

D R A F T

SUMMARY

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

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

Establishes certification program for preparers of forest management plans.

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

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

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

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

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

A BILL FOR AN ACT

1

2 Relating to forest practices; creating new provisions; amending ORS 30.934,
3 195.260, 197.277, 215.050, 215.780, 526.280, 526.490, 527.640, 527.670, 527.676,
4 527.690, 527.710, 527.714, 527.715, 527.736, 527.740, 527.755, 527.990 and
5 527.992; and repealing ORS 527.630 and 527.722.

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

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

1 managed forestlands in Oregon; and

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

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

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

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

17 Whereas modernizing the Oregon Forest Practices Act will provide bene-
18 fits for the economy of this state, including, but not limited to, job creation
19 through more labor-intensive forest practices, reductions in the costs of soil
20 erosion and water filtration, reductions in adverse impacts to fish and
21 wildlife, scenery and recreational resources and increased opportunities for
22 landowners to diversify land management practices and take advantage of
23 emerging conservation and ecosystem service markets; and

24 Whereas industrial forest practices, including, but not limited to,
25 clearcutting, short rotations, the conversion of natural forests to tree plan-
26 tations, construction of new logging roads and the application of chemical
27 pesticides and fertilizers generate costs to other economic sectors and burden
28 state and local governments with unreimbursed costs; and

29 Whereas industrial forest practices create risks that jeopardize public
30 health and safety, including, but not limited to, identified risks to public
31 water supplies from clearcutting and forest chemicals, the exposure of people

1 to unsafe levels of drifting pesticides, the greater wildfire susceptibility of
2 industrial tree plantations and greatly increased potential for landslides; and

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

7 Whereas the Oregon Conservation Strategy of the State Department of
8 Fish and Wildlife includes a finding that most private forestlands are cur-
9 rently managed intensively for timber values, using relatively short rotations
10 that will limit future development of late successional habitats in many
11 areas; and

12 Whereas federal forests alone are incapable of maintaining viable popu-
13 lations of forest-dependent wildlife species or water quality, making signif-
14 icant contributions from state and privately managed forests essential; and

15 Whereas the United States Fish and Wildlife Service has adopted a re-
16 vised recovery plan for the northern spotted owl that acknowledges the im-
17 portant role that state and private lands can play toward implementing a
18 coordinated and cooperative effort for spotted owl recovery; and

19 Whereas the lack of coordination among private forestland owners, state
20 agencies, and federal forestland owners with respect to timber harvest and
21 protection of public resources causes detrimental cumulative effects to
22 wildlife habitat and water quality; and

23 Whereas the failure of the Oregon Forest Practices Act to regulate the
24 cumulative effects of industrial forest practices has caused a significant de-
25 terioration in the ability of many watersheds to meet state and federal goals
26 for water quality and wildlife habitat; and

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

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

6 Whereas the Oregon Forest Practices Act provides no administrative op-
7 portunities for citizens to negotiate changes to harmful forest practices and
8 lacks a requirement for forest management plans with multi-stakeholder
9 consultation; and

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

12 Whereas forestlands cover approximately 28 million of the 63 million
13 acres in Oregon, including approximately 16 million acres of federally owned
14 and managed forestland, eight million acres of private forestland of which
15 5.6 million are industrial forests, 840,000 acres of state-managed forestland
16 and forestlands held by Indian tribes or other governments; and

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

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

22 Whereas adjusting Oregon laws regarding private forest practices to uti-
23 lize the best available science and give consideration to the changes that
24 have occurred in the timber industry will protect the shared environment for
25 all Oregonians and ensure a sustainable timber industry; now, therefore,

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

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

29 **SECTION 2. The State Board of Forestry, after consultation with**
30 **the Department of Environmental Quality and State Department of**
31 **Fish and Wildlife, shall adopt rules to establish and periodically update**

1 numerical criteria for each United States Geological Survey account-
2 ing unit hydrologic level in this state. The numerical criteria must
3 be based on best available science. The numerical criteria must iden-
4 tify requirements with regard to matters that include, but need not
5 be limited to:

- 6 (1) Fish and wildlife habitat;
- 7 (2) Water quality and flow;
- 8 (3) Natural forest cover;
- 9 (4) Road condition;
- 10 (5) Road density;
- 11 (6) The extent of late successional and old-growth forest;
- 12 (7) The extent of timber plantations;
- 13 (8) The amounts of permeable and impermeable surfaces;
- 14 (9) The maximum annual timber harvest area, expressed as a per-
15 centage of forestland, determined using both even-aged and uneven-
16 aged techniques; and
- 17 (10) Other factors the board identifies by rule as necessary to con-
18 trol adverse cumulative impacts.

19 **SECTION 3.** (1) An owner or operator of forestland that is 5,000 or
20 more acres in size, or that is a unit of a contiguous area of 5,000 acres
21 or more of forestland under common ownership, must have a forest
22 management plan for the forestland that has received approval by the
23 State Forester under section 5 of this 2017 Act. A proposed forest
24 management plan must be prepared by a technical service provider
25 certified under section 6 of this 2017 Act.

26 (2) The State Forester shall maintain a list of best practices adopted
27 by the State Board of Forestry under ORS 527.710. A forest manage-
28 ment plan for forestland described in subsection (1) of this section
29 must include, but not be limited to, identification of the best practices
30 to be used to further the achievement of the applicable numerical
31 criteria established by the State Board of Forestry under section 2 of

1 **this 2017 Act on the forestland over a 10-year period and to generate**
2 **income and economic benefits for the landowner and the economy of**
3 **this state. A forest management plan must also include, but need not**
4 **be limited to:**

5 **(a) Identification of forestland resource concerns and other back-**
6 **ground and site information;**

7 **(b) An evaluation of ecosystem services and market-based conser-**
8 **vation opportunities;**

9 **(c) A statement of resource management objectives;**

10 **(d) A description of existing conditions on the forestland;**

11 **(e) A description of the conditions desired for the forestland;**

12 **(f) A description of activities that may promote the achievement**
13 **of desired conditions;**

14 **(g) A monitoring plan for the forestland;**

15 **(h) A list of government and public interest entities consulted re-**
16 **garding the forestland;**

17 **(i) A statement verifying compliance with federal, state and local**
18 **statutes, regulations or rules applicable to the forestland;**

19 **(j) The names and addresses of the landowner, timber owner and**
20 **operator and a description of the responsibilities of each regarding**
21 **administration of the forest management plan;**

22 **(k) A certification by the technical service provider preparing the**
23 **plan that the provider or a designee has personally inspected the plan**
24 **area; and**

25 **(L) Any other information required by board or State Forester**
26 **rules.**

27 **(3) If the forestland includes a site of religious significance or cer-**
28 **emonial use by an Indian tribe, or is of cultural, ecological or eco-**
29 **nomical significance to an Indian tribe, the forest management plan**
30 **must be developed in consultation with the tribe and include measures**
31 **to protect or enhance the site in a manner consistent with the signif-**

1 **icance the site holds for the tribe.**

2 **(4) A forest management plan for forestland is a restriction running**
3 **with the land. A forest management plan must be designed to provide**
4 **best practices and goals for forestland during a period of at least 10**
5 **years. A forest management plan remains in effect until replaced by**
6 **an amended, revised or subsequent forest management plan. An owner**
7 **of forestland may submit a request for approval of an amended, re-**
8 **vised or new forest management plan at any time.**

9 **(5) If the forest management plan for forestland includes provisions**
10 **authorizing timber harvesting, subject to approval by the State**
11 **Forester, the owner of the forestland may, for compensation, agree to**
12 **transfer the timber harvest authorization to other forestland. If the**
13 **State Forester finds that transfer of the timber harvest authorization**
14 **to other forestland would be consistent with furthering the achieve-**
15 **ment of all numerical criteria established under section 2 of this 2017**
16 **Act applicable to the forestlands, the State Forester may approve**
17 **amendments to the forest management plan to transfer the timber**
18 **harvest authorization. A transfer described in this subsection does not**
19 **exempt any forestland from a requirement to have a timber harvest**
20 **plan.**

21 **SECTION 4. (1) In addition to any other requirements under ORS**
22 **527.610 to 527.770, a forest management plan described in section 3 of**
23 **this 2017 Act must provide for the establishment of late successional**
24 **and old-growth forests in an amount that contributes proportionally**
25 **to the numerical criteria established under section 2 of this 2017 Act**
26 **for late successional and old-growth forests in that United States**
27 **Geological Survey accounting unit hydrologic level.**

28 **(2) Forest management plan practices for the establishment of late**
29 **successional and old-growth forests may include, but need not be lim-**
30 **ited to, restoration treatments on timber plantations, thinning, re-**
31 **serves of existing late successional and old-growth forest and long**

1 **rotations.**

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

5 **(4) Except as provided in this subsection, if lands selected for the**
6 **establishment of late successional and old-growth forests are adversely**
7 **affected by fire, insects, disease or other natural disturbances, the**
8 **landowner shall file an amended forest management plan for approval**
9 **by the State Forester. An amended forest management plan filed un-**
10 **der this section must provide for replacing the adversely affected lands**
11 **with an equal amount of other lands selected for the establishment**
12 **of late successional and old-growth forests. The landowner shall de-**
13 **lineate the alternative lands on a map and include the map as part of**
14 **the amended forest management plan. The State Forester may waive**
15 **the requirements of this subsection if, in response to a written re-**
16 **quest, the State Department of Fish and Wildlife conducts an evalu-**
17 **ation and finds that the critical ecological functions of late**
18 **successional and old-growth forests will continue on the adversely af-**
19 **ected lands.**

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

24 **SECTION 5. (1) The State Forester shall review a forest manage-**
25 **ment plan submitted under section 3 of this 2017 Act. The State**
26 **Forester shall provide copies of the plan to the Department of Envi-**
27 **ronmental Quality and the State Department of Fish and Wildlife for**
28 **comment. The State Forester may approve a forest management plan**
29 **if the State Forester finds that the proposed forest management plan:**

30 **(a) Is consistent with the applicable numerical criteria established**
31 **by the State Board of Forestry under section 2 of this 2017 Act;**

1 (b) Complies with federal, state and local laws and rules;

2 (c) Is based on the best available science;

3 (d) Gives consideration to any Department of Environmental Qual-
4 ity and State Department of Fish and Wildlife recommendations re-
5 garding the forestland; and

6 (e) Is based on an adequate assessment of ecosystem services and
7 market-based opportunities for conservation.

8 (2) If the State Forester does not approve a forest management
9 plan, the State Forester shall remand the plan to the landowner with
10 comments indicating the changes necessary to receive plan approval.
11 If the State Forester approves the plan, the State Forester shall pub-
12 lish the plan and give notice of approval on a website maintained by
13 the State Forestry Department.

14 (3) A person claiming to be adversely affected by a forest manage-
15 ment plan may file written objections to the plan with the State
16 Forester no later than 60 days after the State Forester publishes the
17 proposed forest management plan and gives notice of approval under
18 subsection (2) of this section. If a timely written objection is filed, the
19 State Forester shall hold a contested case hearing under ORS chapter
20 183 regarding the proposed plan.

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

23 (a) Sixty days after the State Forester publishes the proposed forest
24 management plan and gives notice of approval under subsection (2)
25 of this section; or

26 (b) The date that an order issued in a contested case held under
27 subsection (3) of this section becomes final by operation of law or on
28 appeal.

29 **SECTION 6.** (1) The State Forester shall establish a program to
30 certify technical service providers for the preparation of forest man-
31 agement plans under ORS 527.610 to 527.770. The State Forester may

1 establish minimum educational and experience qualifications for
2 technical service providers. The State Forester may require that an
3 applicant for certification pass an examination approved by the State
4 Forester.

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

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

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

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

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

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

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

29 (e) A description of the timber species composition, existing stock
30 of trees per acre, basal area to be harvested, stand density index before
31 harvest and expected stand density 1, 10 and 50 years after harvest, site

1 class, widths of buffers and management of trees within buffers;

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

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

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

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

11 (b) In addition to providing the information described in subsection
12 (1) of this section, the timber harvest plan must show that the pro-
13 posed timber harvest operation is consistent with the forest manage-
14 ment plan.

15 (3) The State Forester shall issue an order approving or disapprov-
16 ing a timber harvest plan no later than 30 days after submittal of the
17 plan. The State Forester shall approve the timber harvest plan if the
18 State Forester finds that the plan is consistent with federal, state and
19 local laws and rules and with any applicable forest management plan.
20 If the State Forester disapproves the timber harvest plan, the State
21 Forester shall remand the plan to the owner of the forestland with
22 comments indicating the changes necessary to receive plan approval.
23 Failure of the State Forester to timely disapprove a timber harvest
24 plan does not constitute approval of the plan.

25 (4) There is a rebuttable presumption that a timber harvest opera-
26 tion conducted in conformance with a timber harvest plan approved
27 in a State Forester order under this section is in conformance with
28 ORS 527.610 to 527.770.

29 (5) If the State Forester approves the timber harvest plan, the State
30 Forester shall provide a copy of the plan to the Department of Revenue
31 and the county assessor for the county in which the timber harvest

1 operation will occur, at times and in a manner determined through
2 written cooperative agreement by the parties involved.

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

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

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

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

1 (d) Bogs, estuaries, fen or other significant wetlands that are less
2 than two acres in size, springs and seeps must have a 100-foot riparian
3 management area bordering the wetlands, springs or seeps. Timber
4 harvesting may not be conducted within 50 feet of the wetlands,
5 springs or seeps. More than 50 feet from the wetlands, springs or
6 seeps, timber harvesting is allowed in the riparian management area
7 if at least 60 trees per acre remain after harvesting.

8 (e) Lakes and ponds must have a riparian management area bor-
9 dering the average high water mark. The riparian management area
10 must have a width equal to the greater of the average expected height
11 of mature coniferous trees in the area or 150 feet. Timber harvesting
12 may not be conducted within 50 feet of the average high water mark.
13 Timber harvesting is allowed more than 50 feet but not more than 100
14 feet from the average high water mark, if at least 100 trees per acre
15 remain after harvesting. More than 100 feet from the average high
16 water mark, timber harvesting is allowed in the riparian management
17 area if at least 60 trees per acre remain after harvesting.

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

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

1 by means that preclude achieving desired fish habitat and water qual-
2 ity.

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

6 (a) Provides for fish passage at all stages of fish life;

7 (b) Prevents mass movement on forest slopes;

8 (c) Avoids the capture and redirection of surface or groundwater;

9 (d) Retains streams within natural drainages and routes subsurface
10 flow captured by roads and road ditches back onto the forest floor;

11 (e) Diverts most road runoff to the forest floor;

12 (f) Designs any water-crossing structures to the 100-year flood level
13 and provides for the passage of bedload and some woody debris;

14 (g) Protects stream bank stability, existing stream channels and
15 riparian vegetation;

16 (h) Minimizes the construction of new roads;

17 (i) Does not result in a net loss of wetland function; and

18 (j) Does not result in a net loss of fish habitat.

19 (3)(a) If road construction on other land is necessary to make tim-
20 ber harvesting practicable for a forestland that is required under sec-
21 tion 3 of this 2017 Act to have a forest management plan, the forest
22 management plan for the forestland must include a road plan for the
23 other land. The road plan must address long-term issues related to the
24 construction and maintenance of roads on the other land sufficient to
25 make timber harvesting on the forestland practicable.

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

31 (c) A road plan must provide for the construction and maintenance

1 of a road network sufficient to:

2 (A) Meet the objectives of the forest management plan; and

3 (B) Ensure that adverse environmental impacts from construction
4 and maintenance of the road system are minimized.

5 (d) A road plan must identify:

6 (A) Road segments that may fail due to hydrologic connection or
7 that are prone to erosion;

8 (B) Any locations where roads cross streams;

9 (C) Any locations where roads would create biological migration
10 barriers;

11 (D) A schedule for maintaining the roads in a condition suitable for
12 all-weather use;

13 (E) A schedule for maintaining road infrastructure in good working
14 order; and

15 (F) A system for identifying and vacating unneeded roads.

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

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

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

31 (3) The State Forester shall require the inclusion of specific re-

1 source protection standards in the timber harvest plan for land that
2 the State Forester or the department identifies as presenting an
3 intermediate risk to public safety due to landslide potential. The
4 standards must require that at least 50 trees per acre remain after
5 harvesting.

6 (4) Subsection (3) of this section does not authorize an operation
7 that violates State Board of Forestry rules adopted under ORS 527.710
8 (10).

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

18 **SECTION 12.** ORS 527.670 is amended to read:

19 527.670. (1) **Except as provided in subsection (2) of this section,** the
20 State Board of Forestry shall:

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

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

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

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

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

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

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

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

9 [(A) *The board, by rule, provides that a written plan is not required be-*
10 *cause the operation will be conducted according to a general vegetation re-*
11 *tention prescription described in administrative rule;]*

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

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

17 **(2) Subsection (1) of this section does not apply to operations con-**
18 **ducted pursuant to a plan approved under section 5 or 7 of this 2017**
19 **Act.**

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

23 **(a) An operation occurring within a riparian management area re-**
24 **quired under section 8 of this 2017 Act, unless the operation will be**
25 **conducted pursuant to a forest management plan approved under sec-**
26 **tion 5 of this 2017 Act, a timber harvest plan approved under section**
27 **7 of this 2017 Act or a stewardship agreement under ORS 541.423.**

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

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

5 (B) Is consistent with the purposes and policies of any relevant Safe
6 Harbor Agreements or Candidate Conservation Agreements entered into be-
7 tween the State of Oregon and agencies of the United States Government,
8 pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C.
9 1531 et seq.) and federal regulations.

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

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

17 (6) An operator, timber owner or landowner, before commencing an oper-
18 ation **other than a timber harvest operation approved under section 7**
19 **of this 2017 Act**, shall notify the State Forester. The notification shall be
20 on forms provided by the State Forester and shall include the name and ad-
21 dress of the operator, timber owner and landowner, the legal description of
22 the operating area, and any other information considered by the State
23 Forester to be necessary for the administration of the rules promulgated by
24 the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the
25 State Forester shall provide a copy of the notice to whichever of the opera-
26 tor, timber owner or landowner did not submit the notification. The State
27 Forester shall provide a copy of notices involving chemical applications to
28 persons within 10 miles of the chemical application who hold downstream
29 surface water rights pursuant to ORS chapter 537, if such a person has re-
30 quested that notification in writing. The board shall adopt rules specifying
31 the information to be contained in the notice. All information filed with the

1 State Forester pertaining to chemical applications shall be public record.

2 (7) An operator, timber owner or landowner that filed an original notifi-
3 cation shall notify the State Forester of any subsequent change in the in-
4 formation contained in the notification.

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

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

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

27 (a) The State Forester shall review a written plan and may provide com-
28 ments to the person who submitted the written plan;

29 (b) The State Forester may not provide any comments concerning the
30 written plan earlier than 14 calendar days following the date that the writ-
31 ten plan was filed with the State Forester nor later than 21 calendar days

1 following the date that the written plan was filed; and

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

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

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

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

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

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

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

3 **SECTION 13.** ORS 527.710 is amended to read:

4 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990
5 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with
6 applicable provisions of ORS chapter 183, rules to be administered by the
7 State Forester establishing standards for **best** forest practices in each [*region*
8 *or subregion*] **United States Geological Survey accounting unit**
9 **hydrologic level in this state.**

10 (2) The rules shall ensure the continuous growing and harvesting of forest
11 tree species. Consistent with [*ORS 527.630*] **the numerical criteria estab-**
12 **lished by the board under section 2 of this 2017 Act**, the rules shall pro-
13 vide for the overall maintenance of the following resources:

14 (a) Air quality;

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

17 (c) Soil productivity; [*and*]

18 [*(d) Fish and wildlife.*]

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

20 **(e) Cultural and historical resources.**

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 lists
26 that are adopted, by rule, by the State Fish and Wildlife Commission or are
27 federally listed under the Endangered Species Act of 1973 as amended;

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

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

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

5 [(C)] (E) Biological sites that are ecologically and scientifically signif-
6 icant, **including but not limited to native forestlands largely undis-**
7 **turbed by past forest management activities, rare plant communities,**
8 **restoration gene pools and individual heritage trees; [and]**

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

10 (G) Cultural or historical resources;

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

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

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

21 (c) Based upon the analysis required by paragraph (b) of this subsection,
22 and consistent with the [*policies of ORS 527.630*] **numerical criteria es-**
23 **tablished by the board under section 2 of this 2017 Act**, the board shall
24 adopt rules appropriate to protect resource sites in the inventories required
25 by paragraph (a) of this subsection.

26 (4) [*Before*] **When** adopting rules under subsection (1) of this section, the
27 board shall **give consideration to practices recognized by professional**
28 **foresters and by federal and state agencies. The board shall** consult
29 with other agencies of this state or any of its political subdivisions that have
30 functions with respect to [*the purposes specified in ORS 527.630*] **operations**
31 **on forestland** or programs affected by [*forest*] operations **on forestland.**

1 Agencies and programs subject to consultation under this subsection include,
2 but are not limited to:

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

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

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

13 (d) Park land, Willamette River Greenway, scenic waterway and recre-
14 ation trail programs administered by the State Parks and Recreation De-
15 partment under ORS 358.480 to 358.545, 390.310 to 390.368, 390.805 to 390.925,
16 390.950 to 390.989 and 390.121;

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

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

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

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

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

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

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

31 **(5) In addition to agencies described in subsection (4) of this section,**

1 **when adopting rules under subsection (1) of this section the board**
2 **shall consult with:**

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

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

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

9 [(6)] **(7)** The board shall adopt rules to meet the purposes of another
10 agency's regulatory program [*where it is the intent of*] **if** the board **intends**
11 to administer the other agency's program on forestland and [*where*] the other
12 agency concurs by rule. An operation performed in compliance with the
13 board's rules shall be deemed to comply with the other agency's program.

14 [(7)(a)] **(8)(a)** The board may enter into cooperative agreements or con-
15 tracts necessary in carrying out [*the purposes specified in ORS 527.630*] **ORS**
16 **527.610 to 527.770.**

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

20 [(8) *If, based upon the study completed pursuant to section 15 (2)(f), chapter*
21 *919, Oregon Laws 1991, the board determines that additional rules are neces-*
22 *sary to protect forest resources pursuant to ORS 527.630, the board shall adopt*
23 *forest practice rules that reduce to the degree practicable the adverse impacts*
24 *of cumulative effects of forest practices on air and water quality, soil produc-*
25 *tivity, fish and wildlife resources and watersheds. Such rules shall include*
26 *a process for determining areas where adverse impacts from cumulative effects*
27 *have occurred or are likely to occur, and may require that a written plan be*
28 *submitted for harvests in such areas.*]

29 (9)(a) The State Forester, in cooperation with the State Department of
30 Fish and Wildlife, shall identify streams for which restoration of habitat
31 would be environmentally beneficial. The State Forester shall select as a

1 priority those streams where restoration efforts will provide the greatest
2 benefits to fish and wildlife, and to streambank and streambed stability.

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

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

9 (d) The board shall adopt rules to implement the findings of this sub-
10 section.

11 (10) In addition to its responsibilities under subsections (1) to (3) of this
12 section, the board shall adopt rules to reduce the risk of serious bodily in-
13 jury or death caused by a rapidly moving landslide directly related to forest
14 practices. The rules shall consider the exposure of the public to these safety
15 risks and shall include appropriate practices designed to reduce the occur-
16 rence, timing or effects of rapidly moving landslides. **The rules must im-
17 pose restrictions equal to or greater than the restrictions imposed
18 under section 10 of this 2017 Act.** As used in this subsection, “rapidly
19 moving landslide” has the meaning given that term in ORS 195.250.

20 **SECTION 14.** ORS 30.934 is amended to read:

21 30.934. (1) Any local government or special district ordinance or regu-
22 lation now in effect or subsequently adopted that makes a forest practice a
23 nuisance or trespass or provides for its abatement as a nuisance or trespass
24 is invalid with respect to forest practices for which no claim or action is
25 allowed under ORS 30.936 or 30.937.

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

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

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

31 **SECTION 15.** ORS 195.260 is amended to read:

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

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

5 (b) May require a geotechnical report and, if a report is required, shall
6 provide for a coordinated review of the geotechnical report by the State
7 Department of Geology and Mineral Industries or the State Forestry De-
8 partment, as appropriate, before issuing a building permit for a site in a
9 further review area.

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

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

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

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

28 (a) Be recorded with the county clerk of the county in which the property
29 is located, in which the landowner acknowledges that the landowner may not
30 in the future bring any action against an adjacent landowner about the ef-
31 fects of rapidly moving landslides on or adjacent to the landowner's property;

1 and

2 (b) Record in the deed records for the county where the lot or parcel is
3 located a nonrevocable deed restriction that the landowner signs and ac-
4 knowledges, that contains a legal description complying with ORS 93.600 and
5 that prohibits any present or future owner of the property from bringing any
6 action against an adjacent landowner about the effects of rapidly moving
7 landslides on or adjacent to the property.

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

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

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

16 (A) Identify and map further review areas selected in cooperation with
17 local governments and in coordination with the State Forestry Department,
18 and provide technical assistance to local governments to facilitate the use
19 and application of this information pursuant to subsection (1)(b) of this sec-
20 tion; and

21 (B) Provide public education regarding landslide hazards.

22 (b) The State Forestry Department shall regulate forest operations to re-
23 duce the risk of serious bodily injury or death from rapidly moving landslides
24 directly related to forest operations, and assist local governments in the
25 siting review of permanent dwellings on and adjacent to forestlands in fur-
26 ther review areas pursuant to subsection (1)(b) of this section.

27 (c) The Land Conservation and Development Commission may take steps
28 under its existing authority to assist local governments to appropriately ap-
29 ply the requirements of subsection (1)(c) of this section.

30 (d) The Department of Transportation shall provide warnings to motorists
31 during periods determined to be of highest risk of rapidly moving landslides

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

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

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

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

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

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

23 197.277. (1) The goals and rules established in ORS chapters 195, 196 and
24 197 do not apply to programs, rules, procedures, decisions, determinations
25 or activities carried out under the Oregon Forest Practices Act administered
26 under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

27 *[(2) No goal or rule shall be adopted, construed or administered in a man-*
28 *ner to require or allow local governments to take any action prohibited by ORS*
29 *527.722.]*

30 *[(3)]* **(2)** The Land Conservation and Development Commission shall
31 amend goals and rules as necessary to implement ORS 197.180, *[197.277,]*

1 197.825, 215.050, 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, 527.620,
2 [527.630,] 527.660, 527.670, 527.683 to 527.687, 527.715, 527.990 and 527.992 **and**
3 **numerical criteria established under section 2 of this 2017 Act.**

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

5 215.050. (1) [*Except as provided in ORS 527.722,*] The county governing
6 body shall adopt and may from time to time revise a comprehensive plan and
7 zoning, subdivision and other ordinances applicable to all of the land in the
8 county. The plan and related ordinances may be adopted and revised part by
9 part or by geographic area.

10 (2) Zoning, subdivision or other ordinances or regulations and any re-
11 visions or amendments thereof shall be designed to implement the adopted
12 county comprehensive plan.

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

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

17 215.780. (1) Except as provided in subsection (2) of this section, the fol-
18 lowing minimum lot or parcel sizes apply to all counties:

19 (a) For land zoned for exclusive farm use and not designated rangeland,
20 at least 80 acres;

21 (b) For land zoned for exclusive farm use and designated rangeland, at
22 least 160 acres; and

23 (c) For land designated forestland, at least 80 acres.

24 (2) A county may adopt a lower minimum lot or parcel size than that
25 described in subsection (1) of this section in any of the following circum-
26 stances:

27 (a) When the county can demonstrate to the Land Conservation and De-
28 velopment Commission that the county can adopt a lower minimum lot or
29 parcel size while continuing to meet the requirements of ORS 215.243 and
30 [527.630] **numerical criteria established under section 2 of this 2017 Act**
31 and the land use planning goals adopted under ORS 197.230.

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

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

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

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

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

12 (c) To divide by partition an area of land zoned for mixed farm and forest
13 use to create a parcel for a dwelling that has existed since before June 1,
14 1995, subject to the following requirements:

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

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

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

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

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

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

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

29 (d) To allow a division by partition of forestland to facilitate a forest
30 practice as defined in ORS 527.620 that results in a parcel that does not meet
31 the minimum area requirements of subsection (1)(c) of this section or para-

1 graph (a) of this subsection. Parcels created pursuant to this subsection:

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

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

5 (C) May not, as a result of the land division, be used to justify redesign-
6 nation or rezoning of resource lands; and

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

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

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

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

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

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

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

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

23 (E) The landowner of a parcel created under this paragraph provides ev-
24 idence that a restriction prohibiting the landowner and the landowner's
25 successors in interest from further dividing the parcel has been recorded
26 with the county clerk of the county in which the parcel is located. A re-
27 striction imposed under this paragraph is irrevocable unless a statement of
28 release is signed by the county planning director of the county in which the
29 parcel is located indicating that the comprehensive plan or land use regu-
30 lations applicable to the parcel have been changed so that the parcel is no
31 longer subject to statewide planning goals protecting forestland or unless the

1 land division is subsequently authorized by law or by a change in a statewide
2 planning goal for land zoned for forest use or mixed farm and forest use.

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

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

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

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

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

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

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

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

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

10 (7) A landowner allowed a land division under subsection (2) of this sec-
11 tion shall sign a statement that must be recorded with the county clerk of
12 the county in which the property is located, declaring that the landowner
13 and the landowner's successors in interest will not in the future complain
14 about accepted farming or forest practices on nearby lands devoted to farm
15 or forest use.

16 **SECTION 19.** ORS 526.280 is amended to read:

17 526.280. In furtherance of the policy established in ORS 526.277, the State
18 Forester shall:

19 (1) Establish a policy of active and inclusive communication with the
20 federal government, public bodies as defined in ORS 174.109, residents of
21 Oregon and interested parties regarding the utilization of woody biomass
22 produced through forest health restoration. The State Forester shall actively
23 utilize the statutory provisions of the National Forest Management Act of
24 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974,
25 the National Environmental Policy Act of 1969, the Federal Land Policy and
26 Management Act of 1976 and the Healthy Forests Restoration Act of 2003
27 that allow the state to participate in federal policy development in a manner
28 that expresses the policy established in ORS 526.277.

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

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

3 (4) Promote public understanding, through education and outreach, of
4 forest conditions, forest management options, the potential benefits and po-
5 tential consequences of woody biomass utilization, the quality and quantity
6 of woody biomass on federal lands and the potential for woody biomass
7 utilization to assist in reducing wildfire risk and in enhancing forest health,
8 diversity and resilience. The State Forestry Department may coordinate with
9 the State Department of Energy, the Oregon Business Development Depart-
10 ment, Oregon State University, the State Department of Fish and Wildlife,
11 the Department of Environmental Quality and other entities in any educa-
12 tion and outreach performed pursuant to this subsection.

13 (5) Assess the types of woody biomass available and serve as an informa-
14 tion resource for persons seeking to utilize woody biomass for energy devel-
15 opment. Notwithstanding ORS 192.501, reports on any assessment of woody
16 biomass conducted by the State Forester shall be made available for public
17 inspection.

18 (6) Promote public understanding that woody biomass utilization may be
19 an effective tool for restoration of forest health and for economic develop-
20 ment in rural communities.

21 (7) Develop and apply, with advice from the forestry program at Oregon
22 State University, the State Department of Fish and Wildlife, the Department
23 of Environmental Quality and other sources, the best available scientific
24 knowledge and technologies pertaining to forest and wildlife habitat resto-
25 ration and woody biomass utilization [*when developing rules under ORS*
26 *527.630*] **consistent with any applicable numerical criteria established**
27 **under section 2 of this 2017 Act.**

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

30 (9) Periodically prepare a report utilizing, to the greatest extent practi-
31 cable, data collected from state and federal sources that specify the effect

1 of woody biomass collection and conversion on the plant and wildlife re-
2 sources and on the air and water quality of this state. The report shall
3 identify any changes that the State Forester determines are necessary to
4 encourage woody biomass collection and conversion and to avoid negative
5 effects on the environment from woody biomass collection and conversion.
6 The State Forester shall submit the report to the Governor and to an ap-
7 propriate legislative interim committee with jurisdiction over forestry issues.

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

9 526.490. (1) It is the policy of the State of Oregon to encourage the
10 afforestation of idle land for the purpose of establishing commercial forests
11 if such afforestation is consistent with landowner objectives. The purpose
12 of this section is to provide an incentive for afforestation by providing as-
13 surance that the State of Oregon will not prohibit the harvesting of trees
14 planted on such lands within the first crop rotation.

15 (2) As used in this section:

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

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

20 (3) Notwithstanding ORS 527.676, 527.710 or 527.755 **or section 7 of this**
21 **2017 Act** or any rules promulgated thereunder, and except as provided in
22 subsection (4) of this section, a person who, after September 9, 1995, plants
23 or causes to be planted a stand of timber that is intended to become a
24 merchantable stand of timber as defined in ORS 321.005 on a parcel owned
25 by the person, or a portion of such parcel not less than five contiguous acres,
26 shall not be prohibited from harvesting the planted timber provided that:

27 (a) Prior to the time of planting, the parcel or portion thereof has not
28 been subject to any forest practice as defined in ORS 527.620 since July 1,
29 1972; and

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

1 acre.

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

6 (5)(a) If, within two to five years of planting under subsection (3) of this
7 section, the person notifies the State Forester, the State Forester shall in-
8 spect the timber and shall issue a certificate to the owner indicating that a
9 free to grow stand of timber has been established under subsection (3) of this
10 section and identifying the location of the timber. Upon request of the owner
11 and payment of any applicable fee, the county clerk in the county wherein
12 the parcel is located shall record the certificate as specified under ORS
13 205.130.

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

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

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

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

27 **SECTION 21.** ORS 527.640 is amended to read:

28 527.640. The State Board of Forestry shall establish [*a number of forest*
29 *regions, but not less than three, necessary to achieve the purposes described in*
30 *ORS 527.630*] **three or more administrative regions within this state for**
31 **the purpose of carrying out the administration and enforcement of**

1 **ORS 527.610 to 527.770.**

2 **SECTION 22.** ORS 527.676 is amended to read:

3 527.676. (1) In order to contribute to the overall maintenance of wildlife,
4 nutrient cycling, moisture retention and other resource benefits of retained
5 wood, when a harvest type 2 unit exceeding 25 acres or harvest type 3 unit
6 exceeding 25 acres occurs the operator shall leave on average, per acre har-
7 vested, at least:

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

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

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

23 (a) Safety and fire hazard regulations;

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

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

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

28 (a) Shall consult with the operator concerning the selection of wildlife
29 leave trees when the State Forester believes that retaining certain trees or
30 groups of trees would provide increased benefits to wildlife.

31 (b) May approve alternate plans submitted by the operator to meet the

1 provisions of this section, including but not limited to waiving:

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

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

9 (c) May require, for operations adjacent to a fish-bearing or domestic use
10 stream, in addition to trees otherwise required to be left in riparian man-
11 agement areas **under section 8 of this 2017 Act**, up to 25 percent of the
12 green trees required to be retained under this section to be left in or adja-
13 cent to the riparian management area of the stream.

14 (d) May require by rule, for operations adjacent to a small, nonfish-
15 bearing stream subject to rapidly moving landslides as defined in ORS
16 195.250, that available green trees and snags be left in or adjacent to the
17 stream. The operator must leave available green trees and snags under this
18 paragraph within an area that is 50 feet on each side of the stream and no
19 more than 500 feet upstream from a riparian management area of a fish-
20 bearing stream.

21 (4) When a harvest type 2 or harvest type 3 unit occurs adjacent to a
22 prior harvest type 2 or harvest type 3 unit, resulting in a combined total
23 contiguous acreage of harvest type 2 or harvest type 3 under single owner-
24 ship exceeding 25 acres, the wildlife leave tree and downed log requirements
25 of subsection (1) of this section apply to the combined total contiguous
26 acreage.

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

28 527.690. (1) *[In the event]* **If** an order issued pursuant to ORS 527.680 (2)(b)
29 directs the repair of damage or correction of an unsatisfactory condition,
30 including compliance with reforestation requirements, and *[if]* the operator
31 or landowner does not comply with the order within the period specified in

1 [*such*] **the** order and the order has not been appealed to the State Board of
2 Forestry within 30 days, the State Forester based upon a determination by
3 the forester of what action will best carry out the purposes of ORS
4 [527.630] **527.610 to 527.770** shall:

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

9 (b) Estimate the cost to repair the damage or the unsatisfactory condition
10 as directed by the order and shall notify the operator, timber owner and
11 landowner in writing of the amount of the estimate. Upon agreement of the
12 operator, timber owner or the landowner to pay the cost, the State Forester
13 may proceed to repair the damage or the unsatisfactory condition. In the
14 event approval of the expenditure is not obtained within 30 days after no-
15 tification to the operator, timber owner and landowner under this section,
16 the State Forester shall present to the board the alleged violation, the esti-
17 mate of the expenditure to repair the damage or unsatisfactory condition and
18 the justification for the expenditure.

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

26 (3) If the board authorizes the State Forester to repair the damage or
27 correct the unsatisfactory condition, the State Forester shall proceed, either
28 with forces of the State Forester or by contract, to repair the damage or
29 correct the unsatisfactory condition. The State Forester shall keep a com-
30 plete account of direct expenditures incurred, and upon completion of the
31 work, shall prepare an itemized statement thereof and shall deliver a copy

1 to the operator, timber owner and landowner. In no event shall the expend-
2 itures exceed the amount authorized by subsection (2) of this section. An
3 itemized statement of the direct expenditures incurred by the State Forester,
4 certified by the State Forester, shall be accepted as prima facie evidence of
5 such expenditures in any proceeding authorized by this section. If the State
6 Forester's action to repair the damage or correct the unsatisfactory condi-
7 tion arose from an operation for which a bond, cash deposit or other security
8 was required under ORS 527.760, the State Forester shall retain any appli-
9 cable portion of a cash deposit and the surety on the bond or holder of the
10 other security deposit shall pay the amount of the bond or other security
11 deposit to the State Forester upon demand. If the amount specified in the
12 demand is not paid within 30 days following the demand, the Attorney Gen-
13 eral, upon request by the State Forester, shall institute proceedings to re-
14 cover the amount specified in the demand.

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

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

29 **SECTION 24.** ORS 527.714 is amended to read:

30 527.714. (1) The rulemaking authority of the State Board of Forestry under
31 ORS 527.610 to 527.770 consists generally of the following three types of

1 rules:

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

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

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

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

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

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

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

30 (a) If forest practices continue to be conducted under existing regulations,
31 there is monitoring or research evidence that documents that degradation

1 of resources maintained under ORS 527.710 (2) or (3) **or of matters for**
2 **which requirements are identified by numerical criteria under section**
3 **2 of this 2017 Act** is likely, or in the case of rules proposed under ORS
4 527.710 (10), that there is a substantial risk of serious bodily injury or death;

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

8 (c) The proposed rule reflects available scientific information, the results
9 of relevant monitoring and, as appropriate, adequate field evaluation at rep-
10 resentative locations in Oregon;

11 (d) The objectives of the proposed rule are clearly defined, and the re-
12 strictions placed on forest practices as a result of adoption of the proposed
13 rule:

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

17 (B) Are directly related to the objective of the proposed rule and sub-
18 stantially advance its purpose;

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

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

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

31 (a) Requires the board to call witnesses;

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

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

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

5 (e) Requires depositions, discovery or subpoenas.

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

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

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

17 (c) An estimate of the total economic impact on the forest products in-
18 dustry and common school and county forest trust land revenues, both re-
19 gionally and statewide; and

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

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

27 **SECTION 25.** ORS 527.715 is amended to read:

28 527.715. The State Board of Forestry shall establish, by rule, the standards
29 and procedures to implement the provisions of ORS 197.180, 197.270, 197.825,
30 [215.050,] 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, [527.620, 527.630,
31 527.660, 527.670, 527.683 to 527.724, 527.736 to 527.760] **527.610 to 527.770** and

1 527.992.

2 **SECTION 26.** ORS 527.736 is amended to read:

3 527.736. (1) The standards established in ORS 527.740 to 527.750 shall be
4 administered by the State Forester as standards applying to all operations
5 in the state, including those on forestland owned by the state or any political
6 subdivision thereof. Pursuant to ORS 527.710 the State Board of Forestry
7 shall adopt, repeal or amend forest practice rules as necessary to be con-
8 sistent with and to implement the standards established in ORS 527.740 to
9 527.750. Except as provided in ORS 527.714, nothing in ORS 468B.100 to
10 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715, [527.722,] 527.724
11 and 527.736 to 527.770 shall affect the powers and duties of the board to
12 adopt, or the State Forester to administer, all other regulations pertaining
13 to forest practices under applicable state law.

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

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

- 20 (a) A federal agency;
- 21 (b) Agencies of the executive department, as defined in ORS 174.112;
- 22 (c) An educational institution; or
- 23 (d) A private landowner.

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

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

- 31 (a) The timber is grown on land that has been prepared by intensive cul-

1 tivation methods and is cleared of competing vegetation for at least three
2 years after planting;

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

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

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

9 527.740. (1) No harvest type 3 unit within a single ownership shall exceed
10 120 acres in size, except as provided in ORS 527.750.

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

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

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

20 (c) At least 48 months have elapsed since the stand was created and it is
21 “free to grow” as defined by the State Board of Forestry.

22 (3) Any acreage attributable to riparian **management** areas **under sec-**
23 **tion 8 of this 2017 Act** or to resource sites listed in ORS 527.710 (3) that is
24 located within a harvest unit shall not be counted in calculating the size of
25 a harvest type 3 unit.

26 (4) The provisions of this section shall not apply when the land is being
27 converted to managed conifers or managed hardwoods from brush or
28 hardwood stands that contain less than 80 square feet of basal area per acre
29 of trees 11 inches DBH or greater or when the harvest type 3 results from
30 disasters such as fire, insect infestation, disease, windstorm or other occur-
31 rence that the State Forester determines was beyond the landowner’s control

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

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

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

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

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

15 527.755. (1) The following highways are hereby designated as scenic
16 highways for purposes 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, 35, 36, 38, 42, 58, 62,
19 66, 82, 97, 101, 126, 138, 140, 199, 230, 234 and 395.

20 (2) The purpose of designating scenic highways is to provide a limited
21 mechanism that maintains roadside trees for the enjoyment of the motoring
22 public while traveling through forestland, consistent with [ORS 527.630]
23 **numerical criteria established under section 2 of this 2017 Act**, safety
24 and other practical considerations.

25 (3) The State Board of Forestry, in consultation with the Department of
26 Transportation, shall establish procedures and regulations as necessary to
27 implement the requirements of subsections (4), (5) and (6) of this section,
28 consistent with subsection (2) of this section, including provisions for alter-
29 nate plans. Alternate plans that modify or waive the requirements of sub-
30 section (4), (5) or (6) of this section may be approved when, in the judgment
31 of the State Forester, circumstances exist such as:

1 (a) Modification or waiver is necessary to maintain motorist safety, pro-
2 tect improvements such as dwellings and bridges, or protect forest health;

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

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

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

9 (e) The retention of timber in a visually sensitive corridor will result in
10 severe economic hardship for the owner because all or nearly all of the
11 owner's property is within the visually sensitive corridor.

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

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

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

1 tall required by the board for reforestation, by rule, or below 40 square feet
2 of basal area per acre until the adjacent visually sensitive corridor has been
3 reforested as required under subsection (6) of this section and the stand has
4 attained an average height of at least 10 feet and has at least the minimum
5 number of stems per acre.

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

10 (6) Notwithstanding the time limits established in ORS 527.745 (1)(a),
11 when harvesting within a visually sensitive corridor results in a harvest type
12 1 or harvest type 3, reforestation shall be completed by the end of the first
13 planting season after the completion of the harvest. All other provisions of
14 ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within vis-
15 ually sensitive corridors.

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

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

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

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

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

27 **SECTION 29.** ORS 527.990 is amended to read:

28 527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672,
29 527.676, 527.740, 527.750 or 527.755 **or section 3, 4, 7, 8, 9 or 10 of this 2017**
30 **Act**, or any rule promulgated under ORS 527.710 **or section 2 of this 2017**
31 **Act** is a Class A misdemeanor. Each day of operation in violation of an order

1 issued under ORS 527.680 (3) shall be deemed to be a separate offense.

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

4 **SECTION 30.** ORS 527.992 is amended to read:

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

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

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

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

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

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

20 **SECTION 31.** ORS 527.630 and 527.722 are repealed.

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

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

30 **SECTION 34.** The State Forester shall begin certifying technical
31 service providers under section 6 of this 2017 Act no later than one

1 year after the effective date of this 2017 Act.

2 SECTION 35. Section 7 of this 2017 Act applies to operations com-
3 menced or continued on or after the effective date of this 2017 Act.

4
