

Chapter 477 — Fire Protection of Forests and Vegetation

2001 EDITION

GENERAL PROVISIONS

477.001 Definitions

477.005 Policy

477.009 Investigative authority of Attorney General for fire protection administration

SMOKE MANAGEMENT

477.013 Smoke management plan; rules

URBAN INTERFACE FIRE PROTECTION

477.015 Definitions

477.017 Legislative findings, policy and purpose

477.023 Fire protection system; integration with existing laws

477.025 Classification of lands to reflect different protection problems

477.027 Rules for classification of lands

477.029 Local land classification committee; members; officers; rules

477.031 Duties of committee

477.052 Hearings on proposed classifications

477.054 Appeal of classification decisions; procedure

477.057 State Forester to classify land if county fails to act

477.059 Obligation of landowner to mitigate risk of fire; standards; rules; penalty for failure to comply

477.060 Considerations in determining cost of protection; special or additional costs

477.061 Short title

HAZARD ABATEMENT

477.062 Inadequately protected forestland declared nuisance; notice to protect; work at expense of owner; collection of amount expended

FIRE ABATEMENT

477.064 Uncontrolled fire declared nuisance

- 477.066 Duty of owner and operator to abate fire; abatement by authorities
- 477.067 Notice of fire
- 477.068 Liability for cost of abatement; interest; lien; foreclosure; attorney fees
- 477.069 Negligence in origin and in failure to control fire may be united in one complaint
- 477.085 Liability for cost of protecting land within a forest protection district
- 477.090 Civil liability; damages
- 477.095 Applicability of ORS 477.068, 477.085 and 477.090
- 477.120 Liability of forestland owner or operator

NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT

- 477.175 Definition of “all possible aid” for agreement
- 477.180 Ratification of amendment to agreement; withdrawal if Legislative Assembly fails to ratify amendment
- 477.185 Use of local fire protection resources
- 477.190 Authority of Governor to carry out agreement
- 477.195 Ratification of Northwest Wildland Fire Protection Agreement
- 477.200 Northwest Wildland Fire Protection Agreement

FOREST PROTECTION DISTRICTS

- 477.205 Definitions for ORS 477.205 to 477.281
- 477.210 Duty of owner to protect forestland; forester’s duty to provide protection upon noncompliance
- 477.220 Lands not provided protection; lands not included within ORS 477.205 to 477.281
- 477.225 Establishment and change of forest protection districts; rules
- 477.230 Basis for computing cost of protection provided by forester; costs to be in accordance with budget
- 477.235 Forester to prepare tentative budget estimates for districts
- 477.240 Advisory and guidance committees
- 477.245 Owners entitled to be heard on budget matters; public budget meetings to be held in district
- 477.250 Notice of budget meeting; notice of proposed assessment
- 477.255 Holding of budget meeting; revision and submission of budget for final approval
- 477.260 Appeal to board

- 477.265 Board to deal with budgets annually
- 477.270 Budgeted cost of forester to be lien; collection; deposit of amounts collected
- 477.277 Additional assessment to maintain reserve base of Oregon Forest Land Protection Fund
- 477.281 Limitation on obligation of landowner for fire protection
- 477.295 Minimum assessment under ORS 477.270; combining lots; fees; rules
- 477.300 Use of funds in State Forestry Department Account for capital outlay expenditures of district
- 477.305 Forester to enforce prohibition against littering on forestland in districts

RANGELAND

- 477.315 Definition for ORS 477.315 to 477.325
- 477.320 Request of rangeland owners for protection; hearings; determination; cooperative agreements for protection
- 477.325 Budget for rangeland protection; collection of costs; disposition of receipts

FIRE WARDENS

- 477.355 Fire wardens generally
- 477.360 Duties of fire warden for forest protection district
- 477.365 Duties and powers of wardens

COOPERATIVE CONTRACTS OR AGREEMENTS

- 477.406 Cooperative contracts or agreements for forest protection or forest related activities; negotiation
- 477.408 Provisions of contract or agreement
- 477.410 Liability of parties; responsibility for equipment; unemployment insurance and workers' compensation; sovereign immunity
- 477.412 Disposition and use of moneys received by forester under contract or agreement
- 477.415 Definitions for ORS 477.440 to 477.460
- 477.440 Emergency Fire Cost Committee; members; terms; vacancies
- 477.445 Distribution of fire emergency funds by committee
- 477.450 Election of committee chairperson
- 477.455 Meetings of committee; committee administrator
- 477.460 Duties of administrator; compensation and expenses

FIRE PREVENTION

(Fire Seasons)

477.505 State Forester may declare fire season in district

477.510 Acts prohibited during fire season

(Permits)

477.515 Permits required for fires on forestlands; waiver; permit conditions; cooperative agreements for permit administration

477.520 Refusal, suspension or revocation of permits

477.532 Regional air quality authority's functions limited

(Restricted Uses)

477.535 Forester may proclaim forestland subject to restricted uses; coordination of state and federal land restrictions

477.540 Notice of proclamation; suspension or termination; reinstatement

477.545 Restricted uses during closure

477.550 Violation of restrictions; access for fire fighting permitted

(Smoke Management)

477.552 Policy

477.554 Program establishment; content

477.556 Advisory committee; membership; terms; staff

477.558 Functions for advisory committee

477.560 Oregon Forest Smoke Management Account; moneys paid to account; use

477.562 Registration fee; rules; exemption

SNAGS; SLASHING AND OTHER DEBRIS

477.565 Felling dead trees and snags; rules

477.580 Determination of additional fire hazards; notice to landowner; plan for reducing hazard; release from liability

MACHINERY REGULATIONS

(Enjoining Violations)

477.605 Enjoining violations of ORS 477.615 and 477.645 to 477.655

477.610 Standardization of fire-fighting equipment used to protect forestland

(General Regulations)

477.615 Additional water supply and equipment; rules

477.625 Permit to use fire or power-driven machinery; exception; conditions; waiver of permit

477.630 Information in permit

477.635 Authority to issue, refuse, suspend or revoke permit

(Fire Season Regulations)

477.640 Use and refueling of power saws

477.645 Internal combustion engines; rules

477.650 Stationary internal combustion engines; rules; waiver

477.655 Fire-fighting tools and equipment at operation area and on trucks; rules

477.660 Additional protection facilities or services at operation area

477.665 Fire watch service; rules; waiver

477.670 When use of fire or power-driven machinery prohibited

MISCELLANEOUS

477.695 Removal of flammable material from railroad rights of way

477.710 Starting of campfire or other open fire restricted; exceptions

477.720 Accidentally setting fire to forestland; failure to prevent spread

477.740 Unlawful use of fire

477.745 Liability of parents for costs of suppressing fire caused by minor child

OREGON FOREST LAND PROTECTION FUND

477.750 Oregon Forest Land Protection Fund; source; use

477.755 Appropriation of fund for emergency fire suppression costs; limitation on expenditures

477.760 Reserve base of fund fixed; annual determination of excess over base; tax levies and assessments to maintain base

477.770 Rules relating to use of fund

477.775 Insurance to meet expenses payable from fund; payment of premium from fund

ASSESSMENT FOR FIRE SUPPRESSION COSTS

477.880 Acreage assessment; east side forestlands; certain forestlands west of Cascade Mountains; rate

477.960 Collection of assessment

477.970 Disposition of receipts

PENALTIES

477.980 Enforcement policy; rules; factors considered

477.985 Enforcement procedure; disposition of fines and costs

477.993 Penalties

GENERAL PROVISIONS

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

(1) “Additional fire hazard” means a hazard that has been determined to exist by the forester pursuant to ORS 477.580.

(2) “Board” means the State Board of Forestry.

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

(4) “Department” means the State Forestry Department.

(5) “District” means a forest protection district organized under ORS 477.225.

(6) “Every reasonable effort” means the use of the reasonably available personnel and equipment under the supervision and control of an owner or operator usually and customarily used in the forest industry to fight fire, which are needed to fight the fire and which can be brought to bear on the fire in a timely fashion.

(7) “Fire season” means a period designated pursuant to ORS 477.505.

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

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

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

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

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

(13) “Forester” means the State Forester or authorized representative.

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

(15) “Grazing land” is defined by ORS 477.205.

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

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

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

(19) “Operation in progress” means that time when workers are on an operation area for the purpose of an

operation, including the period of time when fire watches are required to be on the operation area pursuant to ORS 477.665.

(20) “Operator” means any person who, either personally or through employees, agents, representatives or contractors, is carrying on or has carried on any operation.

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

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

(23) “Rangeland” is defined by ORS 477.315.

(24) “Routine road maintenance” is defined by ORS 477.625.

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

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

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

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

(29) “Timberland” is defined by ORS 477.205.

(30) “Warden” means a fire warden appointed under ORS 477.355. [1959 c.363 §2 (enacted in lieu of 477.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1; 1983 c.22 §1; 1985 c.759 §32; 1997 c.274 §1; 1999 c.59 §156; 1999 c.355 §2]

477.002 [Amended by 1953 c.68 §19; subsection (2) of 1957 Replacement Part enacted as 1953 c.372 §2; subsection (5) of 1957 Replacement Part enacted as 1953 c.152 §1; amended by 1955 c.158 §1; repealed by 1959 c.363 §1 (477.001 enacted in lieu of 477.002)]

477.003 [1959 c.363 §20; repealed by 1961 c.351 §1]

477.004 [Repealed by 1965 c.253 §153]

477.005 Policy. (1) The preservation of the forests and the conservation of the forest resources through the prevention and suppression of forest fires hereby are declared to be the public policy of the State of Oregon.

(2) In order to accomplish the purposes of the policy stated in this section:

(a) The need for a complete and coordinated forest protection system is acknowledged and the primary mission of the State Forestry Department in such a system is protecting forest resources, second only to saving lives. Structural protection, though indirect, shall not inhibit protection of forest resources; and

(b) This chapter shall include all persons and activities designated in this chapter, irrespective as to whether or not such person or activity is concerned with the harvesting, cutting, removal or marketing of trees, timber or other forest products. [Formerly 477.022; amended by 1965 c.253 §45; 1989 c.615 §5]

477.006 [Repealed by 1965 c.253 §153]

477.008 [Amended by 1965 c.253 §87; renumbered 477.360]

477.009 Investigative authority of Attorney General for fire protection administration. (1) For the purpose of an investigation as to liability for cost of hazard abatement, fire abatement or damages under this chapter, the Attorney General, at the request of the State Forester, may administer oaths and affirmations, take testimony or depositions and by subpoena compel the:

(a) Attendance of witnesses;

(b) Production of documents, including but not limited to writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained and translated; and

(c) Production of any other tangible thing that the Attorney General deems relevant or material to the investigation.

(2) Each witness subpoenaed under subsection (1) of this section shall receive the fees and mileage provided in ORS 44.415 (2).

(3) If a person fails to comply with a subpoena issued or a party or witness refuses to testify on any matters, the judge of the circuit court of any county, on the application of the State Forester, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1993 c.697 §6]

477.010 [Repealed by 1965 c.253 §153]

477.012 [Amended by 1965 c.253 §88; renumbered 477.365]

SMOKE MANAGEMENT

477.013 Smoke management plan; rules. (1) For the purpose of maintaining air quality, the State Forester and the Department of Environmental Quality shall approve a plan for the purpose of managing smoke in areas they shall designate. The plan shall delineate restricted areas to which this subsection applies. The plan shall also include but not be limited to considerations of weather, volume of material to be burned, distance of the burning from designated areas, burning techniques and provisions for cessation of further burning under adverse air quality conditions. All burning permitted within the restricted areas shall be according to the plan. The plan shall be developed by the State Forestry Department in cooperation with federal and state agencies, landowners and organizations that will be affected by the plan. The approved plan shall be filed with the Secretary of State and may thereafter be amended in the same manner as its formation.

(2) The State Forester shall promulgate rules to carry out the provisions of the smoke management plan approved under this subsection. [1997 c.274 §47]

477.014 [Amended by 1965 c.253 §89; renumbered 477.370]

URBAN INTERFACE FIRE PROTECTION

477.015 Definitions. (1) As used in ORS 477.015 to 477.061, unless the context otherwise requires, “forestland-urban interface” means a geographic area of forestland inside a forest protection district where there exists a concentration of structures in an urban or suburban setting.

(2) As used in ORS 477.015 to 477.057, unless the context requires otherwise:

(a) “Committee” means a county forestland-urban interface classification committee.

(b) “Governing body” means the board of county commissioners or county court of a county, as the case may be. [1997 c.429 §§3,8]

477.016 [1963 c.107 §8; amended by 1965 c.253 §72; renumbered 477.300]

477.017 Legislative findings, policy and purpose. (1) The Legislative Assembly finds that:

(a) The forestland-urban interface situation in Oregon is a result of both past and present conditions and that, given projected trends, the forestland-urban interface situation will continue to grow.

(b) Urban and suburban structures, real property and other natural resources within a forestland-urban interface are subject to increased risks of catastrophic damage by fire events.

(c) There is greater complexity in forestland-urban interface fire protection than in either resource land fire protection or urban structural fire protection.

(d) In dealing with the forestland-urban interface situation, major and long term solutions will involve local actions and efforts by property owners.

(e) One solution or set of solutions will not fit all situations or areas of the state.

(2) The Legislative Assembly declares that:

(a) In order to ensure the protection of human life, the safety of citizens and fire service personnel and the highest possible level of livability in Oregon, it is necessary to provide a complete and coordinated fire protection system within the forestland-urban interface in Oregon.

(b) All forestland-urban interface property owners have a basic responsibility to share in this complete and coordinated protection system by providing efforts against fire.

(c) Public and property owner education and awareness is critical to forestland-urban interface solutions and must

occur at multiple levels.

(d) In administration of ORS 477.015 to 477.061, it is the intent of the Legislative Assembly that property owners who will be affected by ORS 477.015 to 477.061 will be:

(A) Involved in the processes of development of administrative rules pursuant to ORS 477.015 to 477.061; and

(B) Notified of the outcomes of classification pursuant to ORS 477.015 to 477.057.

(3) The purpose of ORS 477.015 to 477.061 is to:

(a) Provide a forestland-urban interface fire protection system in Oregon that minimizes cost and risk while maximizing effectiveness and efficiency for protection of the values at risk from fire.

(b) Promote and encourage property owner efforts to minimize and mitigate fire hazards and risks within the forestland-urban interface.

(c) Promote and encourage the involvement and interaction of all levels of government and the private sector that have a direct or indirect interest and role in the forestland-urban interface situation over the long term. [1997 c.429 §§4,5,7]

477.020 [1959 c.408 §§1,2,3,4,5; repealed by 1965 c.253 §153]

477.022 [1953 c.372 §1; 1961 c.603 §2; renumbered 477.005]

477.023 Fire protection system; integration with existing laws. (1) The forestland-urban interface in Oregon represents a unique fire protection situation that requires that unique and special measures be taken to ensure adequate public safety and protection of property, development and natural resources. Therefore, it is declared to be the public policy of the State of Oregon to encourage and provide a complete and coordinated forestland-urban interface fire protection system.

(2)(a) It is recognized that forestland-urban interface areas are already subject to other laws and to regulations of other agencies. It is the intent of ORS 477.015 to 477.061 to integrate with and not replace those other laws and regulations.

(b) In the event of an apparent conflict between the obligations imposed by ORS 477.015 to 477.061 and by other laws or regulations for which the forester is responsible and has jurisdiction, the forester shall resolve the conflict within the scope of the forester's authority.

(c) In the event of an apparent conflict, the obligations imposed by ORS 477.015 to 477.061 shall not supersede or replace federal law or regulation, other state agency law or regulations, or more restrictive local government ordinance or code.

(d) Compliance with the obligations imposed by ORS 477.015 to 477.061 does not relieve the property owner of the requirements of other laws or regulations that might apply to the property in question.

(3) To encourage development of a complete and coordinated forestland-urban interface fire protection system, it is declared to be in the public interest that the State Board of Forestry and the State Forester take a lead role in statewide coordination of the forestland-urban interface situation with other state and federal agencies, local governments and private sector interests that are concerned with fire protection in the forestland-urban interface. [1997 c.429 §6]

477.024 [1953 c.372 §3; 1955 c.318 §1; 1965 c.253 §57; renumbered 477.210]

477.025 Classification of lands to reflect different protection problems. The Legislative Assembly recognizes that the forestland-urban interface in Oregon varies by condition, situation, fire hazard and risk, that different forestland-urban interface fire protection problems exist across the state because of this variability, that these different problems necessitate varied fire prevention and protection practices and that, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in ORS 477.023, certain classifications of the forestland-urban interface within the State of Oregon are established by ORS 477.027 to 477.057. [1997 c.429 §9]

477.026 [1953 c.372 §4; 1965 c.253 §59; renumbered 477.225]

477.027 Rules for classification of lands. By administrative rule, the State Board of Forestry shall establish criteria and a system by which the forestland-urban interface shall be classified. The criteria shall recognize differences across the state in fire hazard, fire risk and structural characteristics within the forestland-urban interface

and the system shall include not less than three nor more than five classes of forestland-urban interface. [1997 c.429 §10]

477.028 [1953 c.372 §5; 1957 c.83 §6; 1959 c.363 §3; 1963 c.107 §1; repealed by 1965 c.253 §153]

477.029 Local land classification committee; members; officers; rules. (1) The governing body of each county containing forestland-urban interface may establish a county forestland-urban interface classification committee of five persons of whom one shall be appointed by the State Forester, one by the State Fire Marshal and three by the governing body. Of the members appointed by the governing body, one must be an owner of forestland-urban interface property who permanently resides on the property or a representative thereof. Each appointing authority shall file with the forester the name of its appointee or appointees, and the persons so named shall constitute the committee for the county. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the forester by that authority of written notice of removal and the name of the new appointee.

(2) The committee shall elect from among its members a chair and a secretary and may elect or employ other officers, agents and employees as it finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings. A quorum of the committee for official actions shall be four or more members present.

(3) The governing body of the county may provide for the committee and its employees such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions. The members of the committee shall receive no compensation for their services, but the governing body may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties. By written agreement between the State Forester and the governing body, the State Forestry Department may provide the functions or be responsible for the expenses referred to in this subsection.

(4) In the interest of efficiency, by written agreement between the State Forester and the governing body, if a forestland classification committee is established and active within a county pursuant to ORS 526.305 to 526.340, that committee may serve as the county forestland-urban interface classification committee established by subsection (1) of this section. In the event that this agreement is made, the State Forester and the governing body shall ensure that either:

(a) A State Fire Marshal appointee and a forestland-urban interface property owner who permanently resides on the property or a representative thereof are added to the existing forestland classification committee to bring the total number of committee members to seven; or

(b) The State Fire Marshal approves of the current membership of the forestland classification committee and the committee includes a forestland-urban interface property owner who permanently resides on the property or a representative thereof. [1997 c.429 §11]

477.030 [1953 c.372 §6; 1959 c.363 §4; 1965 c.253 §60; 1965 c.312 §1; renumbered 477.230]

477.031 Duties of committee. (1) Upon establishment of a county forestland-urban interface classification committee under ORS 477.029, the committee shall investigate and study all forestland-urban interface within its county and determine which classifications of forestland-urban interface are represented according to the classification system developed pursuant to ORS 477.027.

(2) Upon the basis of its investigation and determination under subsection (1) of this section, the committee shall assign all forestland-urban interface forestland within its county to one of the forestland-urban interface classifications developed pursuant to ORS 477.027.

(3) The county forestland-urban interface classification committee first shall adopt preliminary classification assignments and upon its completion shall cause notice thereof to be published once a week for two consecutive weeks in a newspaper of general circulation in the county, to be posted in three public places within the county, and to be mailed to owners of property within the preliminary classifications. The notice shall state the time and place for hearing or receiving objections, remonstrances or suggestions as to the proposed classifications and the place where a statement of the preliminary classifications may be inspected. [1997 c.429 §§12,13]

477.032 [Renumbered 477.062]

477.033 [1953 c.372 §7; 1955 c.318 §2; 1957 c.83 §7; 1961 c.603 §3; 1963 c.107 §2; 1965 c.253 §69; 1965 c.312 §2; 1965 c.428 §10; renumbered 477.270]

477.034 [Amended by 1953 c.661 §2; renumbered 477.064]

477.035 [1953 c.372 §8; 1965 c.253 §70; 1965 c.312 §3; renumbered 477.285]

477.036 [Amended by 1953 c.661 §2; renumbered 477.066]

477.037 [1953 c.372 §9; 1959 c.363 §5; 1961 c.603 §5; repealed by 1965 c.253 §153]

477.038 [Amended by 1953 c.661 §2; renumbered 477.068]

477.039 [1953 c.372 §10; 1963 c.107 §3; 1965 c.253 §71; renumbered 477.291]

477.040 [Amended by 1953 c.661 §2; renumbered 477.070]

477.041 [1953 c.372 §11; 1965 c.253 §61; renumbered 477.235]

477.042 [Amended by 1953 c.661 §2; renumbered 477.071 and then 477.067]

477.043 [1953 c.372 §§12,16; 1957 c.32 §1; 1965 c.253 §64; renumbered 477.245]

477.044 [Repealed by 1953 c.372 §22]

477.045 [1953 c.372 §13; 1965 c.253 §65; renumbered 477.250]

477.046 [Repealed by 1953 c.372 §22]

477.047 [1953 c.372 §14; 1965 c.253 §66; renumbered 477.255]

477.048 [Repealed by 1953 c.372 §22]

477.049 [1953 c.372 §15; 1965 c.253 §67; renumbered 477.260]

477.050 [Amended by 1953 c.37 §2; renumbered 477.073]

477.051 [1953 c.372 §17; 1965 c.253 §68; renumbered 477.265]

477.052 Hearings on proposed classifications. (1) The county forestland-urban interface classification committee shall hold a public hearing at the time and place stated in the notice published under ORS 477.031 (3), or at such other time and place to which the hearing may be adjourned, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed classifications. Following the hearing the committee may make such changes in the preliminary classifications as it finds to be proper, hold additional hearings as it finds necessary, and thereafter shall make its final classifications.

(2) All action by the committee in classifying or reclassifying forestland-urban interface property shall be by formal written order, which must include a statement of findings of fact on the basis of which the order is made, and must include a map showing the classifications or reclassifications made. The original of the order shall be filed immediately with the county clerk of the county, who shall maintain and make it available for public inspection. A copy of the order certified by the secretary of the committee shall be sent to the State Board of Forestry. [1997 c.429 §14]

477.053 [1953 c.372 §18; 1955 c.318 §3; 1961 c.603 §6; 1965 c.253 §58; renumbered 477.220]

477.054 Appeal of classification decisions; procedure. (1) Any owner of land classified under ORS 477.027 to 477.057 who is aggrieved by the classification may, within 30 days after the date of the order making the classification,

appeal to the circuit court for the county. The appeal shall be taken by serving the notice of appeal on the secretary of the committee or, if the classification was made under ORS 477.057, on the State Forester, and by filing such notice with the county clerk.

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury. [1997 c.429 §15]

477.055 [1953 c.372 §19; repealed by 1965 c.253 §153 and 1965 c.428 §18]

477.056 [1965 c.253 §47 (enacted in lieu of 477.070); 1967 c.429 §57; renumbered 477.120]

477.057 State Forester to classify land if county fails to act. (1) In the event no classification of the forestland-urban interface is made by a county forestland-urban interface classification committee within a county in which such land is situated because no committee was appointed for a period of time exceeding two years or, if appointed, a committee did not act for a period of time exceeding two years or acted in a manner inconsistent with law, the State Forester may make the final classifications that were otherwise to be made by a committee consistent with and in the same manner as the process described in ORS 477.031 to 477.054.

(2) Classifications by the State Forester have the same force and effect as though made by a committee for that county. However, classifications made by the State Forester cease to be effective if replaced by classifications made pursuant to ORS 477.052 by the appropriate committee. [1997 c.429 §16]

477.058 [1965 c.253 §49 (enacted in lieu of 477.148); 1967 c.429 §58; renumbered 477.130]

477.059 Obligation of landowner to mitigate risk of fire; standards; rules; penalty for failure to comply. (1) An owner of land within a forestland-urban interface classification, prior to a fire occurrence originating on the owner's property, shall take actions, measures or efforts to minimize or mitigate a fire hazard or risk on the property due singly, or in combination, to the presence of structures, the arrangement or accumulation of vegetative fuels or the presence of other fire hazards.

(2) The minimum acceptable standards to comply with subsection (1) of this section shall be established in rules promulgated by the State Board of Forestry and shall be based on considerations of the variability of the forestland-urban interface classifications across the state. The rules established by this subsection shall be provided to all owners, within the appropriate forestland-urban interface classifications.

(3) Structures and real property lots in a forestland-urban interface classification that, by written evaluation pursuant to rules promulgated by the board, meet the standards of subsection (2) of this section prior to fire occurrence on the owner's property shall be considered certified as having met the requirements of subsection (1) of this section. The rules established by this subsection shall:

(a) Be provided to all owners, within the appropriate forestland-urban interface classifications; and

(b) Provide for periodic renewal of the written certification based on the specific characteristics of the applicable forestland-urban interface classifications.

(4) In the event that an owner fails to meet the obligations of subsection (1) of this section and a fire occurs, then the owner shall be liable for the actual costs incurred by the forester up to a maximum of \$100,000, excluding that portion of the actual costs which are the ordinary costs of the regular personnel and equipment of the forest protection district wherein the forestland-urban interface classification is located if:

(a) The fire originates on the owner's property;

(b) The ignition or spread of the fire is directly related to the failure to meet the obligations of subsection (1) of this section; and

(c) The fire requires action by the forester pursuant to ORS 477.066 (2) and the forester incurs costs in suppressing the fire. [1997 c.429 §17]

Note: Section 19, chapter 429, Oregon Laws 1997, provides:

Sec. 19. Section 17 [477.059] (1) and (4) of this Act first become operative on whichever is the latest of the following dates:

(1) Twenty-four months after the date administrative rules are adopted pursuant to section 17 (2) of this Act.

(2) Twenty-four months after the date administrative rules are adopted pursuant to section 17 (3) of this Act.

(3) January 1, 2002. [1997 c.429 §19]

477.060 Considerations in determining cost of protection; special or additional costs. (1) In determining the annual cost of protection pursuant to ORS 477.230, the forester may consider and include the special or additional cost of fire protection for property within a forestland-urban interface classification, including the special or unique costs of assessment processing and administration.

(2) The forester shall identify special or additional costs identified by subsection (1) of this section in the budget required by ORS 477.230 to 477.300. These special or additional costs are in addition to the annual cost of ORS 477.230 (1) and may not exceed \$25 annually for each property. Only those owners of property within a forestland-urban interface classification in a forest protection district shall bear the special or additional cost of fire protection within the forestland-urban interface in a manner consistent with rules promulgated by the State Board of Forestry. [1997 c.429 §18; 2001 c.361 §1]

477.061 Short title. ORS 477.015 to 477.061 shall be known as the Oregon Forestland-Urban Interface Fire Protection Act of 1997. [1997 c.429 §2]

HAZARD ABATEMENT

477.062 Inadequately protected forestland declared nuisance; notice to protect; work at expense of owner; collection of amount expended. (1) All forestland that by reason of its lack of adequate fire protection endangers life, forest resources or property is declared to be a public nuisance.

(2) Whenever the forester learns thereof, the forester may direct the owner or operator of such forestland to take proper steps for its protection and advise the owner or operator of means to that end. In case of refusal or neglect by either to take precautions against fire required by law or when so directed by the forester in writing, within such time as is specified in the writing, then the forester may have such work done as the forester considers necessary for the protection of life, forest resources or property, without the necessity of court action.

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

(4) All moneys collected under this section shall be paid into the State Treasury, credited to the State Forestry Department Account and expended as other moneys in that account are expended. [Formerly 477.032; 1965 c.253 §50; 1997 c.274 §2]

FIRE ABATEMENT

477.064 Uncontrolled fire declared nuisance. Any fire on any forestland in Oregon burning uncontrolled or without proper action being taken to prevent its spread, notwithstanding its origin, is declared a public nuisance by reason of its menace to life, forest resources or property. The spread of fire in forestland across an ownership boundary is prima facie evidence of fire burning uncontrolled. [Formerly 477.034; 1997 c.274 §3]

477.066 Duty of owner and operator to abate fire; abatement by authorities. (1) Each owner and operator of forestland on which a fire exists or from which it may have spread, notwithstanding the origin or subsequent spread thereof, shall immediately proceed to control and extinguish such fire when its existence comes to the knowledge of the owner or operator, without awaiting instructions from the forester, and shall continue until the fire is extinguished.

(2) If the forester determines the fire is either burning uncontrolled or the owner or operator does not then have readily and immediately available personnel and equipment to control or extinguish the fire, the forester, or any forest protective association or agency under contract or agreement with the State Board of Forestry for the protection of forestland against fire, and within whose protection area the fire exists, shall summarily abate the nuisance thus constituted by controlling and extinguishing the fire.

(3) An owner may request in writing that the forester employ alternate fire prevention and suppression strategies or techniques on the owner's forestland. The forester may employ some or all of the requested strategies or techniques when, in the judgment of the forester, conditions warrant the use of the alternate strategies or techniques. [Formerly 477.036; 1961 c.603 §7; 1965 c.253 §51; 1967 c.429 §1; 1983 c.22 §2; 1999 c.355 §3]

477.067 Notice of fire. For the purpose of ORS 477.066, notification to the owner or operator of the forestland, is considered sufficient notification to the owner of the existence of a fire. [Formerly 477.042 and then 477.071]

477.068 Liability for cost of abatement; interest; lien; foreclosure; attorney fees. (1) In case an owner or operator fails to perform the duty required by ORS 477.066, or is willful, malicious or negligent in the origin or subsequent spread of the fire, the actual cost incurred by the forester or a forest protective association or agency in controlling or extinguishing the fire shall be paid by the owner or operator within 90 days after the date on which the first written demand for payment of the actual cost is mailed by the State Forester to the owner or operator. If the actual cost is not paid within such 90-day period, such amount shall bear interest at 10 percent per year from the date on which the first written demand for the payment of the actual costs was mailed by the State Forester and the actual cost together with such interest may be recovered from such owner or operator by an action prosecuted in the name of the State of Oregon, or such forest protective association or agency, or both.

(2) An itemized statement of the actual cost incurred by the forester or association or agency, or both, certified to by the forester, shall be accepted as prima facie evidence of the actual cost in any proceeding authorized by this section.

(3) The actual cost in cases covered by ORS 477.066 shall constitute a general lien upon the real and personal property of such owner or operator. A written notice of the lien, containing a description of the property and a statement of the actual cost, shall be certified under oath by the forester or any warden and filed in the office of the county clerk of the county in which the lands and personal property are situated within 12 months after the calendar year within which the fire originated, and may be foreclosed in the manner provided by law for foreclosure of liens for labor and material. In any proceeding to foreclose a lien created under this subsection, recovery for the plaintiff shall include, in addition to the amount of the actual cost, interest on such amount at the rate of 10 percent per year from the date of the filing of the written notice of the lien.

(4) Upon request of the forester, the district attorney for the district in which the lands and personal property are situated or the Attorney General shall prosecute such action or foreclose the lien in the name of the State of Oregon or such forest protective association or agency, or both. Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within 12 months from the date of filing under subsection (3) of this section.

(5) In any action under subsection (1) of this section to recover actual cost and in any proceeding to foreclose any lien created by subsection (3) of this section, the court shall award, in addition to costs and disbursements, reasonable attorney fees at trial and on appeal to the prevailing party. [Formerly 477.038; 1955 c.218 §1; 1959 c.363 §6; 1961 c.603 §8; 1965 c.253 §53; 1965 c.428 §§11,12; 1973 c.66 §1; 1981 c.897 §54; 1983 c.22 §3; 1983 c.27 §1; 1997 c.206 §1]

477.069 Negligence in origin and in failure to control fire may be united in one complaint. Notwithstanding any other law, in any action authorized by ORS 477.068 to collect the costs incurred, the plaintiff may unite in the same complaint causes of action based upon any or all of the grounds therein mentioned. [1957 c.157 §1; 1961 c.603 §9; 1965 c.253 §54]

477.070 [Formerly 477.040; 1955 c.218 §2; 1959 c.363 §7; 1961 c.603 §10; 1963 c.107 §4; repealed by 1965 c.253 §46 (477.056 enacted in lieu of 477.070)]

477.071 [Formerly 477.042; 1961 c.603 §11; 1965 c.253 §52; renumbered 477.067]

477.072 [Repealed by 1953 c.372 §22]

477.073 [Formerly 477.050; 1957 c.83 §8; repealed by 1965 c.253 §153]

477.074 [Repealed by 1953 c.372 §22]

477.076 [Repealed by 1953 c.372 §22]

477.078 [Repealed by 1953 c.372 §22]

477.080 [Repealed by 1953 c.372 §22]

477.082 [Repealed by 1953 c.372 §22]

477.085 Liability for cost of protecting land within a forest protection district. Any person who willfully or negligently sets a fire or causes a fire to be set for which efforts to control or extinguish the fire in order to protect forestland within a forest protection district from fire are exerted by the forester or any forest protective association or agency under contract or agreement with the State Board of Forestry is liable for the actual costs incurred by the forester, association or agency in such efforts. The costs shall be recovered from the person liable therefor in the same manner as costs recovered under ORS 477.068. [1965 c.428 §7; 1967 c.429 §2; 1997 c.274 §3a; 1999 c.355 §4]

477.090 Civil liability; damages. In addition to the penalties otherwise provided by law, the United States, state, political subdivision or private owners whose property is injured or destroyed by fires in violation of ORS 526.041 or this chapter may recover in a civil action double the amount of damages suffered if the fires occurred through willfulness, malice or negligence. Persons causing fires by violation of any of the provisions of the statutes enumerated in this section are liable in an appropriate action for the full amount of all expenses incurred in fighting such fires. [Formerly 477.310; 1971 c.743 §384; 1987 c.919 §18]

477.095 Applicability of ORS 477.068, 477.085 and 477.090. (1) An owner of forestland shall not be subject to the provisions of ORS 477.068 and 477.090, where the origin or subsequent spread of a fire was the direct result of training activity by the Oregon National Guard or of any component of the Armed Forces of the United States.

(2) Notwithstanding any other law, the Oregon National Guard shall be subject to the duties, requirements or penalties of ORS 477.068, 477.085 and 477.090, where the origin or subsequent spread of a fire was the direct result of training activity by the Oregon National Guard. [1997 c.274 §36]

477.101 [1959 c.363 §19; 1965 c.253 §135; repealed by 1965 c.428 §§8,18]

477.102 [Repealed by 1953 c.372 §22]

477.104 [Repealed by 1953 c.372 §22]

477.106 [Repealed by 1953 c.372 §22]

477.108 [Repealed by 1953 c.372 §22]

477.110 [Repealed by 1953 c.372 §22]

477.112 [Repealed by 1953 c.372 §22]

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

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

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

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

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

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

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

(c) Has failed to give notice to the forester pursuant to ORS 477.580 (1) or has failed within the time prescribed in any order or notice issued by the forester to reduce, abate, or offset any hazard determined to exist pursuant to ORS 477.062 or 477.580 and a fire originates on or spreads to the area on which such hazard exists and for which no release has been granted pursuant to ORS 477.580 (3) or (4); or

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

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

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

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

(6) For the purpose of subsection (2)(b) of this section, if a fire originates while an operation is in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the operation. [Formerly 477.056; 1971 c.743 §385; 1973 c.46 §2; 1983 c.22 §4; 1989 c.615 §1; 1997 c.274 §48]

477.130 [Formerly 477.058; 1971 c.743 §386; 1973 c.46 §3; 1997 c.274 §3b; repealed by 1999 c.355 §17]

477.132 [Repealed by 1953 c.375 §38]

477.133 [1953 c.375 §31; 1957 c.309 §10; 1965 c.253 §79; renumbered 477.420]

477.134 [Repealed by 1953 c.375 §38]

477.135 [1953 c.375 §32; 1957 c.309 §11; 1965 c.253 §80; renumbered 477.425]

477.136 [Repealed by 1953 c.375 §38]

477.142 [1963 c.454 §2; 1965 c.253 §73; renumbered 477.315]

477.144 [1963 c.454 §3; 1965 c.253 §74; renumbered 477.320]

477.146 [1963 c.454 §4; 1965 c.253 §75; renumbered 477.325]

477.148 [1963 c.454 §5; repealed by 1965 c.253 §48 (477.058 enacted in lieu of 477.148)]

477.152 [Amended by 1953 c.68 §19; 1955 c.450 §1; 1959 c.363 §8; 1961 c.603 §12; 1963 c.107 §5; repealed by 1965 c.253 §153]

477.154 [Amended by 1953 c.68 §19; 1963 c.107 §6; repealed by 1965 c.253 §153]

477.156 [Amended by 1953 c.68 §19; 1965 c.253 §99; renumbered 477.535]

477.158 [Amended by 1953 c.68 §19; 1957 c.32 §2; 1959 c.363 §9; 1965 c.253 §101; renumbered 477.545]

477.160 [Amended by 1953 c.68 §19; 1965 c.253 §100; renumbered 477.540]

477.162 [Amended by 1965 c.253 §102; renumbered 477.550]

477.164 [Amended by 1953 c.302 §2; renumbered 476.715]

477.165 [1953 c.68 §14; 1965 c.253 §94; renumbered 477.510]

NORTHWEST WILDLAND FIRE PROTECTION AGREEMENT

477.175 Definition of “all possible aid” for agreement. As used in the Northwest Wildland Fire Protection Agreement as set forth in ORS 477.200, “all possible aid” means the assistance that a member can provide in response to a request for aid without materially diminishing the overall fire prevention or protection capabilities of the member at the time of the request and for the duration of the response to provide assistance. [1999 c.258 §3]

Note: 477.175 to 477.200 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

477.180 Ratification of amendment to agreement; withdrawal if Legislative Assembly fails to ratify amendment. If the Northwest Wildland Fire Protection Agreement is amended in accordance with Article IX of the agreement, the Governor shall invoke Article X of the agreement to withdraw from the agreement until such time as the Legislative Assembly ratifies the amendment, or during the interim between legislative sessions, until such time as the State Forester submits the amendment to the Emergency Board for review. The State Forester shall submit any amendment reviewed by the Emergency Board to the next Legislative Assembly for ratification. If the Legislative Assembly does not ratify the amendment prior to adjournment sine die, the Governor shall immediately invoke Article X of the agreement to withdraw from the agreement. [1999 c.258 §4]

Note: See note under 477.175.

477.182 [Amended by 1965 c.253 §111; renumbered 477.645]

477.184 [Amended by 1953 c.68 §19; 1955 c.158 §2; 1965 c.253 §112; renumbered 477.650]

477.185 Use of local fire protection resources. The Governor shall make reasonable efforts to use local available fire protection resources within Oregon before calling on forces from other members of the Northwest Wildland Fire Protection Agreement. [1999 c.258 §5]

Note: See note under 477.175.

477.186 [Amended by 1953 c.68 §19; 1955 c.158 §3; 1957 c.32 §3; 1965 c.253 §113; renumbered 477.655]

477.187 [1953 c.68 §8; 1955 c.158 §4; 1965 c.253 §114; renumbered 477.660]

477.188 [Amended by 1953 c.68 §19; 1955 c.158 §5; 1965 c.253 §115; 1965 c.428 §§13,14; renumbered 477.665]

477.190 Authority of Governor to carry out agreement. The Governor may take any action necessary to carry out the Northwest Wildland Fire Protection Agreement as set forth in ORS 477.200. The Governor may delegate the authority granted under this section or ORS 477.180 and 477.185 to the State Forester. [1999 c.258 §6]

Note: See note under 477.175.

477.195 Ratification of Northwest Wildland Fire Protection Agreement. (1) The Legislative Assembly of the State of Oregon hereby ratifies the Northwest Wildland Fire Protection Agreement set forth in ORS 477.200, and the provisions of such agreement hereby are declared to be the law of this state upon such agreement becoming effective as provided in subsection (2) of this section.

(2) This agreement shall become effective when it has been ratified by one or more of the states eligible to be parties to this agreement and has been consented to by the Congress of the United States as required by section 10, Article I of the Constitution of the United States. [1999 c.258 §1]

Note: See note under 477.175.

477.200 Northwest Wildland Fire Protection Agreement. The provisions of the Northwest Wildland Fire Protection Agreement are as follows:

ARTICLE I

The purpose of this agreement is to promote effective prevention, presuppression and control of forest fires in the

northwest wildland region of the United States and adjacent areas of Canada by providing mutual aid in prevention, presuppression and control of wildland fires and by establishing procedures in operating plans that will facilitate such aid.

ARTICLE II

(1) This agreement shall become effective for those members ratifying it whenever any two or more members, the States of Oregon, Washington, Alaska, Idaho, Montana, the Yukon Territory, the Province of British Columbia or the Province of Alberta have ratified it, and when consented to by an Act of Congress of the United States.

(2) Any state, province or territory not listed in this Article which is contiguous to any member may become a party to this agreement subject to unanimous approval of the members.

ARTICLE III

(1) The role of the members is to determine from time to time such methods, practices, circumstances and conditions as may be found for enhancing the prevention, presuppression and control of forest fires in the area comprising the members' territory, to coordinate the plans and the work of the appropriate agencies of the members and to coordinate the rendering of aid by the members to each other in fighting wildland fires.

(2) The members may develop cooperative operating plans for the program covered by this agreement. Operating plans shall include definition of terms, fiscal procedures, personnel contracts, resources available and standards applicable to the program. Other sections may be added as necessary.

ARTICLE IV

A majority of members shall constitute a quorum for the transaction of its general business. Motions of members present shall be carried by a simple majority, except as stated in Article II. Each member shall have one vote on motions brought before them.

ARTICLE V

Whenever a member requests aid from any other member in controlling or preventing wildland fires, the member agrees, to the extent the member possibly can, to render all possible aid.

ARTICLE VI

(1) Whenever the forces of any member are aiding another member under this agreement, the employees of such members shall operate under the direction of the officers of the member to whom they are rendering aid and be considered agents of the member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the member to whom they are rendering aid.

(2) No member or its officers or employees rendering aid within another state, territory or province pursuant to this agreement shall be liable on account of any act or omission on the part of such forces while so engaged or on account of maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the member receiving the assistance. The receiving member, to the extent authorized by the laws of the state, territory or province, agrees to indemnify and save harmless the assisting member from any such liability.

(3) Any member rendering outside aid pursuant to this agreement shall be reimbursed by the member receiving such aid for any loss or damage to, or expense incurred in the operation of, any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incurred in connection with such request in accordance with the provisions of Article V of this agreement. Nothing contained herein shall prevent any assisting member from assuming such loss, damage, expense or other cost from lending such equipment or from donating such services to the receiving member without charge or cost.

(4) For purposes of this agreement, personnel shall be considered employees of each sending member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another member pursuant to this agreement.

(5) The members shall formulate procedures for claims and reimbursement under the provisions of this Article.

ARTICLE VII

(1) When appropriations for support of this agreement or for the support of common services in executing this agreement are needed, costs will be allocated equally among the members.

(2) As necessary, members shall keep accurate books of account, showing in full the members' receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the members.

(3) The members may accept any and all donations, gifts and grants of money, equipment, supplies, materials and services from the federal or any local government or any agency thereof and from any person, firm or corporation for any of its purposes and functions under this agreement and may receive and use the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE VIII

(1) Nothing in this agreement shall be construed to limit or restrict the powers of any member to provide for the prevention, control and extinguishment of wildland fires or to prohibit the enactment or enforcement of state, territorial or provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such state, territory or province.

(2) Nothing in this agreement shall be construed to affect any existing or future cooperative agreement between members or their respective federal agencies.

ARTICLE IX

(1) The members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies of each member.

(2) The members will hold an annual meeting to review the terms of this agreement and any applicable operating plans and make necessary modifications.

(3) Amendments to this agreement can be made by simple majority vote of the members and will take effect immediately upon passage.

ARTICLE X

This agreement shall continue in force on each member until such member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other members.

ARTICLE XI

Nothing in this agreement shall obligate the funds of any member beyond those approved by appropriate legislative action.

[1999 c.258 §2]

Note: See note under 477.175.

FOREST PROTECTION DISTRICTS

477.205 Definitions for ORS 477.205 to 477.281. As used in ORS 477.205 to 477.281, unless the context requires otherwise:

(1) "Grazing land" means forestland, within a forest protection district, that has been classified as Class 3, agricultural class, as provided by ORS 526.305 to 526.370.

(2) "Timberland" means forestland, within a forest protection district, that has not been classified as Class 3, agricultural class, under ORS 526.305 to 526.370. [1965 c.253 §56]

477.210 Duty of owner to protect forestland; forester's duty to provide protection upon noncompliance. (1) During the season of the year when there is danger of fire, every owner of forestland shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the State Board of Forestry.

(2) Subsection (1) of this section is considered to have been complied with if, on January 1 of each year, the owner (a) files with the forester a bona fide forest protection plan which meets with the approval of the board, or (b) is a member in good standing in a forest protective association maintaining a standard of protection approved by the board. The forester shall make periodic inspections of the protection facilities provided in order to ascertain compliance by the owner.

(3) In case any owner of forestland shall fail or neglect to file such a fire plan or maintain the standard of protection approved by the board, either through compliance with the fire plan or membership in an approved association, then the forester under the direction of the board shall provide forest protection pursuant to ORS 477.205 to 477.281.

(4) The forester shall provide protection pursuant to ORS 477.205 to 477.281 for forestland owned by the state or by a political subdivision located within a forest protection district, unless adequate protection as required by this section is otherwise provided. [Formerly 477.024]

477.212 [Amended by 1953 c.68 §19; 1965 c.253 §104; renumbered 477.615]

477.214 [Repealed by 1953 c.68 §19]

477.215 [1953 c.68 §16; 1965 c.253 §105; renumbered 477.620]

477.216 [Amended by 1953 c.68 §19; repealed by 1957 c.32 §4 (477.217 enacted in lieu of 477.216)]

477.217 [1957 c.32 §5 (enacted in lieu of 477.216); 1959 c.363 §10; 1965 c.253 §117; renumbered 477.565]

477.218 [Amended by 1953 c.68 §19; 1965 c.253 §103; renumbered 477.605]

477.220 Lands not provided protection; lands not included within ORS 477.205 to 477.281. (1) The forester is not required to provide protection for forestland that is either a small parcel or a tract isolated from a forest protection district and which land is found by the forester as not practicable to be included in a forest patrol system.

(2) ORS 477.205 to 477.281 do not apply to federal grazing land or federal timberland within this state for which adequate protection is provided unless the lands have been included within the boundaries of a forest protection district pursuant to a cooperative agreement with the federal government approved by the State Board of Forestry.

(3) Upon written request of the owner of lands which have been incorporated within a rural fire protection district, the forester shall determine whether such lands, or any part thereof, are forestland; thereafter, those lands which have been so determined shall be included within ORS 477.205 to 477.281 unless excluded pursuant to subsection (1) of this section. [Formerly 477.053]

477.225 Establishment and change of forest protection districts; rules. The State Forester, by rule, shall designate areas of forestland within this state as forest protection districts within which the forester is required to provide protection pursuant to this chapter. In establishing new boundaries or changes in boundaries of the districts, the State Forester may, for the purposes of administrative convenience, designate mountain ranges, rivers, streams, roads or other recognizable landmarks as boundaries. Boundaries may be established or changed only after a public hearing. [Formerly 477.026; 1997 c.274 §4]

477.230 Basis for computing cost of protection provided by forester; costs to be in accordance with budget. (1) The annual cost of protection provided by the forester for forestland within a forest protection district shall be as follows:

(a) Grazing land within the district shall be protected by the forester at a pro rata cost per acre for all grazing land within the district boundary; provided, however, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies shall not exceed one-half of the pro rata cost per acre,

exclusive of any assessment per acre under ORS 477.880.

(b) Timberland within the district shall be protected by the forester at a pro rata cost per acre for all timberland within the district boundary; provided, however, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies shall not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.

(2) The cost of protection described in this section shall be in accordance with a budget for the district approved by the State Board of Forestry. [Formerly 477.030; 1971 c.60 §1; 1973 c.184 §6; 1977 c.892 §48; 1983 c.16 §1; 1985 c.759 §32a; 1989 c.769 §10; 1997 c.274 §5]

477.235 Forester to prepare tentative budget estimates for districts. The forester shall prepare tentative budget estimates for each forest protection district for the ensuing fiscal year beginning July 1, in a manner consistent with accounting and budgetary procedures prescribed by the State Board of Forestry. [Formerly 477.041; 1967 c.429 §3]

477.240 Advisory and guidance committees. In any forest protection district wherein the forester has entered into a cooperative agreement or contract with a forest protective association or agency described in ORS 477.406 (1), and the association or agency has appointed an advisory and guidance committee for the purposes of analysis and review of the protection plans and budgets for the district, the forester shall prepare the protection plans and budgets in conjunction with the committee. [1965 c.253 §63]

477.242 [Amended by 1959 c.363 §11; 1965 c.253 §118; renumbered 477.570]

477.244 [Amended by 1953 c.68 §19; 1961 c.123 §2; 1961 c.603 §13; 1965 c.253 §119; 1965 c.428 §§15,16; renumbered 477.575]

477.245 Owners entitled to be heard on budget matters; public budget meetings to be held in district. (1) All owners of lands assessed under ORS 477.205 to 477.281 shall have an opportunity to be heard on matters pertaining to the budgeting of moneys required to defray the cost of protection in each forest protection district. The forester, under the direction of the State Board of Forestry, shall provide for the holding of a public budget meeting in each district on or before May 1 of each year. The meeting shall be held at any convenient place designated by the forester.

(2) In forest protection districts wherein the board has entered into cooperative agreements or contracts with forest protective agencies, the board may make provision for the holding of the public budget meeting required in subsection (1) of this section on the same date and at the same place as a regular meeting of the agency. [Formerly 477.043]

477.246 [Amended by 1965 c.253 §122; renumbered 477.685]

477.248 [Amended by 1965 c.253 §123; renumbered 477.690]

477.250 Notice of budget meeting; notice of proposed assessment. (1) Not more than four weeks preceding each budget meeting, the forester shall cause notice of such meeting to be published once a week for two consecutive weeks in one or more newspapers published in or having general circulation in each of the counties in the forest protection district and in such other media of communication as the forester finds advisable. However, the final publication shall be made at least one week prior to the date of the meeting. The notice shall state the time and place where the tentative budget for the district may be inspected and shall state the time and place of the meeting.

(2) Whenever the forester determines that any privately owned land should be subject to assessment for forest protection and such land was not subject to the assessment during the preceding year, the forester shall give written notice by mail of the determination to each owner of such land not later than March 1 of the year the assessment is to be made. The notice shall inform the owner of the acreage and tax lot number of the lands to be assessed and the name and address of the nearest representative of the forester the owner may contact if review of the proposed assessment is desired. The notice shall also inform the owner of the procedure for hearing and appeals prescribed in ORS 477.205 to 477.281. [Formerly 477.045; 1979 c.276 §1; 1999 c.355 §5]

477.255 Holding of budget meeting; revision and submission of budget for final approval. (1) The public budget meeting shall be held at the time and place as stated in the published notice, or at such other time and place to which the meeting may be adjourned.

(2) A member of the State Board of Forestry, or the forester, shall act as chairperson of the meeting. The forester shall cause the minutes of the meeting to be preserved as a public record.

(3) During the meeting the chairperson shall receive from any interested persons suggestions, advice, objections or remonstrances as to the proposed budget for that forest protection district. The forester, under the direction of the board, may make changes in the budget proper and consistent with law, and thereafter submit the budget for final approval under ORS 477.265. [Formerly 477.047]

477.260 Appeal to board. (1) Any owner of grazing land or timberland within the boundary of the forest protection district who is adversely affected by the proposed budget may file an appeal within 30 days after the date of the public budget meeting.

(2) Any owner of grazing land or timberland subject to ORS 477.205 to 477.281 shall, upon request, be granted a hearing by the State Board of Forestry on any subject pertaining to the activities of the forester or board affecting the land.

(3) Appeals and hearings shall be conducted by the board in accordance with rules adopted pursuant to ORS 526.016 (4). [Formerly 477.049; 1997 c.274 §6; 1999 c.355 §6]

477.265 Board to deal with budgets annually. The State Board of Forestry shall annually review the forest protection district budgets, make any changes in the budgets that are proper and consistent with law, and pass final approval on all district budgets and the prorated acreage rates therein. [Formerly 477.051; 1999 c.355 §7]

477.270 Budgeted cost of forester to be lien; collection; deposit of amounts collected. (1) Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(a) The budgeted cost of the forester, as provided for in ORS 477.205 to 477.281, in providing protection for privately owned forestland shall be a lien upon such property, shall be reported by the forester to the governing body of the county in which the lands are situated on or after July 1 of each fiscal year, and shall be levied and collected by the governing body with the next taxes on the land in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state. The governing body shall instruct the proper officer to extend the amounts on the assessment roll in a separate account, and the procedure provided by law for the collection of taxes and delinquent taxes shall apply. Upon collection thereof, the governing body shall repay the entire amount collected to the forester.

(b) In lieu of the procedures under paragraph (a) of this subsection, the forester, under the direction of the State Board of Forestry, may make direct billing of the budgeted cost to owners of forestland and receive payment of the cost therefrom. In the event that under such billing procedures any owners fail to make payment, the unpaid budgeted cost shall become a lien against the property so billed and shall be levied and collected with the next taxes on such property as described in paragraph (a) of this subsection.

(c) The budgeted cost of the forester in providing protection for forestland owned by the state or by a political subdivision shall be paid to the forester on or before the first day of January of the fiscal year for which such protection is to be provided.

(2) Except as provided in ORS 477.230 (2), all moneys received by the forester pursuant to this section shall be paid into the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of ORS 477.205 to 477.281. [Formerly 477.033; 1983 c.16 §2; 1999 c.355 §8]

477.272 [Repealed by 1953 c.152 §10]

477.274 [Repealed by 1953 c.152 §10]

477.275 [1981 c.321 §14; 1983 c.109 §1; repealed by 1989 c.769 §6]

477.276 [Repealed by 1953 c.152 §10]

477.277 Additional assessment to maintain reserve base of Oregon Forest Land Protection Fund. (1) In addition to any other assessment prescribed by ORS 477.205 to 477.281, in any fiscal year in which the Emergency Fire Cost Committee determines that the reserve base of the Oregon Forest Land Protection Fund is less than \$15 million, a surcharge shall be levied and assessed in the amount of \$38 for each improved lot or parcel, except as

provided in ORS 477.760, to defray the increased cost of fire suppression on forestland that is caused by the existence of the improvements.

(2) All surcharge moneys collected pursuant to this section shall be paid into the Oregon Forest Land Protection Fund.

(3) If an owner of forestland files a forest protection plan with the forester which is approved by the State Board of Forestry under ORS 477.210 (2), the owner shall not be required to pay the surcharge levied under subsection (1) of this section.

(4) As used in this section, a lot or parcel is “improved” if it is indicated as improved in the county assessor’s property classification files or if a manufactured dwelling is sited on the lot or parcel. [1989 c.769 §3; 1991 c.639 §2; 1993 c.430 §1]

477.278 [Repealed by 1953 c.152 §10]

477.280 [Repealed by 1953 c.152 §10]

477.281 Limitation on obligation of landowner for fire protection. (1) The obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland is limited to:

(a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund reserve base at \$15 million; and

(b) The payment of forest protection district assessments pursuant to ORS 477.205 to 477.281.

(2) As used in this section, “obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland” does not include the duties or obligations of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included in a rural fire protection district pursuant to ORS 478.010. [1989 c.769 §9; 1991 c.639 §3; 1997 c.206 §2; 1999 c.59 §157]

477.282 [1953 c.152 §2; 1965 c.253 §116; renumbered 477.670]

477.284 [1953 c.152 §3; repealed by 1965 c.253 §153]

477.285 [Formerly 477.035; repealed by 1989 c.769 §6]

477.286 [1953 c.152 §4; 1965 c.253 §106; renumbered 477.625]

477.288 [1953 c.152 §5; 1965 c.253 §109; renumbered 477.635]

477.290 [1961 c.603 §14; 1965 c.253 §110; renumbered 477.640]

477.291 [Formerly 477.039; repealed by 1999 c.355 §17]

477.295 Minimum assessment under ORS 477.270; combining lots; fees; rules. (1) For purposes of making the levy and assessment of costs against forestland under ORS 477.270, the minimum cost to provide fire protection or suppression for any lot or parcel of real property separately assessed for ad valorem taxes or other taxes provided by law in lieu thereof, on the current assessment roll shall be not less than \$18, except as provided in ORS 477.760. Three dollars of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund. Otherwise, such assessments shall be determined under ORS 477.230 and 477.270.

(2) In any fiscal year in which the Emergency Fire Cost Committee determines the reserve base of the Oregon Forest Land Protection Fund to be more than \$15 million, the minimum assessment referred to in subsection (1) of this section shall be \$15 for each lot or parcel and such amount shall be treated in the same manner as assessments under ORS 477.230 and 477.270.

(3) Upon application to the forester under subsection (4) of this section, contiguous lots held under identical ownership shall be considered as one combined lot for purposes of subsection (1) of this section, except that the combined lot shall not include:

(a) A lot on which a structure has been placed or improvements made for the purpose of erecting any temporary or permanent structure;

- (b) A lot that is in a subdivision containing lots that have been or are being offered for sale; or
- (c) A lot that is not designated forest or agricultural land for the purpose of land use or special tax assessment purposes.

(4) To qualify under subsection (3) of this section, an owner of forestland shall make application to the forester no later than April 15 of the fiscal year preceding each fiscal year for which the owner desires the land to be assessed under subsection (3) of this section. The application shall be on a form prescribed by the State Forester. A fee of \$25 per combined lot shall be paid to the forester at the time of first application for the combined lot. An additional fee of \$25 per combined lot shall be paid to the forester at the time of subsequent application, if an application for the combined lot was not made for the previous fiscal year.

(5) The State Board of Forestry may adopt rules for the administration of the provisions of subsections (3) and (4) of this section.

(6) For the purposes of this section, “lot” and “subdivision” have the meanings given those terms in ORS 92.010. [1965 c.428 §6; 1969 c.204 §1; 1977 c.153 §1; 1977 c.892 §49; 1981 c.321 §13; 1983 c.108 §1; 1989 c.769 §7; 1991 c.623 §1; 1991 c.639 §4; 1997 c.274 §7; 1999 c.355 §9]

477.300 Use of funds in State Forestry Department Account for capital outlay expenditures of district. (1) Moneys available at any time in the State Forestry Department Account for the purposes of this chapter, particularly ORS 477.205 to 477.281, which moneys are not specifically obligated for other purposes, may be used by the forester with the approval of the State Board of Forestry for capital outlay expenditures in any forest protection district. Prior to the making of such capital outlay expenditures, the forester and board may specify that the account shall be reimbursed for all or a part of such expenditures, over a period not to exceed 10 years, from any one or a combination of the following sources:

- (a) Forest patrol assessments of the district involved.
- (b) Moneys derived from an association under ORS 477.406.
- (c) Moneys derived from municipal, county, state or federal agencies under this chapter, for the protection of their forestland from fire.

(2) Any reimbursement of capital outlay expenditures required by the forester and board under subsection (1) of this section shall be a pro rata amount from the source or sources involved, based upon forestland acreage being protected in the district for which the expenditures are made. [Formerly 477.016]

477.302 [Amended by 1965 c.253 §126; renumbered 477.705]

477.304 [Amended by 1965 c.253 §127; renumbered 477.710]

477.305 Forester to enforce prohibition against littering on forestland in districts. The forester is authorized to enforce the provisions of ORS 164.805 insofar as such affects forestland within forest protection districts established under this chapter. [1965 c.428 §2; 1971 c.743 §387]

477.306 [Amended by 1965 c.253 §132; renumbered 477.730]

477.308 [Amended by 1965 c.253 §133; renumbered 477.735]

477.310 [Amended by 1959 c.363 §12; 1965 c.253 §134; renumbered 477.090]

477.312 [Amended by 1959 c.363 §13; repealed by 1965 c.253 §153]

477.314 [Repealed by 1965 c.253 §153]

RANGELAND

477.315 Definition for ORS 477.315 to 477.325. As used in ORS 477.315 to 477.325, “rangeland” means any land:

- (1) That is located in that part of the state lying easterly of the summit of the Cascade Mountains; and
- (2) That has not been classified as Class 1, Class 2 or Class 3 forestland under ORS 526.305 to 526.370; and

(3) That contains isolated tracts of forestland not so classified or not within a forest protection district, or that is primarily rangeland, undeveloped land or undeveloped area containing sagebrush, juniper and similar growths. [Formerly 477.142]

477.320 Request of rangeland owners for protection; hearings; determination; cooperative agreements for protection. (1) Owners of rangeland may request the State Board of Forestry to hold a hearing on the subject of providing protection from fire for rangeland. Upon receipt of such request, the board or its authorized representative shall hold one or more public hearings in order to receive from interested persons information relating to the providing of such protection, and shall cause public notice of the time and place of each hearing to be given. The board or its authorized representatives shall keep the records of the proceedings of such hearings as public records.

(2) After the hearing referred to in subsection (1) of this section, the board shall determine whether the rangeland should be included within a protection system. If the board determines that rangeland should be included in a rangeland protection system, the board, in cooperation with interested persons, shall establish the extent and type of protection to be provided. Such protection shall be commensurate with the values and uses of the rangeland to be protected.

(3) After proceedings under subsections (1) and (2) of this section, the forester shall provide the type and extent of protection determined under subsection (2) of this section for rangeland determined to be included within a protection system under subsection (2) of this section. For the purpose of providing such protection, the forester may enter into cooperative agreements or contracts with the owners of the rangeland, individuals, associations, corporations, road districts, rural fire protection districts or agencies of the federal government. [Formerly 477.144; 1999 c.355 §10]

477.325 Budget for rangeland protection; collection of costs; disposition of receipts. (1) Before June 1 each year, the owners of rangeland to be protected under ORS 477.320 (3) shall prepare in cooperation with the State Board of Forestry or its authorized representative, and submit to the board, a proposed budget for the fiscal year beginning on the next succeeding July 1. The budget shall include the proposed cost of such protection. At the meeting of the board under ORS 477.265, the board shall review the budget, make any changes therein that are proper and consistent with law, and pass final approval thereon.

(2) The cost of protection of rangeland under ORS 477.320 (3) shall be in accordance with the budget approved under subsection (1) of this section. The cost shall be collected pursuant to the cooperative agreement or contract entered into between the forester and the owners of the rangeland under ORS 477.320 (3). All moneys received by the board pursuant to this subsection shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes of ORS 477.315 to 477.325. [Formerly 477.146; 1999 c.355 §11]

FIRE WARDENS

477.355 Fire wardens generally. (1) The State Forester shall appoint one or more district fire wardens for each forest protection district.

(2) The State Forester shall appoint such additional fire wardens as are needed to enforce this chapter. [1965 c.253 §86; 1997 c.274 §8]

477.360 Duties of fire warden for forest protection district. The district fire warden, under the direction of the State Forester, has charge of the fire prevention and suppression system in the forest protection district of the warden and such other duties as are required by law and the rules of the State Board of Forestry. Any other wardens serving in the district are subject to the direction of the district fire warden. [Formerly 477.008; 1999 c.355 §12]

477.365 Duties and powers of wardens. (1) Under instructions from the forester as to their exercise of state authority, all wardens shall:

(a) Take proper steps for the prevention and extinguishment of fires within the localities in which they exercise their functions.

(b) Control the use of fire for clearing land during fire season, as provided by ORS 477.505 to 477.520.

(c) Make such reports of their work and conditions within their localities as may be requested by the forester.

(d) Have the power of peace officers to make arrests or issue citations pursuant to ORS 477.985 for violation of this chapter or rules or orders adopted pursuant thereto.

(e) Enter upon the lands of any owner only in the discharge of their fire prevention and suppression duties, provided that in so entering they exercise due care to avoid doing damage.

(f) Investigate the causes of fires and may secure a fire origin area, at any time, for the purpose of preserving evidence and conducting an investigation pertinent to this chapter and control, restrict or prohibit access by any unauthorized person so long as is reasonably necessary in the judgment of the warden.

(g) Make a written determination, on a form prescribed by the State Forester, of the personnel and equipment reasonably available to an owner or operator who is required to make every reasonable effort pursuant to ORS 477.120 (5) and to revise such determination as frequently as is necessary in the judgment of the warden.

(h) Make a written determination, on a form prescribed by the State Forester, of the use of any power-driven machinery in any operation pursuant to ORS 477.670 and to revise such determination as frequently as is necessary in the judgment of the warden.

(2) The forester, or any warden coming under the jurisdiction of the forester, may administer oaths in investigations of violations of this chapter and the preparation of reports thereon. [Formerly 477.012; 1971 c.743 §388; 1993 c.697 §4; 1997 c.274 §9]

477.370 [Formerly 477.014; 1987 c.158 §104; repealed by 1997 c.274 §55]

477.375 [1965 c.253 §91; repealed by 1997 c.274 §55]

COOPERATIVE CONTRACTS OR AGREEMENTS

477.405 [1965 c.253 §77; repealed by 1967 c.429 §23 (477.406 enacted in lieu of 477.405)]

477.406 Cooperative contracts or agreements for forest protection or forest related activities; negotiation. (1) The forester and a forest protective association may enter into a contract or agreement with each other or, jointly or separately, with a federal or state agency, political subdivision, corporation, responsible organization or responsible landowner or group of landowners for the prevention and suppression of fire on forestland or on land other than forestland, or both, to prevent and suppress fire.

(2) Contracts and agreements under subsection (1) of this section, and all renewals and revisions thereof, must be negotiated in accordance with procedures specified by rules of the State Board of Forestry.

(3) The forester and a forest protective association may enter into a contract or agreement for the accomplishment of forestry related activities.

(4) Contracts and agreements between the forester and a forest protective association under subsections (1) and (2) of this section may include the purchase from the forester of supplies and equipment needed to provide and support fire protection services. [1967 c.429 §24 (enacted in lieu of 477.405); 1969 c.204 §2; 1993 c.415 §1; 1999 c.355 §13]

477.408 Provisions of contract or agreement. Contracts or agreements under ORS 477.406 may provide, among other things, for any or all of the parties to do any one or more of the following:

(1) Exchange services on a cooperative basis.

(2) Provide services, supplies and equipment in return for cash payment or other compensation.

(3) Loan or lease equipment.

(4) Subcontract obligations. [1967 c.429 §26; 1993 c.415 §2]

477.410 Liability of parties; responsibility for equipment; unemployment insurance and workers' compensation; sovereign immunity. (1) Unless otherwise provided in a contract or agreement, and except as provided in subsection (2) of this section:

(a) A party to a contract or agreement under ORS 477.406, who is performing services for the benefit of another party, is not liable for injury or damages to persons or property inflicted by the actions of such other party.

(b) If equipment is loaned or leased pursuant to a contract or agreement under ORS 477.406, the party to have primary use of the equipment under the contract or agreement is responsible for any and all damages or loss to such equipment or for insuring the equipment against loss or damage in a manner acceptable to the party owning the equipment.

(c) If the services of personnel are involved pursuant to a contract or agreement under ORS 477.406, the party to have primary control over such personnel under the contract or agreement shall provide such unemployment insurance

and workers' compensation coverage as may be required by law.

(2) Nothing in ORS 477.406 to 477.412 or in any contract or agreement under ORS 477.406 constitutes a waiver by the State of Oregon of its immunity from suit under section 24, Article IV of the Oregon Constitution, in addition to any waiver otherwise provided by law. [1967 c.429 §27]

477.412 Disposition and use of moneys received by forester under contract or agreement. All money received by the forester pursuant to a contract or agreement described in ORS 477.406 shall be paid into the State Treasury, credited to the State Forestry Department Account and used pursuant to law for the purposes of the contract or agreement. [1967 c.429 §28]

477.415 Definitions for ORS 477.440 to 477.460. The definitions in ORS 321.005 apply to ORS 477.440 to 477.460. [1965 c.253 §78; 1967 c.429 §35; 1981 c.321 §8]

477.420 [Formerly 477.133; repealed by 1967 c.429 §61]

477.425 [Formerly 477.135; 1967 c.429 §13; 1977 c.182 §2; repealed by 1981 c.321 §12]

477.430 [1965 c.253 §82; 1967 c.429 §5; repealed by 1981 c.321 §12]

477.440 Emergency Fire Cost Committee; members; terms; vacancies. (1) The State Board of Forestry shall appoint an Emergency Fire Cost Committee consisting of four members, who shall be forest landowners or representatives of forest landowners whose forestland is being assessed for forest fire protection within a forest protection district. At least one member shall be selected from each forest region of the state. Members shall serve at the pleasure of the board.

(2) Members of the Emergency Fire Cost Committee shall be appointed by the board for four-year terms. Appointments under this subsection shall be made by the board within 60 days after July 21, 1987. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. [Formerly 527.280; 1983 c.759 §12; 1987 c.919 §19]

477.445 Distribution of fire emergency funds by committee. The committee shall supervise and control the distribution of funds from the Oregon Forest Land Protection Fund established under ORS 477.750. [Formerly 527.282; 1967 c.429 §6; 1981 c.321 §7]

477.450 Election of committee chairperson. After July 1, 1961, the committee shall meet and elect one of its members chairperson. The chairperson shall hold office for a period determined by the committee. Whenever the office of chairperson of the committee becomes vacant, the committee at its next regular or special meeting shall elect one of its members to fill the vacancy. [Formerly 527.288]

477.455 Meetings of committee; committee administrator. (1) Regular meetings of the committee shall be held quarterly prior to the day set for meetings of the State Board of Forestry, as otherwise provided by law. Special meetings of the committee may be called by its chairperson or by three members. The act or decision of any three members shall be deemed the act or decision of the committee.

(2) A staff member of the State Forestry Department shall be designated by the State Forester to serve as administrator for the committee. [Formerly 527.296; 1987 c.919 §21; 1991 c.639 §9]

477.460 Duties of administrator; compensation and expenses. (1) The administrator shall act as secretary of the committee and shall carry out the provisions of ORS 477.440 to 477.460 in such manner as the committee shall direct. The salary and other expenses of the administrator shall be paid from the Oregon Forest Land Protection Fund as are other expenses of the committee.

(2) Members of the committee are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 527.292; 1969 c.314 §51; 1981 c.321 §6; 1987 c.919 §22]

(Fire Seasons)

477.505 State Forester may declare fire season in district. (1) When conditions of fire hazard exist in a forest protection district or any part thereof, the State Forester may designate for that district or any part thereof the date of the beginning of a fire season for that year. The fire season shall continue for that district or part thereof until ended by order of the State Forester when conditions of fire hazard no longer exist in that district or part thereof.

(2) The State Forester may, during the same year and for the same district under circumstances similar to those described in subsection (1) of this section, designate one or more subsequent fire seasons. [1965 c.253 §93; 1969 c.204 §3; 1997 c.274 §10]

477.510 Acts prohibited during fire season. It is unlawful, during a fire season inside or within one-eighth of one mile of a forest protection district, to:

(1) Smoke while working in or traveling through any operation area.

(2) Use fuse and caps for blasting unless approval is granted by the forester. [Formerly 477.165; 1997 c.274 §11]

(Permits)

477.515 Permits required for fires on forestlands; waiver; permit conditions; cooperative agreements for permit administration. (1) It is unlawful to set or cause to be set an open fire inside or within one-eighth of one mile of a forest protection district, either on one's own land or on the land of another, without first securing a written permit for burning from the forester and complying with the conditions of the permit. In granting permits for burning:

(a) The forester may waive the requirement that permits be secured prior to burning, except during a fire season or when required under rules adopted pursuant to subsection (4) of this section.

(b) The forester shall prescribe conditions necessary to be observed in setting a fire and preventing it from spreading out of control.

(c) The forester may prescribe conditions necessary to be observed in maintaining air quality.

(2) Any permit obtained through willful misrepresentation is void.

(3) To avoid confusion or duplication of administration and to promote government efficiency, the forester may enter into a cooperative agreement with a county, a city or a rural fire protection district that:

(a) Allows the forester to administer the requirements of this section, in conjunction with the enforcement authority of ORS 477.980 to 477.993, on lands not otherwise subject to the requirements of this chapter; or

(b) Allows the cooperating agency to administer the burning permit requirements of ORS chapter 476 or 478, as appropriate, including applicable enforcement authority, on lands otherwise subject to the requirements of this chapter.

(4) All burning allowed under this section shall comply with applicable rules that may be adopted by the State Board of Forestry and the Department of Environmental Quality.

(5) The provisions of this section do not apply to campfires. [1965 c.253 §95; 1969 c.204 §204; 1969 c.680 §1; 1971 c.297 §1; 1997 c.274 §12; 1999 c.355 §14]

477.520 Refusal, suspension or revocation of permits. The forester may refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester to prevent danger to life, health, forest resources or property. The forester may also refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester, and after consultation with the Environmental Quality Commission to prevent air pollution, as defined in ORS 468A.005. [1965 c.253 §96; 1969 c.680 §2; 1997 c.274 §13]

477.525 [1965 c.253 §97; repealed by 1967 c.429 §14 (477.526 enacted in lieu of 477.525)]

477.526 [1967 c.429 §15 (enacted in lieu of 477.525); repealed by 1969 c.204 §8]

477.530 [1965 c.253 §98; repealed by 1997 c.274 §55]

477.532 Regional air quality authority's functions limited. None of the functions of the Environmental Quality Commission under ORS 477.013, 477.515 and 477.520 shall be performed by any regional air quality authority established pursuant to ORS 468A.105. [1969 c.680 §5; 1997 c.274 §49]

(Restricted Uses)

477.535 Forester may proclaim forestland subject to restricted uses; coordination of state and federal land restrictions. (1) If the forester determines that any forestland inside or within one-eighth of one mile of a forest protection district is particularly exposed to fire danger, by proclamation the forester may designate such forestland as an extra fire hazard and may restrict the use of such forestland.

(2) The proclamation shall designate the area to which and the period during which the restrictions apply, and require that the area be subject to use only upon the condition that entrants comply with all the restrictions for the area.

(3) The proclamation shall designate the type of closure as:

- (a) Regulated closure;
- (b) Permit closure; or
- (c) Absolute closure.

(4) For the purpose of consistency and coordination between all affected agencies in the administration of forestland restrictions, a plan shall be developed by the forester, in cooperation with federal, state and local governmental agencies, landowners and organizations affected by the restrictions. The primary objective of the plan is uniformity of regulations regardless of land ownership. The plan must recognize variation in fire danger and must specify levels of closure by unique but easily recognizable geographic boundaries. [Formerly 477.156; 1967 c.429 §45; 1989 c.615 §3; 1997 c.274 §14]

477.540 Notice of proclamation; suspension or termination; reinstatement. (1) The forester shall cause a notice of the closure proclaimed under ORS 477.535 to be posted in conspicuous locations that are in or near the designated areas. The forester shall cause a notice of each proclamation to be published in at least one newspaper published in each forest protection district containing the designated areas. Each published notice shall describe the area, type, restrictions and effective date of closure, and the manner in which permits may be secured if the area is subject to a permit closure.

(2) The proclamation shall remain in force until the time designated therein expires or until the forester finds that the restricted use is no longer requisite and by order suspends or terminates it. A reinstatement of a closure after a suspension does not require the notices described in subsection (1) of this section. [Formerly 477.160; 1967 c.429 §46; 1969 c.204 §5; 1997 c.274 §15; 1999 c.355 §15]

477.545 Restricted uses during closure. (1) Regulated closures require entrants into designated areas to comply with the requirements set forth in the proclamation under ORS 477.535, which requirements in the judgment of the forester are necessary to prevent danger to life, forest resources or property.

(2) Permit closures make the area subject to entry only through permit issued by the forester. The permit shall contain requirements which in the judgment of the forester are necessary to prevent danger to life, forest resources or property. The forester may, during periods of fire hazard conditions, refuse, suspend, revoke or restrict such permits.

(3) Absolute closures restrict the areas to all forms of use and shall be designated only during periods of extreme fire hazard conditions endangering life, forest resources or property. [Formerly 477.158; 1967 c.429 §47; 1969 c.204 §6; 1997 c.274 §16]

477.550 Violation of restrictions; access for fire fighting permitted. (1) Except as provided in subsection (2) of this section, it is unlawful to enter any restricted area except in compliance with ORS 477.535 and 477.545, or to violate any of the requirements or restrictions under such sections.

(2) Nothing in this section applies to an owner's right of entry upon the land of the owner or prohibits free access to any area by anyone for the sole purpose of preventing or extinguishing fires. [Formerly 477.162; 1967 c.429 §48]

(Smoke Management)

477.552 Policy. It is the policy of the State of Oregon:

(1) To improve the management of prescribed burning as a forest management and protection practice; and

(2) To minimize emissions from prescribed burning consistent with the air quality objectives of the federal Clean Air Act and the State of Oregon Clean Air Act Implementation Plan developed by the Department of Environmental Quality under ORS 468A.035. [1989 c.920 §2]

477.554 Program establishment; content. (1) With the advice and assistance of the advisory committee established under ORS 477.556, and subject to the review of the State Board of Forestry, the State Forester shall adopt and implement programs for meeting the objectives set forth in ORS 477.013 and 477.552 to 477.562. The programs shall include:

- (a) Collection, analysis and distribution of information regarding prescribed burning and other alternative slash management techniques;
 - (b) Assistance to landowners wanting to evaluate alternative burning and nonburning slash management strategies and the collection of data regarding fuel conditions existing before and after slash treatment;
 - (c) Aerial monitoring of prescribed burning activity;
 - (d) Distribution of information to the Department of Environmental Quality on progress toward meeting federal and state air quality standards; and
 - (e) Establishment of a system to track forest burning on a geographically specific basis.
- (2) The programs shall be administered by the State Forestry Department. [1989 c.920 §3; 1997 c.274 §50]

477.556 Advisory committee; membership; terms; staff. (1) An advisory committee shall be created by the State Forester to advise and assist the State Forester in carrying out the programs required by ORS 477.013, 477.515 and 477.552 to 477.562. The advisory committee shall consist of five members as set forth in subsections (2) and (3) of this section.

- (2) The following three members shall be appointed by the State Forester:
- (a) One member representing a nonindustrial forest landowner;
 - (b) One member representing an industrial forest landowner; and
 - (c) One member representing the public.
- (3) In addition to the members designated in subsection (2) of this section, representatives of the following federal agencies shall be invited to serve as members of the advisory committee:
- (a) A representative of the United States Forest Service.
 - (b) A representative of the United States Bureau of Land Management.
- (4) Each member of the advisory committee shall serve for a term of two years.
- (5) Members of the advisory committee are entitled to compensation as provided in ORS 292.495.
- (6) A vacancy for any cause occurring before the expiration of a term shall be filled for the unexpired term by a person appointed by the State Forester.
- (7) A staff member of the State Forestry Department shall be designated by the State Forester to serve as secretary for the committee. [1989 c.920 §4; 1997 c.274 §51]

477.558 Functions for advisory committee. The advisory committee created under ORS 477.556 shall:

- (1) Advise the State Forestry Department in collecting information about prescribed burning operations;
- (2) Advise the State Forestry Department on the collection, analysis and distribution of information required under ORS 477.554; and
- (3) Review and comment on the report required under ORS 477.560. [1989 c.920 §5]

477.560 Oregon Forest Smoke Management Account; moneys paid to account; use. (1) The Oregon Forest Smoke Management Account is established separate and distinct from the General Fund in the State Treasury.

- (2) The following moneys shall be credited to the Oregon Forest Smoke Management Account:
- (a) Nonrefundable registration fees received by the State Forestry Department for Class 1 forestland under ORS 526.324 to be burned lying within the restricted area described under ORS 477.013.
 - (b) Fees received by the State Forester for Class 1 forestland under ORS 526.324 treated by a prescription burn method under ORS 477.515 (1).
 - (c) Fees for federal forestland included within the restricted area under ORS 477.013 to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the federal Clean Air Act received by the State Forester.

(3) The moneys in the Oregon Forest Smoke Management Account are appropriated continuously for and shall be used by the State Forester exclusively for the administration of the smoke management program approved under ORS 477.013 and 477.554. [1989 c.920 §7; 1997 c.274 §52]

477.562 Registration fee; rules; exemption. (1) The State Forestry Department shall collect a nonrefundable registration fee for forestland to be burned lying within the restricted area described under ORS 477.013. However, the State Forester, by rule, shall provide an exemption from payment of the fee for burning of understory materials that occurs on forestland for which regular, periodic burning of understory materials is required for forest health.

(2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1 forestland under ORS 526.324 lying within the restricted area as described in the plan required under ORS 477.013 shall register with the State Forester, in accordance with rules adopted by the State Forester, the number of acres to be burned prior to December 31 of the same year.

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

(a) Fifty cents per acre for registration.

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

(4) Federal lands included within the restricted area under the provision of the smoke management plan approved under ORS 477.013 shall also be subject to the fees authorized under subsection (3) of this section for forestland to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the federal Clean Air Act.

(5) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the Oregon Forest Smoke Management Account established under ORS 477.560. [1989 c.920 §8; 1991 c.919 §15a; 1997 c.274 §53]

SNAGS; SLASHING AND OTHER DEBRIS

477.565 Felling dead trees and snags; rules. (1) In an operation area on forestland inside or within one-eighth of one mile of a forest protection district:

(a) If power-driven machinery is used at any location to load and assemble forest products, the operator shall fell all dead trees and snags of such size and within such distance of the equipment as may be required by rules promulgated by the State Forester.

(b) On forestland west of the summit of the Cascade Mountains, the operator shall fell all dead trees and snags within the operation area of such size, at such times and in such manner as may be required by rules promulgated by the State Forester.

(2) Rules promulgated under this section shall prescribe such felling as reasonably is necessary to prevent the spread of fire. [Formerly 477.217; 1967 c.429 §49; 1997 c.274 §17]

477.570 [Formerly 477.242; repealed by 1973 c.46 §8]

477.575 [Formerly 477.244; 1969 c.680 §3; 1973 c.46 §4; repealed by 1987 c.154 §1]

477.580 Determination of additional fire hazards; notice to landowner; plan for reducing hazard; release from liability. (1) Following the issuance of a permit pursuant to ORS 477.625, and after slashing has been created in an operation area inside or within one-eighth of one mile of a forest protection district, the forester may make a determination if such slashing and debris exists on the operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that endangers life, forest resources or property, and if such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard. Whenever practical, the forester shall make the determination referred to in this subsection during the administration and enforcement of the Oregon Forest Practices Act.

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

(3) When the forester finds that the provisions set forth in subsection (2) of this section have been complied with or that the additional hazard has been, in the opinion of the forester, sufficiently reduced by other means to offset the hazard, the forester shall immediately issue to the operator or landowner a release from all obligations imposed by

ORS 477.120 (2)(c).

(4) If the forester determines that an additional fire hazard exists, the forester shall, at the request of the owner or operator, with the approval of the owner, grant a release upon payment by the owner or operator of such sum of money as the forester finds necessary to provide additional protection or means necessary to reduce or offset the additional hazard created by such slashing and other debris. In no event may this sum exceed (a) \$6 for each 1,000 board feet of timber harvested in an operation; or (b) the forester's estimated cost of reducing or providing other means to offset the additional hazard; or (c) \$10 for each acre in a stand improvement operation where no timber is harvested, whichever amount is the lesser. Moneys received under this subsection shall be placed in the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of forest protection within the district.

(5) Any owner of forestland may make written request to the forester to assume all obligations for the disposal or reduction of any additional fire hazard determined to exist thereon. If the forester then determines that the owner can comply with such obligation, the forester shall immediately issue to all other persons involved a written release of such obligations.

(6) Any order or determination made by the forester pursuant to this section is final unless modified or vacated in an appeal to the State Board of Forestry taken within 30 days after issuance of the order. [1965 c.253 §121; 1965 c.428 §16; 1967 c.429 §54; 1973 c.46 §5; 1975 c.74 §1; 1979 c.222 §1; 1997 c.274 §18]

477.585 [1967 c.429 §56; repealed by 1973 c.46 §8]

MACHINERY REGULATIONS

(Enjoining Violations)

477.605 Enjoining violations of ORS 477.615 and 477.645 to 477.655. Any person violating any provisions of ORS 477.615 and 477.645 to 477.655 may be enjoined in an appropriate judicial proceeding from the further use of such equipment until the person complies with these sections. [Formerly 477.218; 1997 c.274 §19]

477.610 Standardization of fire-fighting equipment used to protect forestland. (1) Notwithstanding any other law, the State Forester, in cooperation with other forest protection associations and agencies, shall carry on a continuous program for the standardization of equipment used for the protection of forestland from fire, and may issue rules, with the approval of the State Board of Forestry, for such standardization where it is the finding of the forester and board that such standardization is economically feasible.

(2) The provisions of ORS 476.410 to 476.440 shall not apply to equipment used for the protection of forestland from fire. [1965 c.76 §§2,3; 1999 c.355 §16]

(General Regulations)

477.615 Additional water supply and equipment; rules. (1) During a fire season inside or within one-eighth of one mile of a forest protection district, when, in the judgment of the forester, an operation is of sufficient size or so planned and operated as to justify additional protection from fire, the owner or operator, when so directed by the forester in writing, shall provide, within such time as is specified in the writing, additional water supply and equipment for use in fire suppression that is in conformity with rules promulgated by the State Forester.

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

(3) Rules promulgated under this section shall prescribe such water supply and equipment as reasonably are necessary to provide immediate and effective suppression of fires on forestland and may provide for the use of alternate methods and equipment. [Formerly 477.212; 1967 c.429 §17; 1995 c.605 §2; 1997 c.274 §20]

477.620 [Formerly 477.215; repealed by 1995 c.605 §1]

477.625 Permit to use fire or power-driven machinery; exception; conditions; waiver of permit. (1) Every person conducting an operation inside or within one-eighth of one mile of a forest protection district that uses fire in any form or power-driven machinery shall first obtain from the forester a written permit, which shall require that the

holder of the permit:

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

(b) Designate a representative authorized to act on all matters having to do with fire control, which representatives shall be available at all times by direct means of communication with the forester.

(c) If operating west of the summit of the Cascade Mountains, close down any part or all of the operation during any period of time when notified that, in the judgment of the forester, conditions exist as described in ORS 477.670.

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

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

(b) Waiver of the requirement to obtain a written permit under this section does not relieve the owner and operator of the responsibility for complying with other applicable duties, requirements or penalties of this chapter. [Formerly 477.286; 1991 c.634 §1; 1997 c.274 §21]

477.627 [1975 c.185 §3; repealed by 1975 c.185 §6]

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

(a) The legal description of the area upon which any operation is to be conducted, or an alternate description of the area permitted by the forester;

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

(c) Any other information considered by the forester to be necessary for the administration of the rules promulgated under this chapter.

(2) The information required in subsection (1) of this section shall be provided by the operator or owner, prior to issuance of the permit by the forester. [1965 c.253 §108; 1975 c.185 §1; 1997 c.274 §22]

477.635 Authority to issue, refuse, suspend or revoke permit. The forester may issue the permits required in ORS 477.625 and suspend or revoke such permits because of violation of the terms thereof or noncompliance with this chapter. The forester shall refuse to issue a permit to any person for the conduct of an operation when, in the judgment of the forester, an excessive amount of forest debris in and around the operation area results in an extreme fire hazard that endangers life, forest resources or property. [Formerly 477.288; 1997 c.274 §23]

(Fire Season Regulations)

477.640 Use and refueling of power saws. During a fire season, every person using, operating or fueling a saw powered by an internal combustion engine inside or within one-eighth of one mile of a forest protection district shall comply with the rules of the State Forester relating thereto, promulgated for the prevention and suppression of fire. [Formerly 477.290; 1997 c.274 §24]

477.645 Internal combustion engines; rules. (1) During a fire season every person operating an internal combustion engine inside or within one-eighth of one mile of a forest protection district shall equip and maintain the engine in conformity with rules promulgated by the State Forester. These rules shall prescribe such equipment as reasonably is necessary to prevent the escape of fire from such an engine.

(2) Escape of fire from any engine described in this section is prima facie evidence that it has not been equipped and maintained adequately in compliance with rules promulgated under this section. [Formerly 477.182; 1967 c.429 §18; 1997 c.274 §25]

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

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

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

(4) The forester in writing may waive any requirement of this section when an operation will not constitute a fire hazard sufficient to justify the requirement. [Formerly 477.184; 1967 c.429 §19; 1997 c.274 §26]

477.655 Fire-fighting tools and equipment at operation area and on trucks; rules. During a fire season inside or within one-eighth of one mile of a forest protection district:

(1) Every person conducting an operation shall provide and maintain, at the operation area or at a location designated by the forester, fire-fighting tools that are in conformity with rules promulgated by the State Forester. The tools shall be used only for fighting fire and for no other purpose.

(2) Each internal combustion engine used in an operation area shall be equipped with fire-fighting tools and equipment that are in conformity with rules promulgated by the State Forester.

(3) All trucks driven over roads through forestland, excepting county roads and state highways, shall be equipped with fire-fighting tools and equipment that are in conformity with rules promulgated by the State Forester.

(4) For purposes of this section, the rules promulgated by the State Forester:

(a) Shall prescribe such type and number of tools and equipment for extinguishing fires as reasonably are necessary to suppress fires, and the manner of storing such tools when not in use.

(b) May provide for the use of alternate methods, tools and equipment.

(5) The tools and equipment prescribed by these rules shall be kept in constant repair and readiness for instant use. [Formerly 477.186; 1967 c.429 §20; 1997 c.274 §27]

477.660 Additional protection facilities or services at operation area. During a fire season when in the judgment of the forester any operation inside or within one-eighth of one mile of a forest protection district has a fire hazard requiring additional protection, the operator shall provide such other facilities or services as the forester by written notice may direct. [Formerly 477.187; 1967 c.429 §21; 1997 c.274 §28]

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

(2) The forester may modify or waive, in writing, any requirement of this section as to any operation whenever the fire hazard is not sufficient to justify the requirement. [Formerly 477.188; 1967 c.429 §22; 1969 c.204 §7; 1997 c.274 §29; 1999 c.59 §158]

477.670 When use of fire or power-driven machinery prohibited. During a fire season inside or within one-eighth of one mile of a forest protection district situated west of the summit of the Cascade Mountains, if the forestland in such district, or any part thereof, is susceptible in the judgment of the forester to damage by fire, the forester shall issue notice to that effect. Thereafter the use of fire in any form by any person in any operation area or the use of power-driven machinery for any operation, is unlawful unless approved by the forester. Approval shall be granted only when in the judgment of the forester the activity will not constitute a fire hazard sufficient to justify the requirement. [Formerly 477.282; 1993 c.415 §3; 1997 c.274 §30]

477.685 [Formerly 477.246; repealed by 1995 c.605 §1]

477.690 [Formerly 477.248; repealed by 1995 c.605 §1]

MISCELLANEOUS

477.695 Removal of flammable material from railroad rights of way. (1) Every person operating a railroad of

any kind in this state inside or within one-eighth of one mile of a forest protection district shall annually or more often, if so ordered in writing by the forester, in a manner and to an extent ordered by the forester, destroy or remove all flammable growth and flammable material from the right of way of the railroad. All burning done to comply with this section must be in accordance with ORS 477.505 to 477.520 and 477.625.

(2) The forester shall allow a reasonable period of time for compliance with this order. [1965 c.253 §125; 1971 c.562 §1; 1997 c.274 §31]

477.705 [Formerly 477.302; repealed by 1983 c.327 §16]

477.710 Starting of campfire or other open fire restricted; exceptions. It is unlawful for any person to start a campfire or other open fire without first clearing the area immediately around and above it of material that will carry fire, or leave a campfire or other open fire unattended, or permit a campfire or other open fire to spread. This section does not apply to any activity conducted in compliance with ORS 477.365, 477.515, 477.625, 478.960, 526.041, 526.360 or 527.670. [Formerly 477.304; 1967 c.429 §50; 1993 c.430 §2; 1997 c.274 §32]

477.715 [1965 c.253 §129; repealed by 1971 c.743 §432]

477.720 Accidentally setting fire to forestland; failure to prevent spread. (1) It is unlawful, having accidentally set fire to any forestland, or any place from which fire may be communicated to forestland, to fail to extinguish the fire or use every possible effort so to do.

(2) It is unlawful, having built a fire on or near forestland, through carelessness or neglect to permit the fire to spread to or through the forestland. [1965 c.253 §130]

477.730 [Formerly 477.306; repealed by 1971 c.743 §432]

477.735 [Formerly 477.308; 1971 c.743 §389; repealed by 1987 c.905 §37]

477.740 Unlawful use of fire. A person commits the offense of unlawful use of fire if the person:

(1) In the ignition of a fire:

(a) Unlawfully sets on fire, or causes to be set on fire, any grass, grain, stubble or other material being or growing on any lands within the state;

(b) Intentionally or negligently allows fire to escape from the person's own land, or land of which the person is in possession or control; or

(c) Accidentally sets any fire on the person's own land or the land of another and allows it to escape from control without extinguishing it, or making a bona fide effort to do so.

(2) Having knowledge of a fire burning on the person's own land, or land of which the person is in possession or control, fails or neglects to make a bona fide effort to extinguish the same, regardless of whether or not the person is responsible for the starting or existence thereof. [1971 c.743 §307; 1993 c.697 §7; 1997 c.274 §33]

477.745 Liability of parents for costs of suppressing fire caused by minor child. (1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by the forester in suppressing fires on forestland caused by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.

(2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than \$5,000 payable to the forester for one or more acts.

(3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

(4) Nothing in subsections (1) to (3) of this section applies to:

(a) Foster parents.

(b) Parents who have filed a petition for the unemancipated minor child under ORS 419B.809. [1995 c.605 §6; 2001 c.622 §52]

477.750 Oregon Forest Land Protection Fund; source; use. (1) The Oregon Forest Land Protection Fund is created, separate and distinct from the General Fund. This fund shall be held by the State Treasurer as a trust fund for the uses and purposes provided in ORS 477.750 to 477.775 and 477.880. The State Treasurer shall deposit and invest moneys in the fund as provided by law, taking into account its uses and purposes. Interest earned by the fund shall be credited to the fund.

(2) Notwithstanding any other law and as limited by ORS 477.750 to 477.775 and 477.880, that part of the suspense account created by ORS 321.145 that is derived from the tax levied by ORS 321.015 (2) after refunds and other costs permitted by law, shall be credited to the Oregon Forest Land Protection Fund. [1969 c.524 §2; 1983 c.16 §3; 1985 c.759 §33; 1989 c.769 §12; 1989 c.966 §57]

477.755 Appropriation of fund for emergency fire suppression costs; limitation on expenditures. Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are appropriated continuously to the Emergency Fire Cost Committee and shall be used for equalizing emergency fire suppression costs for safeguarding forestland in any forest protection district, and for necessary administrative expenses. However, such administrative expenses shall not exceed the limit authorized by the Legislative Assembly each biennium. Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest Land Protection Fund from revenues received from ORS 321.015 (2), 477.277 (1), 477.295 (1), 477.750 (1) and (2), 477.760 (4) and 477.880 (2) shall not exceed \$10 million. [1969 c.524 §3; 1989 c.23 §1; 1991 c.639 §5]

477.760 Reserve base of fund fixed; annual determination of excess over base; tax levies and assessments to maintain base. (1) The reserve base of the Oregon Forest Land Protection Fund is \$15 million. On or about the last day of February of each year the Emergency Fire Cost Committee shall meet and determine the unencumbered balance of the fund as of the preceding February 16.

(2) In order to maintain the reserve base of the fund at \$15 million, the Emergency Fire Cost Committee may request and the State Treasurer may approve transfers to the fund in accordance with ORS 293.205 to 293.225, if the moneys in this fund fall below the reserve base, whether or not there are sufficient moneys in the fund to pay the obligations of the fund. Repayment of any such transfers shall be made from moneys paid into the fund pursuant to ORS 321.015 (2), 477.277 and 477.880 and from such other moneys as may be credited to the fund therefor.

(3) If the committee determines that the moneys in the fund exceed the reserve base and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the taxes described in ORS 321.015 (2) shall not be collected for the following calendar year, and the assessments described in ORS 477.880 shall not be levied for the following fiscal year.

(4)(a) Notwithstanding any other provision of law, if the funds referred to in subsection (2) of this section are inadequate to cover repayment of transfers from the State Treasurer or from other sources, the State Forester shall increase the following taxes, assessments and charges in an amount adequate to assure repayment of the transfers, and any interest accrued thereon, allowing for contingencies in valuation, assessment and collection:

(A) The harvest tax referred to in ORS 321.015 (2).

(B) The surcharge on developed lots referred to in ORS 477.277.

(C) The minimum assessment referred to in ORS 477.295.

(D) The acreage assessments referred to in ORS 477.880 (2).

(b) The increases to taxes, assessments and charges shall be apportioned based upon the proportionate levels of revenues received from each source by the Oregon Forest Land Protection Fund. Any such increases shall be computed on or before January 1 of each year, and shall be based upon revenues received during the previous four quarters. Any such increases shall be made in the appropriate calendar or fiscal year following that in which the requested transfers from the State Treasurer or from other sources are made. [1969 c.524 §4; 1985 c.158 §1; 1985 c.759 §34; 1989 c.769 §4; 1991 c.639 §6; 1993 c.653 §21]

477.765 [1969 c.524 §5; repealed by 1985 c.759 §40]

477.770 Rules relating to use of fund. The Emergency Fire Cost Committee shall promulgate rules relating to the disposition of moneys from the Oregon Forest Land Protection Fund. Under such rules the committee may require that prior to the payment of moneys from the fund the forest protection district expend an amount for fire suppression not to exceed a per acre amount determined to be 10 percent of the total budgeted amount of all districts as set forth in

ORS 477.220 to 477.415 divided by the total protected acres of all districts. However, any such amount per acre shall apply uniformly to each forest protection district. [1969 c.524 §6; 1977 c.182 §3; 1981 c.321 §5]

477.775 Insurance to meet expenses payable from fund; payment of premium from fund. The Emergency Fire Cost Committee shall purchase insurance through the Oregon Department of Administrative Services to cover any lawful expense incurred by the State Forester, or contractors or cooperators, that is payable by the Oregon Forest Land Protection Fund. Such insurance may be obtained through negotiation or competitive bids, whichever is in the best interest of the state, its contractors and cooperators. Any premium for such insurance shall be paid from the Oregon Forest Land Protection Fund. [1969 c.524 §10; 1985 c.158 §2; 1989 c.91 §1; 1989 c.769 §11; 1991 c.639 §7]

477.780 [1969 c.524 §14; repealed by 1985 c.759 §40]

477.805 [1967 c.429 §37; repealed by 1985 c.759 §40]

477.810 [1961 c.689 §2; 1965 c.253 §145; repealed by 1967 c.429 §61]

477.820 [1961 c.689 §3; 1967 c.429 §39; repealed by 1985 c.759 §40]

477.830 [1961 c.689 §§4,5(3); 1969 c.524 §11; 1977 c.182 §4; 1981 c.321 §2; repealed by 1985 c.759 §40]

477.840 [1961 c.689 §5(1), (2); repealed by 1969 c.524 §15]

477.850 [1961 c.689 §6; repealed by 1985 c.759 §40]

ASSESSMENT FOR FIRE SUPPRESSION COSTS

477.880 Acreage assessment; east side forestlands; certain forestlands west of Cascade Mountains; rate. (1) An assessment for the cost of fire protection and suppression is levied upon the owners of all forestland which has been classified under ORS 526.305 to 526.370, and that is protected from the start or spread of fire thereon or therefrom by:

- (a) The forester under ORS 477.210 (3), with the approval of the State Board of Forestry;
- (b) The United States of America through contract or agreement with the forester or board;
- (c) Any forest protective agency under contract or agreement with the forester or board pursuant to ORS 477.406;

or

(d) Any forest protective agency, described in paragraph (c) of this subsection, under a contract or agreement with the United States of America wherein such agency agrees to protect specific federal forestlands, and in return, the United States of America agrees to protect specific lands of such agency.

(2) Except as otherwise provided in ORS 477.760, for each fiscal year the assessment levied per acre of ownership of forestland designated in subsection (1) of this section shall be:

(a) Six cents for all forestlands east of the summit of the Cascade Mountains and all forestlands which have been classified Class 3, agricultural class, under ORS 526.305 to 526.370; or

(b) Four cents for all forestlands not described in paragraph (a) of this subsection. [1969 c.524 §§7,8; 1981 c.321 §3; 1985 c.759 §35; 1989 c.769 §5; 1991 c.639 §8]

477.885 [1969 c.524 §9; repealed by 1985 c.759 §40]

477.910 [1959 c.320 §1; 1965 c.253 §146; repealed by 1967 c.429 §61]

477.920 [1959 c.320 §7; repealed by 1985 c.759 §40]

477.930 [1959 c.320 §2; 1967 c.429 §41; repealed by 1985 c.759 §40]

477.940 [1959 c.320 §3; 1967 c.429 §42; 1969 c.524 §12; 1981 c.321 §4; repealed by 1985 c.759 §40]

477.950 [1959 c.320 §4; 1961 c.689 §7; 1965 c.428 §17; repealed by 1969 c.524 §15]

477.960 Collection of assessment. (1) Insofar as applicable, the assessment levied under ORS 477.880 shall be due and payable to the forester in like manner and procedure, including penalties and interest, as set forth for the collection of the protection costs provided in ORS 477.270. Wherever applicable, the assessment levied under ORS 477.880 shall be combined with the budgeted cost certified to the county under ORS 477.270 as one amount for each account listed so that the officer in charge of the roll can extend the amounts on the assessment roll in a separate column in a single figure.

(2) The minimum assessment set forth in ORS 477.295 shall be applied to the combined amount described in subsection (1) of this section. [1959 c.320 §5; 1961 c.689 §8; 1965 c.312 §4; 1967 c.179 §1; 1967 c.429 §43; 1985 c.759 §36; 1991 c.459 §417]

477.970 Disposition of receipts. The receipts from the assessment levied by ORS 477.880 shall be paid into the Oregon Forest Land Protection Fund. [1959 c.320 §6; 1961 c.689 §9; 1967 c.429 §44; 1985 c.759 §37]

PENALTIES

477.980 Enforcement policy; rules; factors considered. The State Board of Forestry, by rule, shall establish the enforcement policy for violations prescribed in ORS 477.993. In determining the enforcement policy, the board may consider the following factors:

- (1) Prior violation of the same or similar statutes, rules or orders.
- (2) The gravity and magnitude of the violation.
- (3) Whether the violations were repeated or continuous.
- (4) Whether the cause of the violation was an unavoidable accident or a willful, malicious or negligent act.
- (5) Whether the violation directly threatened human life or caused property damage of \$10,000 or more. [1993 c.697 §2; 1999 c.1051 §101]

477.985 Enforcement procedure; disposition of fines and costs. (1) In addition to any other persons permitted to enforce violations, the State Forestry Department and the State Forester, or any employee specifically designated by the department or by the State Forester, may issue citations for violations established under ORS 477.993 in the manner provided by ORS chapter 153.

(2) All fines and court costs recovered from violations established under ORS 477.993 shall be paid to the clerk of the court involved. Such moneys shall be credited and distributed under ORS 137.290 and 137.295 as monetary obligations payable to the state. [1993 c.697 §3; 1999 c.1051 §102]

477.990 [Amended by 1953 c.68 §19; subsection (5) of 1957 Replacement Part enacted as 1953 c.68 §17; subsections (11) and (12) of 1957 Replacement Part enacted as 1953 c.152 §§6,7; repealed by 1959 c.363 §14 (subsections (1) to (5) of 477.993 (1963 Replacement Part) enacted in lieu of 477.990)]

477.992 [Repealed by 1959 c.363 §21]

477.993 Penalties. (1) Violation of any of the provisions of ORS 477.510, 477.515, 477.535 to 477.550, 477.565, 477.615, 477.625, 477.635 to 477.670, 477.695, 477.710, 477.720 or 477.740, or any rule or order adopted pursuant thereto, is a violation punishable as follows:

- (a) For the first offense, as a Class D violation.
 - (b) For the second offense, as a Class C violation.
 - (c) For the third offense, as a Class A violation.
- (2) Multiple violations of any single requirement of this chapter, or of any rule or order adopted pursuant thereto, in an operation area shall be considered a single violation. However, each day a violation continues shall be considered a separate violation.

(3) Notwithstanding subsection (1) of this section, violations of any of the statutes listed in subsection (1) of this section which proximately cause human injury, loss of human life or property damage of \$10,000 or more, and unauthorized entry into a fire scene secured under the authority of ORS 477.365 (1)(f), may be punishable as a Class A misdemeanor.

(4) Violations and punishments set forth in this section and ORS 477.740 are in addition to and not in lieu of the provisions of ORS 164.305 to 164.335. [Subsections (1) and (2) of 1963 Replacement Part and subsections (1) to (3) enacted as 1959 c.363 §15 (in lieu of 477.990); subsection (6) of 1963 Replacement Part enacted as 1959 c.408 §6; subsection (7) of 1963 Replacement Part enacted as 1959 c.320 §8; subsection (8) of 1963 Replacement Part enacted as 1961 c.689 §11; subsection (5) enacted as 1961 c.603 §15; 1965 c.253 §136; 1971 c.562 §2; 1971 c.743 §390; 1993 c.697 §8; 1995 c.605 §4; 1997 c.274 §34; 1999 c.1051 §103]