency or educational institution.

34 (2) The board, by rule, may establish alternate standards for the reforestation of clearcuts, in
35 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
36 standards will better assure the continuous growing and harvesting of forest tree species and the
37 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
38 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

5 (4)(a) Sites infested with root pathogens shall be reforested with a resistant or immune tree
6 species. Seedlings of Douglas fir or other susceptible species planted on or within 50 feet of a site
7 known to be infested with root pathogens shall not be counted toward the reforestation requirement.

8 (b) The board shall prohibit the planting of a species susceptible to an insect or disease if the
9 planting of a susceptible species would facilitate the spread of the disease or insect pest and there
10 are immune or tolerant commercial species adapted to the site.

11 (5) The requirements of this section apply only to clearcuts as defined in ORS 527.620 (2).
12 Nothing in this section is intended to affect the administration and enforcement of regulations per-
13 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
14 result of operations other than such clearcuts.

15 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clearcut unit
16 within a single ownership on contiguous acres that exceeds twice the number of acres for clearcut
17 established by board rule may be approved by the State Forester if all the requirements of this
18 section and any additional requirements established by the board are met. Proposed clearcut units
19 that are within 300 feet of the perimeter of a prior clearcut unit, and that would result in a total
20 combined clearcut area under a single ownership exceeding 120 acres but not exceeding 240 acres,
21 may be approved by the State Forester if the additional requirements are met for the combined
22 clearcut area. No clearcut unit within a single ownership on contiguous acres shall exceed the
23 number of acres for clearcut established by board rule. No clearcut unit shall be allowed within
24 300 feet of the perimeter of a prior clearcut unit if the combined acreage of the clearcut areas
25 subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the
26 prior clearcut unit has been reforested by all applicable regulations and:

27 (a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
28 either

29 (b) The resultant reproduction has attained an average height of at least four feet; or

30 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
31 "free to grow" as defined by the board.

32 (2) The requirements of this section are in addition to all other requirements of the Oregon
33 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
34 applied in lieu of such other requirements only to the extent the requirements of this section are
35 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
36 (5) of this 1991 Act.

37 (3) The board shall require that a written plan be submitted prior to approval of a clearcut op-
38 eration under this section. The board may establish by rule any additional standards applying to
39 operations under this section.

40 (4) The State Forester shall approve the clearcut operation if the proposed clearcut would pro-
41 vide better overall results in meeting the requirements and objectives of the Oregon Forest Prac-
42 tices Act.

43 (5) The board shall specify by rule the information to be submitted for approval of clearcut op-
44 erations under this section, including evidence of past satisfactory compliance with the Oregon

1 Forest Practices Act.

2 **SECTION 8.** (1) The board shall review its rules governing changes in land use and adopt or
3 amend rules as necessary to assure that only bona fide, established and continuously maintained
4 changes from forest uses are provided an exemption from reforestation requirements. The board
5 shall set specific time periods for the completion of land use conversions. Among other factors, the
6 board shall condition exemptions from reforestation requirements upon:

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

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

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

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

18 (2) The board shall require that, prior to commencing an operation where a change in land use
19 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
20 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
21 ration and reforestation for the area subject to an exemption from reforestation due to a change in
22 land use, and provisions be made for the administration and collection on such bond or security
23 deposit in the event that the change in land use is not established or continuously maintained within
24 a time certain.

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

28 **SECTION 9.** (1) Not later than September 1, 1992, the board shall review its classification of
29 waters of the state, create at least three classifications and establish rules applicable to each clas-
30 sification. The board shall give particular consideration to perennial streams, not currently classi-
31 fied as Class 1, which have an average gradient of not more than eight percent and which are
32 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
33 requirements for vegetative buffers along such streams consistent with the health of the forest.

34 (2) The board shall review current Class 1 stream and associated riparian protection rules and,
35 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources, which
36 include but are not limited to fish and wildlife habitat, species biodiversity and stream morphology.

37 (3) Until the board adopts rules pursuant to this section, the rules regarding operations near
38 Class 1 streams shall apply to operations near streams that are within one-quarter mile of Class 1
39 streams or which are important to water quality or threatened, endangered, sensitive or game fish
40 species. The State Forestry Department shall consult with the appropriate state agencies in deter-
41 mining which streams are affected by this section.

42 (4) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
43 reviews pursuant to this section and section 8 of this 1991 Act, including any recommendations for
44 legislative changes.

1 **SECTION 10.** ORS 527.630 is amended to read:

2 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
3 and other social and economic benefits, by helping to maintain forest tree species, soil, air, [and]
4 water **and scenic** resources and by providing a habitat for wildlife and aquatic life. Therefore, it is
5 declared to be the public policy of the State of Oregon to encourage economically efficient forest
6 practices that assure the continuous growing and harvesting of forest tree species and the mainte-
7 nance of forest land for such purposes as the leading use on privately owned land, consistent with
8 sound management of soil, air, water, [and] fish and wildlife resources **and scenic resources within**
9 **visually sensitive corridors as provided in section 19 of this 1991 Act** that assures the contin-
10 uous benefits of those resources for future generations of Oregonians.

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

16 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
17 it is declared to be in the public interest to vest in the board exclusive authority to develop and
18 enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
19 agencies and local governments which are concerned with the forest environment.

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

21 527.670. (1) The board shall designate the types of operations for which notice shall be required
22 under this section.

23 (2) The board shall determine by rule what types of operations require a written plan to be ap-
24 proved by the State Forester.

25 (3)(a) The board's determination under subsection (2) of this section shall require a written plan
26 for operations [within]:

27 [(a)] (A) **Within** one hundred feet of a Class 1 stream **and any other waters of this state**
28 **determined by the board under section 9 of this 1991 Act**, unless the board, by rule, provides
29 that a written plan is not required because there is no reasonable likelihood that such operations
30 would damage a resource described in ORS 527.710 (2), within the riparian management area; [or]

31 [(b)] (B) **Within** three hundred feet of a resource site inventoried pursuant to ORS 527.710
32 (3)(a)[.];

33 (C) **On lands determined by the State Forester to be within high risk sites, unless the**
34 **board, by rule, provides that a written plan is not required because there is no reasonable**
35 **likelihood that such operations would damage a resource described in ORS 527.710 (2);**

36 (D) **Involving final clearcut of any stand of an average age that is less than 60 percent**
37 **of the age of culmination of mean annual increment. The written plan for such an operation**
38 **must address the environmental consequences of the harvest and the economic costs and**
39 **benefits; and**

40 (E) **On lands to be clearcut in excess of 120 acres pursuant to section 7 of this 1991 Act.**

41 (b) **Plans submitted under this section are not subject to appeal under ORS 527.700.**

42 (4) The distances set forth in [paragraphs] **paragraph (a) [and (b)]** of subsection (3) of this sec-
43 tion are solely for the purpose of defining an area within which a hearing may be requested under
44 ORS 527.700 and not the area to be protected by the board's rules adopted pursuant to ORS 527.710

1 (3)(c).

2 (5) For the purpose of determining the distances set forth in [paragraphs] paragraph (a) [and
3 (b)] of subsection (3) of this section "site" means the specific resource site and not any additional
4 buffer area.

5 (6) An operator, timber owner or landowner, before commencing an operation, shall notify the
6 State Forester. The notification shall be on forms provided by the State Forester and shall include
7 the name and address of the operator, timber owner and landowner, the legal description of the
8 operating area, and any other information considered by the State Forester to be necessary for the
9 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
10 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
11 timber owner or landowner did not submit the notification. **The State Forester shall send a copy**
12 **of notices involving chemical applications to persons within 15 miles of the chemical appli-**
13 **cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a**
14 **person has requested that notification in writing. The board shall adopt rules specifying the**
15 **information to be contained in the notice. All information filed with the State Forester per-**
16 **taining to chemical applications shall be public record.** The State Forester shall also send to the
17 operator, the timber owner and the landowner a copy of the rules applicable to the proposed oper-
18 ation.

19 (7) An operator, timber owner or landowner, whichever filed the original notification, shall no-
20 tify the State Forester of any subsequent change in the information contained in the notification.

21 (8) Within three working days of receipt of a notice or a written plan filed under subsection (6)
22 or (7) of this section, the State Forester shall send a copy of the notice or written plan to the De-
23 partment of Revenue, the county assessor for the county in which the operation is located and per-
24 sons who requested of the State Forester in writing that they be sent copies of notice and written
25 plan and who have paid any applicable fee established by the State Forester for such service. The
26 State Forester may establish a fee for sending copies of notices and written plans under this sub-
27 section not to exceed the actual and reasonable costs.

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

34 (10) Whenever an operator, timber owner or landowner is required to submit a written plan of
35 operations to the State Forester under subsection (3) of this section, the State Forester shall not
36 approve any such written plan until [14] 30 calendar days following the date the written plan was
37 filed with the State Forester. An operation may commence upon approval of the written plan.

38 (11)(a) The State Forester shall issue a decision on a written plan within three working days
39 after the end of the [14-day] 30-day period described in subsection (10) of this section.

40 (b) If the State Forester fails to issue a decision within five working days after the end of the
41 [14-day] 30-day period described in subsection (10) of this section, the written plan shall be deemed
42 approved and the operation may be commenced.

43 (12) When the operation is required to have a written plan under subsection (3) of this section
44 and comments have been timely filed under subsection (9) of this section pertaining to the operation

1 requiring a written plan, the State Forester shall:

2 (a) Send a copy of the approved written plan to persons who submitted timely written comments
3 under subsection (9) of this section pertaining to the operation; and

4 (b) Send to the operator, timber owner and landowner a copy of the approved written plan and
5 copies of all timely comments submitted under subsection (9) of this section.

6 **SECTION 11a.** ORS 527.690 is amended to read:

7 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of
8 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
9 **requirements**, and if the operator or landowner does not comply with the order within the period
10 specified in such order and the order has not been appealed to the board within 30 days, the State
11 Forester based upon a determination by the forester of what action will best carry out the purposes
12 of ORS 527.630 shall:

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

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

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

29 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
30 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
31 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
32 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
33 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
34 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
35 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
36 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
37 authorized by this section. **If the State Forester's action to repair the damage or correct the**
38 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
39 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
40 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
41 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
42 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
43 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
44 **ceedings to recover the amount specified in the demand.**

1 (4) The expenditures in cases covered by this section, including cases where the amount
2 collected on a bond, deposit or other security was not sufficient to cover authorized ex-
3 penditures, shall constitute a general lien upon the real and personal property of the operator,
4 timber owner and landowner within the county in which the damage occurred. A written notice of
5 the lien, containing a statement of the demand, the description of the property upon which the ex-
6 penditures were made and the name of the parties against whom the lien attaches, shall be certified
7 under oath by the State Forester and filed in the office of the county clerk of the county or counties
8 in which the expenditures were made within six months after the date of delivery of the itemized
9 statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided
10 in ORS chapter 88.

11 [(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted
12 within six months from the date of filing under subsection (4) of this section.]

13 **SECTION 12.** ORS 527.710 is amended to read:

14 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
15 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
16 istered by the State Forester establishing [*minimum*] standards for forest practices in each region
17 or subregion.

18 (2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
19 sistent with ORS 527.630, the rules shall provide for the overall maintenance or restoration of the
20 following resources:

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

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

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

- 31 (B) Sensitive bird nesting, roosting and watering sites;
32 (C) Biological sites that are ecologically and scientifically significant; and
33 (D) Significant wetlands.

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

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

41 (4) The board shall adopt forest practices rules that:

42 (a) Minimize adverse impacts of cumulative effects of forest practices on air and water
43 quality, soil productivity, fish and wildlife resources and watersheds. The rules shall include
44 a process for determining areas where adverse impacts from cumulative effects have oc-

1 curred or are likely to occur, and shall require that a written plan be submitted for harvests
2 in such areas; and

3 (b) Provide the State Forester with authority to condition the approval of written plans
4 required under ORS 527.670 (2) and (3) by limiting rate, timing and extent of harvest when
5 the forester determines such limitations are necessary to achieve the objectives of ORS
6 527.630.

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

11 (a) Air and water pollution programs administered by the Department of Environmental Quality
12 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

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

15 (c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish habitat
16 improvement tax incentive programs administered by the State Department of Fish and Wildlife un-
17 der ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

18 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
19 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
20 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

21 (e) The programs administered by the Columbia River Gorge Commission under Public Law
22 99-663 and ORS 196.110 and 196.150;

23 (f) Removal and fill, natural heritage conservation and natural heritage conservation tax incen-
24 tive programs administered by the State Land Board and the Division of State Lands under ORS
25 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

26 (g) Federal Safe Drinking Water Act programs administered by the Health Division under ORS
27 448.273 to 448.990;

28 (h) Natural heritage conservation programs administered by the Natural Heritage Advisory
29 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

30 (i) Open space land tax incentive programs administered by cities and counties under ORS
31 308.740 to 308.790; and

32 (j) Water resources programs administered by the Water Resources Department under ORS
33 536.220 to 536.540.

34 [(5)] (6) In carrying out the provisions of subsection [(4)] (5) of this section, the board shall
35 consider and accommodate the rules and programs of other agencies to the extent deemed by the
36 board to be appropriate and consistent with the purposes of ORS 527.630.

37 [(6)] (7) The board shall adopt rules to meet the purposes of another agency's regulatory pro-
38 gram where it is the intent of the board to administer the other agency's program on forestland and
39 where the other agency concurs by rule. An operation performed in compliance with the board's
40 rules shall be deemed to comply with the other agency's program.

41 [(7)] (8) The board may enter into cooperative agreements or contracts necessary in carrying
42 out the purposes specified in ORS 527.630. **The State Forestry Department shall enter into**
43 **agreements with appropriate state agencies for joint monitoring of the effectiveness of forest**
44 **practice rules in protecting forest resources and water quality.**

1 **SECTION 13.** (1) The State Forester shall conduct a study of harvest rates on private forestland
2 in Oregon, and shall report to the State Board of Forestry and the Sixty-seventh Legislative As-
3 sembly on the results of such study, along with recommendations for addressing any problems that
4 may be identified during the course of such study.

5 (2) The study shall include, but not be limited to, an analysis of:

6 (a) The annual rates of harvest on Oregon's private forestlands compared to the annual rates
7 of growth on such forestlands;

8 (b) The effect of such harvest rates on employment and community stability;

9 (c) The impact of such harvest rates on water quality, fisheries and wildlife; and

10 (d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
11 the terms of highly leveraged contracts to purchase such resources.

12 (3) The study shall be completed no later than December 31, 1992.

13 **SECTION 14.** The State Forestry Department, in cooperation with appropriate state agencies,
14 shall evaluate the effects of timber harvest operations on fish and wildlife populations and habitat
15 and water quality. The evaluation shall examine best management practices and alternative methods
16 of forest management and timber harvest and include examination of existing research. The agen-
17 cies shall submit a progress report to the Sixty-seventh Legislative Assembly and a final report to
18 the Sixty-eighth Legislative Assembly. The reports shall include any recommendations for appropri-
19 ate modifications to best management practices, and forest practice rules and statutes. Nothing in
20 this section shall be construed to limit the authority of the board to adopt rules relating to cumu-
21 lative effects and fish and wildlife protection under ORS 527.710.

22 **SECTION 15.** Section 8, chapter 920, Oregon Laws 1989, is amended to read:

23 Sec. 8. (1) The department shall collect a nonrefundable registration fee for forestland to be
24 burned lying within the restricted area described under ORS 477.515 (3). **However, the State**
25 **Forester, by rule, shall provide an exemption from payment of the fee for burning of under-**
26 **story materials that occurs on forestland for which regular, periodic burning of understory**
27 **materials is required for forest health.**

28 (2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1
29 forestland under ORS 526.324 lying within the restricted area as described in the plan required un-
30 der ORS 477.515 (3) shall register with the State Forester, in accordance with rules adopted by the
31 State Forester, the number of acres to be burned prior to December 31 of the same year.

32 (3) The State Forester shall establish by rule the amount of fees to be collected under this sec-
33 tion. The fees shall not exceed:

34 (a) Fifty cents per acre for registration.

35 (b) [~~\$1.50~~] **\$5** per acre for forestland classified as Class 1 under ORS 526.324 that has been
36 treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515
37 (1).

38 (4) Federal lands included within the restricted area under the provision of the smoke manage-
39 ment plan approved under ORS 477.515 (3)(a) shall also be subject to the fees authorized under
40 subsection (3) of this section for forestland to be treated by any prescription burn method subject
41 to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean
42 Air Act.

43 (5) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the
44 Oregon Forest Smoke Management Account established under section 7, **chapter 920, Oregon Laws**

1 1989 [of this 1989 Act].

2 **SECTION 16.** Section 17 of this Act is added to and made a part of sections 2 to 8, chapter 920,
3 Oregon Laws 1989.

4 **SECTION 17.** Notwithstanding any other provision of law, the State Forester shall establish by
5 rule a system for reducing the number of acres of forestland accepted for logging slash burning
6 registration so that in 1996 and each year thereafter, the State Forester shall authorize logging
7 slash burning only when the purpose of the burn is forest fire prevention.

8 **SECTION 18.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

9 **SECTION 19.** (1) The following highways are hereby designated as scenic highways for purposes
10 of the Oregon Forest Practices Act:

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

12 (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 36, 38, 42, 58, 62, 82, 97, 101, 126, 138, 140,
13 199, 230, 234 and 395.

14 (2) In consultation with the Department of Transportation, the board shall establish procedures
15 and regulations as necessary to protect scenic values and the safety of the motoring public along
16 visually sensitive corridors. Rules may include provisions for alternate plans providing equivalent
17 or better results, applying to harvest operations on forestlands within visually sensitive corridors
18 extending 150 feet from the outermost right of way boundary of the roadway along both sides and
19 for the full length of the scenic highways designated in subsection (1) of this section.

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

23 **SECTION 20.** The State Forestry Department shall conduct a study and shall submit to the
24 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
25 this state. The study shall use existing information to assess the availability of native Pacific yew
26 on public and private lands in this state.

27 **SECTION 21.** ORS 527.724 is amended to read:

28 527.724. **Subject to sections 22 and 23 of this 1991 Act,** any forest operations on forest lands
29 within this state shall be conducted in full compliance with the rules and standards of the Envi-
30 ronmental Quality Commission relating to air and water pollution control. In addition to all other
31 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
32 and sanctions available under statute or rule to the Department of Environmental Quality or the
33 Environmental Quality Commission.

34 **SECTION 22.** (1) The board shall establish best management practices and other rules applying
35 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
36 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
37 ment and maintenance of water quality standards established by the Environmental Quality Com-
38 mission for the waters of the state. Such best management practices shall consist of forest practices
39 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
40 board in establishing best management practices shall include, where applicable, but not be limited
41 to:

42 (a) Beneficial uses of waters potentially impacted;

43 (b) The effects of past forest practices on beneficial uses of water;

44 (c) Appropriate practices employed by other forest managers;

1 (d) Technical, economic and institutional feasibility; and

2 (e) Natural variations in geomorphology and hydrology.

3 (2) The board shall consult with the Environmental Quality Commission in adoption and review
4 of best management practices and other rules to address nonpoint source discharges of pollutants
5 resulting from forest operations on forestlands.

6 (3)(a) Upon written petition of any interested person or agency, the board, in accordance with
7 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
8 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
9 pollutants resulting from forest operations being conducted in accordance with the best management
10 practices are a significant contributor to violations of such standards.

11 (b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
12 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
13 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review
14 was filed.

15 (c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
16 operations being conducted in accordance with the best management practices are neither signif-
17 icantly responsible for particular water quality standards not being met nor are a significant con-
18 tributor to violations of such standards, the board shall issue an order dismissing the petition.

19 (d) If the petition for review of best management practices is made by the Environmental Quality
20 Commission, the board shall not terminate the review without the concurrence of the commission,
21 unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

22 (e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an
23 order that includes findings regarding specific allegations in the petition and shall state the board's
24 reasons for any conclusions to the contrary.

25 (f) If, pursuant to review, the board determines that best management practices should be re-
26 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
27 revised best management practices must be adopted not later than two years from the filing date
28 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
29 mission, finds that special circumstances require additional time.

30 (g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
31 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
32 cable to prevent significant damage to beneficial uses identified by the commission while the board
33 is revising its best management practices and rules as provided for in this section.

34 (h) The board shall include in its triennial review of administrative rules an analysis of the ef-
35 fectiveness of the best management practices and other rules applying to forest practices adopted
36 to maintain water quality standards established by the Environmental Quality Commission.

37 **SECTION 23.** A forest operator conducting, or in good faith proposing to conduct, operations
38 in accordance with best management practices currently in effect shall not be considered in vio-
39 lation of any water quality standards. When the board adopts new best management practices and
40 other rules applying to forest operations, such rules shall apply to all current or proposed forest
41 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
42 ter quality standards against a forest operator conducting operations after the time provided in
43 section 22 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
44 ther has not adopted revised management practices or has not made a finding that such revised best

1 management practices are not required.

2 **SECTION 24.** Sections 25 and 26 of this Act are added to and made a part of ORS 468.700 to
3 468.778.

4 **SECTION 25.** Upon request of the State Board of Forestry, the Environmental Quality Com-
5 mission shall review any water quality standard that affects forest operations on forestlands. The
6 commission's review may be limited to or coordinated with the triennial or any other regularly
7 scheduled review of the state's water quality standards, consistent with ORS 468.735, section 26 of
8 this 1991 Act and applicable federal law.

9 **SECTION 26.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
10 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or
11 department may, by rule or order, impose and enforce limitations or other controls which may in-
12 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
13 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and
14 federal regulations and guidelines issued pursuant thereto.

15 (2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the En-
16 vironmental Quality Commission nor the Department of Environmental Quality shall promulgate or
17 enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
18 operations on forestlands in this state. Implementation of any limitations or controls applying to
19 nonpoint source discharges or pollutants resulting from forest operations are subject to sections 22
20 and 23 of this 1991 Act. However, nothing in this section is intended to affect the authority of the
21 commission or the department provided by law to impose and enforce limitations or other controls
22 on water pollution from sources other than forest operations.

23 (3) When the Environmental Quality Commission establishes instream water quality standards
24 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
25 available scientific information including, but not limited to, stream flow, geomorphology and other
26 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
27 conditions.

28 (4) When the Environmental Quality Commission establishes instream water quality standards,
29 it will also issue guidelines describing how the department and the commission will determine
30 whether water quality standards in waters affected by nonpoint source activities are being met. In
31 developing these guidelines, the commission shall include, where applicable, those physical charac-
32 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
33 factors which represent the variability and complexity of forested and other appropriate hydrologic
34 systems.

35 **SECTION 27.** (1) The State Board of Forestry, after consultation with the State Department of
36 Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
37 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
38 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
39 lation declines if that is the case; assign the relative importance of forest practices to these declines,
40 compared to other leading causes; identify the relative importance of various habitat characteristics
41 in streams in limiting anadromous fish production; determine how forest practices have affected fish
42 production; determine how forest practices have affected these habitat characteristics and
43 anadromous fish populations before and since 1972; identify the extent to which forest practices are
44 limiting the recovery of depressed anadromous fish populations; and make recommendations as to

1 how forest practices can assist in recovery of anadromous fish populations.

2 (2) The board shall contract with an independent and disinterested organization to assemble a
3 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
4 to write a report of its findings.

5 (3) Nothing in this section shall be construed to limit the ability of the board to promulgate
6 rules relating to forest practices which restore or protect fish and wildlife populations or habitat.

7 **SECTION 28.** (1) The study required by section 27 of this 1991 Act shall be financed from such
8 moneys as are referred to in this section and section 29 of this 1991 Act.

9 (2) The State Board of Forestry shall request:

10 (a) The United States Forest Service to pay 25 percent of the study cost.

11 (b) The Bureau of Land Management to pay 15 percent of the study cost.

12 (c) The Bonneville Power Administration to pay 25 percent of the study cost.

13 **SECTION 29.** In addition to and not in lieu of any other appropriations or moneys made avail-
14 able by law or from other sources, there is appropriated to the State Forestry Department, for the
15 biennium beginning July 1, 1991, out of the General Fund, the sum of \$_____. Such sum may only
16 be expended to pay the costs of the study required by section 27 of this Act.
17

SENATE AMENDMENTS TO SENATE BILL 1125

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

May 29

1 On page 1 of the printed bill, line 2, after "527.630," insert "527.670,".

2 Delete line 3 and insert "527.710, 527.724 and section 8, chapter 920, Oregon Laws 1989; re-
3 pealing section 9, chapter 920, Oregon Laws 1989; and appropriating money."

4 Delete lines 5 through 31 and pages 2 through 9 and insert:

5 **"SECTION 1. ORS 527.620 is amended to read:**

6 **"527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:**

7 **"[(1) 'State Forester' means the State Forester or the duly authorized representative of the State**
8 **Forester.]**

9 **"[(2) 'Operator' means any person, including a landowner or timber owner, who conducts an op-**
10 **eration.]**

11 **"[(3)] (1) 'Board' means the State Board of Forestry.**

12 **"(2) 'Clearcut' means any harvest unit in western Oregon that leaves fewer than 50 trees**
13 **per acre that are well-distributed over the unit and that measure at least 11 inches at DBH**
14 **or that measure less than 40 square feet of basal area per acre. 'Clearcut' means any har-**
15 **vest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-distributed**
16 **over the unit and that measure at least 10 inches at DBH. For purposes of this subsection,**
17 **no tree shall be counted unless the top one-third of the bole of the tree supports a green, live**
18 **crown. For purposes of computing basal area, trees larger than 20 inches shall be considered**
19 **20-inch trees.**

20 **"(3) 'Cumulative effects' means the impact on the environment which results from the**
21 **incremental impact of the forest practice when added to other past, present and reasonably**
22 **foreseeable future forest practices regardless of what governmental agency or person**
23 **undertakes such other actions.**

24 **"(4) 'DBH' means the diameter at breast height which is measured as the width of a**
25 **standing tree or log measured at four and one-half feet above the ground, on the uphill side.**

26 **"[(4)] (5) 'Forestland' means land which is used for the growing and harvesting of forest tree**
27 **species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances,**
28 **rules or regulations are applied. Forest tree species does not include Christmas trees on land used**
29 **solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).**

30 **"[(5)] (6) 'Forest practice' means any operation conducted on or pertaining to forest land, in-**
31 **cluding but not limited to:**

32 **"(a) Reforestation of forestland;**

33 **"(b) Road construction and maintenance;**

34 **"(c) Harvesting of forest tree species;**

1 “(d) Application of chemicals; and

2 “(e) Disposal of slash.

3 “~~[(6)]~~ (7) ‘Operation’ means any commercial activity relating to the growing or harvesting of
4 forest tree species.

5 “(8) ‘Operator’ means any person, including a landowner or timber owner, who conducts
6 an operation.

7 “~~[(7)]~~ (9) ‘Landowner’ means any individual, combination of individuals, partnership, corporation
8 or association of whatever nature that holds an ownership interest in forestland, including the state
9 and any political subdivision thereof.

10 “(10) ‘State Forester’ means the State Forester or the duly authorized representative of
11 the State Forester.

12 “(11) ‘Suitable hardwood seedlings’ means any hardwood seedling that will eventually
13 yield logs or fiber, or both, sufficient in size and quality for the production of lumber,
14 plywood, pulp or other forest products.

15 “~~[(8)]~~ (12) ‘Timber owner’ means any individual, combination of individuals, partnership, corpo-
16 ration or association of whatever nature, other than a landowner, that holds an ownership interest
17 in any forest tree species on forestland.

18 “(13) ‘Visually sensitive corridor’ means forestland located within the area extending 150
19 feet from the outermost right of way boundary of a scenic highway referred to in section 19
20 of this 1991 Act.

21 “~~[(9)]~~ (14) ‘Written plan’ means a plan submitted by an operator, for written approval by the
22 State Forester, which describes how the operation will be conducted, including the means to protect
23 resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of
24 this 1991 Act, if applicable.

25 “SECTION 2. Sections 3 to 9, 13, 14, 19, 20, 22, 23, 27 and 28 of this Act are added to and made
26 a part of ORS 527.610 to 527.730.

27 “SECTION 3. (1) The standards established in sections 4 to 7 of this 1991 Act shall be admin-
28 istered by the State Forester as standards applying to all operations in the state, including those
29 on forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
30 board shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to
31 implement the standards established in sections 4 to 7 of this 1991 Act. Nothing in this 1991 Act
32 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
33 other regulations pertaining to forest practices under applicable state law.

34 “(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to cutting of trees that is
35 for growth enhancement treatments, as defined by the State Forester, such as thinning or precom-
36 mercial thinning.

37 “(3) The board shall conduct a study to determine the appropriate size limitations for clearcuts
38 for each region of the state within a single ownership on contiguous acres. Consistent with ORS
39 527.630, the study shall consider the rate of harvest, the cumulative effects of forest operations, the
40 impacts on fish and wildlife populations and habitat and scenic values. Not later than September 1,
41 1992, the board shall adopt rules regarding the size of permissible clearcuts within a single owner-
42 ship on contiguous acres. However, the size or sizes adopted by rule shall not exceed 120 acres.
43 Except as provided in section 7 of this 1991 Act, and notwithstanding any other provision of the
44 Oregon Forest Practices Act, until the rules referred to in this section are adopted, no clearcut

1 within a single ownership on contiguous acres shall exceed 120 acres.

2 "SECTION 4. (1) No clearcut unit within a single ownership on contiguous acres shall exceed
3 the size established by board rule, except as provided in section 7 of this 1991 Act.

4 "(2) No clearcut unit shall be allowed within 300 feet of the perimeter of a prior clearcut unit
5 if the combined acreage of the clearcut areas subject to regulation under the Oregon Forest Prac-
6 tices Act would exceed the size for clearcuts established by board rule, unless the prior clearcut
7 unit has been reforested as required by all applicable regulations and:

8 "(a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
9 either

10 "(b) The resultant reproduction has attained an average height of at least four feet; or

11 "(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
12 'free to grow' as defined by the board.

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

15 "(4) The provisions of this section shall not apply when the land is being converted to conifers
16 or managed hardwoods from brush or understocked hardwoods, or when the clearcut harvest results
17 from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State
18 Forester determines was beyond the landowner's control and has substantially impaired productivity
19 or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall
20 be required for such conversion or clearcut operations that exceed the limit on clearcut size estab-
21 lished by board rule.

22 "(5) The provisions of this section do not apply to any operation where the operator demon-
23 strates to the State Forester that:

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

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

29 "SECTION 5. (1)(a) The board shall adopt rules for the retention and replacement of snags and
30 dead and down material in riparian and upland areas in sufficient quantities to address wildlife
31 needs by July 1, 1993.

32 "(b) Until the board adopts rules required under this section, the board shall require operators
33 to leave, on average per acre harvested, at least:

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

36 "(B) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at
37 least 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if
38 trees of this size are not available on the site.

39 "(c) Until the rules required by paragraph (a) of this subsection have been adopted, an operator
40 shall leave snags, green trees, downed logs or downed trees as prescribed in subparagraphs (A) and
41 (B) of paragraph (b) of this subsection.

42 "(2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
43 logs may be left in one or more clusters rather than distributed throughout the unit. The location
44 and distribution of the material shall be in the sole discretion of the landowner or operator, con-

1 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
2 in addition to all other requirements pertaining to forest operations and may not be met by counting
3 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
4 527.710 (3).

5 "SECTION 6. (1) The board shall adopt standards for the reforestation of clearcut harvests.
6 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
7 except to the extent that more stringent reforestation requirements apply under section 4 (2) of this
8 1991 Act, the standards for the reforestation of clearcuts shall include the following:

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

14 "(b) A written plan shall be required for reforestation activities that do not conform to the
15 standards established under paragraph (a) of this subsection or the alternate standards adopted un-
16 der subsection (2) of this section, including but not limited to variances in the time in which
17 reforestation is to be commenced or completed or plans to reforest sites by natural reforestation.
18 Such alternate plans may be approved if the State Forester determines that the plan will achieve
19 equivalent or better regeneration results for the particular conditions of the site, or the plan carries
20 out an authorized research project conducted by a public agency or educational institution.

21 "(2) The board, by rule, may establish alternate standards for the reforestation of clearcuts, in
22 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
23 standards will better assure the continuous growing and harvesting of forest tree species and the
24 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
25 fish and wildlife resources based on one or more of the following findings:

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

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

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

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

36 "(4)(a) Sites infested with root pathogens shall be reforested with a resistant or immune tree
37 species. Seedlings of Douglas fir or other susceptible species planted on or within 50 feet of a site
38 known to be infested with root pathogens shall not be counted toward the reforestation requirement.

39 "(b) The board shall prohibit the planting of a species susceptible to an insect or disease if the
40 planting of a susceptible species would facilitate the spread of the disease or insect pest and there
41 are immune or tolerant commercial species adapted to the site.

42 "(5) The requirements of this section apply only to clearcuts as defined in ORS 527.620 (2).
43 Nothing in this section is intended to affect the administration and enforcement of regulations per-
44 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a

1 result of operations other than such clearcuts.

2 "SECTION 7. (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clearcut unit
3 within a single ownership on contiguous acres that exceeds twice the number of acres for clearcut
4 established by board rule may be approved by the State Forester if all the requirements of this
5 section and any additional requirements established by the board are met. Proposed clearcut units
6 that are within 300 feet of the perimeter of a prior clearcut unit, and that would result in a total
7 combined clearcut area under a single ownership exceeding 120 acres but not exceeding 240 acres,
8 may be approved by the State Forester if the additional requirements are met for the combined
9 clearcut area. No clearcut unit within a single ownership on contiguous acres shall exceed the
10 number of acres for clearcut established by board rule. No clearcut unit shall be allowed within
11 300 feet of the perimeter of a prior clearcut unit if the combined acreage of the clearcut areas
12 subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the
13 prior clearcut unit has been reforested by all applicable regulations and:

14 "(a) At least 200 healthy conifer or suitable hardwood seedlings are established per acre; and
15 either

16 "(b) The resultant reproduction has attained an average height of at least four feet; or

17 "(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
18 'free to grow' as defined by the board.

19 "(2) The requirements of this section are in addition to all other requirements of the Oregon
20 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
21 applied in lieu of such other requirements only to the extent the requirements of this section are
22 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
23 (5) of this 1991 Act.

24 "(3) The board shall require that a written plan be submitted prior to approval of a clearcut
25 operation under this section. The board may establish by rule any additional standards applying to
26 operations under this section.

27 "(4) The State Forester shall approve the clearcut operation if the proposed clearcut would
28 provide better overall results in meeting the requirements and objectives of the Oregon Forest
29 Practices Act.

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

33 "SECTION 8. (1) The board shall review its rules governing changes in land use and adopt or
34 amend rules as necessary to assure that only bona fide, established and continuously maintained
35 changes from forest uses are provided an exemption from reforestation requirements. The board
36 shall set specific time periods for the completion of land use conversions. Among other factors, the
37 board shall condition exemptions from reforestation requirements upon:

38 "(a) Demonstrating the intended change in land use is authorized under local land use and
39 zoning ordinances, including obtaining and maintaining all necessary land use or construction per-
40 mits and approvals for the intended change in land use;

41 "(b) Demonstrating progress toward the change in land use within the time required for planting
42 of trees, and substantial completion and continuous maintenance of the change in land use in a time
43 certain;

44 "(c) Allowing an exemption for only the smallest land area necessary to carry out the change

1 in land use, and requiring that additional land area within the harvest unit remains subject to all
2 applicable reforestation requirements; and

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

5 “(2) The board shall require that, prior to commencing an operation where a change in land use
6 is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State
7 Forester in an amount determined by the State Forester sufficient to cover the cost of site prepa-
8 ration and reforestation for the area subject to an exemption from reforestation due to a change in
9 land use, and provisions be made for the administration and collection on such bond or security
10 deposit in the event that the change in land use is not established or continuously maintained within
11 a time certain.

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

15 “SECTION 9. (1) Not later than September 1, 1992, the board shall review its classification of
16 waters of the state, create at least three classifications and establish rules applicable to each clas-
17 sification. The board shall give particular consideration to perennial streams, not currently classi-
18 fied as Class 1, which have an average gradient of not more than eight percent and which are
19 important to water quality and fish needs in downstream Class 1 streams. The board shall consider
20 requirements for vegetative buffers along such streams consistent with the health of the forest.

21 “(2) The board shall review current Class 1 stream and associated riparian protection rules and,
22 where appropriate, shall improve protection of soil, air, water, fish and wildlife resources, which
23 include but are not limited to fish and wildlife habitat, species biodiversity and stream morphology.

24 “(3) Until the board adopts rules pursuant to this section, the rules regarding operations near
25 Class 1 streams shall apply to operations near streams that are within one-quarter mile of Class 1
26 streams or which are important to water quality or threatened, endangered, sensitive or game fish
27 species. The State Forestry Department shall consult with the appropriate state agencies in deter-
28 mining which streams are affected by this section.

29 “(4) The board shall report to the Sixty-seventh Legislative Assembly on the results of the
30 board’s reviews pursuant to this section and section 8 of this 1991 Act, including any recommen-
31 dations for legislative changes.

32 “SECTION 10. ORS 527.630 is amended to read:

33 “527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
34 and other social and economic benefits, by helping to maintain forest tree species, soil, air, [and]
35 water and scenic resources and by providing a habitat for wildlife and aquatic life. Therefore, it is
36 declared to be the public policy of the State of Oregon to encourage economically efficient forest
37 practices that assure the continuous growing and harvesting of forest tree species and the mainte-
38 nance of forest land for such purposes as the leading use on privately owned land, consistent with
39 sound management of soil, air, water, [and] fish and wildlife resources and scenic resources within
40 visually sensitive corridors as provided in section 19 of this 1991 Act that assures the contin-
41 uous benefits of those resources for future generations of Oregonians.

42 “(2) It is recognized that operations on forestland are already subject to other laws and to reg-
43 ulations of other agencies which deal primarily with consequences of such operations rather than
44 the manner in which operations are conducted. It is further recognized that it is essential to avoid

1 uncertainty and confusion in enforcement and implementation of such laws and regulations and in
2 planning and carrying out operations on forestlands.

3 “(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and
4 527.990, it is declared to be in the public interest to vest in the board exclusive authority to develop
5 and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state
6 agencies and local governments which are concerned with the forest environment.

7 “**SECTION 11.** ORS 527.670 is amended to read:

8 “527.670. (1) The board shall designate the types of operations for which notice shall be required
9 under this section.

10 “(2) The board shall determine by rule what types of operations require a written plan to be
11 approved by the State Forester.

12 “(3)(a) The board’s determination under subsection (2) of this section shall require a written
13 plan for operations *[within]*:

14 “*[(a)]* **(A) Within** one hundred feet of a Class 1 stream and any other waters of this state
15 determined by the board under section 9 of this 1991 Act, unless the board, by rule, provides
16 that a written plan is not required because there is no reasonable likelihood that such operations
17 would damage a resource described in ORS 527.710 (2), within the riparian management area; *[or]*

18 “*[(b)]* **(B) Within** three hundred feet of a resource site inventoried pursuant to ORS 527.710
19 (3)(a).*];*

20 “**(C) On lands determined by the State Forester to be within high risk sites, unless the**
21 **board, by rule, provides that a written plan is not required because there is no reasonable**
22 **likelihood that such operations would damage a resource described in ORS 527.710 (2);**

23 “**(D) Involving final clearcut of any stand of an average age that is less than 60 percent**
24 **of the age of culmination of mean annual increment. The written plan for such an operation**
25 **must address the environmental consequences of the harvest and the economic costs and**
26 **benefits; and**

27 “**(E) On lands to be clearcut in excess of 120 acres pursuant to section 7 of this 1991 Act.**

28 “**(b) Plans submitted under this section are not subject to appeal under ORS 527.700.**

29 “(4) The distances set forth in *[paragraphs]* paragraph (a) *[and (b)]* of subsection (3) of this
30 section are solely for the purpose of defining an area within which a hearing may be requested un-
31 der ORS 527.700 and not the area to be protected by the board’s rules adopted pursuant to ORS
32 527.710 (3)(c).

33 “(5) For the purpose of determining the distances set forth in *[paragraphs]* paragraph (a) *[and*
34 *(b)]* of subsection (3) of this section ‘site’ means the specific resource site and not any additional
35 buffer area.

36 “(6) An operator, timber owner or landowner, before commencing an operation, shall notify the
37 State Forester. The notification shall be on forms provided by the State Forester and shall include
38 the name and address of the operator, timber owner and landowner, the legal description of the
39 operating area, and any other information considered by the State Forester to be necessary for the
40 administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon re-
41 ceipt of such notice, the State Forester shall send a copy of the notice to whichever of the operator,
42 timber owner or landowner did not submit the notification. **The State Forester shall send a copy**
43 **of notices involving chemical applications to persons within 15 miles of the chemical appli-**
44 **cation who hold downstream surface water rights pursuant to ORS chapter 537, if such a**

1 person has requested that notification in writing. The board shall adopt rules specifying the
2 information to be contained in the notice. All information filed with the State Forester per-
3 taining to chemical applications shall be public record. The State Forester shall also send to the
4 operator, the timber owner and the landowner a copy of the rules applicable to the proposed oper-
5 ation.

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

8 “(8) Within three working days of receipt of a notice or a written plan filed under subsection
9 (6) or (7) of this section, the State Forester shall send a copy of the notice or written plan to the
10 Department of Revenue, the county assessor for the county in which the operation is located and
11 persons who requested of the State Forester in writing that they be sent copies of notice and written
12 plan and who have paid any applicable fee established by the State Forester for such service. The
13 State Forester may establish a fee for sending copies of notices and written plans under this sub-
14 section not to exceed the actual and reasonable costs.

15 “(9) Persons may submit written comments pertaining to the operation to the State Forester
16 within [14] 30 calendar days of the date the notice or written plan was filed with the State Forester
17 under subsection (2), (6) or (7) of this section. Notwithstanding the provisions of this subsection, the
18 State Forester may waive any waiting period for operations not requiring a written plan under
19 subsection (3) of this section, **except those operations involving aerial application of**
20 **chemicals.**

21 “(10) Whenever an operator, timber owner or landowner is required to submit a written plan
22 of operations to the State Forester under subsection (3) of this section, the State Forester shall not
23 approve any such written plan until [14] 30 calendar days following the date the written plan was
24 filed with the State Forester. An operation may commence upon approval of the written plan.

25 “(11)(a) The State Forester shall issue a decision on a written plan within three working days
26 after the end of the [14-day] 30-day period described in subsection (10) of this section.

27 “(b) If the State Forester fails to issue a decision within five working days after the end of the
28 [14-day] 30-day period described in subsection (10) of this section, the written plan shall be deemed
29 approved and the operation may be commenced.

30 “(12) When the operation is required to have a written plan under subsection (3) of this section
31 and comments have been timely filed under subsection (9) of this section pertaining to the operation
32 requiring a written plan, the State Forester shall:

33 “(a) Send a copy of the approved written plan to persons who submitted timely written com-
34 ments under subsection (9) of this section pertaining to the operation; and

35 “(b) Send to the operator, timber owner and landowner a copy of the approved written plan and
36 copies of all timely comments submitted under subsection (9) of this section.

37 “SECTION 11a. ORS 527.690 is amended to read:

38 “527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of
39 damage or correction of an unsatisfactory condition, **including compliance with reforestation**
40 **requirements**, and if the operator or landowner does not comply with the order within the period
41 specified in such order and the order has not been appealed to the board within 30 days, the State
42 Forester based upon a determination by the forester of what action will best carry out the purposes
43 of ORS 527.630 shall:

44 “(a) Maintain an action in the Circuit Court for Marion County or the circuit court for the

1 county in which the violation occurred for an order requiring the landowner or operator to comply
2 with the terms of the forester's order or to restrain violations thereof; or

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

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

16 “(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfac-
17 tory condition, the State Forester shall proceed, either with forces of the State Forester or by con-
18 tract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep
19 a complete account of direct expenditures incurred, and upon completion of the work, shall prepare
20 an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
21 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
22 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
23 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
24 authorized by this section. **If the State Forester's action to repair the damage or correct the**
25 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
26 **security was required under section 8 of this 1991 Act, the State Forester shall retain any**
27 **applicable portion of a cash deposit and the surety on the bond or holder of the other secu-**
28 **rity deposit shall pay the amount of the bond or other security deposit to the State Forester**
29 **upon demand. If the amount specified in the demand is not paid within 30 days following the**
30 **demand, the Attorney General, upon request by the State Forester, shall institute pro-**
31 **ceedings to recover the amount specified in the demand.**

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

42 “[(5) *Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted*
43 *within six months from the date of filing under subsection (4) of this section.*]

44 “**SECTION 12.** ORS 527.710 is amended to read:

1 "527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and 527.990 (1), the board
2 shall adopt, in accordance with applicable provisions of ORS 183.310 to 183.550, rules to be admin-
3 istered by the State Forester establishing [minimum] standards for forest practices in each region
4 or subregion.

5 "(2) The rules shall assure the continuous growing and harvesting of forest tree species. Con-
6 sistent with ORS 527.630, the rules shall provide for the overall maintenance or restoration of the
7 following resources:

8 "(a) Air quality;

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

10 "(c) Soil productivity; and

11 "(d) Fish and wildlife **populations and appropriate habitat.**

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

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

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

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

20 "(D) Significant wetlands.

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

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

28 **"(4) The board shall adopt forest practices rules that:**

29 **"(a) Minimize adverse impacts of cumulative effects of forest practices on air and water**
30 **quality, soil productivity, fish and wildlife resources and watersheds. The rules shall include**
31 **a process for determining areas where adverse impacts from cumulative effects have oc-**
32 **curred or are likely to occur, and shall require that a written plan be submitted for harvests**
33 **in such areas; and**

34 **"(b) Provide the State Forester with authority to condition the approval of written plans**
35 **required under ORS 527.670 (2) and (3) by limiting rate, timing and extent of harvest when**
36 **the forester determines such limitations are necessary to achieve the objectives of ORS**
37 **527.630.**

38 "[4] (5) Before adopting rules under subsection (1) of this section, the board shall consult with
39 other agencies of this state or any of its political subdivisions that have functions with respect to
40 the purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and pro-
41 grams subject to consultation under this subsection include, but are not limited to:

42 "(a) Air and water pollution programs administered by the Department of Environmental Quality
43 under ORS 468.700 to 468.778, 468.780, 468.815 and 477.515 to 477.532;

44 "(b) Mining operation programs administered by the Department of Geology and Mineral In-

1 dustries under ORS 516.010 to 516.130 and ORS chapter 517;

2 “(c) Game fish and wildlife, commercial fishing, licensing, wildlife and bird refuge and fish
3 habitat improvement tax incentive programs administered by the State Department of Fish and
4 Wildlife under ORS 272.060, 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

5 “(d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
6 ministered by the State Parks and Recreation Department under ORS 358.475 to 358.565, 390.310 to
7 390.368, 390.805 to 390.925, 390.950 to 390.990 and ORS 390.121;

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

10 “(f) Removal and fill, natural heritage conservation and natural heritage conservation tax in-
11 centive programs administered by the State Land Board and the Division of State Lands under ORS
12 196.670 to 196.765, 273.553 to 273.591, 307.550, 307.560 and 541.700 to 541.990;

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

15 “(h) Natural heritage conservation programs administered by the Natural Heritage Advisory
16 Council under ORS 273.553 to 273.591, 307.550 and 307.560;

17 “(i) Open space land tax incentive programs administered by cities and counties under ORS
18 308.740 to 308.790; and

19 “(j) Water resources programs administered by the Water Resources Department under ORS
20 536.220 to 536.540.

21 “[5] (6) In carrying out the provisions of subsection [(4)] (5) of this section, the board shall
22 consider and accommodate the rules and programs of other agencies to the extent deemed by the
23 board to be appropriate and consistent with the purposes of ORS 527.630.

24 “[6] (7) The board shall adopt rules to meet the purposes of another agency’s regulatory pro-
25 gram where it is the intent of the board to administer the other agency’s program on forestland and
26 where the other agency concurs by rule. An operation performed in compliance with the board’s
27 rules shall be deemed to comply with the other agency’s program.

28 “[7] (8) The board may enter into cooperative agreements or contracts necessary in carrying
29 out the purposes specified in ORS 527.630. **The State Forestry Department shall enter into**
30 **agreements with appropriate state agencies for joint monitoring of the effectiveness of forest**
31 **practice rules in protecting forest resources and water quality.**

32 “**SECTION 13.** (1) The State Forester shall conduct a study of harvest rates on private
33 forestland in Oregon, and shall report to the State Board of Forestry and the Sixty-seventh Legis-
34 lative Assembly on the results of such study, along with recommendations for addressing any prob-
35 lems that may be identified during the course of such study.

36 “(2) The study shall include, but not be limited to, an analysis of:

37 “(a) The annual rates of harvest on Oregon’s private forestlands compared to the annual rates
38 of growth on such forestlands;

39 “(b) The effect of such harvest rates on employment and community stability;

40 “(c) The impact of such harvest rates on water quality, fisheries and wildlife; and

41 “(d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
42 the terms of highly leveraged contracts to purchase such resources.

43 “(3) The study shall be completed no later than December 31, 1992.

44 “**SECTION 14.** The State Forestry Department, in cooperation with appropriate state agencies,

1 shall evaluate the effects of timber harvest operations on fish and wildlife populations and habitat
2 and water quality. The evaluation shall examine best management practices and alternative methods
3 of forest management and timber harvest and include examination of existing research. The agen-
4 cies shall submit a progress report to the Sixty-seventh Legislative Assembly and a final report to
5 the Sixty-eighth Legislative Assembly. The reports shall include any recommendations for appropri-
6 ate modifications to best management practices, and forest practice rules and statutes. Nothing in
7 this section shall be construed to limit the authority of the board to adopt rules relating to cumu-
8 lative effects and fish and wildlife protection under ORS 527.710.

9 "SECTION 15. Section 8, chapter 920, Oregon Laws 1989, is amended to read:

10 "Sec. 8. (1) The department shall collect a nonrefundable registration fee for forestland to be
11 burned lying within the restricted area described under ORS 477.515 (3). **However, the State**
12 **Forester, by rule, shall provide an exemption from payment of the fee for burning of under-**
13 **story materials that occurs on forestland for which regular, periodic burning of understory**
14 **materials is required for forest health.**

15 "(2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1
16 forestland under ORS 526.324 lying within the restricted area as described in the plan required un-
17 der ORS 477.515 (3) shall register with the State Forester, in accordance with rules adopted by the
18 State Forester, the number of acres to be burned prior to December 31 of the same year.

19 "(3) The State Forester shall establish by rule the amount of fees to be collected under this
20 section. The fees shall not exceed:

21 "(a) Fifty cents per acre for registration.

22 "(b) ~~[\$1.50]~~ \$5 per acre for forestland classified as Class 1 under ORS 526.324 that has been
23 treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515
24 (1).

25 "(4) Federal lands included within the restricted area under the provision of the smoke man-
26 agement plan approved under ORS 477.515 (3)(a) shall also be subject to the fees authorized under
27 subsection (3) of this section for forestland to be treated by any prescription burn method subject
28 to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean
29 Air Act.

30 "(5) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the
31 Oregon Forest Smoke Management Account established under section 7, **chapter 920, Oregon Laws**
32 **1989 [of this 1989 Act].**

33 "SECTION 16. Section 17 of this Act is added to and made a part of sections 2 to 8, chapter
34 920, Oregon Laws 1989.

35 "SECTION 17. Notwithstanding any other provision of law, the State Forester shall establish
36 by rule a system for reducing the number of acres of forestland accepted for logging slash burning
37 registration so that in 1996 and each year thereafter, the State Forester shall authorize logging
38 slash burning only when the purpose of the burn is forest fire prevention.

39 "SECTION 18. Section 9, chapter 920, Oregon Laws 1989, is repealed.

40 "SECTION 19. (1) The following highways are hereby designated as scenic highways for pur-
41 poses of the Oregon Forest Practices Act:

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

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

1 “(2) In consultation with the Department of Transportation, the board shall establish procedures
2 and regulations as necessary to protect scenic values and the safety of the motoring public along
3 visually sensitive corridors. Rules may include provisions for alternate plans providing equivalent
4 or better results, applying to harvest operations on forestlands within visually sensitive corridors
5 extending 150 feet from the outermost right of way boundary of the roadway along both sides and
6 for the full length of the scenic highways designated in subsection (1) of this section.

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

10 “**SECTION 20.** The State Forestry Department shall conduct a study and shall submit to the
11 Sixty-seventh Legislative Assembly a recommendation regarding the native Pacific yew species in
12 this state. The study shall use existing information to assess the availability of native Pacific yew
13 on public and private lands in this state.

14 “**SECTION 21.** ORS 527.724 is amended to read:

15 “527.724. **Subject to sections 22 and 23 of this 1991 Act,** any forest operations on forest lands
16 within this state shall be conducted in full compliance with the rules and standards of the Envi-
17 ronmental Quality Commission relating to air and water pollution control. In addition to all other
18 remedies provided by law, any violation of those rules or standards shall be subject to all remedies
19 and sanctions available under statute or rule to the Department of Environmental Quality or the
20 Environmental Quality Commission.

21 “**SECTION 22.** (1) The board shall establish best management practices and other rules applying
22 to forest practices as necessary to insure that to the maximum extent practicable nonpoint source
23 discharges of pollutants resulting from forest operations on forestlands do not impair the achieve-
24 ment and maintenance of water quality standards established by the Environmental Quality Com-
25 mission for the waters of the state. Such best management practices shall consist of forest practices
26 rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the
27 board in establishing best management practices shall include, where applicable, but not be limited
28 to:

29 “(a) Beneficial uses of waters potentially impacted;

30 “(b) The effects of past forest practices on beneficial uses of water;

31 “(c) Appropriate practices employed by other forest managers;

32 “(d) Technical, economic and institutional feasibility; and

33 “(e) Natural variations in geomorphology and hydrology.

34 “(2) The board shall consult with the Environmental Quality Commission in adoption and review
35 of best management practices and other rules to address nonpoint source discharges of pollutants
36 resulting from forest operations on forestlands.

37 “(3)(a) Upon written petition of any interested person or agency, the board, in accordance with
38 ORS 183.310 to 183.550, shall review the best management practices adopted pursuant to this sec-
39 tion. The petition must allege with reasonable specificity that nonpoint source discharges of
40 pollutants resulting from forest operations being conducted in accordance with the best management
41 practices are a significant contributor to violations of such standards.

42 “(b) Notwithstanding ORS 183.390, the board shall complete its review of a petition and either
43 dismiss the petition in accordance with paragraph (c) of this subsection or commence rulemaking in
44 accordance with paragraph (f) of this subsection within 90 days of the date the petition for review

1 was filed.

2 “(c) Except as provided in paragraph (d) of this subsection, if the board determines that forest
3 operations being conducted in accordance with the best management practices are neither signif-
4 icantly responsible for particular water quality standards not being met nor are a significant con-
5 tributor to violations of such standards, the board shall issue an order dismissing the petition.

6 “(d) If the petition for review of best management practices is made by the Environmental
7 Quality Commission, the board shall not terminate the review without the concurrence of the com-
8 mission, unless the board commences rulemaking in accordance with paragraph (f) of this subsection.

9 “(e) If a petition for review is dismissed, upon conclusion of the review, the board shall issue
10 an order that includes findings regarding specific allegations in the petition and shall state the
11 board’s reasons for any conclusions to the contrary.

12 “(f) If, pursuant to review, the board determines that best management practices should be re-
13 viewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the
14 revised best management practices must be adopted not later than two years from the filing date
15 of the petition for review unless the board, with concurrence of the Environmental Quality Com-
16 mission, finds that special circumstances require additional time.

17 “(g) Notwithstanding the time limitation established in paragraph (f) of this subsection, at the
18 request of the Environmental Quality Commission, the board shall take action as quickly as practi-
19 cable to prevent significant damage to beneficial uses identified by the commission while the board
20 is revising its best management practices and rules as provided for in this section.

21 “(h) The board shall include in its triennial review of administrative rules an analysis of the
22 effectiveness of the best management practices and other rules applying to forest practices adopted
23 to maintain water quality standards established by the Environmental Quality Commission.

24 “**SECTION 23.** A forest operator conducting, or in good faith proposing to conduct, operations
25 in accordance with best management practices currently in effect shall not be considered in vio-
26 lation of any water quality standards. When the board adopts new best management practices and
27 other rules applying to forest operations, such rules shall apply to all current or proposed forest
28 operations upon their effective dates. However, nothing in this section prevents enforcement of wa-
29 ter quality standards against a forest operator conducting operations after the time provided in
30 section 22 (3)(f) of this 1991 Act for adoption of revised best management practices if the board ei-
31 ther has not adopted revised management practices or has not made a finding that such revised best
32 management practices are not required.

33 “**SECTION 24.** Sections 25 and 26 of this Act are added to and made a part of ORS 468.700 to
34 468.778.

35 “**SECTION 25.** Upon request of the State Board of Forestry, the Environmental Quality Com-
36 mission shall review any water quality standard that affects forest operations on forestlands. The
37 commission’s review may be limited to or coordinated with the triennial or any other regularly
38 scheduled review of the state’s water quality standards, consistent with ORS 468.735, section 26 of
39 this 1991 Act and applicable federal law.

40 “**SECTION 26.** (1) Except as provided in subsection (2) of this section, as necessary to achieve
41 and maintain standards of water quality or purity adopted under ORS 468.735, the commission or
42 department may, by rule or order, impose and enforce limitations or other controls which may in-
43 clude total maximum daily loads, wasteload allocations for point sources and load allocations for
44 nonpoint sources, as provided in the federal Water Pollution Control Act (33 U.S.C. § 1321) and

1 federal regulations and guidelines issued pursuant thereto.

2 “(2) Unless required to do so by the provisions of the Federal Clean Water Act, neither the
3 Environmental Quality Commission nor the Department of Environmental Quality shall promulgate
4 or enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest
5 operations on forestlands in this state. Implementation of any limitations or controls applying to
6 nonpoint source discharges or pollutants resulting from forest operations are subject to sections 22
7 and 23 of this 1991 Act. However, nothing in this section is intended to affect the authority of the
8 commission or the department provided by law to impose and enforce limitations or other controls
9 on water pollution from sources other than forest operations.

10 “(3) When the Environmental Quality Commission establishes instream water quality standards
11 to protect designated beneficial uses in the waters of the state, it shall consider, where applicable,
12 available scientific information including, but not limited to, stream flow, geomorphology and other
13 factors representing the variability and complexity of hydrologic systems and intrinsic water quality
14 conditions.

15 “(4) When the Environmental Quality Commission establishes instream water quality standards,
16 it will also issue guidelines describing how the department and the commission will determine
17 whether water quality standards in waters affected by nonpoint source activities are being met. In
18 developing these guidelines, the commission shall include, where applicable, those physical charac-
19 teristics such as stream flow, geomorphology, seasons, frequency, duration, magnitude and other
20 factors which represent the variability and complexity of forested and other appropriate hydrologic
21 systems.

22 “SECTION 27. (1) The State Board of Forestry, after consultation with the State Department
23 of Fish and Wildlife, shall commission a scientific inquiry on the state of knowledge, using existing
24 information, of the relative effects of forest practices on anadromous fish runs in western Oregon.
25 The study will identify the leading causes, both on-shore and off-shore, for anadromous fish popu-
26 lation declines if that is the case; assign the relative importance of forest practices to these declines,
27 compared to other leading causes; identify the relative importance of various habitat characteristics
28 in streams in limiting anadromous fish production; determine how forest practices have affected fish
29 production; determine how forest practices have affected these habitat characteristics and
30 anadromous fish populations before and since 1972; identify the extent to which forest practices are
31 limiting the recovery of depressed anadromous fish populations; and make recommendations as to
32 how forest practices can assist in recovery of anadromous fish populations.

33 “(2) The board shall contract with an independent and disinterested organization to assemble a
34 panel of well-qualified scientists to conduct the work described in subsection (1) of this section and
35 to write a report of its findings.

36 “(3) Nothing in this section shall be construed to limit the ability of the board to promulgate
37 rules relating to forest practices which restore or protect fish and wildlife populations or habitat.

38 “SECTION 28. (1) The study required by section 27 of this 1991 Act shall be financed from such
39 moneys as are referred to in this section and section 29 of this 1991 Act.

40 “(2) The State Board of Forestry shall request:

41 “(a) The United States Forest Service to pay 25 percent of the study cost.

42 “(b) The Bureau of Land Management to pay 15 percent of the study cost.

43 “(c) The Bonneville Power Administration to pay 25 percent of the study cost.

44 “SECTION 29. In addition to and not in lieu of any other appropriations or moneys made

1 available by law or from other sources, there is appropriated to the State Forestry Department, for
2 the biennium beginning July 1, 1991, out of the General Fund, the sum of \$_____. Such sum may
3 only be expended to pay the costs of the study required by section 27 of this Act.”
4 _____

Enacted by the Senate May 29
Including Senate Amendments dated May 29

A-Engrossed
Senate Bill 1125

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution. Establishes Forest Practices Enforcement Fund for specified purposes.
Declares emergency, effective on passage.

1 **A BILL FOR AN ACT** 527.670
2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.690,
3 ~~527.715 and 527.724, appropriating money, and declaring an emergency.~~ ①
4 **Be It Enacted by the People of the State of Oregon:** X

~~SECTION 1. ORS 527.620 is amended to read:~~ ②

527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

- 6 (1) "State Forester" means the State Forester or the duly authorized representative of the State Forester.
- 7
- 8 (2) "Operator" means any person, including a landowner or timber owner, who conducts an operation.
- 9
- 10
- 11 (3) "Board" means the State Board of Forestry.
- 12
- 13 (4) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied. Forest tree species does not include Christmas trees on land used solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).
- 14
- 15 (5) "Forest practice" means any operation conducted on or pertaining to forestland, including but not limited to:
- 16
- 17 (a) Reforestation of forestland;
- 18 (b) Road construction and maintenance;
- 19 (c) Harvesting of forest tree species;
- 20 (d) Application of chemicals; and
- 21 (e) Disposal of slash.
- 22
- 23 (6) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.
- 24
- 25 (7) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.
- 26
- 27 (8) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.
- 28
- 29 (9) "Written plan" means a plan submitted by an operator, for written approval by the State
- 30
- 31

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NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

Ordered by the Senate May 29
Including Senate Amendments dated May 29
a - Engrossed

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1 **A BILL FOR AN ACT** 527.670

2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.690,

3 ~~527.715 and 527.724, appropriating~~ ²⁹ 527.710, 527.724 and section 8, chapter 920,

3 Oregon Laws 1989; repealing section 9, chapter 920, Oregon Laws 1989; and

4 appropriating money.

(1) "State Forester" means the State Forester or the duly authorized representative of the State Forester.

(2) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(3) "Board" means the State Board of Forestry.

(4) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied. Forest tree species does not include Christmas trees on land used solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).

(5) "Forest practice" means any operation conducted on or pertaining to forestland, including but not limited to:

(a) Reforestation of forestland;

(b) Road construction and maintenance;

(c) Harvesting of forest tree species;

(d) Application of chemicals; and

(e) Disposal of slash.

(6) "Operation" means any commercial activity relating to the growing or harvesting of forest tree species.

(7) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.

(8) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.

~~(9) "Written plan" means a plan submitted by an operator, for written approval by the State~~

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NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

Forester, which describes how the operation will be conducted, including the means to protect resource sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of this 1991 Act, if applicable.

(10) "Clearcut" means any harvest unit in western Oregon that leaves fewer than 50 trees per acre that are well-distributed over the unit and that measure at least 11 inches at DBH or that measure less than 40 square feet of basal area per acre. "Clearcut" means any harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-distributed over the unit and that measure at least 10 inches at DBH. For purposes of this subsection, no tree shall be counted unless the top one-third of the bole of the tree supports a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall be considered 20-inch trees.

(11) "DBH" means the diameter at breast height which is measured as the width of a standing tree or log measured at four and one-half feet above the ground, on the uphill side.

(12) "Western Oregon" means all land west of the summit of the Oregon Cascade Range and "eastern Oregon" means all land east of the summit of the Oregon Cascade Range.

(13) "Visually sensitive corridor" means forestland located within the area extending 150 feet from the shoulder of a scenic highway designated under section 8 of this 1991 Act.

SECTION 2. Sections 3 to 11 and 17 of this Act are added to and made a part of ORS 527.610 to 527.730.

SECTION 3. (1) The standards established in sections 4 to 8 of this 1991 Act 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 board shall adopt, repeal or amend forest practices rules as necessary to be consistent with and to implement the standards established in sections 4 to 8 of this 1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the board to adopt, or the State Forester to administer, all other regulations pertaining to forest practices under applicable state law.

(2) Nothing in sections 4 to 8 of this 1991 Act is intended to apply to cutting of trees that is for growth enhancement treatments, as defined by the State Forester, such as thinning or precommercial thinning.

SECTION 4. (1) No clearcut unit within a single ownership shall exceed 120 contiguous acres in size, except as provided in section 7 of this 1991 Act.

(2) No clearcut unit shall be allowed within 300 feet of the perimeter of a prior clearcut unit if the combined acreage of the clearcut areas subject to regulation under the Oregon Forest Practices Act would exceed 120 acres, unless the prior clearcut unit has been reforested as required by all applicable regulations and:

- (a) At least 200 healthy conifer seedlings are established per acre, and either;
- (b) The resultant reproduction has attained an average height of at least four feet; or
- (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is "free to grow" as defined by the board.

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

(4) The provisions of this section shall not apply when the land is being converted to conifers from brush or hardwoods, or when the clearcut harvest results from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State Forester determines was beyond

SECTION 1. ORS 527.620 is amended to read:

7 "527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

8 "[²(1) "State Forester" means the State Forester or the duly authorized rep-
9 resentative of the State Forester.]

10 "[²(2) "Operator" means any person, including a landowner or timber owner,
11 who conducts an operation.]

12 "[³(3)] (1) "Board" means the State Board of Forestry.

13 "(2) "Clearcut" means any harvest unit in western Oregon that
14 leaves fewer than 50 trees per acre that are well-distributed over the
15 unit and that measure at least 11 inches at DBH or that measure less
16 than 40 square feet of basal area per acre. ("Clearcut" means any har-
17 vest unit in eastern Oregon that leaves fewer than 15 trees per acre
18 that are well-distributed over the unit and that measure at least 10
19 inches at [✓]DBH. For purposes of this subsection, no tree shall be
20 counted unless the top one-third of the bole of the tree supports a
21 green, live crown. For purposes of computing basal area, trees larger
22 than 20 inches shall be considered 20-inch trees.

23 "(3) "Cumulative effects" means the impact on the environment
24 which results from the incremental impact of the forest practice when

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1 added to other past, present and reasonably foreseeable future forest
2 practices regardless of what governmental agency or person under-
3 takes such other actions.

4 “(4) (‘DBH’) means the diameter at breast height which is measured
5 as the width of a standing tree or log measured at four and one-half
6 feet above the ground, on the uphill side.

7 “[4] (5) (‘Forestland’) means land which is used for the growing and har-
8 vesting of forest tree species, regardless of how the land is zoned or taxed
9 or how any state or local statutes, ordinances, rules or regulations are ap-
10 plied. Forest tree species does not include Christmas trees on land used
11 solely for the production of cultured Christmas trees as defined in ORS
12 215.203 (3).

13 “[5] (6) (‘Forest practice’) means any operation conducted on or pertaining
14 to forest land, including but not limited to:

- 15 “(a) Reforestation of forestland;
- 16 “(b) Road construction and maintenance;
- 17 “(c) Harvesting of forest tree species;
- 18 “(d) Application of chemicals; and
- 19 “(e) Disposal of slash.

20 “[6] (7) (‘Operation’) means any commercial activity relating to the
21 growing or harvesting of forest tree species.

22 “(8) (‘Operator’) means any person, including a landowner or timber
23 owner, who conducts an operation.

24 “[7] (9) (‘Landowner’) means any individual, combination of individuals,
25 partnership, corporation or association of whatever nature that holds an
26 ownership interest in forestland, including the state and any political sub-
27 division thereof.

28 “(10) (‘State Forester’) means the State Forester or the duly author-
29 ized representative of the State Forester.

30 “(11) (‘Suitable hardwood seedlings’) means any hardwood seedling

1 that will eventually yield logs or fiber, or both, sufficient in size and
2 quality for the production of lumber, plywood, pulp or other forest
3 products.

4 "[~~(8)~~] (12) ('Timber owner') means any individual, combination of individ-
5 uals, partnership, corporation or association of whatever nature, other than
6 a landowner, that holds an ownership interest in any forest tree species on
7 forestland.

8 "(13) ('Visually sensitive corridor') means forestland located within
9 the area extending 150 feet from the outermost right of way boundary
10 of a scenic highway referred to in section 19 of this 1991 Act.

11 "[~~(9)~~] (14) ('Written plan') means a plan submitted by an operator, for
12 written approval by the State Forester, which describes how the operation
13 will be conducted, including the means to protect resource sites described in
14 ORS 527.710 (3)(a) and information required by sections 6 and 7 of this
15 1991 Act, if applicable.

16 "SECTION 2. Sections 3 to 9, 13, 14, 19, 20, 22, 23, 27 and 28 of this Act
17 are added to and made a part of ORS 527.610 to 527.730.

18 "SECTION 3. (1) The standards established in sections 4 to 7 of this 1991
19 Act shall be administered by the State Forester as standards applying to all
20 operations in the state, including those on forestland owned by the state or
21 any political subdivision thereof. Pursuant to ORS 527.710 the board shall
22 adopt, repeal or amend forest practice rules as necessary to be consistent
23 with and to implement the standards established in sections 4 to 7 of this
24 1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the
25 board to adopt, or the State Forester to administer, all other regulations
26 pertaining to forest practices under applicable state law.

27 "(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to
28 cutting of trees that is for growth enhancement treatments, as defined by the
29 State Forester, such as thinning or precommercial thinning.

30 "(3) The board shall conduct a study to determine the appropriate size

1 limitations for clearcuts for each region of the state within a single owner-
2 ship on contiguous acres. Consistent with ORS 527.630, the study shall con-
3 sider the rate of harvest, the cumulative effects of forest operations, the
4 impacts on fish and wildlife populations and habitat and scenic values. Not
5 later than September 1, 1992, the board shall adopt rules regarding the size
6 of permissible clearcuts within a single ownership on contiguous acres.
7 However, the size or sizes adopted by rule shall not exceed 120 acres. Except
8 as provided in section 7 of this 1991 Act, and notwithstanding any other
9 provision of the Oregon Forest Practices Act, until the rules referred to in
10 this section are adopted, no clearcut within a single ownership on contiguous
11 acres shall exceed 120 acres.

12 "SECTION 4. (1) No clearcut unit within a single ownership on contig-
13 uous acres shall exceed the size established by board rule, except as provided
14 in section 7 of this 1991 Act.

15 "(2) No clearcut unit shall be allowed within 300 feet of the perimeter of
16 a prior clearcut unit if the combined acreage of the clearcut areas subject
17 to regulation under the Oregon Forest Practices Act would exceed the size
18 for clearcuts established by board rule, unless the prior clearcut unit has
19 been reforested as required by all applicable regulations and:

20 "(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
21 tablished per acre; and either

22 "(b) The resultant reproduction has attained an average height of at least
23 four feet; or

24 "(c) At least 48 months have elapsed since the seedlings were planted and
25 the reproduction is "free to grow" as defined by the board.

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

29 "(4) The provisions of this section shall not apply when the land is being
30 converted to conifers or managed hardwoods from brush or understocked

1 hardwoods, or when the clearcut harvest results from disasters such as fire,
2 insect infestation, disease, windstorm or other occurrence that the State
3 Forester determines was beyond the landowner's control and has substan-
4 tially impaired productivity or safety on the unit or jeopardizes nearby
5 forestland. The prior approval of the State Forester shall be required for
6 such conversion or clearcut operations that exceed the limit on clearcut size
7 established by board rule.

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

10 “(a) The trees are subject to a cutting right created by written contract
11 prior to October 1, 1990, which provides that the trees must be paid for re-
12 gardless of whether the trees are cut, or subject to a cutting right created
13 by reservation in a deed prior to October 1, 1990; and

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

17 “SECTION 5. (1)(a) The board shall adopt rules for the retention and
18 replacement of snags and dead and down material in riparian and upland
19 areas in sufficient quantities to address wildlife needs by July 1, 1993.

20 “(b) Until the board adopts rules required under this section, the board
21 shall require operators to leave, on average per acre harvested, at least:

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

24 “(B) Two downed logs or downed trees, at least 50 percent of which are
25 conifers, that are at least 12 inches in diameter at the widest point and at
26 least 16 feet long, or equivalent volume if trees of this size are not available
27 on the site.

28 “(c) Until the rules required by paragraph (a) of this subsection have been
29 adopted, an operator shall leave snags, green trees, downed logs or downed
30 trees as prescribed in subparagraphs (A) and (B) of paragraph (b) of this

1 subsection.

2 “(2) In meeting the requirements of subsection (1) of this section, the re-
3 quired snags, trees and logs may be left in one or more clusters rather than
4 distributed throughout the unit. The location and distribution of the material
5 shall be in the sole discretion of the landowner or operator, consistent with
6 safety and fire hazard regulations. The requirements of subsection (1) of this
7 section are in addition to all other requirements pertaining to forest oper-
8 ations and may not be met by counting snags, trees or logs otherwise re-
9 quired to be left in riparian areas or resource sites listed in ORS 527.710 (3).

10 “SECTION 6. (1) The board shall adopt standards for the reforestation
11 of clearcut harvests. Unless the board makes the findings for alternate
12 standards under subsection (2) of this section, and except to the extent that
13 more stringent reforestation requirements apply under section 4 (2) of this
14 1991 Act, the standards for the reforestation of clearcuts shall include the
15 following:

16 “(a) Reforestation, including site preparation, of clearcut units shall
17 commence within 12 months after the completion of harvest and shall be
18 completed by the end of the second planting season after the completion of
19 harvest. By the end of the fifth growing season after planting or seeding, at
20 least 200 healthy conifer or suitable hardwood seedlings shall be established
21 per acre, well-distributed over the area, which are ‘free to grow’ as defined
22 by the board.

23 “(b) A written plan shall be required for reforestation activities that do
24 not conform to the standards established under paragraph (a) of this sub-
25 section or the alternate standards adopted under subsection (2) of this sec-
26 tion, including but not limited to variances in the time in which
27 reforestation is to be commenced or completed or plans to reforest sites by
28 natural reforestation. Such alternate plans may be approved if the State
29 Forester determines that the plan will achieve equivalent or better regener-
30 ation results for the particular conditions of the site, or the plan carries out

1 an authorized research project conducted by a public agency or educational
2 institution.

3 “(2) The board, by rule, may establish alternate standards for the
4 reforestation of clearcuts, in lieu of the standards established in subsection
5 (1) of this section, upon finding that the alternate standards will better as-
6 sure the continuous growing and harvesting of forest tree species and the
7 maintenance of forestland for such purposes, consistent with sound manage-
8 ment of soil, air, water, fish and wildlife resources based on one or more of
9 the following findings:

10 “(a) Alternate standards are warranted based on scientific data concern-
11 ing biologically effective regeneration;

12 “(b) Different standards are warranted for particular geographic areas of
13 the state due to variations in climate, elevation, geology or other physical
14 factors; or

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

17 “(3) Pursuant to ORS 527.710, the board may adopt definitions, procedures
18 and further regulations to implement the standards established under sub-
19 section (1) of this section, without making the findings required in sub-
20 section (2) of this section, if those procedures or regulations are consistent
21 with the standards established in subsection (1) of this section.

22 “(4)(a) Sites infested with root pathogens shall be reforested with a re-
23 sistant or immune tree species. Seedlings of Douglas fir or other susceptible
24 species planted on or within 50 feet of a site known to be infested with root
25 pathogens shall not be counted toward the reforestation requirement.

26 “(b) The board shall prohibit the planting of a species susceptible to an
27 insect or disease if the planting of a susceptible species would facilitate the
28 spread of the disease or insect pest and there are immune or tolerant com-
29 mercial species adapted to the site.

30 “(5) The requirements of this section apply only to clearcuts as defined

1 in ORS 527.620 (2). Nothing in this section is intended to affect the admin-
2 istration and enforcement of regulations pertaining to the maintenance of
3 minimum stocking levels or the reforestation of sites required as a result of
4 operations other than such clearcuts.

5 "SECTION 7. (1) Notwithstanding the requirements of section 4 of this
6 1991 Act, a clearcut unit within a single ownership on contiguous acres that
7 exceeds twice the number of acres for clearcut established by board rule may
8 be approved by the State Forester if all the requirements of this section and
9 any additional requirements established by the board are met. Proposed
10 clearcut units that are within 300 feet of the perimeter of a prior clearcut
11 unit, and that would result in a total combined clearcut area under a single
12 ownership exceeding 120 acres but not exceeding 240 acres, may be approved
13 by the State Forester if the additional requirements are met for the combined
14 clearcut area. No clearcut unit within a single ownership on contiguous
15 acres shall exceed the number of acres for clearcut established by board rule.
16 No clearcut unit shall be allowed within 300 feet of the perimeter of a prior
17 clearcut unit if the combined acreage of the clearcut areas subject to regu-
18 lation under the Oregon Forest Practices Act would exceed 240 acres, unless
19 the prior clearcut unit has been reforested by all applicable regulations and:

20 "(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
21 tablished per acre; and either

22 "(b) The resultant reproduction has attained an average height of at least
23 four feet; or

24 "(c) At least 48 months have elapsed since the seedlings were planted and
25 the reproduction is ('free to grow') as defined by the board.

26 "(2) The requirements of this section are in addition to all other re-
27 quirements of the Oregon Forest Practices Act and the rules adopted there-
28 under. The requirements of this section shall be applied in lieu of such other
29 requirements only to the extent the requirements of this section are more
30 stringent. Nothing in this section shall apply to operations conducted under

1 section 4 (4) or (5) of this 1991 Act.

2 “(3) The board shall require that a written plan be submitted prior to
3 approval of a clearcut operation under this section. The board may establish
4 by rule any additional standards applying to operations under this section.

5 “(4) The State Forester shall approve the clearcut operation if the pro-
6 posed clearcut would provide better overall results in meeting the require-
7 ments and objectives of the Oregon Forest Practices Act.

8 “(5) The board shall specify by rule the information to be submitted for
9 approval of clearcut operations under this section, including evidence of past
10 satisfactory compliance with the Oregon Forest Practices Act.

11 **“SECTION 8. (1)** The board shall review its rules governing changes in
12 land use and adopt or amend rules as necessary to assure that only bona fide,
13 established and continuously maintained changes from forest uses are pro-
14 vided an exemption from reforestation requirements. The board shall set
15 specific time periods for the completion of land use conversions. Among
16 other factors, the board shall condition exemptions from reforestation re-
17 quirements upon:

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

22 “(b) Demonstrating progress toward the change in land use within the
23 time required for planting of trees, and substantial completion and contin-
24 uous maintenance of the change in land use in a time certain;

25 “(c) Allowing an exemption for only the smallest land area necessary to
26 carry out the change in land use, and requiring that additional land area
27 within the harvest unit remains subject to all applicable reforestation re-
28 quirements; and

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

1 “(2) The board shall require that, prior to commencing an operation where
2 a change in land use is proposed, a bond, cash deposit, irrevocable letter of
3 credit or other security be filed with the State Forester in an amount de-
4 termined by the State Forester sufficient to cover the cost of site preparation
5 and reforestation for the area subject to an exemption from reforestation due
6 to a change in land use, and provisions^{be made} for the administration and collection
7 on such bond or security deposit in the event that the change in land use is
8 not established or continuously maintained within a time certain.

X

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

12 “SECTION 9. (1) Not later than September 1, 1992, the board shall review
13 its classification of waters of the state, create at least three classifications
14 and establish rules applicable to each classification. The board shall give
15 particular consideration to perennial streams, not currently classified as
16 Class 1, which have an average gradient of not more than eight percent and
17 which are important to water quality and fish needs in downstream Class 1
18 streams. The board shall consider requirements for vegetative buffers along
19 such streams consistent with the health of the forest.

20 “(2) The board shall review current Class 1 stream and associated riparian
21 protection rules and, where appropriate, shall improve protection of soil, air,
22 water, fish and wildlife resources, which include but are not limited to fish
23 and wildlife habitat, species biodiversity and stream morphology.

24 “(3) Until the board adopts rules pursuant to this section, the rules re-
25 garding operations near Class 1 streams shall apply to operations near
26 streams that are within one-quarter mile of Class 1 streams or which are
27 important to water quality or threatened, endangered, sensitive or game fish
28 species. The State Forestry Department shall consult with the appropriate
29 state agencies in determining which streams are affected by this section.

30 “(4) The board shall report to the Sixty-seventh Legislative Assembly on

1 the results of the board's reviews pursuant to this section and section 8 of
2 this 1991 Act, including any recommendations for legislative changes.

3 **"SECTION 10. ORS 527.630 is amended to read:**

4 "527.630. (1) Forests make a vital contribution to Oregon by providing
5 jobs, products, tax base and other social and economic benefits, by helping
6 to maintain forest tree species, soil, air, [and] water and scenic resources
7 and by providing a habitat for wildlife and aquatic life. Therefore, it is de-
8 clared to be the public policy of the State of Oregon to encourage econom-
9 ically efficient forest practices that assure the continuous growing and
10 harvesting of forest tree species and the maintenance of forest land for such
11 purposes as the leading use on privately owned land, consistent with sound
12 management of soil, air, water, [and] fish and wildlife resources and scenic
13 resources within visually sensitive corridors as provided in section 19
14 of this 1991 Act that assures the continuous benefits of those resources for
15 future generations of Oregonians.

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

22 "(3) To encourage forest practices implementing the policy of ORS 527.610
23 to 527.730 and 527.990, it is declared to be in the public interest to vest in
24 the board exclusive authority to develop and enforce statewide and regional
25 rules pursuant to ORS 527.710 and to coordinate with other state agencies
26 and local governments which are concerned with the forest environment.

27 **"SECTION 11. ORS 527.670 is amended to read:**

28 "527.670. (1) The board shall designate the types of operations for which
29 notice shall be required under this section.

30 "(2) The board shall determine by rule what types of operations require

1 a written plan to be approved by the State Forester.

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

4 “[a)] (A) Within one hundred feet of a Class 1 stream and any other
5 waters of this state determined by the board under section 9 of this
6 1991 Act, unless the board, by rule, provides that a written plan is not re-
7 quired because there is no reasonable likelihood that such operations would
8 damage a resource described in ORS 527.710 (2), within the riparian man-
9 agement area; [or]

10 “[b)] (B) Within three hundred feet of a resource site inventoried pur-
11 suant to ORS 527.710 (3)(a)[.];

12 “(C) On lands determined by the State Forester to be within high
13 risk sites, unless the board, by rule, provides that a written plan is
14 not required because there is no reasonable likelihood that such op-
15 erations would damage a resource described in ORS 527.710 (2);

16 “(D) Involving final clearcut of any stand of an average age that is
17 less than 60 percent of the age of culmination of mean annual incre-
18 ment. The written plan for such an operation must address the envi-
19 ronmental consequences of the harvest and the economic costs and
20 benefits; and

21 “(E) On lands to be clearcut in excess of 120 acres pursuant to sec-
22 tion 7 of this 1991 Act.

23 “(b) Plans submitted under this section are not subject to appeal
24 under ORS 527.700.

25 “(4) The distances set forth in [paragraphs] ^{paragraph} (a) [and (b)] of subsection (3) of
26 this section are solely for the purpose of defining an area within which a
27 hearing may be requested under ORS 527.700 and not the area to be protected
28 by the board’s rules adopted pursuant to ORS 527.710 (3)(c).

29 “(5) For the purpose of determining the distances set forth in [paragraphs]
30 ^{paragraph} (a) [and (b)] of subsection (3) of this section ‘site’ means the specific resource

1 site and not any additional buffer area.

2 “(6) An operator, timber owner or landowner, before commencing an op-
3 eration, shall notify the State Forester. The notification shall be on forms
4 provided by the State Forester and shall include the name and address of the
5 operator, timber owner and landowner, the legal description of the operating
6 area, and any other information considered by the State Forester to be nec-
7 essary for the administration of the rules promulgated by the board pursuant
8 to ORS 527.710. Promptly upon receipt of such notice, the State Forester
9 shall send a copy of the notice to whichever of the operator, timber owner
10 or landowner did not submit the notification. **The State Forester shall**
11 **send a copy of notices involving chemical applications to persons**
12 **within 15 miles of the chemical application who hold downstream**
13 **surface water rights pursuant to ORS chapter 537, if such a person has**
14 **requested that notification in writing. The board shall adopt rules**
15 **specifying the information to be contained in the notice. All informa-**
16 **tion filed with the State Forester pertaining to chemical applications**
17 **shall be public record.** The State Forester shall also send to the operator,
18 the timber owner and the landowner a copy of the rules applicable to the
19 proposed operation.

20 “(7) An operator, timber owner or landowner, whichever filed the original
21 notification, shall notify the State Forester of any subsequent change in the
22 information contained in the notification.

23 “(8) Within three working days of receipt of a notice or a written plan
24 filed under subsection (6) or (7) of this section, the State Forester shall send
25 a copy of the notice or written plan to the Department of Revenue, the
26 county assessor for the county in which the operation is located and persons
27 who requested of the State Forester in writing that they be sent copies of
28 notice and written plan and who have paid any applicable fee established by
29 the State Forester for such service. The State Forester may establish a fee
30 for sending copies of notices and written plans under this subsection not to

1 exceed the actual and reasonable costs.

2 “(9) Persons may submit written comments pertaining to the operation to
3 the State Forester within [14] 30 calendar days of the date the notice or
4 written plan was filed with the State Forester under subsection (2), (6) or (7)
5 of this section. Notwithstanding the provisions of this subsection, the State
6 Forester may waive any waiting period for operations not requiring a written
7 plan under subsection (3) of this section, **except those operations involv-**
8 **ing aerial application of chemicals.**

9 “(10) Whenever an operator, timber owner or landowner is required to
10 submit a written plan of operations to the State Forester under subsection
11 (3) of this section, the State Forester shall not approve any such written plan
12 until [14] 30 calendar days following the date the written plan was filed with
13 the State Forester. An operation may commence upon approval of the written
14 plan.

15 “(11)(a) The State Forester shall issue a decision on a written plan within
16 three working days after the end of the [14-day] 30-day period described in
17 subsection (10) of this section.

18 “(b) If the State Forester fails to issue a decision within five working
19 days after the end of the [14-day] 30-day period described in subsection (10)
20 of this section, the written plan shall be deemed approved and the operation
21 may be commenced.

22 “(12) When the operation is required to have a written plan under sub-
23 section (3) of this section and comments have been timely filed under sub-
24 section (9) of this section pertaining to the operation requiring a written
25 plan, the State Forester shall:

26 “(a) Send a copy of the approved written plan to persons who submitted
27 timely written comments under subsection (9) of this section pertaining to
28 the operation; and

29 “(b) Send to the operator, timber owner and landowner a copy of the ap-
30 proved written plan and copies of all timely comments submitted under sub-

1 section (9) of this section.

2 "SECTION 11a. ORS 527.690 is amended to read:

3 "527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b)
4 directs the repair of damage or correction of an unsatisfactory condition,
5 including compliance with reforestation requirements, and if the oper-
6 ator or landowner does not comply with the order within the period specified
7 in such order and the order has not been appealed to the board within 30
8 days, the State Forester based upon a determination by the forester of what
9 action will best carry out the purposes of ORS 527.630 shall:

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

14 "(b) Estimate the cost to repair the damage or the unsatisfactory condi-
15 tion as directed by the order and shall notify the operator, timber owner and
16 landowner in writing of the amount of the estimate. Upon agreement of the
17 operator, timber owner or the landowner to pay the cost, the State Forester
18 may proceed to repair the damage or the unsatisfactory condition. In the
19 event approval of the expenditure is not obtained within 30 days after no-
20 tification to the operator, timber owner and landowner under this section,
21 the State Forester shall present to the board the alleged violation, the esti-
22 mate of the expenditure to repair the damage or unsatisfactory condition and
23 the justification for the expenditure.

24 "(2) The board shall review the matter presented to it pursuant to sub-
25 section (1) of this section and shall determine whether to authorize the State
26 Forester to proceed to repair the damage or correct the unsatisfactory con-
27 dition and the amount authorized for expenditure. The board shall afford the
28 operator, timber owner or landowner the opportunity to appear before the
29 board for the purpose of presenting facts pertaining to the alleged violation
30 and the proposed expenditure.

1 “(3) If the board authorizes the State Forester to repair the damage or
2 correct the unsatisfactory condition, the State Forester shall proceed, either
3 with forces of the State Forester or by contract, to repair the damage or
4 correct the unsatisfactory condition. The State Forester shall keep a com-
5 plete account of direct expenditures incurred, and upon completion of the
6 work, shall prepare an itemized statement thereof and shall deliver a copy
7 to the operator, timber owner and landowner. In no event shall the expend-
8 itures exceed the amount authorized by subsection (2) of this section. An
9 itemized statement of the direct expenditures incurred by the State Forester,
10 certified by the State Forester, shall be accepted as prima facie evidence of
11 such expenditures in any proceeding authorized by this section. **If the State**
12 **Forester’s action to repair the damage or correct the unsatisfactory**
13 **condition arose from an operation for which a bond, cash deposit or**
14 **other security was required under section 8 of this 1991 Act, the State**
15 **Forester shall retain any applicable portion of a cash deposit and the**
16 **surety on the bond or holder of the other security deposit shall pay the**
17 **amount of the bond or other security deposit to the State Forester**
18 **upon demand. If the amount specified in the demand is not paid within**
19 **30 days following the demand, the Attorney General, upon request by**
20 **the State Forester, shall institute proceedings to recover the amount**
21 **specified in the demand.**

22 “(4) The expenditures in cases covered by this section, including cases
23 where the amount collected on a bond, deposit or other security was
24 not sufficient to cover authorized expenditures, shall constitute a gen-
25 eral lien upon the real and personal property of the operator, timber owner
26 and landowner within the county in which the damage occurred. A written
27 notice of the lien, containing a statement of the demand, the description of
28 the property upon which the expenditures were made and the name of the
29 parties against whom the lien attaches, shall be certified under oath by the
30 State Forester and filed in the office of the county clerk of the county or

1 counties in which the expenditures were made within six months after the
2 date of delivery of the itemized statement referred to in subsection (3) of this
3 section, and may be foreclosed in the manner provided in ORS chapter 88.

4 "[5] *Liens provided for in this section shall cease to exist unless suit for*
5 *foreclosure is instituted within six months from the date of filing under sub-*
6 *section (4) of this section.*]

7 "SECTION 12. ORS 527.710 is amended to read:

8 "527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and
9 527.990 (1), the board shall adopt, in accordance with applicable provisions
10 of ORS 183.310 to 183.550, rules to be administered by the State Forester es-
11 tablishing [*minimum*] standards for forest practices in each region or subre-
12 gion.

13 "(2) The rules shall assure the continuous growing and harvesting of
14 forest tree species. Consistent with ORS 527.630, the rules shall provide for
15 the overall maintenance or restoration of the following resources:

16 "(a) Air quality;

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

19 "(c) Soil productivity; and

20 "(d) Fish and wildlife **populations and appropriate habitat.**

21 "(3)(a) In addition to its rulemaking responsibilities under subsection (2)
22 of this section, the board shall collect and analyze the best available infor-
23 mation and establish inventories of the following resource sites needing
24 protection:

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

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

29 "(C) Biological sites that are ecologically and scientifically significant;
30 and

1 “(D) Significant wetlands.

2 “(b) The board shall determine whether forest practices would conflict
3 with resource sites in the inventories required by paragraph (a) of this sub-
4 section. If the board determines that one or more forest practices would
5 conflict with resource sites in the inventory, the board shall consider the
6 consequences of the conflicting uses and determine appropriate levels of
7 protection.

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

12 “(4) The board shall adopt forest practices rules that:

13 “(a) Minimize adverse impacts of cumulative effects of forest prac-
14 tices on air and water quality, soil productivity, fish and wildlife re-
15 sources and watersheds. The rules shall include a process for
16 determining areas where adverse impacts from cumulative effects
17 have occurred or are likely to occur, and shall require that a written
18 plan be submitted for harvests in such areas; and

19 “(b) Provide the State Forester with authority to condition the ap-
20 proval of written plans required under ORS 527.670 (2) and (3) by lim-
21 iting rate, timing and extent of harvest when the forester determines
22 such limitations are necessary to achieve the objectives of ORS 527.630.

23 “[(4)] (5) Before adopting rules under subsection (1) of this section, the
24 board shall consult with other agencies of this state or any of its political
25 subdivisions that have functions with respect to the purposes specified in
26 ORS 527.630 or programs affected by forest operations. Agencies and pro-
27 grams subject to consultation under this subsection include, but are not
28 limited to:

29 “(a) Air and water pollution programs administered by the Department
30 of Environmental Quality under ORS 468.700 to 468.778, 468.780, 468.815 and

1 477.515 to 477.532;

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

5 "(c) Game fish and wildlife, commercial fishing, licensing, wildlife and
6 bird refuge and fish habitat improvement tax incentive programs adminis-
7 tered by the State Department of Fish and Wildlife under ORS 272.060,
8 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

9 "(d) Park land, Willamette River Greenway, scenic waterway and recre-
10 ation trail programs administered by the State Parks and Recreation De-
11 partment under ORS 358.475 to 358.565, 390.310 to 390.368, 390.805 to 390.925,
12 390.950 to 390.990 and ORS 390.121;

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

15 "(f) Removal and fill, natural heritage conservation and natural heritage
16 conservation tax incentive programs administered by the State Land Board
17 and the Division of State Lands under ORS 196.670 to 196.765, 273.553 to
18 273.591, 307.550, 307.560 and 541.700 to 541.990;

19 "(g) Federal Safe Drinking Water Act programs administered by the
20 Health Division under ORS 448.273 to 448.990;

21 "(h) Natural heritage conservation programs administered by the Natural
22 Heritage Advisory Council under ORS 273.553 to 273.591, 307.550 and 307.560;

23 "(i) Open space land tax incentive programs administered by cities and
24 counties under ORS 308.740 to 308.790; and

25 "(j) Water resources programs administered by the Water Resources De-
26 partment under ORS 536.220 to 536.540.

27 "[5] (6) In carrying out the provisions of subsection [(4)] (5) of this
28 section, the board shall consider and accommodate the rules and programs
29 of other agencies to the extent deemed by the board to be appropriate and
30 consistent with the purposes of ORS 527.630.

1 “[(6)] (7) The board shall adopt rules to meet the purposes of another
2 agency's regulatory program where it is the intent of the board to administer
3 the other agency's program on forestland and where the other agency con-
4 curs by rule. An operation performed in compliance with the board's rules
5 shall be deemed to comply with the other agency's program.

6 “[(7)] (8) The board may enter into cooperative agreements or contracts
7 necessary in carrying out the purposes specified in ORS 527.630. **The State
8 Forestry Department shall enter into agreements with appropriate
9 state agencies for joint monitoring of the effectiveness of forest prac-
10 tice rules in protecting forest resources and water quality.**

11 “SECTION 13. (1) The State Forester shall conduct a study of harvest
12 rates on private forestland in Oregon, and shall report to the State Board
13 of Forestry and the Sixty-seventh Legislative Assembly on the results of such
14 study, along with recommendations for addressing any problems that may be
15 identified during the course of such study.

16 “(2) The study shall include, but not be limited to, an analysis of:

17 “(a) The annual rates of harvest on Oregon's private forestlands compared
18 to the annual rates of growth on such forestlands;

19 “(b) The effect of such harvest rates on employment and community sta-
20 bility;

21 “(c) The impact of such harvest rates on water quality, fisheries and
22 wildlife; and

23 “(d) The extent to which private forest resources in Oregon are being
24 rapidly liquidated to fulfill the terms of highly leveraged contracts to pur-
25 chase such resources.

26 “(3) The study shall be completed no later than December 31, 1992.

27 “SECTION 14. The State Forestry Department, in cooperation with ap-
28 appropriate state agencies, shall evaluate the effects of timber harvest oper-
29 ations on fish and wildlife populations and habitat and water quality. The
30 evaluation shall examine best management practices and alternative methods

1 of forest management and timber harvest and include examination of existing
2 research. The agencies shall submit a progress report to the Sixty-seventh
3 Legislative Assembly and a final report to the Sixty-eighth Legislative As-
4 sembly. The reports shall include any recommendations for appropriate
5 modifications to best management practices, and forest practice rules and
6 statutes. Nothing in this section shall be construed to limit the authority
7 of the board to adopt rules relating to cumulative effects and fish and
8 wildlife protection under ORS 527.710.

9 **"SECTION 15.** Section 8, chapter 920, Oregon Laws 1989, is amended to
10 read:

11 "Sec. 8. (1) The department shall collect a nonrefundable registration fee
12 for forestland to be burned lying within the restricted area described under
13 ORS 477.515 (3). **However, the State Forester, by rule, shall provide an**
14 **exemption from payment of the fee for burning of understory materi-**
15 **als that occurs on forestland for which regular, periodic burning of**
16 **understory materials is required for forest health.**

17 "(2) Any owner of Class 1 forestland under ORS 526.324 and any agency
18 managing Class 1 forestland under ORS 526.324 lying within the restricted
19 area as described in the plan required under ORS 477.515 (3) shall register
20 with the State Forester, in accordance with rules adopted by the State
21 Forester, the number of acres to be burned prior to December 31 of the same
22 year.

23 "(3) The State Forester shall establish by rule the amount of fees to be
24 collected under this section. The fees shall not exceed:

25 "(a) Fifty cents per acre for registration.

26 "(b) [~~\$1.50~~] \$5 per acre for forestland classified as Class 1 under ORS
27 526.324 that has been treated by any prescription burn method authorized by
28 the issuance of a permit under ORS 477.515 (1).

29 "(4) Federal lands included within the restricted area under the provision
30 of the smoke management plan approved under ORS 477.515 (3)(a) shall also

1 be subject to the fees authorized under subsection (3) of this section for
2 forestland to be treated by any prescription burn method subject to the pro-
3 visions of the State of Oregon Clean Air Act Implementation Plan and the
4 Federal Clean Air Act.

5 "(5) Notwithstanding ORS 291.238, moneys collected under this section
6 shall be deposited in the Oregon Forest Smoke Management Account estab-
7 lished under section 7, chapter 920, Oregon Laws 1989 [of this 1989 Act].

8 "SECTION 16. Section 17 of this Act is added to and made a part of
9 sections 2 to 8, chapter 920, Oregon Laws 1989.

10 "SECTION 17. Notwithstanding any other provision of law, the State
11 Forester shall establish by rule a system for reducing the number of acres
12 of forestland accepted for logging slash burning registration so that in 1996
13 and each year thereafter, the State Forester shall authorize logging slash
14 burning only when the purpose of the burn is forest fire prevention.

15 "SECTION 18. Section 9, chapter 920, Oregon Laws 1989, is repealed.

16 "SECTION 19. (1) The following highways are hereby designated as sce-
17 nic highways for purposes of the Oregon Forest Practices Act:

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

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

21 "(2) In consultation with the Department of Transportation, the board
22 shall establish procedures and regulations as necessary to protect scenic
23 values and the safety of the motoring public along visually sensitive corri-
24 dors. Rules may include provisions for alternate plans providing equivalent
25 or better results, applying to harvest operations on forestlands within visu-
26 ally sensitive corridors extending 150 feet from the outermost right of way
27 boundary of the roadway along both sides and for the full length of the
28 scenic highways designated in subsection (1) of this section.

29 "(3) Landowners and operators shall not be liable for injury or damage
30 caused by trees left within the visually sensitive corridor for purposes of

1 fulfilling the requirements of this section, when carried out in compliance
2 with the provisions of the Oregon Forest Practices Act.

3 "SECTION 20. The State Forestry Department shall conduct a study and
4 shall submit to the Sixty-seventh Legislative Assembly a recommendation
5 regarding the native Pacific yew species in this state. The study shall use
6 existing information to assess the availability of native Pacific yew on public
7 and private lands in this state.

8 SECTION 21. ORS 527.724 is amended to read:

9 527.724. Subject to sections 22 and 23 of this 1991 Act, any forest op-
10 erations on forest lands within this state shall be conducted in full compli-
11 ance with the rules and standards of the Environmental Quality Commission
12 relating to air and water pollution control. In addition to all other remedies
13 provided by law, any violation of those rules or standards shall be subject
14 to all remedies and sanctions available under statute or rule to the Depart-
15 ment of Environmental Quality or the Environmental Quality Commission.

16 "SECTION 22. (1) The board shall establish best management practices
17 and other rules applying to forest practices as necessary to insure that to
18 the maximum extent practicable nonpoint source discharges of pollutants
19 resulting from forest operations on forestlands do not impair the achieve-
20 ment and maintenance of water quality standards established by the Envi-
21 ronmental Quality Commission for the waters of the state. Such best
22 management practices shall consist of forest practices rules adopted to pre-
23 vent or reduce pollution of waters of the state. Factors to be considered by
24 the board in establishing best management practices shall include, where
25 applicable, but not be limited to:

26 "(a) Beneficial uses of waters potentially impacted;

27 "(b) The effects of past forest practices on beneficial uses of water;

28 "(c) Appropriate practices employed by other forest managers;

29 "(d) Technical, economic and institutional feasibility; and

30 "(e) Natural variations in geomorphology and hydrology.

1 “(2) The board shall consult with the Environmental Quality Commission
2 in adoption and review of best management practices and other rules to ad-
3 dress nonpoint source discharges of pollutants resulting from forest oper-
4 ations on forestlands.

5 “(3)(a) Upon written petition of any interested person or agency, the
6 board, in accordance with ORS 183.310 to 183.550, shall review the best
7 management practices adopted pursuant to this section. The petition must
8 allege with reasonable specificity that nonpoint source discharges of
9 pollutants resulting from forest operations being conducted in accordance
10 with the best management practices are a significant contributor to vio-
11 lations of such standards.

12 “(b) Notwithstanding ORS 183.390, the board shall complete its review of
13 a petition and either dismiss the petition in accordance with paragraph (c)
14 of this subsection or commence rulemaking in accordance with paragraph (f)
15 of this subsection within 90 days of the date the petition for review was filed.

16 “(c) Except as provided in paragraph (d) of this subsection, if the board
17 determines that forest operations being conducted in accordance with the
18 best management practices are neither significantly responsible for partic-
19 ular water quality standards not being met nor are a significant contributor
20 to violations of such standards, the board shall issue an order dismissing the
21 petition.

22 “(d) If the petition for review of best management practices is made by
23 the Environmental Quality Commission, the board shall not terminate the
24 review without the concurrence of the commission, unless the board com-
25 mences rulemaking in accordance with paragraph (f) of this subsection.

26 “(e) If a petition for review is dismissed, upon conclusion of the review,
27 the board shall issue an order that includes findings regarding specific
28 allegations in the petition and shall state the board's reasons for any con-
29 clusions to the contrary.

30 “(f) If, pursuant to review, the board determines that best management

1 practices should be reviewed, the board shall commence rulemaking pro-
2 ceedings for that purpose. Rules specifying the revised best management
3 practices must be adopted not later than two years from the filing date of
4 the petition for review unless the board, with concurrence of the Environ-
5 mental Quality Commission, finds that special circumstances require addi-
6 tional time.

7 “(g) Notwithstanding the time limitation established in paragraph (f) of
8 this subsection, at the request of the Environmental Quality Commission, the
9 board shall take action as quickly as practicable to prevent significant
10 damage to beneficial uses identified by the commission while the board is
11 revising its best management practices and rules as provided for in this
12 section.

13 “(h) The board shall include in its triennial review of administrative rules
14 an analysis of the effectiveness of the best management practices and other
15 rules applying to forest practices adopted to maintain water quality stan-
16 dards established by the Environmental Quality Commission.

17 “**SECTION 23.** A forest operator conducting, or in good faith proposing
18 to conduct, operations in accordance with best management practices cur-
19 rently in effect shall not be considered in violation of any water quality
20 standards. When the board adopts new best management practices and other
21 rules applying to forest operations, such rules shall apply to all current or
22 proposed forest operations upon their effective dates. However, nothing in
23 this section prevents enforcement of water quality standards against a forest
24 operator conducting operations after the time provided in section 22 (3)(f)
25 of this 1991 Act for adoption of revised best management practices if the
26 board either has not adopted revised management practices or has not made
27 a finding that such revised best management practices are not required.

28 “**SECTION 24.** Sections 25 and 26 of this Act are added to and made a
29 part of ORS 468.700 to 468.778.

30 “**SECTION 25.** Upon request of the State Board of Forestry, the Envi-

1 ronmental Quality Commission shall review any water quality standard that
2 affects forest operations on forestlands. The commission's review may be
3 limited to or coordinated with the triennial or any other regularly scheduled
4 review of the state's water quality standards, consistent with ORS 468.735,
5 section 26 of this 1991 Act and applicable federal law.

6 "SECTION 26. (1) Except as provided in subsection (2) of this section,
7 as necessary to achieve and maintain standards of water quality or purity
8 adopted under ORS 468.735, the commission or department may, by rule or
9 order, impose and enforce limitations or other controls which may include
10 total maximum daily loads, wasteload allocations for point sources and load
11 allocations for nonpoint sources, as provided in the federal Water Pollution
12 Control Act (33 U.S.C. § 1321) and federal regulations and guidelines issued
13 pursuant thereto.

14 "(2) Unless required to do so by the provisions of the Federal Clean Water
15 Act, neither the Environmental Quality Commission nor the Department of
16 Environmental Quality shall promulgate or enforce any effluent limitation
17 upon nonpoint source discharges of pollutants resulting from forest oper-
18 ations on forestlands in this state. Implementation of any limitations or
19 controls applying to nonpoint source discharges or pollutants resulting from
20 forest operations are subject to sections 22 and 23 of this 1991 Act. However,
21 nothing in this section is intended to affect the authority of the commission
22 or the department provided by law to impose and enforce limitations or other
23 controls on water pollution from sources other than forest operations.

24 "(3) When the Environmental Quality Commission establishes instream
25 water quality standards to protect designated beneficial uses in the waters
26 of the state, it shall consider, where applicable, available scientific informa-
27 tion including, but not limited to, stream flow, geomorphology and other
28 factors representing the variability and complexity of hydrologic systems and
29 intrinsic water quality conditions.

30 "(4) When the Environmental Quality Commission establishes instream

1 water quality standards, it will also issue guidelines describing how the de-
2 partment and the commission will determine whether water quality standards
3 in waters affected by nonpoint source activities are being met. In developing
4 these guidelines, the commission shall include, where applicable, those
5 physical characteristics such as stream flow, geomorphology, seasons, fre-
6 quency, duration, magnitude and other factors which represent the variabil-
7 ity and complexity of forested and other appropriate hydrologic systems.

8 "SECTION 27. (1) The State Board of Forestry, after consultation with
9 the State Department of Fish and Wildlife, shall commission a scientific in-
10 quiry on the state of knowledge, using existing information, of the relative
11 effects of forest practices on anadromous fish runs in western Oregon. The
12 study will identify the leading causes, both on-shore and off-shore, for
13 anadromous fish population declines if that is the case; assign the relative
14 importance of forest practices to these declines, compared to other leading
15 causes; identify the relative importance of various habitat characteristics in
16 streams in limiting anadromous fish production; determine how forest prac-
17 tices have affected fish production; determine how forest practices have af-
18 fected these habitat characteristics and anadromous fish populations before
19 and since 1972; identify the extent to which forest practices are limiting the
20 recovery of depressed anadromous fish populations; and make recommen-
21 dations as to how forest practices can assist in recovery of anadromous fish
22 populations.

23 "(2) The board shall contract with an independent and disinterested or-
24 ganization to assemble a panel of well-qualified scientists to conduct the
25 work described in subsection (1) of this section and to write a report of its
26 findings.

27 "(3) Nothing in this section shall be construed to limit the ability of the
28 board to promulgate rules relating to forest practices which restore or pro-
29 tect fish and wildlife populations or habitat.

30 "SECTION 28. (1) The study required by section 27 of this 1991 Act shall

1 be financed from such moneys as are referred to in this section and section
2 29 of this 1991 Act.

3 "(2) The State Board of Forestry shall request:

4 "(a) The United States Forest Service to pay 25 percent of the study cost.

5 "(b) The Bureau of Land Management to pay 15 percent of the study cost.

6 "(c) The Bonneville Power Administration to pay 25 percent of the study
7 cost.

8 "SECTION 29. In addition to and not in lieu of any other appropriations
9 or moneys made available by law or from other sources, there is appropriated
10 to the State Forestry Department, for the biennium beginning July 1, 1991,
11 out of the General Fund, the sum of \$ _____. Such sum may only be expended
12 to pay the costs of the study required by section 27 of this Act."

13



the landowner's control and has substantially impaired productivity or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall be required for such conversion or clearcut operations that exceed 120 acres in size.

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

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

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

SECTION 5. (1) In a clearcut harvest, the operator shall leave, on average per acre harvested, at least:

(a) Two snags or two green trees at least 30 feet in height and 12 inches at DBH or larger, at least 50 percent of which are conifers; and

(b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of this size are not available on the site.

(2) In meeting the requirements of subsection (1) of this section, the required snags, trees and logs may be left in one or more clusters rather than distributed throughout the unit. The location and distribution of the material shall be in the sole discretion of the landowner or operator, consistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are in addition to all other requirements pertaining to forest operations and may not be met by counting snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS 527.710 (3).

SECTION 6. (1) The board shall adopt standards for the reforestation of clearcut harvests. Unless the board makes the findings for alternate standards under subsection (2) of this section, and except to the extent that more stringent reforestation requirements apply under section 4 (2) or 8 of this 1991 Act, the standards for the reforestation of clearcuts shall include the following:

(a) Reforestation, including site preparation, of clearcut units shall commence within 12 months after the completion of harvest and shall be completed by the end of the second planting season after the completion of harvest. By the end of the fifth growing season after planting or seeding, at least 200 healthy conifer seedlings shall be established per acre, well distributed over the area, which are "free to grow" as defined by the board.

(b) A written plan shall be required for reforestation activities that do not conform to the standards established under paragraph (a) of this subsection or the alternate standards adopted under subsection (2) of this section, including but not limited to variances in the time in which reforestation is to be commenced or completed, plans to reforest sites by natural reforestation or commercial hardwood management. Such alternate plans may be approved if the State Forester determines that the plan will achieve equivalent or better regeneration results for the particular conditions of the site, or the plan carries out an authorized research project conducted by a public agency or educational institution.

(2) The board, by rule, may establish alternate standards for the reforestation of clearcuts, in lieu of the standards established in subsection (1) of this section, upon finding that the alternate standards will better assure the continuous growing and harvesting of forest tree species and the

~~maintenance of forestland for such purposes, consistent with sound management of soil, air, water, fish and wildlife resources based on one or more of the following findings:~~

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

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

(c) Different standards are warranted for particular tree species or types of sites.

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

(4) The requirements of this section apply only to clearcuts as defined in ORS 527.620 (10). Nothing in this section is intended to affect the administration and enforcement of regulations pertaining to the maintenance of minimum stocking levels or the reforestation of sites required as a result of operations other than such clearcuts.

SECTION 7. (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clearcut unit within a single ownership that exceeds 120 but does not exceed 240 contiguous acres in size may be approved by the State Forester if all the requirements of this section and any additional requirements established by the board are met. Proposed clearcut units that are within 300 feet of the perimeter of a prior clearcut unit, and that would result in a total combined clearcut area under a single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the additional requirements are met for the combined clearcut area. No clearcut unit within a single ownership shall exceed 240 contiguous acres. No clearcut unit shall be allowed within 300 feet of the perimeter of a prior clearcut unit if the combined acreage of the clearcut areas subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless the prior clearcut unit has been reforested by all applicable regulations and:

(a) At least 200 healthy conifer seedlings are established per acre, and either;

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

(c) At least 48 months have elapsed since the seedlings were planted and the reproduction is "free to grow" as defined by the board.

(2) The requirements of this section are in addition to all other requirements of the Oregon Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be applied in lieu of such other requirements only to the extent the requirements of this section are more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or (5) of this 1991 Act.

(3) The board shall require that a written plan be submitted prior to approval of a clearcut operation under this section. The board may require that a bond, cash deposit or other security be filed prior to commencing a clearcut operation under this section, and provide for a blanket bond, deposit or security for multiple operations, to assure compliance with the Oregon Forest Practices Act and the provisions of the written plan. The board may establish by rule any additional standards applying to operations under this section.

(4) The State Forester shall approve the clearcut operation if the proposed clearcut would provide better overall results in meeting the requirements and objectives of the Oregon Forest Practices Act and rules adopted thereunder, compared to multiple clearcut harvests of the same total

land area in separate operations each not exceeding 120 acres in size, considering factors which may include, but are not limited to, the following:

- (a) The potential for disturbing reproduction in reforested areas;
- (b) The extent of roads per acre harvested; and
- (c) The potential for soil disturbance over the entire land area.

(5) The board shall specify by rule the information to be submitted for approval of clearcut operations under this section. The information to be considered by the State Forester prior to approving an operation under this section shall include:

- (a) Road construction, maintenance and retirement plans for both access and interior roads;
- (b) An assessment of the slash hazard to be created by the size of the operation and the plans for mitigating any additional slash hazard;
- (c) Evidence of compliance with the requirements of section 8 of this 1991 Act; and
- (d) Evidence of past satisfactory compliance with Oregon Forest Practices Act reforestation requirements, including successful regeneration treatments on sites with similar characteristics.

SECTION 8. (1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:

- (a) Interstate Highways 5, 84, 205, 405; and
- (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 36, 38, 42, 58, 62, 82, 97, 101, 126, 138, 140, 199, 230, 234 and 395.

(2) The board shall establish procedures and regulations as necessary to implement the requirements of subsection (3) of this section, including provisions for alternate plans providing equivalent or better results, applying to harvest operations on forestlands within visually sensitive corridors extending 150 feet from the outermost shoulder of the roadway along both sides and for the full length of the scenic highways designated in subsection (1) of this section.

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

(b) Overstory trees initially required to be left under paragraph (a) of this subsection may be removed when the reproduction understory reaches an average height of at least 10 feet and has at least 250 stems per acre.

(c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or at least 40 square feet of basal area, 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. Harvest areas within the 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. Reforestation shall be completed by the end of the first planting season after the completion of harvest. A minimum of 400 trees per acre shall be planted. By the end of the fifth growing season after the completion of planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over the area, which are "free to grow" as defined by the board. When harvests within the visually sensitive corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from

~~the corridor to 300 feet from the corridor, shall not be cleared until the adjacent visually sensitive corridor has been reforested as required under this paragraph and the stand has attained an average height of at least 10 feet and has at least 250 stems per acre.~~

~~(4) 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.~~

~~**SECTION 9.** (1) The board shall review its rules governing changes in land use and adopt or amend rules as necessary to assure that only bona fide, established and continuously maintained changes from forest uses are provided an exemption from reforestation requirements. Among other factors, the board shall condition exemptions from reforestation requirements upon:~~

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

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

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

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

~~(2) The board shall require that, prior to commencing an operation where a change in land use is proposed, a bond, cash deposit or other security be filed with the State Forester in an amount determined by the State Forester sufficient to cover the cost of site preparation and reforestation for the area subject to an exemption from reforestation due to a change in land use, and provisions for the administration and collection on such bond or security deposit in the event that the change in land use is not established or continuously maintained within a time certain.~~

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

~~**SECTION 10.** (1) The board shall review its classification of waters of the state, create three classifications and establish regulations applicable to each classification. The board shall give particular consideration to perennial streams, not currently classified as Class 1, which have an average gradient of not more than eight percent and which are important to water quality and fish needs in downstream Class 1 streams. The board shall consider requirements for vegetative buffers along such streams, consistent with the removal of merchantable trees and the protection of stream bank and channel.~~

~~(2) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's reviews pursuant to this section and section 9 of this 1991 Act, including any recommendations for legislative changes.~~

~~**SECTION 11.** (1) The Forest Practices Enforcement Fund is established separate and distinct from the General Fund in the State Treasury. The State Treasurer shall deposit and invest moneys in the fund in the manner provided by law, taking into account its uses and purposes. Interest earned by the fund shall be credited to the fund. All moneys in the fund are appropriated contin~~

uously to the State Forester for the purposes described in subsection (3) of this section.

(2) Notwithstanding ORS 526.060, the following moneys shall be deposited into the Forest Practices Enforcement Fund:

- (a) Notwithstanding ORS 527.687 (7), the first \$200,000 in each biennium recovered as civil penalties under ORS 527.992;
- (b) All amounts recovered under ORS 527.690;
- (c) All amounts otherwise collected by the State Forester as the result of forfeiture of a bond, deposit or other security required under section 7 (3) or 9 (2) of this 1991 Act; and
- (d) All other moneys directed by law to be deposited in the fund.

(3) Moneys in the fund may be expended for the following purposes:

- (a) Repairing damage or correcting an unsatisfactory condition, including site preparation and reforestation, in the manner provided in ORS 527.690;
- (b) Offsetting the State Forester's costs of administering the provisions of ORS 527.690, including collecting expenditures; and
- (c) Offsetting the costs of conducting civil penalty contested case hearings and the collection of civil penalty amounts owed.

(4) Civil penalties recovered in excess of \$200,000 per biennium shall be paid to the General Fund.

SECTION 12. ORS 527.630 is amended to read:

527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources, [and] by providing a habitat for wildlife and aquatic life **and by contributing to the enjoyment of the traveling public along scenic highways designated pursuant to section 8 of this 1991 Act.** Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water and fish and wildlife resources that assures the continuous benefits of those resources for future generations of Oregonians, **and with consideration of impacts within visually sensitive corridors along scenic highways designated pursuant to section 8 of this 1991 Act.**

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

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990, it is declared to be in the public interest to vest in the board exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 **and 527.724 (1) and (2)**, and to coordinate with other state agencies and local governments which are concerned with the forest environment. **The board's authority to adopt and enforce rules addressing scenic considerations is strictly limited to the provisions of section 8 of this 1991 Act.**

SECTION 13. ORS 527.690 is amended to read:

527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of damage or correction of an unsatisfactory condition, **including compliance with reforestation**

~~requirements, and if the operator or landowner does not comply with the order within the period specified in such order and the order has not been appealed to the board within 30 days, the State Forester based upon a determination by the forester of what action will best carry out the purposes of ORS 527.630 shall:~~

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

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

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

~~(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory condition, the State Forester shall proceed, either with forces of the State Forester or by contract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner. In no event shall the expenditures exceed the amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding authorized by this section. **If the State Forester's action to repair the damage or correct the unsatisfactory condition arose from an operation for which a bond, cash deposit or other security was required under section 7 (3) or 9 (2) of this 1991 Act, the State Forester shall retain any applicable portion of a cash deposit and the surety on the bond or holder of the other security deposit shall pay the amount of the bond or other security deposit to the State Forester upon demand. If the amount specified in the demand is not paid within 30 days following the demand, the Attorney General, upon request by the State Forester, shall institute proceedings to recover the amount specified in the demand.**~~

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

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

~~[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within six months from the date of filing under subsection (4) of this section.]~~

~~(5) All amounts recovered under this section shall be paid into the Forest Practices Enforcement Fund.~~

~~SECTION 14. ORS 527.715 is amended to read:~~

~~527.715. The board shall establish, by rule, the standards and procedures to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016, 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722] 527.724, 527.735, [and] 527.992 and sections 3 to 10 of this 1991 Act.~~

~~SECTION 15. ORS 527.724 is amended to read:~~

~~527.724. (1) The board shall establish best management practices and other regulations applying to forest practices for the control of water pollution.~~

~~(2) Notwithstanding the provisions of ORS chapter 465 or other provisions of Oregon law, forest practices subject to the regulations established by the board under subsection (1) of this section shall not be subject to effluent limits or the restrictions of other agencies based on the need to meet water quality standards.~~

~~(3) Any forest operations on forestlands within this state shall be conducted in full compliance with the rules and standards of the Environmental Quality Commission relating to air [and water] pollution control and, except as provided in subsection (2) of this section, water pollution control. In addition to all other remedies provided by law, any violation of those rules or standards shall be subject to all remedies and sanctions available under statute or rule to the Department of Environmental Quality or the Environmental Quality Commission.~~

~~SECTION 16. Section 10 of this Act is repealed July 1, 1993.~~

~~SECTION 17. (1) The State Forester shall conduct a study of harvest rates on private forestland in Oregon, and shall report to the State Board of Forestry and the Sixty-seventh Legislative Assembly on the results of such study, along with recommendations for addressing any problems that may be identified during the course of such study.~~

~~(2) The study shall include, but be not limited to, an analysis of:~~

- ~~(a) The annual rates of harvest on Oregon's private forestlands compared to the annual rates of growth on such forestlands;~~
- ~~(b) The effect of such harvest rates on employment and community stability;~~
- ~~(c) The impact of such harvest rates on water quality, fisheries and wildlife; and~~
- ~~(d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill the terms of highly leveraged contracts to purchase such resources.~~

~~(3) The study shall be completed no later than December 31, 1992.~~

~~SECTION 18. Section 17 of this Act is repealed January 1, 1993.~~

~~SECTION 19. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.~~

Chair:
Sen. Dick Springer

Vice Chair:
Sen. Joyce Cohen

Staff:
Peter Green, Administrator
Chris Beck, Research Associate
Kus Soumie, Assistant



Members:
Sen. John Brenneman
Sen. Shirley Gold
Sen. Bob Kintigh
Sen. Tricia Smith
Sen. Eugene Timms

**SENATE COMMITTEE ON AGRICULTURE
& NATURAL RESOURCES**

331 State Capitol
Salem, Oregon 97310
(503) 378-3640

May 27, 1991

John Kitzhaber
Senate President
State Capitol
Salem, Oregon

Dear President Kitzhaber:

Your Committee on Agriculture and Natural Resources requests that the subsequent referral of SB 1125 to Ways and Means be rescinded. Since the Legislative Session is drawing quickly to an end, we felt it appropriate to pass this important forest practices legislation onto the House as soon as possible.

Sincerely,

Dick Springer
Committee Chair

*P.S. We knew it would go to
W & M in the House vote.*

Subsequent referral of Senate Bill 1125 to the Ways & Means Committee is rescinded.

John Kitzhaber, M.D.
Senate President

SENATE COMMITTEE REPORT

May 29, 1991

President Kitzhaber:

Your Committee on Agriculture and Natural Resources to whom was referred **SB 1125** having had the same under consideration, respectfully reports it back recommending:

w/amats

PASSAGE AND RESCIND SUBSEQUENT REFERRAL TO WAYS AND MEANS
(letter to the President must accompany report)

Senators Cohen and Kintigh will lead floor discussion.

Dick Springer

Senator Springer, Chairperson

**PROPOSED AMENDMENTS TO
SENATE BILL 1125**

1 On page 1 of the printed bill, line 2, after "527.630," insert "527.670,".

2 Delete line 3 and insert "527.710, 527.724 and section 8, chapter 920,
3 Oregon Laws 1989; repealing section 9, chapter 920, Oregon Laws 1989; and
4 appropriating money."

5 Delete lines 5 through 31 and pages 2 through 9 and insert:

6 "SECTION 1. ORS 527.620 is amended to read:

7 "527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

8 "[*(1) 'State Forester' means the State Forester or the duly authorized rep-*
9 *resentative of the State Forester.*]"

10 "[*(2) 'Operator' means any person, including a landowner or timber owner,*
11 *who conducts an operation.*]"

12 "[*(3) (1) 'Board' means the State Board of Forestry.*"

13 "[*(2) 'Clearcut' means any harvest unit in western Oregon that*
14 *leaves fewer than 50 trees per acre that are well-distributed over the*
15 *unit and that measure at least 11 inches at DBH or that measure less*
16 *than 40 square feet of basal area per acre. 'Clearcut' means any har-*
17 *vest unit in eastern Oregon that leaves fewer than 15 trees per acre*
18 *that are well-distributed over the unit and that measure at least 10*
19 *inches at DBH. For purposes of this subsection, no tree shall be*
20 *counted unless the top one-third of the bole of the tree supports a*
21 *green, live crown. For purposes of computing basal area, trees larger*
22 *than 20 inches shall be considered 20-inch trees.*"

23 "[*(3) 'Cumulative effects' means the impact on the environment*
24 *which results from the incremental impact of the forest practice when*"

1 added to other past, present and reasonably foreseeable future forest
2 practices regardless of what governmental agency or person under-
3 takes such other actions.

4 “(4) ‘DBH’ means the diameter at breast height which is measured
5 as the width of a standing tree or log measured at four and one-half
6 feet above the ground, on the uphill side.

7 “[4] (5) ‘Forestland’ means land which is used for the growing and har-
8 vesting of forest tree species, regardless of how the land is zoned or taxed
9 or how any state or local statutes, ordinances, rules or regulations are ap-
10 plied. Forest tree species does not include Christmas trees on land used
11 solely for the production of cultured Christmas trees as defined in ORS
12 215.203 (3).

13 “[5] (6) ‘Forest practice’ means any operation conducted on or pertaining
14 to forest land, including but not limited to:

- 15 “(a) Reforestation of forestland;
- 16 “(b) Road construction and maintenance;
- 17 “(c) Harvesting of forest tree species;
- 18 “(d) Application of chemicals; and
- 19 “(e) Disposal of slash.

20 “[6] (7) ‘Operation’ means any commercial activity relating to the
21 growing or harvesting of forest tree species.

22 “(8) ‘Operator’ means any person, including a landowner or timber
23 owner, who conducts an operation.

24 “[7] (9) ‘Landowner’ means any individual, combination of individuals,
25 partnership, corporation or association of whatever nature that holds an
26 ownership interest in forestland, including the state and any political sub-
27 division thereof.

28 “(10) ‘State Forester’ means the State Forester or the duly author-
29 ized representative of the State Forester.

30 “(11) ‘Suitable hardwood seedlings’ means any hardwood seedling

1 that will eventually yield logs or fiber, or both, sufficient in size and
2 quality for the production of lumber, plywood, pulp or other forest
3 products.

4 "[8] (12) 'Timber owner' means any individual, combination of individ-
5 uals, partnership, corporation or association of whatever nature, other than
6 a landowner, that holds an ownership interest in any forest tree species on
7 forestland.

8 "(13) 'Visually sensitive corridor' means forestland located within
9 the area extending 150 feet from the outermost right of way boundary
10 of a scenic highway referred to in section 19 of this 1991 Act.

11 "[9] (14) 'Written plan' means a plan submitted by an operator, for
12 written approval by the State Forester, which describes how the operation
13 will be conducted, including the means to protect resource sites described in
14 ORS 527.710 (3)(a) and information required by sections 6 and 7 of this
15 1991 Act, if applicable.

16 "SECTION 2. Sections 3 to 9, 13, 14, 19, 20, 22, 23, 27 and 28 of this Act
17 are added to and made a part of ORS 527.610 to 527.730.

18 "SECTION 3. (1) The standards established in sections 4 to 7 of this 1991
19 Act shall be administered by the State Forester as standards applying to all
20 operations in the state, including those on forestland owned by the state or
21 any political subdivision thereof. Pursuant to ORS 527.710 the board shall
22 adopt, repeal or amend forest practice rules as necessary to be consistent
23 with and to implement the standards established in sections 4 to 7 of this
24 1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the
25 board to adopt, or the State Forester to administer, all other regulations
26 pertaining to forest practices under applicable state law.

27 "(2) Nothing in sections 4 to 7 of this 1991 Act is intended to apply to
28 cutting of trees that is for growth enhancement treatments, as defined by the
29 State Forester, such as thinning or precommercial thinning.

30 "(3) The board shall conduct a study to determine the appropriate size

1 limitations for clearcuts for each region of the state within a single owner-
2 ship on contiguous acres. Consistent with ORS 527.630, the study shall con-
3 sider the rate of harvest, the cumulative effects of forest operations, the
4 impacts on fish and wildlife populations and habitat and scenic values. Not
5 later than September 1, 1992, the board shall adopt rules regarding the size
6 of permissible clearcuts within a single ownership on contiguous acres.
7 However, the size or sizes adopted by rule shall not exceed 120 acres. Except
8 as provided in section 7 of this 1991 Act, and notwithstanding any other
9 provision of the Oregon Forest Practices Act, until the rules referred to in
10 this section are adopted, no clearcut within a single ownership on contiguous
11 acres shall exceed 120 acres.

12 "SECTION 4. (1) No clearcut unit within a single ownership on contig-
13 uous acres shall exceed the size established by board rule, except as provided
14 in section 7 of this 1991 Act.

15 "(2) No clearcut unit shall be allowed within 300 feet of the perimeter of
16 a prior clearcut unit if the combined acreage of the clearcut areas subject
17 to regulation under the Oregon Forest Practices Act would exceed the size
18 for clearcuts established by board rule, unless the prior clearcut unit has
19 been reforested as required by all applicable regulations and:

20 "(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
21 tablished per acre; and either

22 "(b) The resultant reproduction has attained an average height of at least
23 four feet; or

24 "(c) At least 48 months have elapsed since the seedlings were planted and
25 the reproduction is 'free to grow' as defined by the board.

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

29 "(4) The provisions of this section shall not apply when the land is being
30 converted to conifers or managed hardwoods from brush or understocked

1 hardwoods, or when the clearcut harvest results from disasters such as fire,
2 insect infestation, disease, windstorm or other occurrence that the State
3 Forester determines was beyond the landowner's control and has substan-
4 tially impaired productivity or safety on the unit or jeopardizes nearby
5 forestland. The prior approval of the State Forester shall be required for
6 such conversion or clearcut operations that exceed the limit on clearcut size
7 established by board rule.

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

10 “(a) The trees are subject to a cutting right created by written contract
11 prior to October 1, 1990, which provides that the trees must be paid for re-
12 gardless of whether the trees are cut, or subject to a cutting right created
13 by reservation in a deed prior to October 1, 1990; and

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

17 “**SECTION 5.** (1)(a) The board shall adopt rules for the retention and
18 replacement of snags and dead and down material in riparian and upland
19 areas in sufficient quantities to address wildlife needs by July 1, 1993.

20 “(b) Until the board adopts rules required under this section, the board
21 shall require operators to leave, on average per acre harvested, at least:

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

24 “(B) Two downed logs or downed trees, at least 50 percent of which are
25 conifers, that are at least 12 inches in diameter at the widest point and at
26 least 16 feet long, or equivalent volume if trees of this size are not available
27 on the site.

28 “(c) Until the rules required by paragraph (a) of this subsection have been
29 adopted, an operator shall leave snags, green trees, downed logs or downed
30 trees as prescribed in subparagraphs (A) and (B) of paragraph (b) of this

1 subsection.

2 “(2) In meeting the requirements of subsection (1) of this section, the re-
3 quired snags, trees and logs may be left in one or more clusters rather than
4 distributed throughout the unit. The location and distribution of the material
5 shall be in the sole discretion of the landowner or operator, consistent with
6 safety and fire hazard regulations. The requirements of subsection (1) of this
7 section are in addition to all other requirements pertaining to forest oper-
8 ations and may not be met by counting snags, trees or logs otherwise re-
9 quired to be left in riparian areas or resource sites listed in ORS 527.710 (3).

10 “**SECTION 6.** (1) The board shall adopt standards for the reforestation
11 of clearcut harvests. Unless the board makes the findings for alternate
12 standards under subsection (2) of this section, and except to the extent that
13 more stringent reforestation requirements apply under section 4 (2) of this
14 1991 Act, the standards for the reforestation of clearcuts shall include the
15 following:

16 “(a) Reforestation, including site preparation, of clearcut units shall
17 commence within 12 months after the completion of harvest and shall be
18 completed by the end of the second planting season after the completion of
19 harvest. By the end of the fifth growing season after planting or seeding, at
20 least 200 healthy conifer or suitable hardwood seedlings shall be established
21 per acre, well-distributed over the area, which are ‘free to grow’ as defined
22 by the board.

23 “(b) A written plan shall be required for reforestation activities that do
24 not conform to the standards established under paragraph (a) of this sub-
25 section or the alternate standards adopted under subsection (2) of this sec-
26 tion, including but not limited to variances in the time in which
27 reforestation is to be commenced or completed or plans to reforest sites by
28 natural reforestation. Such alternate plans may be approved if the State
29 Forester determines that the plan will achieve equivalent or better regener-
30 ation results for the particular conditions of the site, or the plan carries out

1 an authorized research project conducted by a public agency or educational
2 institution.

3 “(2) The board, by rule, may establish alternate standards for the
4 reforestation of clearcuts, in lieu of the standards established in subsection
5 (1) of this section, upon finding that the alternate standards will better as-
6 sure the continuous growing and harvesting of forest tree species and the
7 maintenance of forestland for such purposes, consistent with sound manage-
8 ment of soil, air, water, fish and wildlife resources based on one or more of
9 the following findings:

10 “(a) Alternate standards are warranted based on scientific data concern-
11 ing biologically effective regeneration;

12 “(b) Different standards are warranted for particular geographic areas of
13 the state due to variations in climate, elevation, geology or other physical
14 factors; or

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

17 “(3) Pursuant to ORS 527.710, the board may adopt definitions, procedures
18 and further regulations to implement the standards established under sub-
19 section (1) of this section, without making the findings required in sub-
20 section (2) of this section, if those procedures or regulations are consistent
21 with the standards established in subsection (1) of this section.

22 “(4)(a) Sites infested with root pathogens shall be reforested with a re-
23 sistant or immune tree species. Seedlings of Douglas fir or other susceptible
24 species planted on or within 50 feet of a site known to be infested with root
25 pathogens shall not be counted toward the reforestation requirement.

26 “(b) The board shall prohibit the planting of a species susceptible to an
27 insect or disease if the planting of a susceptible species would facilitate the
28 spread of the disease or insect pest and there are immune or tolerant com-
29 mercial species adapted to the site.

30 “(5) The requirements of this section apply only to clearcuts as defined

1 in ORS 527.620 (2). Nothing in this section is intended to affect the admin-
2 istration and enforcement of regulations pertaining to the maintenance of
3 minimum stocking levels or the reforestation of sites required as a result of
4 operations other than such clearcuts.

5 "SECTION 7. (1) Notwithstanding the requirements of section 4 of this
6 1991 Act, a clearcut unit within a single ownership on contiguous acres that
7 exceeds twice the number of acres for clearcut established by board rule may
8 be approved by the State Forester if all the requirements of this section and
9 any additional requirements established by the board are met. Proposed
10 clearcut units that are within 300 feet of the perimeter of a prior clearcut
11 unit, and that would result in a total combined clearcut area under a single
12 ownership exceeding 120 acres but not exceeding 240 acres, may be approved
13 by the State Forester if the additional requirements are met for the combined
14 clearcut area. No clearcut unit within a single ownership on contiguous
15 acres shall exceed the number of acres for clearcut established by board rule.
16 No clearcut unit shall be allowed within 300 feet of the perimeter of a prior
17 clearcut unit if the combined acreage of the clearcut areas subject to regu-
18 lation under the Oregon Forest Practices Act would exceed 240 acres, unless
19 the prior clearcut unit has been reforested by all applicable regulations and:

20 "(a) At least 200 healthy conifer or suitable hardwood seedlings are es-
21 tablished per acre; and either

22 "(b) The resultant reproduction has attained an average height of at least
23 four feet; or

24 "(c) At least 48 months have elapsed since the seedlings were planted and
25 the reproduction is 'free to grow' as defined by the board.

26 "(2) The requirements of this section are in addition to all other re-
27 quirements of the Oregon Forest Practices Act and the rules adopted there-
28 under. The requirements of this section shall be applied in lieu of such other
29 requirements only to the extent the requirements of this section are more
30 stringent. Nothing in this section shall apply to operations conducted under

1 section 4 (4) or (5) of this 1991 Act.

2 “(3) The board shall require that a written plan be submitted prior to
3 approval of a clearcut operation under this section. The board may establish
4 by rule any additional standards applying to operations under this section.

5 “(4) The State Forester shall approve the clearcut operation if the pro-
6 posed clearcut would provide better overall results in meeting the require-
7 ments and objectives of the Oregon Forest Practices Act.

8 “(5) The board shall specify by rule the information to be submitted for
9 approval of clearcut operations under this section, including evidence of past
10 satisfactory compliance with the Oregon Forest Practices Act.

11 **“SECTION 8. (1)** The board shall review its rules governing changes in
12 land use and adopt or amend rules as necessary to assure that only bona fide,
13 established and continuously maintained changes from forest uses are pro-
14 vided an exemption from reforestation requirements. The board shall set
15 specific time periods for the completion of land use conversions. Among
16 other factors, the board shall condition exemptions from reforestation re-
17 quirements upon:

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

22 “(b) Demonstrating progress toward the change in land use within the
23 time required for planting of trees, and substantial completion and contin-
24 uous maintenance of the change in land use in a time certain;

25 “(c) Allowing an exemption for only the smallest land area necessary to
26 carry out the change in land use, and requiring that additional land area
27 within the harvest unit remains subject to all applicable reforestation re-
28 quirements; and

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

1 “(2) The board shall require that, prior to commencing an operation where
2 a change in land use is proposed, a bond, cash deposit, irrevocable letter of
3 credit or other security be filed with the State Forester in an amount de-
4 termined by the State Forester sufficient to cover the cost of site preparation
5 and reforestation for the area subject to an exemption from reforestation due
6 to a change in land use, and provisions ^{be made} for the administration and collection DN
7 on such bond or security deposit in the event that the change in land use is
8 not established or continuously maintained within a time certain.

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

12 “SECTION 9. (1) Not later than September 1, 1992, the board shall review
13 its classification of waters of the state, create at least three classifications
14 and establish rules applicable to each classification. The board shall give
15 particular consideration to perennial streams, not currently classified as
16 Class 1, which have an average gradient of not more than eight percent and
17 which are important to water quality and fish needs in downstream Class 1
18 streams. The board shall consider requirements for vegetative buffers along
19 such streams consistent with the health of the forest.

20 “(2) The board shall review current Class 1 stream and associated riparian
21 protection rules and, where appropriate, shall improve protection of soil, air,
22 water, fish and wildlife resources, which include but are not limited to fish
23 and wildlife habitat, species biodiversity and stream morphology.

24 “(3) Until the board adopts rules pursuant to this section, the rules re-
25 garding operations near Class 1 streams shall apply to operations near
26 streams that are within one-quarter mile of Class 1 streams or which are
27 important to water quality or threatened, endangered, sensitive or game fish
28 species. The State Forestry Department shall consult with the appropriate
29 state agencies in determining which streams are affected by this section.

30 “(4) The board shall report to the Sixty-seventh Legislative Assembly on

1 the results of the board's reviews pursuant to this section and section 8 of
2 this 1991 Act, including any recommendations for legislative changes.

3 **"SECTION 10.** ORS 527.630 is amended to read:

4 "527.630. (1) Forests make a vital contribution to Oregon by providing
5 jobs, products, tax base and other social and economic benefits, by helping
6 to maintain forest tree species, soil, air, [and] water **and scenic** resources
7 and by providing a habitat for wildlife and aquatic life. Therefore, it is de-
8 clared to be the public policy of the State of Oregon to encourage econom-
9 ically efficient forest practices that assure the continuous growing and
10 harvesting of forest tree species and the maintenance of forest land for such
11 purposes as the leading use on privately owned land, consistent with sound
12 management of soil, air, water, [and] fish and wildlife resources **and scenic**
13 **resources within visually sensitive corridors as provided in section 19**
14 **of this 1991 Act** that assures the continuous benefits of those resources for
15 future generations of Oregonians.

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

22 "(3) To encourage forest practices implementing the policy of ORS 527.610
23 to 527.730 and 527.990, it is declared to be in the public interest to vest in
24 the board exclusive authority to develop and enforce statewide and regional
25 rules pursuant to ORS 527.710 and to coordinate with other state agencies
26 and local governments which are concerned with the forest environment.

27 **"SECTION 11.** ORS 527.670 is amended to read:

28 "527.670. (1) The board shall designate the types of operations for which
29 notice shall be required under this section.

30 "(2) The board shall determine by rule what types of operations require

1 a written plan to be approved by the State Forester.

2 “(3)(a) The board’s determination under subsection (2) of this section
3 shall require a written plan for operations [*within*]:

4 “[*(a)*] (A) Within one hundred feet of a Class 1 stream and any other
5 waters of this state determined by the board under section 9 of this
6 1991 Act, unless the board, by rule, provides that a written plan is not re-
7 quired because there is no reasonable likelihood that such operations would
8 damage a resource described in ORS 527.710 (2), within the riparian man-
9 agement area; [*or*]

10 “[*(b)*] (B) Within three hundred feet of a resource site inventoried pur-
11 suant to ORS 527.710 (3)(a)[.];

12 “(C) On lands determined by the State Forester to be within high
13 risk sites, unless the board, by rule, provides that a written plan is
14 not required because there is no reasonable likelihood that such op-
15 erations would damage a resource described in ORS 527.710 (2);

16 “(D) Involving final clearcut of any stand of an average age that is
17 less than 60 percent of the age of culmination of mean annual incre-
18 ment. The written plan for such an operation must address the envi-
19 ronmental consequences of the harvest and the economic costs and
20 benefits; and

21 “(E) On lands to be clearcut in excess of 120 acres pursuant to sec-
22 tion 7 of this 1991 Act.

23 “(b) Plans submitted under this section are not subject to appeal
24 under ORS 527.700.

25 “(4) The distances set forth in [~~paragraphs~~]^{paragraphs} [(a) and (b)] of subsection (3) of
26 this section are solely for the purpose of defining an area within which a
27 hearing may be requested under ORS 527.700 and not the area to be protected
28 by the board’s rules adopted pursuant to ORS 527.710 (3)(c).

29 “(5) For the purpose of determining the distances set forth in [~~paragraphs~~]^{paragraphs}
30 (a) [and (b)] of subsection (3) of this section ‘site’ means the specific resource

1 site and not any additional buffer area.

2 “(6) An operator, timber owner or landowner, before commencing an op-
3 eration, shall notify the State Forester. The notification shall be on forms
4 provided by the State Forester and shall include the name and address of the
5 operator, timber owner and landowner, the legal description of the operating
6 area, and any other information considered by the State Forester to be nec-
7 essary for the administration of the rules promulgated by the board pursuant
8 to ORS 527.710. Promptly upon receipt of such notice, the State Forester
9 shall send a copy of the notice to whichever of the operator, timber owner
10 or landowner did not submit the notification. **The State Forester shall**
11 **send a copy of notices involving chemical applications to persons**
12 **within 15 miles of the chemical application who hold downstream**
13 **surface water rights pursuant to ORS chapter 537, if such a person has**
14 **requested that notification in writing. The board shall adopt rules**
15 **specifying the information to be contained in the notice. All informa-**
16 **tion filed with the State Forester pertaining to chemical applications**
17 **shall be public record.** The State Forester shall also send to the operator,
18 the timber owner and the landowner a copy of the rules applicable to the
19 proposed operation.

20 “(7) An operator, timber owner or landowner, whichever filed the original
21 notification, shall notify the State Forester of any subsequent change in the
22 information contained in the notification.

23 “(8) Within three working days of receipt of a notice or a written plan
24 filed under subsection (6) or (7) of this section, the State Forester shall send
25 a copy of the notice or written plan to the Department of Revenue, the
26 county assessor for the county in which the operation is located and persons
27 who requested of the State Forester in writing that they be sent copies of
28 notice and written plan and who have paid any applicable fee established by
29 the State Forester for such service. The State Forester may establish a fee
30 for sending copies of notices and written plans under this subsection not to

1 exceed the actual and reasonable costs.

2 “(9) Persons may submit written comments pertaining to the operation to
3 the State Forester within [14] **30** calendar days of the date the notice or
4 written plan was filed with the State Forester under subsection (2), (6) or (7)
5 of this section. Notwithstanding the provisions of this subsection, the State
6 Forester may waive any waiting period for operations not requiring a written
7 plan under subsection (3) of this section, **except those operations involv-**
8 **ing aerial application of chemicals.**

9 “(10) Whenever an operator, timber owner or landowner is required to
10 submit a written plan of operations to the State Forester under subsection
11 (3) of this section, the State Forester shall not approve any such written plan
12 until [14] **30** calendar days following the date the written plan was filed with
13 the State Forester. An operation may commence upon approval of the written
14 plan.

15 “(11)(a) The State Forester shall issue a decision on a written plan within
16 three working days after the end of the [14-day] **30-day** period described in
17 subsection (10) of this section.

18 “(b) If the State Forester fails to issue a decision within five working
19 days after the end of the [14-day] **30-day** period described in subsection (10)
20 of this section, the written plan shall be deemed approved and the operation
21 may be commenced.

22 “(12) When the operation is required to have a written plan under sub-
23 section (3) of this section and comments have been timely filed under sub-
24 section (9) of this section pertaining to the operation requiring a written
25 plan, the State Forester shall:

26 “(a) Send a copy of the approved written plan to persons who submitted
27 timely written comments under subsection (9) of this section pertaining to
28 the operation; and

29 “(b) Send to the operator, timber owner and landowner a copy of the ap-
30 proved written plan and copies of all timely comments submitted under sub-

1 section (9) of this section.

2 "SECTION 11a. ORS 527.690 is amended to read:

3 "527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b)
4 directs the repair of damage or correction of an unsatisfactory condition,
5 **including compliance with reforestation requirements**, and if the oper-
6 ator or landowner does not comply with the order within the period specified
7 in such order and the order has not been appealed to the board within 30
8 days, the State Forester based upon a determination by the forester of what
9 action will best carry out the purposes of ORS 527.630 shall:

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

14 "(b) Estimate the cost to repair the damage or the unsatisfactory condi-
15 tion as directed by the order and shall notify the operator, timber owner and
16 landowner in writing of the amount of the estimate. Upon agreement of the
17 operator, timber owner or the landowner to pay the cost, the State Forester
18 may proceed to repair the damage or the unsatisfactory condition. In the
19 event approval of the expenditure is not obtained within 30 days after no-
20 tification to the operator, timber owner and landowner under this section,
21 the State Forester shall present to the board the alleged violation, the esti-
22 mate of the expenditure to repair the damage or unsatisfactory condition and
23 the justification for the expenditure.

24 "(2) The board shall review the matter presented to it pursuant to sub-
25 section (1) of this section and shall determine whether to authorize the State
26 Forester to proceed to repair the damage or correct the unsatisfactory con-
27 dition and the amount authorized for expenditure. The board shall afford the
28 operator, timber owner or landowner the opportunity to appear before the
29 board for the purpose of presenting facts pertaining to the alleged violation
30 and the proposed expenditure.

1 “(3) If the board authorizes the State Forester to repair the damage or
2 correct the unsatisfactory condition, the State Forester shall proceed, either
3 with forces of the State Forester or by contract, to repair the damage or
4 correct the unsatisfactory condition. The State Forester shall keep a com-
5 plete account of direct expenditures incurred, and upon completion of the
6 work, shall prepare an itemized statement thereof and shall deliver a copy
7 to the operator, timber owner and landowner. In no event shall the expend-
8 itures exceed the amount authorized by subsection (2) of this section. An
9 itemized statement of the direct expenditures incurred by the State Forester,
10 certified by the State Forester, shall be accepted as prima facie evidence of
11 such expenditures in any proceeding authorized by this section. **If the State**
12 **Forester’s action to repair the damage or correct the unsatisfactory**
13 **condition arose from an operation for which a bond, cash deposit or**
14 **other security was required under section 8 of this 1991 Act, the State**
15 **Forester shall retain any applicable portion of a cash deposit and the**
16 **surety on the bond or holder of the other security deposit shall pay the**
17 **amount of the bond or other security deposit to the State Forester**
18 **upon demand. If the amount specified in the demand is not paid within**
19 **30 days following the demand, the Attorney General, upon request by**
20 **the State Forester, shall institute proceedings to recover the amount**
21 **specified in the demand.**

22 “(4) The expenditures in cases covered by this section, **including cases**
23 **where the amount collected on a bond, deposit or other security was**
24 **not sufficient to cover authorized expenditures,** shall constitute a gen-
25 eral lien upon the real and personal property of the operator, timber owner
26 and landowner within the county in which the damage occurred. A written
27 notice of the lien, containing a statement of the demand, the description of
28 the property upon which the expenditures were made and the name of the
29 parties against whom the lien attaches, shall be certified under oath by the
30 State Forester and filed in the office of the county clerk of the county or

1 counties in which the expenditures were made within six months after the
2 date of delivery of the itemized statement referred to in subsection (3) of this
3 section, and may be foreclosed in the manner provided in ORS chapter 88.

4 *"[(5) Liens provided for in this section shall cease to exist unless suit for*
5 *foreclosure is instituted within six months from the date of filing under sub-*
6 *section (4) of this section.]*

7 "SECTION 12. ORS 527.710 is amended to read:

8 "527.710. (1) In carrying out the purposes of ORS 527.610 to 527.730 and
9 527.990 (1), the board shall adopt, in accordance with applicable provisions
10 of ORS 183.310 to 183.550, rules to be administered by the State Forester es-
11 tablishing [*minimum*] standards for forest practices in each region or subre-
12 gion.

13 "(2) The rules shall assure the continuous growing and harvesting of
14 forest tree species. Consistent with ORS 527.630, the rules shall provide for
15 the overall maintenance **or restoration** of the following resources:

16 "(a) Air quality;

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

19 "(c) Soil productivity; and

20 "(d) Fish and wildlife **populations and appropriate habitat**.

21 "(3)(a) In addition to its rulemaking responsibilities under subsection (2)
22 of this section, the board shall collect and analyze the best available infor-
23 mation and establish inventories of the following resource sites needing
24 protection:

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

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

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

30 and

1 “(D) Significant wetlands.

2 “(b) The board shall determine whether forest practices would conflict
3 with resource sites in the inventories required by paragraph (a) of this sub-
4 section. If the board determines that one or more forest practices would
5 conflict with resource sites in the inventory, the board shall consider the
6 consequences of the conflicting uses and determine appropriate levels of
7 protection.

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

12 “(4) The board shall adopt forest practices rules that:

13 “(a) Minimize adverse impacts of cumulative effects of forest prac-
14 tices on air and water quality, soil productivity, fish and wildlife re-
15 sources and watersheds. The rules shall include a process for
16 determining areas where adverse impacts from cumulative effects
17 have occurred or are likely to occur, and shall require that a written
18 plan be submitted for harvests in such areas; and

19 “(b) Provide the State Forester with authority to condition the ap-
20 proval of written plans required under ORS 527.670 (2) and (3) by lim-
21 iting rate, timing and extent of harvest when the forester determines
22 such limitations are necessary to achieve the objectives of ORS 527.630.

23 “[(4)] (5) Before adopting rules under subsection (1) of this section, the
24 board shall consult with other agencies of this state or any of its political
25 subdivisions that have functions with respect to the purposes specified in
26 ORS 527.630 or programs affected by forest operations. Agencies and pro-
27 grams subject to consultation under this subsection include, but are not
28 limited to:

29 “(a) Air and water pollution programs administered by the Department
30 of Environmental Quality under ORS 468.700 to 468.778, 468.780, 468.815 and

1 477.515 to 477.532;

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

5 "(c) Game fish and wildlife, commercial fishing, licensing, wildlife and
6 bird refuge and fish habitat improvement tax incentive programs adminis-
7 tered by the State Department of Fish and Wildlife under ORS 272.060,
8 316.084, 501.005 to 501.540 and ORS chapters 496, 498, 506 and 509;

9 "(d) Park land, Willamette River Greenway, scenic waterway and recre-
10 ation trail programs administered by the State Parks and Recreation De-
11 partment under ORS 358.475 to 358.565, 390.310 to 390.368, 390.805 to 390.925,
12 390.950 to 390.990 and ORS 390.121;

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

15 "(f) Removal and fill, natural heritage conservation and natural heritage
16 conservation tax incentive programs administered by the State Land Board
17 and the Division of State Lands under ORS 196.670 to 196.765, 273.553 to
18 273.591, 307.550, 307.560 and 541.700 to 541.990;

19 "(g) Federal Safe Drinking Water Act programs administered by the
20 Health Division under ORS 448.273 to 448.990;

21 "(h) Natural heritage conservation programs administered by the Natural
22 Heritage Advisory Council under ORS 273.553 to 273.591, 307.550 and 307.560;

23 "(i) Open space land tax incentive programs administered by cities and
24 counties under ORS 308.740 to 308.790; and

25 "(j) Water resources programs administered by the Water Resources De-
26 partment under ORS 536.220 to 536.540.

27 "[5] (6) In carrying out the provisions of subsection [(4)] (5) of this
28 section, the board shall consider and accommodate the rules and programs
29 of other agencies to the extent deemed by the board to be appropriate and
30 consistent with the purposes of ORS 527.630.

1 “[(6)] (7) The board shall adopt rules to meet the purposes of another
2 agency’s regulatory program where it is the intent of the board to administer
3 the other agency’s program on forestland and where the other agency con-
4 curs by rule. An operation performed in compliance with the board’s rules
5 shall be deemed to comply with the other agency’s program.

6 “[(7)] (8) The board may enter into cooperative agreements or contracts
7 necessary in carrying out the purposes specified in ORS 527.630. **The State
8 Forestry Department shall enter into agreements with appropriate
9 state agencies for joint monitoring of the effectiveness of forest prac-
10 tice rules in protecting forest resources and water quality.**

11 “SECTION 13. (1) The State Forester shall conduct a study of harvest
12 rates on private forestland in Oregon, and shall report to the State Board
13 of Forestry and the Sixty-seventh Legislative Assembly on the results of such
14 study, along with recommendations for addressing any problems that may be
15 identified during the course of such study.

16 “(2) The study shall include, but not be limited to, an analysis of:

17 “(a) The annual rates of harvest on Oregon’s private forestlands compared
18 to the annual rates of growth on such forestlands;

19 “(b) The effect of such harvest rates on employment and community sta-
20 bility;

21 “(c) The impact of such harvest rates on water quality, fisheries and
22 wildlife; and

23 “(d) The extent to which private forest resources in Oregon are being
24 rapidly liquidated to fulfill the terms of highly leveraged contracts to pur-
25 chase such resources.

26 “(3) The study shall be completed no later than December 31, 1992.

27 “SECTION 14. The State Forestry Department, in cooperation with ap-
28 propriate state agencies, shall evaluate the effects of timber harvest oper-
29 ations on fish and wildlife populations and habitat and water quality. The
30 evaluation shall examine best management practices and alternative methods

1 of forest management and timber harvest and include examination of existing
2 research. The agencies shall submit a progress report to the Sixty-seventh
3 Legislative Assembly and a final report to the Sixty-eighth Legislative As-
4 sembly. The reports shall include any recommendations for appropriate
5 modifications to best management practices, and forest practice rules and
6 statutes. Nothing in this section shall be construed to limit the authority
7 of the board to adopt rules relating to cumulative effects and fish and
8 wildlife protection under ORS 527.710.

9 "SECTION 15. Section 8, chapter 920, Oregon Laws 1989, is amended to
10 read:

11 "Sec. 8. (1) The department shall collect a nonrefundable registration fee
12 for forestland to be burned lying within the restricted area described under
13 ORS 477.515 (3). **However, the State Forester, by rule, shall provide an**
14 **exemption from payment of the fee for burning of understory materi-**
15 **als that occurs on forestland for which regular, periodic burning of**
16 **understory materials is required for forest health.**

17 "(2) Any owner of Class 1 forestland under ORS 526.324 and any agency
18 managing Class 1 forestland under ORS 526.324 lying within the restricted
19 area as described in the plan required under ORS 477.515 (3) shall register
20 with the State Forester, in accordance with rules adopted by the State
21 Forester, the number of acres to be burned prior to December 31 of the same
22 year.

23 "(3) The State Forester shall establish by rule the amount of fees to be
24 collected under this section. The fees shall not exceed:

25 "(a) Fifty cents per acre for registration.

26 "(b) [~~\$1.50~~] \$5 per acre for forestland classified as Class 1 under ORS
27 526.324 that has been treated by any prescription burn method authorized by
28 the issuance of a permit under ORS 477.515 (1).

29 "(4) Federal lands included within the restricted area under the provision
30 of the smoke management plan approved under ORS 477.515 (3)(a) shall also

1 be subject to the fees authorized under subsection (3) of this section for
2 forestland to be treated by any prescription burn method subject to the pro-
3 visions of the State of Oregon Clean Air Act Implementation Plan and the
4 Federal Clean Air Act.

5 “(5) Notwithstanding ORS 291.238, moneys collected under this section
6 shall be deposited in the Oregon Forest Smoke Management Account estab-
7 lished under section 7, **chapter 920, Oregon Laws 1989** [of this 1989 Act].

8 “**SECTION 16.** Section 17 of this Act is added to and made a part of
9 sections 2 to 8, chapter 920, Oregon Laws 1989.

10 “**SECTION 17.** Notwithstanding any other provision of law, the State
11 Forester shall establish by rule a system for reducing the number of acres
12 of forestland accepted for logging slash burning registration so that in 1996
13 and each year thereafter, the State Forester shall authorize logging slash
14 burning only when the purpose of the burn is forest fire prevention.

15 “**SECTION 18.** Section 9, chapter 920, Oregon Laws 1989, is repealed.

16 “**SECTION 19.** (1) The following highways are hereby designated as sce-
17 nic highways for purposes of the Oregon Forest Practices Act:

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

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

21 “(2) In consultation with the Department of Transportation, the board
22 shall establish procedures and regulations as necessary to protect scenic
23 values and the safety of the motoring public along visually sensitive corri-
24 dors. Rules may include provisions for alternate plans providing equivalent
25 or better results, applying to harvest operations on forestlands within visu-
26 ally sensitive corridors extending 150 feet from the outermost right of way
27 boundary of the roadway along both sides and for the full length of the
28 scenic highways designated in subsection (1) of this section.

29 “(3) Landowners and operators shall not be liable for injury or damage
30 caused by trees left within the visually sensitive corridor for purposes of

1 fulfilling the requirements of this section, when carried out in compliance
2 with the provisions of the Oregon Forest Practices Act.

3 "SECTION 20. The State Forestry Department shall conduct a study and
4 shall submit to the Sixty-seventh Legislative Assembly a recommendation
5 regarding the native Pacific yew species in this state. The study shall use
6 existing information to assess the availability of native Pacific yew on public
7 and private lands in this state.

8 "SECTION 21. ORS 527.724 is amended to read:

9 "527.724. Subject to sections 22 and 23 of this 1991 Act, any forest op-
10 erations on forest lands within this state shall be conducted in full compli-
11 ance with the rules and standards of the Environmental Quality Commission
12 relating to air and water pollution control. In addition to all other remedies
13 provided by law, any violation of those rules or standards shall be subject
14 to all remedies and sanctions available under statute or rule to the Depart-
15 ment of Environmental Quality or the Environmental Quality Commission.

16 "SECTION 22. (1) The board shall establish best management practices
17 and other rules applying to forest practices as necessary to insure that to
18 the maximum extent practicable nonpoint source discharges of pollutants
19 resulting from forest operations on forestlands do not impair the achieve-
20 ment and maintenance of water quality standards established by the Envi-
21 ronmental Quality Commission for the waters of the state. Such best
22 management practices shall consist of forest practices rules adopted to pre-
23 vent or reduce pollution of waters of the state. Factors to be considered by
24 the board in establishing best management practices shall include, where
25 applicable, but not be limited to:

26 "(a) Beneficial uses of waters potentially impacted;

27 "(b) The effects of past forest practices on beneficial uses of water;

28 "(c) Appropriate practices employed by other forest managers;

29 "(d) Technical, economic and institutional feasibility; and

30 "(e) Natural variations in geomorphology and hydrology.

1 “(2) The board shall consult with the Environmental Quality Commission
2 in adoption and review of best management practices and other rules to ad-
3 dress nonpoint source discharges of pollutants resulting from forest oper-
4 ations on forestlands.

5 “(3)(a) Upon written petition of any interested person or agency, the
6 board, in accordance with ORS 183.310 to 183.550, shall review the best
7 management practices adopted pursuant to this section. The petition must
8 allege with reasonable specificity that nonpoint source discharges of
9 pollutants resulting from forest operations being conducted in accordance
10 with the best management practices are a significant contributor to vio-
11 lations of such standards.

12 “(b) Notwithstanding ORS 183.390, the board shall complete its review of
13 a petition and either dismiss the petition in accordance with paragraph (c)
14 of this subsection or commence rulemaking in accordance with paragraph (f)
15 of this subsection within 90 days of the date the petition for review was filed.

16 “(c) Except as provided in paragraph (d) of this subsection, if the board
17 determines that forest operations being conducted in accordance with the
18 best management practices are neither significantly responsible for partic-
19 ular water quality standards not being met nor are a significant contributor
20 to violations of such standards, the board shall issue an order dismissing the
21 petition.

22 “(d) If the petition for review of best management practices is made by
23 the Environmental Quality Commission, the board shall not terminate the
24 review without the concurrence of the commission, unless the board com-
25 mences rulemaking in accordance with paragraph (f) of this subsection.

26 “(e) If a petition for review is dismissed, upon conclusion of the review,
27 the board shall issue an order that includes findings regarding specific
28 allegations in the petition and shall state the board’s reasons for any con-
29 clusions to the contrary.

30 “(f) If, pursuant to review, the board determines that best management

1 practices should be reviewed, the board shall commence rulemaking pro-
2 ceedings for that purpose. Rules specifying the revised best management
3 practices must be adopted not later than two years from the filing date of
4 the petition for review unless the board, with concurrence of the Environ-
5 mental Quality Commission, finds that special circumstances require addi-
6 tional time.

7 “(g) Notwithstanding the time limitation established in paragraph (f) of
8 this subsection, at the request of the Environmental Quality Commission, the
9 board shall take action as quickly as practicable to prevent significant
10 damage to beneficial uses identified by the commission while the board is
11 revising its best management practices and rules as provided for in this
12 section.

13 “(h) The board shall include in its triennial review of administrative rules
14 an analysis of the effectiveness of the best management practices and other
15 rules applying to forest practices adopted to maintain water quality stan-
16 dards established by the Environmental Quality Commission.

17 **“SECTION 23.** A forest operator conducting, or in good faith proposing
18 to conduct, operations in accordance with best management practices cur-
19 rently in effect shall not be considered in violation of any water quality
20 standards. When the board adopts new best management practices and other
21 rules applying to forest operations, such rules shall apply to all current or
22 proposed forest operations upon their effective dates. However, nothing in
23 this section prevents enforcement of water quality standards against a forest
24 operator conducting operations after the time provided in section 22 (3)(f)
25 of this 1991 Act for adoption of revised best management practices if the
26 board either has not adopted revised management practices or has not made
27 a finding that such revised best management practices are not required.

28 **“SECTION 24.** Sections 25 and 26 of this Act are added to and made a
29 part of ORS 468.700 to 468.778.

30 **“SECTION 25.** Upon request of the State Board of Forestry, the Envi-

1 ronmental Quality Commission shall review any water quality standard that
2 affects forest operations on forestlands. The commission's review may be
3 limited to or coordinated with the triennial or any other regularly scheduled
4 review of the state's water quality standards, consistent with ORS 468.735,
5 section 26 of this 1991 Act and applicable federal law.

6 "SECTION 26. (1) Except as provided in subsection (2) of this section,
7 as necessary to achieve and maintain standards of water quality or purity
8 adopted under ORS 468.735, the commission or department may, by rule or
9 order, impose and enforce limitations or other controls which may include
10 total maximum daily loads, wasteload allocations for point sources and load
11 allocations for nonpoint sources, as provided in the federal Water Pollution
12 Control Act (33 U.S.C. § 1321) and federal regulations and guidelines issued
13 pursuant thereto.

14 "(2) Unless required to do so by the provisions of the Federal Clean Water
15 Act, neither the Environmental Quality Commission nor the Department of
16 Environmental Quality shall promulgate or enforce any effluent limitation
17 upon nonpoint source discharges of pollutants resulting from forest oper-
18 ations on forestlands in this state. Implementation of any limitations or
19 controls applying to nonpoint source discharges or pollutants resulting from
20 forest operations are subject to sections 22 and 23 of this 1991 Act. However,
21 nothing in this section is intended to affect the authority of the commission
22 or the department provided by law to impose and enforce limitations or other
23 controls on water pollution from sources other than forest operations.

24 "(3) When the Environmental Quality Commission establishes instream
25 water quality standards to protect designated beneficial uses in the waters
26 of the state, it shall consider, where applicable, available scientific informa-
27 tion including, but not limited to, stream flow, geomorphology and other
28 factors representing the variability and complexity of hydrologic systems and
29 intrinsic water quality conditions.

30 "(4) When the Environmental Quality Commission establishes instream

1 water quality standards, it will also issue guidelines describing how the de-
2 partment and the commission will determine whether water quality standards
3 in waters affected by nonpoint source activities are being met. In developing
4 these guidelines, the commission shall include, where applicable, those
5 physical characteristics such as stream flow, geomorphology, seasons, fre-
6 quency, duration, magnitude and other factors which represent the variabil-
7 ity and complexity of forested and other appropriate hydrologic systems.

8 **"SECTION 27.** (1) The State Board of Forestry, after consultation with
9 the State Department of Fish and Wildlife, shall commission a scientific in-
10 quiry on the state of knowledge, using existing information, of the relative
11 effects of forest practices on anadromous fish runs in western Oregon. The
12 study will identify the leading causes, both on-shore and off-shore, for
13 anadromous fish population declines if that is the case; assign the relative
14 importance of forest practices to these declines, compared to other leading
15 causes; identify the relative importance of various habitat characteristics in
16 streams in limiting anadromous fish production; determine how forest prac-
17 tices have affected fish production; determine how forest practices have af-
18 fected these habitat characteristics and anadromous fish populations before
19 and since 1972; identify the extent to which forest practices are limiting the
20 recovery of depressed anadromous fish populations; and make recommen-
21 dations as to how forest practices can assist in recovery of anadromous fish
22 populations.

23 "(2) The board shall contract with an independent and disinterested or-
24 ganization to assemble a panel of well-qualified scientists to conduct the
25 work described in subsection (1) of this section and to write a report of its
26 findings.

27 "(3) Nothing in this section shall be construed to limit the ability of the
28 board to promulgate rules relating to forest practices which restore or pro-
29 tect fish and wildlife populations or habitat.

30 **"SECTION 28.** (1) The study required by section 27 of this 1991 Act shall

1 be financed from such moneys as are referred to in this section and section
2 29 of this 1991 Act.

3 “(2) The State Board of Forestry shall request:

4 “(a) The United States Forest Service to pay 25 percent of the study cost.

5 “(b) The Bureau of Land Management to pay 15 percent of the study cost.

6 “(c) The Bonneville Power Administration to pay 25 percent of the study
7 cost.

8 “SECTION 29. In addition to and not in lieu of any other appropriations
9 or moneys made available by law or from other sources, there is appropriated
10 to the State Forestry Department, for the biennium beginning July 1, 1991,
11 out of the General Fund, the sum of \$ _____. Such sum may only be expended
12 to pay the costs of the study required by section 27 of this Act.”.

13

OREGON LEGISLATIVE ASSEMBLY
STAFF MEASURE SUMMARY
SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

MEASURE: 1125-A

Meeting Dates: 3/15; 3/20; 3/27; 4/3; 4/15; 4/22;
4/29; 5/3; 5/13; 5/15; 5/17; 5/20; 5/22; 5-29

Action: Do Pass with amendments

Vote: Ayes: Brenneman, Cohen, Kintigh, Smith Springer, Timms

Nays: none

Excused: Gold

Prepared By: Peter F. Green, Committee Administrator

WHAT THE BILL DOES:

Senate Bill 1125 modifies provisions of the Oregon Forest Practices Act: The major provisions of the bill are as follows:

STREAM CLASSIFICATION: Directs Board of Forestry to designate at least three stream classes by September 1, 1992. Requires Board to review its current riparian protection rules. Interim protection will be provided for fish bearing streams within one quarter mile of class I streams until new riparian protection rules are adopted.

CLEARCUTS: Sets certain limits on contiguous clearcuts until prior clearcut has been reforested. Exceptions are made for conversion, understocked lands or lands damaged by fire or insects. Requires Board to study clearcut size limitations and set limit by rule equal to or less than 120 acres. Sets interim limit at 120 acres with exceptions permitted up to 240 acres.

WATER QUALITY AUTHORITY: Modifies relationship between Departments of Environmental Quality and Forestry on regulation of water quality. Requires the Board to establish best management practices. Provides that if a forest operator conducts operations in accordance with best management practices then the operation cannot be considered to be in violation of any water quality standard. Prohibits the EQC from promulgating rules regarding effluent limitations upon nonpoint source discharges from forest operations unless required by Federal law.

WILDLIFE HABITAT: Requires Board to adopt rules for wildlife habitat in riparian and upland areas. Sets interim standards for snag and habitat retention until rules are adopted. Modifies Board rulemaking mandate by requiring that rules provide for "overall maintenance or restoration of ... fish and wildlife populations and habitat."

REFORESTATION: Sets certain reforestation requirements in statute. Requires that reforestation commence within 12 months and be completed by the end of the second planting season. Requires planting of resistant species in areas where root pathogens, insects or diseases are present.

WRITTEN PLANS: Adds to existing written plan requirement that plans be prepared for clearcuts that exceed the limit set by the Board, for high risk sites as determined by the state forester; for cutting of immature timber; and for other streams as designated by Board. Extends review period from 14 to 30 days. Allows persons living within 15 miles of chemical application to request copies of notice.

This summary has not been adopted or officially endorsed by action of the committee.

CUMULATIVE EFFECTS AND FOREST MANAGEMENT: Provides the state forester with authority to condition approval of written plans by limiting timing, rate, and extent of harvest so as to achieve policy objectives of Act. Requires Board to adopt rules that minimize adverse impacts of cumulative effects.

LAND USE CONVERSIONS: Tightens requirements on landowners wishing to convert forest land to non-forest uses.

SCENIC VALUES: Creates scenic highway system and designates certain highways. Requires the Board and the Department of Transportation to set procedures and regulations for harvest operations within visually sensitive corridors within 150 feet of highway rights of way.

STUDIES: Requires that the Board in conjunction with appropriate state agencies conduct the following studies:

- * Monitoring of effectiveness of forest practice rules.
- * Harvest rate study
- * Evaluation of best management practices on certain forest resources.
- * Study of existing information on native Pacific Yew.

SMOKE MANAGEMENT: Increases fees for slash burning from \$1.50 to \$5 per acre. Requires that after 1996 slash burning be limited to fire prevention purposes.

AMENDMENTS:

The original bill addressed most of the issues listed above, but generally put specific standards into statute. The committee amended the bill to give guidance to the Board and require it to adopt rules to achieve similar purposes. The Committee added language relating to smoke management, written plans, cumulative effects, and wildlife habitat.

DISCUSSION:

The Committee held 13 hearings on the bill in conjunction with SB 555, another forest practices bill, and discussed a complete range of issues relating to forest practices and forest resources.

BACKGROUND:

The Oregon Legislature passed the current forest practices act in 1971. Since that time the Board of Forestry has addressed certain forest practice issues. In 1984 it made significant modifications to address landslides. In 1986 the Board adopted new riparian protection rules. The first significant statutory changes were made in 1987 (HB 3396). The Board was reconstituted and the Board was given exclusive responsibility for protecting forest resources. Written plan requirements were expanded, and the Board was required to inventory certain resources.

Since that time public concern about the impacts of timber harvest has increased significantly. Issues such as the cumulative effects of timber harvest and its impact on fish and wildlife habitat have been topics of public discussion. Harvesting of immature timber and clearcut size have also been concerns. During the last few years uncertainty over the roles of DEQ and the Board with respect to water quality regulation has heightened.

This summary has not been adopted or officially endorsed by action of the committee.

**1991 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Legislative Fiscal Office**

MEASURE NUMBER: SB 1125
STATUS: A-Engrossed
SUBJECT: Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut, and harvest practices along visually sensitive corridors and which may affect water pollution.
GOVERNMENT UNIT AFFECTED: Department of Forestry, Department of Fish and Wildlife, Department of Environmental Quality
PREPARED BY: Ken Rocco
REVIEWED BY: Ann Glaze, Kay Hutchison
DATE: 5/29/91

	<u>1991-93</u>	<u>1993-95</u>
EFFECT ON EXPENDITURES:		
Dept. of Forestry -		
Forest Practices Program		
Personal Services	\$ 1,798,619	\$ 1,620,610
Services & Supplies	1,368,535	644,922
Capital Outlay	<u>358,000</u>	<u>0</u>
TOTAL All Funds	\$ 3,525,154	\$ 2,265,532
Smoke Management Program		
TOTAL Other Funds		(see Comments)
Dept. of Fish & Wildlife -		
Personal Services	\$ 83,822	\$ 90,133
Services & Supplies	9,500	9,500
Capital Outlay	<u>9,000</u>	<u>0</u>
TOTAL General Fund	\$ 102,322	\$ 99,633
Dept. of Environmental Quality -		
Personal Services	\$ 157,569	\$ 252,833
Services & Supplies	43,224	70,997
Capital Outlay	<u>19,110</u>	<u>0</u>
TOTAL General Fund	\$ 219,903	\$ 323,830
TOTAL General Fund	\$ 2,137,317	\$ 1,782,782
TOTAL Other Funds	\$ 1,320,062	\$ 906,213
TOTAL Federal Funds	<u>390,000</u>	<u>0</u>
TOTAL All Funds	\$ 3,857,379	\$ 2,688,995

Note: The Department of Forestry's Forest Practices Program is split-funded with 60% General Fund and 40% Other Funds (harvest tax); as the measure does not specify a funding source, all other agency expenditures are assumed to be General Fund.

EFFECT ON REVENUES:

Dept. of Forestry -			
Smoke Management Program			
Slash Burning Fee Increase	QF	\$ 410,000	\$ 410,000

EFFECT ON POSITIONS:

Dept. of Forestry	24.47 FTE	19.54 FTE
Dept. of Fish & Wildlife	1.00 FTE	1.00 FTE
Dept. of Environmental Quality	2.00 FTE	3.00 FTE

GOVERNOR'S BUDGET: Measure is not included in Governor's budget.

COMMENTS:

The measure, as amended, revises the Oregon Forest Practices Act with regard to certain reforestation, clearcut, and harvest practices and includes provisions concerning stream classification, water quality authority, and wildlife habitats.

The Department of Forestry estimates implementing the amended measure's provisions would require adding the equivalent of 14.0 FTE Forest Practices Foresters (SR 23), 6.5 FTE Forest Staff Specialist 2s (SR 26), 2.0 FTE seasonal Student Workers (SR 11), and an additional 1.97 FTE of clerical time (SR 9-11) in 1991-93. For the 1993-95 biennium, the department anticipates a staffing decline of 2.5 FTE of the Forestry Staff Specialists, the 2.0 FTE Student Workers, and 0.42 of the additional clerical time.

The amended measure's provisions require the department to conduct rulemaking on clearcuts and clearcut size, snags and dead-and-down material, water classification, visually sensitive areas, and written plans. Additional work will be conducted on inspecting reforestation, analyzing written plans, reclassifying and mapping streams, and inspecting operations along designated scenic highways and visually sensitive corridors.

The department will also participate in studies of clearcut size (\$44,220), harvest rates (\$172,980), timber harvest effects on water quality, fish, and fish habitats with the Department of Fish and Wildlife (\$408,225), the status of the native Pacific yew (\$14,415), and the existing scientific knowledge on the effects of forest practices on anadromous fish runs (\$600,000 including an estimated \$390,000 from federal government sources). The measure provides for a General Fund appropriation of an unspecified amount to be used for the purposes of the forest practices study. Capital outlay costs of the department reflect the purchase of vehicles and data processing, technical, and office equipment.

The Department of Fish and Wildlife anticipates requiring an additional Fish & Wildlife Biologist 3 (SR 26) for rulemaking concerning riparian protection, evaluating the effects of timber operations on streams and fish habitats, and other responsibilities the measure places on the department.

The Department of Environmental Quality's impact assumes the addition of three permanent positions (2.0 FTE in 1991-93) including an Environmental Specialist 3 and two Environmental

Specialist 2s. The department anticipates reviewing water quality nonpoint source standards, developing guidelines for provision of technical assistance on the standards, reviewing operation petitions for potential water quality impacts, making field inspections, and providing water sample analysis.

The measure also provides for an increase in the fee for slash burning on forestland from \$1.50 to \$5.00 per acre. The Department of Forestry estimates the increase would generate an additional \$410,000 for the Oregon Forest Smoke Management Account; this revenue increase anticipates the expected reduction in harvested acreage during the 1991-95 period. The measure would prohibit logging slash burning, other than that necessary for forest fire prevention, beginning in 1996. The department proposes expending these additional funds for a number of high priority projects designed to improve air quality and to provide more burning opportunities.

LEGISLATIVE REVENUE OFFICE

REVENUE IMPACT ANALYSIS

BILL # SB 1125A

DATE 5/29/91

THE LEGISLATIVE REVENUE OFFICE HAS DETERMINED
THIS LEGISLATION HAS **NO IMPACT** ON STATE OR LOCAL
REVENUES ANALYZED BY THIS OFFICE

Senate Bill 1125

Sponsored by Senator COHEN; Senator BRENNEMAN, Representatives DWYER, SCHROEDER

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.

Revises Oregon Forest Practices Act with regard to certain reforestation, clearcut and harvest practices along visually sensitive corridors and which may affect water pollution. Establishes Forest Practices Enforcement Fund for specified purposes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.690,
3 527.715 and 527.724; appropriating money; and declaring an emergency.

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

5 **SECTION 1.** ORS 527.620 is amended to read:

6 527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

7 (1) "State Forester" means the State Forester or the duly authorized representative of the State
8 Forester.

9 (2) "Operator" means any person, including a landowner or timber owner, who conducts an op-
10 eration.

11 (3) "Board" means the State Board of Forestry.

12 (4) "Forestland" means land which is used for the growing and harvesting of forest tree species,
13 regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules
14 or regulations are applied. Forest tree species does not include Christmas trees on land used solely
15 for the production of cultured Christmas trees as defined in ORS 215.203 (3).

16 (5) "Forest practice" means any operation conducted on or pertaining to forestland, including
17 but not limited to:

18 (a) Reforestation of forestland;

19 (b) Road construction and maintenance;

20 (c) Harvesting of forest tree species;

21 (d) Application of chemicals; and

22 (e) Disposal of slash.

23 (6) "Operation" means any commercial activity relating to the growing or harvesting of forest
24 tree species.

25 (7) "Landowner" means any individual, combination of individuals, partnership, corporation or
26 association of whatever nature that holds an ownership interest in forestland, including the state
27 and any political subdivision thereof.

28 (8) "Timber owner" means any individual, combination of individuals, partnership, corporation
29 or association of whatever nature, other than a landowner, that holds an ownership interest in any
30 forest tree species on forestland.

31 (9) "Written plan" means a plan submitted by an operator, for written approval by the State

NOTE: Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

1 Forester, which describes how the operation will be conducted, including the means to protect re-
2 source sites described in ORS 527.710 (3)(a) and information required by sections 6 and 7 of this
3 1991 Act, if applicable.

4 (10) "Clearcut" means any harvest unit in western Oregon that leaves fewer than 50 trees
5 per acre that are well-distributed over the unit and that measure at least 11 inches at DBH
6 or that measure less than 40 square feet of basal area per acre. "Clearcut" means any
7 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre that are well-
8 distributed over the unit and that measure at least 10 inches at DBH. For purposes of this
9 subsection, no tree shall be counted unless the top one-third of the bole of the tree supports
10 a green, live crown. For purposes of computing basal area, trees larger than 20 inches shall
11 be considered 20-inch trees.

12 (11) "DBH" means the diameter at breast height which is measured as the width of a
13 standing tree or log measured at four and one-half feet above the ground, on the uphill side.

14 (12) "Western Oregon" means all land west of the summit of the Oregon Cascade Range
15 and "eastern Oregon" means all land east of the summit of the Oregon Cascade Range.

16 (13) "Visually sensitive corridor" means forestland located within the area extending 150
17 feet from the shoulder of a scenic highway designated under section 8 of this 1991 Act.

18 SECTION 2. Sections 3 to 11 and 17 of this Act are added to and made a part of ORS 527.610
19 to 527.730.

20 SECTION 3. (1) The standards established in sections 4 to 8 of this 1991 Act shall be adminis-
21 tered by the State Forester as standards applying to all operations in the state, including those on
22 forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the
23 board shall adopt, repeal or amend forest practices rules as necessary to be consistent with and to
24 implement the standards established in sections 4 to 8 of this 1991 Act. Nothing in this 1991 Act
25 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all
26 other regulations pertaining to forest practices under applicable state law.

27 (2) Nothing in sections 4 to 8 of this 1991 Act is intended to apply to cutting of trees that is for
28 growth enhancement treatments, as defined by the State Forester, such as thinning or precommer-
29 cial thinning.

30 SECTION 4. (1) No clearcut unit within a single ownership shall exceed 120 contiguous acres
31 in size, except as provided in section 7 of this 1991 Act.

32 (2) No clearcut unit shall be allowed within 300 feet of the perimeter of a prior clearcut unit if
33 the combined acreage of the clearcut areas subject to regulation under the Oregon Forest Practices
34 Act would exceed 120 acres, unless the prior clearcut unit has been reforested as required by all
35 applicable regulations and:

36 (a) At least 200 healthy conifer seedlings are established per acre, and either;

37 (b) The resultant reproduction has attained an average height of at least four feet; or

38 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
39 "free to grow" as defined by the board.

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

42 (4) The provisions of this section shall not apply when the land is being converted to conifers
43 from brush or hardwoods, or when the clearcut harvest results from disasters such as fire, insect
44 infestation, disease, windstorm or other occurrence that the State Forester determines was beyond

1 the landowner's control and has substantially impaired productivity or safety on the unit or jeop-
2 ardizes nearby forestland. The prior approval of the State Forester shall be required for such con-
3 version or clearcut operations that exceed 120 acres in size.

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

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

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

11 **SECTION 5.** (1) In a clearcut harvest, the operator shall leave, on average per acre harvested,
12 at least:

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

15 (b) Two downed logs or downed trees, at least 50 percent of which are conifers, that are at least
16 12 inches in diameter at the widest point and at least 16 feet long, or equivalent volume if trees of
17 this size are not available on the site.

18 (2) In meeting the requirements of subsection (1) of this section, the required snags, trees and
19 logs may be left in one or more clusters rather than distributed throughout the unit. The location
20 and distribution of the material shall be in the sole discretion of the landowner or operator, con-
21 sistent with safety and fire hazard regulations. The requirements of subsection (1) of this section are
22 in addition to all other requirements pertaining to forest operations and may not be met by counting
23 snags, trees or logs otherwise required to be left in riparian areas or resource sites listed in ORS
24 527.710 (3).

25 **SECTION 6.** (1) The board shall adopt standards for the reforestation of clearcut harvests.
26 Unless the board makes the findings for alternate standards under subsection (2) of this section, and
27 except to the extent that more stringent reforestation requirements apply under section 4 (2) or 8
28 of this 1991 Act, the standards for the reforestation of clearcuts shall include the following:

29 (a) Reforestation, including site preparation, of clearcut units shall commence within 12 months
30 after the completion of harvest and shall be completed by the end of the second planting season
31 after the completion of harvest. By the end of the fifth growing season after planting or seeding, at
32 least 200 healthy conifer seedlings shall be established per acre, well-distributed over the area,
33 which are "free to grow" as defined by the board.

34 (b) A written plan shall be required for reforestation activities that do not conform to the
35 standards established under paragraph (a) of this subsection or the alternate standards adopted un-
36 der subsection (2) of this section, including but not limited to variances in the time in which
37 reforestation is to be commenced or completed, plans to reforest sites by natural reforestation or
38 commercial hardwood management. Such alternate plans may be approved if the State Forester de-
39 termines that the plan will achieve equivalent or better regeneration results for the particular
40 conditions of the site, or the plan carries out an authorized research project conducted by a public
41 agency or educational institution.

42 (2) The board, by rule, may establish alternate standards for the reforestation of clearcuts, in
43 lieu of the standards established in subsection (1) of this section, upon finding that the alternate
44 standards will better assure the continuous growing and harvesting of forest tree species and the

1 maintenance of forestland for such purposes, consistent with sound management of soil, air, water,
2 fish and wildlife resources based on one or more of the following findings:

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

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

7 (c) Different standards are warranted for particular tree species or types of sites.

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

12 (4) The requirements of this section apply only to clearcuts as defined in ORS 527.620 (10).
13 Nothing in this section is intended to affect the administration and enforcement of regulations per-
14 taining to the maintenance of minimum stocking levels or the reforestation of sites required as a
15 result of operations other than such clearcuts.

16 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this 1991 Act, a clearcut unit
17 within a single ownership that exceeds 120 but does not exceed 240 contiguous acres in size may
18 be approved by the State Forester if all the requirements of this section and any additional re-
19 quirements established by the board are met. Proposed clearcut units that are within 300 feet of the
20 perimeter of a prior clearcut unit, and that would result in a total combined clearcut area under a
21 single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State
22 Forester if the additional requirements are met for the combined clearcut area. No clearcut unit
23 within a single ownership shall exceed 240 contiguous acres. No clearcut unit shall be allowed
24 within 300 feet of the perimeter of a prior clearcut unit if the combined acreage of the clearcut
25 areas subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless
26 the prior clearcut unit has been reforested by all applicable regulations and:

27 (a) At least 200 healthy conifer seedlings are established per acre, and either;

28 (b) The resultant reproduction has attained an average height of at least four feet; or

29 (c) At least 48 months have elapsed since the seedlings were planted and the reproduction is
30 "free to grow" as defined by the board.

31 (2) The requirements of this section are in addition to all other requirements of the Oregon
32 Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be
33 applied in lieu of such other requirements only to the extent the requirements of this section are
34 more stringent. Nothing in this section shall apply to operations conducted under section 4 (4) or
35 (5) of this 1991 Act.

36 (3) The board shall require that a written plan be submitted prior to approval of a clearcut oper-
37 ation under this section. The board may require that a bond, cash deposit or other security be
38 filed prior to commencing a clearcut operation under this section, and provide for a blanket bond,
39 deposit or security for multiple operations, to assure compliance with the Oregon Forest Practices
40 Act and the provisions of the written plan. The board may establish by rule any additional standards
41 applying to operations under this section.

42 (4) The State Forester shall approve the clearcut operation if the proposed clearcut would pro-
43 vide better overall results in meeting the requirements and objectives of the Oregon Forest Prac-
44 tices Act and rules adopted thereunder, compared to multiple clearcut harvests of the same total

1 land area in separate operations each not exceeding 120 acres in size, considering factors which
 2 may include, but are not limited to, the following:

- 3 (a) The potential for disturbing reproduction in reforested areas;
- 4 (b) The extent of roads per acre harvested; and
- 5 (c) The potential for soil disturbance over the entire land area.

6 (5) The board shall specify by rule the information to be submitted for approval of clearcut op-
 7 erations under this section. The information to be considered by the State Forester prior to ap-
 8 proving an operation under this section shall include:

- 9 (a) Road construction, maintenance and retirement plans for both access and interior roads;
- 10 (b) An assessment of the slash hazard to be created by the size of the operation and the plans
 11 for mitigating any additional slash hazard;
- 12 (c) Evidence of compliance with the requirements of section 8 of this 1991 Act; and
- 13 (d) Evidence of past satisfactory compliance with Oregon Forest Practices Act reforestation re-
 14 quirements, including successful regeneration treatments on sites with similar characteristics.

15 **SECTION 8.** (1) The following highways are hereby designated as scenic highways for purposes
 16 of the Oregon Forest Practices Act:

- 17 (a) Interstate Highways 5, 84, 205, 405; and
- 18 (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 36, 38, 42, 58, 62, 82, 97, 101, 126, 138, 140,
 19 199, 230, 234 and 395.

20 (2) The board shall establish procedures and regulations as necessary to implement the re-
 21 quirements of subsection (3) of this section, including provisions for alternate plans providing
 22 equivalent or better results, applying to harvest operations on forestlands within visually sensitive
 23 corridors extending 150 feet from the outermost shoulder of the roadway along both sides and for
 24 the full length of the scenic highways designated in subsection (1) of this section.

25 (3)(a) For harvest operations within a visually sensitive corridor, at least 50 healthy trees of at
 26 least 11 inches at DBH, or that measure at least 40 square feet in basal area, shall be temporarily
 27 left on each acre. Harvest areas shall be cleared of major harvest debris within 30 days of the
 28 completion of the harvest or within 60 days of the cessation of active harvesting activity on the site,
 29 regardless of whether the harvest operation is complete.

30 (b) Overstory trees initially required to be left under paragraph (a) of this subsection may be
 31 removed when the reproduction understory reaches an average height of at least 10 feet and has
 32 at least 250 stems per acre.

33 (c) When the adjacent stand, extending from 150 feet from the corridor to 300 feet from the
 34 corridor, has attained an average height of at least 10 feet and has at least 200 stems per acre or
 35 at least 40 square feet of basal area, no trees are required to be left in the visually sensitive corri-
 36 dor, or trees initially required to be left under paragraph (a) of this subsection may be removed.
 37 Harvest areas within the visually sensitive corridor shall be cleared of major harvest debris within
 38 30 days of the completion of the harvest or within 60 days of the cessation of active harvesting ac-
 39 tivity on the site, regardless of whether the harvest operation is complete. Reforestation shall be
 40 completed by the end of the first planting season after the completion of harvest. A minimum of 400
 41 trees per acre shall be planted. By the end of the fifth growing season after the completion of
 42 planting, at least 250 healthy conifer seedlings shall be established per acre, well-distributed over
 43 the area, which are "free to grow" as defined by the board. When harvests within the visually sen-
 44 sitive corridor are carried out under this paragraph the adjacent stand, extending from 150 feet from

1 the corridor to 300 feet from the corridor, shall not be clearcut until the adjacent visually sensitive
 2 corridor has been reforested as required under this paragraph and the stand has attained an average
 3 height of at least 10 feet and has at least 250 stems per acre.

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

7 **SECTION 9.** (1) The board shall review its rules governing changes in land use and adopt or
 8 amend rules as necessary to assure that only bona fide, established and continuously maintained
 9 changes from forest uses are provided an exemption from reforestation requirements. Among other
 10 factors, the board shall condition exemptions from reforestation requirements upon:

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

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

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

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

22 (2) The board shall require that, prior to commencing an operation where a change in land use
 23 is proposed, a bond, cash deposit or other security be filed with the State Forester in an amount
 24 determined by the State Forester sufficient to cover the cost of site preparation and reforestation
 25 for the area subject to an exemption from reforestation due to a change in land use, and provisions
 26 for the administration and collection on such bond or security deposit in the event that the change
 27 in land use is not established or continuously maintained within a time certain.

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

31 **SECTION 10.** (1) The board shall review its classification of waters of the state, create three
 32 classifications and establish regulations applicable to each classification. The board shall give par-
 33 ticular consideration to perennial streams, not currently classified as Class 1, which have an aver-
 34 age gradient of not more than eight percent and which are important to water quality and fish needs
 35 in downstream Class 1 streams. The board shall consider requirements for vegetative buffers along
 36 such streams, consistent with the removal of merchantable trees and the protection of stream bank
 37 and channel.

38 (2) The board shall report to the Sixty-seventh Legislative Assembly on the results of the board's
 39 reviews pursuant to this section and section 9 of this 1991 Act, including any recommendations for
 40 legislative changes.

41 **SECTION 11.** (1) The Forest Practices Enforcement Fund is established separate and distinct
 42 from the General Fund in the State Treasury. The State Treasurer shall deposit and invest moneys
 43 in the fund in the manner provided by law, taking into account its uses and purposes. Interest
 44 earned by the fund shall be credited to the fund. All moneys in the fund are appropriated contin-

1 ously to the State Forester for the purposes described in subsection (3) of this section.

2 (2) Notwithstanding ORS 526.060, the following moneys shall be deposited into the Forest Prac-
3 tices Enforcement Fund:

4 (a) Notwithstanding ORS 527.687 (7), the first \$200,000 in each biennium recovered as civil
5 penalties under ORS 527.992;

6 (b) All amounts recovered under ORS 527.690;

7 (c) All amounts otherwise collected by the State Forester as the result of forfeiture of a bond,
8 deposit or other security required under section 7 (3) or 9 (2) of this 1991 Act; and

9 (d) All other moneys directed by law to be deposited in the fund.

10 (3) Moneys in the fund may be expended for the following purposes:

11 (a) Repairing damage or correcting an unsatisfactory condition, including site preparation and
12 reforestation, in the manner provided in ORS 527.690;

13 (b) Offsetting the State Forester's costs of administering the provisions of ORS 527.690, including
14 collecting expenditures; and

15 (c) Offsetting the costs of conducting civil penalty contested case hearings and the collection
16 of civil penalty amounts owed.

17 (4) Civil penalties recovered in excess of \$200,000 per biennium shall be paid to the General
18 Fund.

19 **SECTION 12.** ORS 527.630 is amended to read:

20 527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
21 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
22 resources, [and] by providing a habitat for wildlife and aquatic life **and by contributing to the**
23 **enjoyment of the traveling public along scenic highways designated pursuant to section 8 of**
24 **this 1991 Act.** Therefore, it is declared to be the public policy of the State of Oregon to encourage
25 economically efficient forest practices that assure the continuous growing and harvesting of forest
26 tree species and the maintenance of forestland for such purposes as the leading use on privately
27 owned land, consistent with sound management of soil, air, water and fish and wildlife resources
28 that assures the continuous benefits of those resources for future generations of Oregonians, **and**
29 **with consideration of impacts within visually sensitive corridors along scenic highways des-**
30 **ignated pursuant to section 8 of this 1991 Act.**

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

36 (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990,
37 it is declared to be in the public interest to vest in the board exclusive authority to develop and
38 enforce statewide and regional rules pursuant to ORS 527.710 **and 527.724 (1) and (2)**, and to co-
39 ordinate with other state agencies and local governments which are concerned with the forest en-
40 vironment. **The board's authority to adopt and enforce rules addressing scenic considerations**
41 **is strictly limited to the provisions of section 8 of this 1991 Act.**

42 **SECTION 13.** ORS 527.690 is amended to read:

43 527.690. (1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of
44 damage or correction of an unsatisfactory condition, **including compliance with reforestation**

1 **requirements**, and if the operator or landowner does not comply with the order within the period
2 specified in such order and the order has not been appealed to the board within 30 days, the State
3 Forester based upon a determination by the forester of what action will best carry out the purposes
4 of ORS 527.630 shall:

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

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

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

21 (3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory
22 condition, the State Forester shall proceed, either with forces of the State Forester or by contract,
23 to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a com-
24 plete account of direct expenditures incurred, and upon completion of the work, shall prepare an
25 itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.
26 In no event shall the expenditures exceed the amount authorized by subsection (2) of this section.
27 An itemized statement of the direct expenditures incurred by the State Forester, certified by the
28 State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding
29 authorized by this section. **If the State Forester's action to repair the damage or correct the**
30 **unsatisfactory condition arose from an operation for which a bond, cash deposit or other**
31 **security was required under section 7 (3) or 9 (2) of this 1991 Act, the State Forester shall**
32 **retain any applicable portion of a cash deposit and the surety on the bond or holder of the**
33 **other security deposit shall pay the amount of the bond or other security deposit to the State**
34 **Forester upon demand. If the amount specified in the demand is not paid within 30 days**
35 **following the demand, the Attorney General, upon request by the State Forester, shall in-**
36 **stitute proceedings to recover the amount specified in the demand.**

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

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

3 *[(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted*
4 *within six months from the date of filing under subsection (4) of this section.]*

5 **(5) All amounts recovered under this section shall be paid into the Forest Practices**
6 **Enforcement Fund.**

7 **SECTION 14.** ORS 527.715 is amended to read:

8 527.715. The board shall establish, by rule, the standards and procedures to implement the pro-
9 visions of ORS 197.180, 197.270, 197.825, 215.050, 477.090, 477.440, 477.455, 477.460, 526.009, 526.016,
10 527.620, 527.630, 527.660, 527.670, 527.683 to [527.687, 527.700 to 527.722] **527.724**, 527.735, [and]
11 527.992 and sections 3 to 10 of this 1991 Act.

12 **SECTION 15.** ORS 527.724 is amended to read:

13 527.724. **(1) The board shall establish best management practices and other regulations**
14 **applying to forest practices for the control of water pollution.**

15 **(2) Notwithstanding the provisions of ORS chapter 468 or other provisions of Oregon law,**
16 **forest practices subject to the regulations established by the board under subsection (1) of**
17 **this section shall not be subject to effluent limits or the restrictions of other agencies based**
18 **on the need to meet water quality standards.**

19 **(3) Any forest operations on forestlands within this state shall be conducted in full compliance**
20 **with the rules and standards of the Environmental Quality Commission relating to air [and water]**
21 **pollution control and, except as provided in subsection (2) of this section, water pollution**
22 **control. In addition to all other remedies provided by law, any violation of those rules or standards**
23 **shall be subject to all remedies and sanctions available under statute or rule to the Department of**
24 **Environmental Quality or the Environmental Quality Commission.**

25 **SECTION 16.** Section 10 of this Act is repealed July 1, 1993.

26 **SECTION 17.** (1) The State Forester shall conduct a study of harvest rates on private forestland
27 in Oregon, and shall report to the State Board of Forestry and the Sixty-seventh Legislative As-
28 sembly on the results of such study, along with recommendations for addressing any problems that
29 may be identified during the course of such study.

30 (2) The study shall include, but be not limited to, an analysis of:

31 (a) The annual rates of harvest on Oregon's private forestlands compared to the annual rates
32 of growth on such forestlands;

33 (b) The effect of such harvest rates on employment and community stability;

34 (c) The impact of such harvest rates on water quality, fisheries and wildlife; and

35 (d) The extent to which private forest resources in Oregon are being rapidly liquidated to fulfill
36 the terms of highly leveraged contracts to purchase such resources.

37 (3) The study shall be completed no later than December 31, 1992.

38 **SECTION 18.** Section 17 of this Act is repealed January 1, 1993.

39 **SECTION 19.** This Act being necessary for the immediate preservation of the public peace,
40 health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

41

DRAFT

SUMMARY

Revises Oregon Forest Practices Act with regard to certain reforestation requirements, clearcut practices and harvest along visually sensitive corridors.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to forest practices; creating new provisions; amending ORS 527.620, 527.630, 527.690, 527.715 and 527.724; appropriating money; and declaring an emergency.

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

SECTION 1. ORS 527.620 is amended to read:

527.620. As used in ORS 527.610 to 527.730, 527.735, 527.990 and 527.992:

(1) "State Forester" means the State Forester or the duly authorized representative of the State Forester.

(2) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(3) "Board" means the State Board of Forestry.

(4) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied. Forest tree species does not include Christmas trees on land used solely for the production of cultured Christmas trees as defined in ORS 215.203 (3).

(5) "Forest practice" means any operation conducted on or pertaining to forestland, including but not limited to:

- (a) Reforestation of forestland;
- (b) Road construction and maintenance;
- (c) Harvesting of forest tree species;

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

1 (d) Application of chemicals; and

2 (e) Disposal of slash.

3 (6) "Operation" means any commercial activity relating to the growing
4 or harvesting of forest tree species.

5 (7) "Landowner" means any individual, combination of individuals, part-
6 nership, corporation or association of whatever nature that holds an owner-
7 ship interest in forestland, including the state and any political subdivision
8 thereof.

9 (8) "Timber owner" means any individual, combination of individuals,
10 partnership, corporation or association of whatever nature, other than a
11 landowner, that holds an ownership interest in any forest tree species on
12 forestland.

13 (9) "Written plan" means a plan submitted by an operator, for written
14 approval by the State Forester, which describes how the operation will be
15 conducted, including the means to protect resource sites described in ORS
16 527.710 (3)(a) and information required by sections 6 and 7 of this 1991
17 Act, if applicable.

18 (10) "Clearcut" means any harvest unit in western Oregon that
19 leaves fewer than 50 trees per acre that are well-distributed over the
20 unit and that measure at least 11 inches at DBH or that measure less
21 than 40 square feet of basal area per acre. "Clearcut" means any
22 harvest unit in eastern Oregon that leaves fewer than 15 trees per acre
23 that are well-distributed over the unit and that measure at least 10
24 inches at DBH. For purposes of this subsection, no tree shall be
25 counted unless the top one-third of the bole of the tree supports a
26 green, live crown. For purposes of computing basal area, trees larger
27 than 20 inches shall be considered 20-inch trees.

28 (11) "DBH" means the diameter at breast height which is measured
29 as the width of a standing tree or log measured at four and one-half
30 feet above the ground, on the uphill side.

31 (12) "Western Oregon" means all land west of the summit of the

1 **Oregon Cascade Range and "eastern Oregon" means all land east of**
2 **the summit of the Oregon Cascade Range.**

3 (13) **"Visually sensitive corridor" means forestland located within**
4 **the area extending 150 feet from the shoulder of a scenic highway**
5 **designated under section 8 of this 1991 Act.**

6 **SECTION 2.** Sections 3 to 11 and 17 of this Act are added to and made
7 a part of ORS 527.610 to 527.730.

8 **SECTION 3.** (1) The standards established in sections 4 to 8 of this 1991
9 Act shall be administered by the State Forester as standards applying to all
10 operations in the state, including those on forestland owned by the state or
11 any political subdivision thereof. Pursuant to ORS 527.710 the board shall
12 adopt, repeal or amend forest practices rules as necessary to be consistent
13 with and to implement the standards established in sections 4 to 8 of this
14 1991 Act. Nothing in this 1991 Act shall affect the powers and duties of the
15 board to adopt, or the State Forester to administer, all other regulations
16 pertaining to forest practices under applicable state law.

17 (2) Nothing in sections 4 to 8 of this 1991 Act is intended to apply to
18 cutting of trees that is for growth enhancement treatments, as defined by the
19 State Forester, such as thinning or precommercial thinning.

20 **SECTION 4.** (1) No clearcut unit within a single ownership shall exceed
21 120 contiguous acres in size, except as provided in section 7 of this 1991 Act.

22 (2) No clearcut unit shall be allowed within 300 feet of the perimeter of
23 a prior clearcut unit if the combined acreage of the clearcut areas subject
24 to regulation under the Oregon Forest Practices Act would exceed 120 acres,
25 unless the prior clearcut unit has been reforested as required by all appli-
26 cable regulations and:

27 (a) At least 200 healthy conifer seedlings are established per acre, and
28 either;

29 (b) The resultant reproduction has attained an average height of at least
30 four feet; or

31 (c) At least 48 months have elapsed since the seedlings were planted and

1 the reproduction is "free to grow" as defined by the board.

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

5 (4) The provisions of this section shall not apply when the land is being
6 converted to conifers from brush or hardwoods, or when the clearcut harvest
7 results from disasters such as fire, insect infestation, disease, windstorm or
8 other occurrence that the State Forester determines was beyond the land-
9 owner's control and has substantially impaired productivity or safety on the
10 unit or jeopardizes nearby forestland. The prior approval of the State
11 Forester shall be required for such conversion or clearcut operations that
12 exceed 120 acres in size.

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

15 (a) The trees are subject to a cutting right created by written contract
16 prior to October 1, 1990, which provides that the trees must be paid for re-
17 gardless of whether the trees are cut, or subject to a cutting right created
18 by reservation in a deed prior to October 1, 1990; and

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

22 **SECTION 5.** (1) In a clearcut harvest, the operator shall leave, on aver-
23 age per acre harvested, at least:

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

26 (b) Two downed logs or downed trees, at least 50 percent of which are
27 conifers, that are at least 12 inches in diameter at the widest point and at
28 least 16 feet long, or equivalent volume if trees of this size are not available
29 on the site.

30 (2) In meeting the requirements of subsection (1) of this section, the re-
31 quired snags, trees and logs may be left in one or more clusters rather than

1 distributed throughout the unit. The location and distribution of the material
2 shall be in the sole discretion of the landowner or operator, consistent with
3 safety and fire hazard regulations. The requirements of subsection (1) of this
4 section are in addition to all other requirements pertaining to forest oper-
5 ations and may not be met by counting snags, trees or logs otherwise re-
6 quired to be left in riparian areas or resource sites listed in ORS 527.710 (3).

7 **SECTION 6.** (1) The board shall adopt standards for the reforestation of
8 clearcut harvests. Unless the board makes the findings for alternate stan-
9 dards under subsection (2) of this section, and except to the extent that more
10 stringent reforestation requirements apply under section 4 (2) or 8 of this
11 1991 Act, the standards for the reforestation of clearcuts shall include the
12 following:

13 (a) Reforestation, including site preparation, of clearcut units shall com-
14 mence within 12 months after the completion of harvest and shall be com-
15 pleted by the end of the second planting season after the completion of
16 harvest. By the end of the fifth growing season after planting or seeding, at
17 least 200 healthy conifer seedlings shall be established per acre, well-
18 distributed over the area, which are "free to grow" as defined by the board.

19 (b) A written plan shall be required for reforestation activities that do
20 not conform to the standards established under paragraph (a) of this sub-
21 section or the alternate standards adopted under subsection (2) of this sec-
22 tion, including but not limited to variances in the time in which
23 reforestation is to be commenced or completed, plans to reforest sites by
24 natural reforestation or commercial hardwood management. Such alternate
25 plans may be approved if the State Forester determines that the plan will
26 achieve equivalent or better regeneration results for the particular condi-
27 tions of the site, or the plan carries out an authorized research project con-
28 ducted by a public agency or educational institution.

29 (2) The board, by rule, may establish alternate standards for the
30 reforestation of clearcuts, in lieu of the standards established in subsection
31 (1) of this section, upon finding that the alternate standards will better as-

1 sure the continuous growing and harvesting of forest tree species and the
2 maintenance of forestland for such purposes, consistent with sound manage-
3 ment of soil, air, water, fish and wildlife resources based on one or more of
4 the following findings:

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

7 (b) Different standards are warranted for particular geographic areas of
8 the state due to variations in climate, elevation, geology or other physical
9 factors; or #

10 (c) Different standards are warranted for particular tree species or types
11 of sites.

12 (3) Pursuant to ORS 527.710, the board may adopt definitions, procedures
13 and further regulations to implement the standards established under sub-
14 section (1) of this section, without making the findings required in sub-
15 section (2) of this section, if those procedures or regulations are consistent
16 with the standards established in subsection (1) of this section.

17 (4) The requirements of this section apply only to clearcuts as defined in
18 ORS 527.620 (10). Nothing in this section is intended to affect the adminis-
19 tration and enforcement of regulations pertaining to the maintenance of
20 minimum stocking levels or the reforestation of sites required as a result of
21 operations other than such clearcuts.

22 **SECTION 7.** (1) Notwithstanding the requirements of section 4 of this
23 1991 Act, a clearcut unit within a single ownership that exceeds 120 but does
24 not exceed 240 contiguous acres in size may be approved by the State
25 Forester if all the requirements of this section and any additional require-
26 ments established by the board are met. Proposed clearcut units that are
27 within 300 feet of the perimeter of a prior clearcut unit, and that would re-
28 sult in a total combined clearcut area under a single ownership exceeding
29 120 acres but not exceeding 240 acres, may be approved by the State Forester
30 if the additional requirements are met for the combined clearcut area. No
31 clearcut unit within a single ownership shall exceed 240 contiguous acres.

1 No clearcut unit shall be allowed within 300 feet of the perimeter of a prior
2 clearcut unit if the combined acreage of the clearcut areas subject to regu-
3 lation under the Oregon Forest Practices Act would exceed 240 acres, unless
4 the prior clearcut unit has been reforested by all applicable regulations and:

5 (a) At least 200 healthy conifer seedlings are established per acre, and
6 either;

7 (b) The resultant reproduction has attained an average height of at least
8 four feet; or

9 (c) At least 48 months have elapsed since the seedlings were planted and
10 the reproduction is "free to grow" as defined by the board.

11 (2) The requirements of this section are in addition to all other require-
12 ments of the Oregon Forest Practices Act and the rules adopted thereunder.
13 The requirements of this section shall be applied in lieu of such other re-
14 quirements only to the extent the requirements of this section are more
15 stringent. Nothing in this section shall apply to operations conducted under
16 section 4 (4) or (5) of this 1991 Act.

17 (3) The board shall require that a written plan be submitted prior to ap-
18 proval of a clearcut operation under this section. The board may require that
19 a bond, cash deposit or other security be filed prior to commencing a
20 clearcut operation under this section, and provide for a blanket bond, deposit
21 or security for multiple operations, to assure compliance with the Oregon
22 Forest Practices Act and the provisions of the written plan. The board may
23 establish by rule any additional standards applying to operations under this
24 section.

25 (4) The State Forester shall approve the clearcut operation if the proposed
26 clearcut would provide better overall results in meeting the requirements
27 and objectives of the Oregon Forest Practices Act and rules adopted there-
28 under, compared to multiple clearcut harvests of the same total land area in
29 separate operations each not exceeding 120 acres in size, considering factors
30 which may include, but are not limited to, the following:

31 (a) The potential for disturbing reproduction in reforested areas;

1 (b) The extent of roads per acre harvested; and

2 (c) The potential for soil disturbance over the entire land area.

3 (5) The board shall specify by rule the information to be submitted for
4 approval of clearcut operations under this section. The information to be
5 considered by the State Forester prior to approving an operation under this
6 section shall include:

7 (a) Road construction, maintenance and retirement plans for both access
8 and interior roads;

9 (b) An assessment of the slash hazard to be created by the size of the
10 operation and the plans for mitigating any additional slash hazard;

11 (c) Evidence of compliance with the requirements of section 8 of this 1991
12 Act; and

13 (d) Evidence of past satisfactory compliance with Oregon Forest Practices
14 Act reforestation requirements, including successful regeneration treatments
15 on sites with similar characteristics.

16 **SECTION 8.** (1) The following highways are hereby designated as scenic
17 highways for purposes of the Oregon Forest Practices Act:

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

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

21 (2) The board shall establish procedures and regulations as necessary to
22 implement the requirements of subsection (3) of this section, including pro-
23 visions for alternate plans providing equivalent or better results, applying
24 to harvest operations on forestlands within visually sensitive corridors ex-
25 tending 150 feet from the outermost shoulder of the roadway along both sides
26 and for the full length of the scenic highways designated in subsection (1)
27 of this section.

28 (3)(a) For harvest operations within a visually sensitive corridor, at least
29 50 healthy trees of at least 11 inches at DBH, or that measure at least 40
30 square feet in basal area, shall be temporarily left on each acre. Harvest
31 areas shall be cleared of major harvest debris within 30 days of the com-

1 pletion of the harvest or within 60 days of the cessation of active harvesting
2 activity on the site, regardless of whether the harvest operation is complete.

3 (b) Overstory trees initially required to be left under paragraph (a) of this
4 subsection may be removed when the reproduction understory reaches an
5 average height of at least 10 feet and has at least 250 stems per acre.

6 (c) When the adjacent stand, extending from 150 feet from the corridor
7 to 300 feet from the corridor, has attained an average height of at least 10
8 feet and has at least 200 stems per acre or at least 40 square feet of basal
9 area, no trees are required to be left in the visually sensitive corridor, or
10 trees initially required to be left under paragraph (a) of this subsection may
11 be removed. Harvest areas within the visually sensitive corridor shall be
12 cleared of major harvest debris within 30 days of the completion of the har-
13 vest or within 60 days of the cessation of active harvesting activity on the
14 site, regardless of whether the harvest operation is complete. Reforestation
15 shall be completed by the end of the first planting season after the com-
16 pletion of harvest. A minimum of 400 trees per acre shall be planted. By the
17 end of the fifth growing season after the completion of planting, at least 250
18 healthy conifer seedlings shall be established per acre, well-distributed over
19 the area, which are "free to grow" as defined by the board. When harvests
20 within the visually sensitive corridor are carried out under this paragraph
21 the adjacent stand, extending from 150 feet from the corridor to 300 feet from
22 the corridor, shall not be clearcut until the adjacent visually sensitive cor-
23 ridor has been reforested as required under this paragraph and the stand has
24 attained an average height of at least 10 feet and has at least 250 stems per
25 acre.

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

30 **SECTION 9.** (1) The board shall review its rules governing changes in
31 land use and adopt or amend rules as necessary to assure that only bona fide,

1 established and continuously maintained changes from forest uses are pro-
2 vided an exemption from reforestation requirements. Among other factors,
3 the board shall condition exemptions from reforestation requirements upon:

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

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

11 (c) Allowing an exemption for only the smallest land area necessary to
12 carry out the change in land use, and requiring that additional land area
13 within the harvest unit remains subject to all applicable reforestation re-
14 quirements; and

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

17 (2) The board shall require that, prior to commencing an operation where
18 a change in land use is proposed, a bond, cash deposit or other security be
19 filed with the State Forester in an amount determined by the State Forester
20 sufficient to cover the cost of site preparation and reforestation for the area
21 subject to an exemption from reforestation due to a change in land use, and
22 provisions for the administration and collection on such bond or security
23 deposit in the event that the change in land use is not established or con-
24 tinuously maintained within a time certain.

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

28 **SECTION 10.** (1) The board shall review its classification of waters of
29 the state, create three classifications and establish regulations applicable to
30 each classification. The board shall give particular consideration to peren-
31 nial streams, not currently classified as Class 1, which have an average

1 gradient of not more than eight percent and which are important to water
2 quality and fish needs in downstream Class 1 streams. The board shall con-
3 sider requirements for vegetative buffers along such streams, consistent with
4 the removal of merchantable trees and the protection of stream bank and
5 channel.

6 (2) The board shall report to the Sixty-seventh Legislative Assembly on
7 the results of the board's reviews pursuant to this section and section 9 of
8 this 1991 Act, including any recommendations for legislative changes.

9 **SECTION 11.** (1) The Forest Practices Enforcement Fund is established
10 separate and distinct from the General Fund in the State Treasury. The State
11 Treasurer shall deposit and invest moneys in the fund in the manner pro-
12 vided by law, taking into account its uses and purposes. Interest earned by
13 the fund shall be credited to the fund. All moneys in the fund are appropri-
14 ated continuously to the State Forester for the purposes described in sub-
15 section (3) of this section.

16 (2) Notwithstanding ORS 526.060, the following moneys shall be deposited
17 into the Forest Practices Enforcement Fund:

18 (a) Notwithstanding ORS 527.687 (7), the first \$200,000 in each biennium
19 recovered as civil penalties under ORS 527.992;

20 (b) All amounts recovered under ORS 527.690;

21 (c) All amounts otherwise collected by the State Forester as the result
22 of forfeiture of a bond, deposit or other security required under section 7 (3)
23 or 9 (2) of this 1991 Act; and

24 (d) All other moneys directed by law to be deposited in the fund.

25 (3) Moneys in the fund may be expended for the following purposes:

26 (a) Repairing damage or correcting an unsatisfactory condition, including
27 site preparation and reforestation, in the manner provided in ORS 527.690;

28 (b) Offsetting the State Forester's costs of administering the provisions
29 of ORS 527.690, including collecting expenditures; and

30 (c) Offsetting the costs of conducting civil penalty contested case hearings
31 and the collection of civil penalty amounts owed.

1 (4) Civil penalties recovered in excess of \$200,000 per biennium shall be
2 paid to the General Fund.

3 **SECTION 12.** ORS 527.630 is amended to read:

4 527.630. (1) Forests make a vital contribution to Oregon by providing jobs,
5 products, tax base and other social and economic benefits, by helping to
6 maintain forest tree species, soil, air and water resources, [and] by providing
7 a habitat for wildlife and aquatic life **and by contributing to the enjoy-**
8 **ment of the traveling public along scenic highways designated pursu-**
9 **ant to section 8 of this 1991 Act.** Therefore, it is declared to be the public
10 policy of the State of Oregon to encourage economically efficient forest
11 practices that assure the continuous growing and harvesting of forest tree
12 species and the maintenance of forestland for such purposes as the leading
13 use on privately owned land, consistent with sound management of soil, air,
14 water and fish and wildlife resources that assures the continuous benefits
15 of those resources for future generations of Oregonians, **and with consid-**
16 **eration of impacts within visually sensitive corridors along scenic**
17 **highways designated pursuant to section 8 of this 1991 Act.**

18 (2) It is recognized that operations on forestland are already subject to
19 other laws and to regulations of other agencies which deal primarily with
20 consequences of such operations rather than the manner in which operations
21 are conducted. It is further recognized that it is essential to avoid uncer-
22 tainty and confusion in enforcement and implementation of such laws and
23 regulations and in planning and carrying out operations on forestlands.

24 (3) To encourage forest practices implementing the policy of ORS 527.610
25 to 527.730 and 527.990, it is declared to be in the public interest to vest in
26 the board exclusive authority to develop and enforce statewide and regional
27 rules pursuant to ORS 527.710 **and 527.724 (1) and (2)**, and to coordinate
28 with other state agencies and local governments which are concerned with
29 the forest environment. **The board's authority to adopt and enforce rules**
30 **addressing scenic considerations is strictly limited to the provisions**
31 **of section 8 of this 1991 Act.**

1 **SECTION 13.** ORS 527.690 is amended to read:

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

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

13 (b) Estimate the cost to repair the damage or the unsatisfactory condition
14 as directed by the order and shall notify the operator, timber owner and
15 landowner in writing of the amount of the estimate. Upon agreement of the
16 operator, timber owner or the landowner to pay the cost, the State Forester
17 may proceed to repair the damage or the unsatisfactory condition. In the
18 event approval of the expenditure is not obtained within 30 days after no-
19 tification to the operator, timber owner and landowner under this section,
20 the State Forester shall present to the board the alleged violation, the esti-
21 mate of the expenditure to repair the damage or unsatisfactory condition and
22 the justification for the expenditure.

23 (2) The board shall review the matter presented to it pursuant to sub-
24 section (1) of this section and shall determine whether to authorize the State
25 Forester to proceed to repair the damage or correct the unsatisfactory con-
26 dition and the amount authorized for expenditure. The board shall afford the
27 operator, timber owner or landowner the opportunity to appear before the
28 board for the purpose of presenting facts pertaining to the alleged violation
29 and the proposed expenditure.

30 (3) If the board authorizes the State Forester to repair the damage or
31 correct the unsatisfactory condition, the State Forester shall proceed, either

1 with forces of the State Forester or by contract, to repair the damage or
2 correct the unsatisfactory condition. The State Forester shall keep a com-
3 plete account of direct expenditures incurred, and upon completion of the
4 work, shall prepare an itemized statement thereof and shall deliver a copy
5 to the operator, timber owner and landowner. In no event shall the expend-
6 itures exceed the amount authorized by subsection (2) of this section. An
7 itemized statement of the direct expenditures incurred by the State Forester,
8 certified by the State Forester, shall be accepted as prima facie evidence of
9 such expenditures in any proceeding authorized by this section. **If the State**
10 **Forester's action to repair the damage or correct the unsatisfactory**
11 **condition arose from an operation for which a bond, cash deposit or**
12 **other security was required under section 7 (3) or 9 (2) of this 1991 Act,**
13 **the State Forester shall retain any applicable portion of a cash deposit**
14 **and the surety on the bond or holder of the other security deposit shall**
15 **pay the amount of the bond or other security deposit to the State**
16 **Forester upon demand. If the amount specified in the demand is not**
17 **paid within 30 days following the demand, the Attorney General, upon**
18 **request by the State Forester, shall institute proceedings to recover**
19 **the amount specified in the demand.**

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

1 [(5) Liens provided for in this section shall cease to exist unless suit for
2 foreclosure is instituted within six months from the date of filing under sub-
3 section (4) of this section.]

4 **(5) All amounts recovered under this section shall be paid into the**
5 **Forest Practices Enforcement Fund.**

6 **SECTION 14.** ORS 527.715 is amended to read:

7 527.715. The board shall establish, by rule, the standards and procedures
8 to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.090,
9 477.440, 477.455, 477.460, 526.009, 526.016, 527.620, 527.630, 527.660, 527.670,
10 527.683 to [527.687, 527.700 to 527.722] **527.724**, 527.735, [and] 527.992 **and**
11 **sections 3 to 10 of this 1991 Act.**

12 **SECTION 15.** ORS 527.724 is amended to read:

13 527.724. **(1) The board shall establish best management practices and**
14 **other regulations applying to forest practices for the control of water**
15 **pollution.**

16 **(2) Notwithstanding the provisions of ORS chapter 468 or other**
17 **provisions of Oregon law, forest practices subject to the regulations**
18 **established by the board under subsection (1) of this section shall not**
19 **be subject to effluent limits or the restrictions of other agencies based**
20 **on the need to meet water quality standards.**

21 **(3) Any forest operations on forestlands within this state shall be con-**
22 **ducted in full compliance with the rules and standards of the Environmental**
23 **Quality Commission relating to air [and water] pollution control and, ex-**
24 **cept as provided in subsection (2) of this section, water pollution con-**
25 **trol.** In addition to all other remedies provided by law, any violation of those
26 rules or standards shall be subject to all remedies and sanctions available
27 under statute or rule to the Department of Environmental Quality or the
28 Environmental Quality Commission.

29 **SECTION 16.** Section 10 of this Act is repealed July 1, 1993.

30 **SECTION 17.** (1) The State Forester shall conduct a study of harvest
31 rates on private forestland in Oregon, and shall report to the State Board

1 of Forestry and the Sixty-seventh Legislative Assembly on the results of such
2 study, along with recommendations for addressing any problems that may be
3 identified during the course of such study.

4 (2) The study shall include, but be not limited to, an analysis of:

5 (a) The annual rates of harvest on Oregon's private forestlands compared
6 to the annual rates of growth on such forestlands;

7 (b) The effect of such harvest rates on employment and community sta-
8 bility;

9 (c) The impact of such harvest rates on water quality, fisheries and
10 wildlife; and

11 (d) The extent to which private forest resources in Oregon are being
12 rapidly liquidated to fulfill the terms of highly leveraged contracts to pur-
13 chase such resources.

14 (3) The study shall be completed no later than December 31, 1992.

15 **SECTION 18.** Section 17 of this Act is repealed January 1, 1993.

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

19

LEGISLATIVE REVENUE OFFICE

REVENUE IMPACT ANALYSIS

BILL # SB 1175

DATE 13 MAR 1991

THE LEGISLATIVE REVENUE OFFICE HAS DETERMINED
THIS LEGISLATION HAS **NO IMPACT** ON STATE OR LOCAL
REVENUES ANALYZED BY THIS OFFICE

SENATE/~~HOUSE~~ BILL BACK

LC 3265

Bill 1125

Title: Relating to forest practices; appropriating money; and declaring an emergency.

Sponsored by Committee on:

At the request of

All agencies, organizations and persons that have formally requested the measure are named herein in accordance with ORS 171.127

Joyce Cohen

 CHIEF SPONSOR SIGNATURE
 Senator Joyce Cohen

(Name Printed or Typed)

<u>SENATE</u>	<u>HOUSE</u>
<input type="checkbox"/> Bradbury	<input type="checkbox"/> Barnes
<input checked="" type="checkbox"/> JB Brenneman	<input type="checkbox"/> Baum
<input type="checkbox"/> Brockman	<input type="checkbox"/> Bauman
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<input type="checkbox"/> Hamby	<input type="checkbox"/> Clark
<input type="checkbox"/> Hannon	<input type="checkbox"/> Clarno
<input type="checkbox"/> Hill, J.	<input type="checkbox"/> Courtney
<input type="checkbox"/> Hill, L.	<input type="checkbox"/> Derfler
<input type="checkbox"/> Jolin	<input checked="" type="checkbox"/> SD Dominy
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<input type="checkbox"/> McCoy	<input type="checkbox"/> Hayden
<input type="checkbox"/> Otto	<input type="checkbox"/> Hosticka
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<input type="checkbox"/> Springer	<input type="checkbox"/> Jones, D.E.
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	<input type="checkbox"/> Sunseri
	<input type="checkbox"/> Taylor
	<input type="checkbox"/> Van Vliet
	<input type="checkbox"/> VanLeeuwen
	<input type="checkbox"/> Walden
	<input type="checkbox"/> Watt
	<input type="checkbox"/> Whitty

FOR INFORMATION ONLY

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