Chapter 527

1959 REPLACEMENT PART

Forest Conservation; Insect and Disease Control

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FOREST CONSERVATION

527.010 Oregon Forest Conservation Act. ORS 527.010 to 527.240 and subsection (1) of ORS 527.990 are known as the Oregon Forest Conservation Act.

527.020 Definitions for ORS 527.010 to 527.240. When used in ORS 527.010 to 527.240:

(1) "State Forester" includes the State Forester or his appointed and designated representative.

(2) "Operator" means any person who harvests timber or other forest tree products for commercial purposes, or who causes timber or other forest tree products to be harvested for such purposes.

(3) "Seed tree," unless otherwise used or defined in the context, means a live, healthy, windfirm tree of commercial species and of seed-bearing size, possessing a relatively full crown.

(4) "Adequately restocked," unless otherwise used or defined in the context, means not less than 300 live seedlings or trees per acre established by natural or artificial means sufficiently spaced for individual normal growth and development, and 100 of which are well distributed over the area.

(5) "Douglas fir type" means an area which predominates in Douglas fir.

(6) "Spruce-hemlock type" means an area which predominates in Sitka spruce or western hemlock, or a combination of the two species.

(7) "Ponderosa pine type" means an area which predominates in ponderosa pine, sugar pine or Jeffrey pine, or all of them in combination.

(8) "Lodgepole pine type" means an area which predominates in lodgepole pine.

(9) "Mixed species type" means an area which contains any combination of two or more of western larch, white fir, alpine fir, grand fir, Douglas fir, Engelmann spruce, lodgepole pine, western white pine, ponderosa pine, sugar pine and occasionally other tree species.

(10) "Hardwood type" means an area which predominates in hardwood species.

(11) "Other forest type" means any area which predominates in a forest species not designated in subsections (5) to (10) of this section. [Amended by 1955 c.100 §1; 1957 c.33 §1; 1959 c.28 §1]

527.030 Declaration of policy. (1) The preservation of the forest, conservation of forest resources for the equal and guaranteed use of future generations, protection of forest and water resources and the continuous growth of timber on lands suitable therefor are declared to be the public policy of Oregon.

(2) It is recognized that several forest types exist within Oregon and that forest practices may vary according to each forest type. Therefore, in order to accomplish the foregoing purposes, acceptable forest practices are set forth for each forest type in ORS 527.091. [Amended by 1957 c.33 §2; 1959 c.28 §2]

527.040 Harvesting timber for commercial purposes without a permit, or refusing to discontinue such operation after notification, prohibited. No person shall fail or refuse to obtain a permit for the harvesting for commercial purposes of timber or other forest tree products, or continue to conduct a harvesting operation after having received notification from the State Forester to discontinue such operation, as provided by ORS 527.160. [Amended by 1955 c.100 §2]

527.050 Cutting timber for commercial use; issuance of harvesting permit. (1) The State Forester may issue permits for the harvesting for commercial purposes of timber or other forest tree products. On and after January 1 of any year, or during any part of the year, it shall be unlawful for any person to harvest or cause to be harvested any timber or other forest tree products for commercial purposes from lands within Oregon without first having obtained a written permit for that year from the State Forester.

(2) No permit shall be issued by the State Forester when he has been notified by the State Tax Commission or county tax collector of the delinquency in the payment of any taxes or assessments on the timber to be harvested, or the delinquency of the operator or timber owner for yield taxes due and owing under ORS 528.110 or timber severance taxes due and owing from either the operator or owner to the State of Oregon, or the harvesting of forest crops by the operator or owner without the permit required by ORS 528.100; provided that the State Forester may issue such permit after a proper receipt evidencing the payment of all such taxes has been filed with him and;

where applicable, evidence also is filed with him of the issuance to the operator or owner of the permit required by ORS 528.100. [Amended by 1953 c.195 §2; 1959 c.83 §1]

527.060 Provisions of harvesting permit. Any permit issued pursuant to ORS 527.050 shall require the operator and landowner to:

(1) Comply with the requirements of ORS 527.010 to 527.240 applicable to the area described in the permit.

(2) Comply with the rules and regulations pertaining to ORS 527.010 to 527.240 as such may be promulgated by the State Forester and approved by the State Board of Forestry.

(3) Take reasonable precautions and action necessary to protect the residual stands of trees and seed source, both prior to and during harvesting operations and the disposal of slashings. [Amended by 1959 c.28 §3]

527.070 Harvesting permit to be issued in conjunction with power-driven machinery permit. The harvesting permit referred to in ORS 527.050 shall be issued in conjunction with the permit to operate power-driven machinery required by ORS 477.286, wherever and whenever that section applies.

527.080 [Amended by 1955 c.100 §3; 1957 c.33 §3; repealed by 1959 c.28 §9]

527.090 [Amended by 1955 c.100 §4; 1957 c.33 §4; repealed by 1959 c.28 §9]

527.091 Forest practices for each forest type. The harvesting for commercial purposes of timber or other forest tree products on lands within Oregon shall comply with the following forest practices for each forest type, unless such harvesting is done pursuant to ORS 527.101:

(1) On Douglas fir type areas within a legal quarter section involving one ownership, or each ownership within a legal quarter section:

(a) Trees shall be reserved and left uncut on not less than five percent of the area, such area to be well stocked with commercial coniferous tree species of seed-bearing size; such may be accomplished by reserving and leaving uncut marginal long corners of timber between logged areas, strips of timber along creeks, across valleys, along ridges or natural fire breaks, and staggered settings of timber.

(b) Alternatively to paragraph (a) of this subsection, coniferous seed trees shall be reserved and left uncut, well distributed over the area, in a ratio of not less than two trees per acre; such trees shall be at last 18 inches in diameter breast high outside the bark.

(c) The requirements of paragraph (a) or (b) of this subsection shall be complied with until the area involved is adequately restocked.

(2) On spruce-hemlock type areas within a legal quarter section involving one ownership, or each ownership within a legal quarter section:

(a) Trees shall be reserved and left uncut on not less than five percent of the area, such area to be well stocked with commercial coniferous tree species of seed-bearing size; such may be accomplished by reserving and leaving uncut marginal long corners of timber between logged areas, strips of timber along creeks, across valleys, along ridges or natural fire breaks, and staggered settings of timber.

(b) The requirements of paragraph (a) of this subsection shall be complied with until the area involved is adequately restocked.

(3) On ponderosa pine type areas within a legal 40-acre subdivision involving a single ownership, or each ownership within a legal 40-acre subdivision:

(a) All thrifty, immature ponderosa pine trees 16 inches and less in diameter breast high outside the bark shall be reserved and left uncut.

(b) Where compliance with paragraph (a) of this subsection would not result in leaving at least four ponderosa pine seed trees per acre 16 inches in diameter breast high outside the bark, there shall be reserved and left uncut additional ponderosa pine seed trees larger than 16 inches in diameter breast high outside the bark, in a quantity sufficient to aggregate four seed trees per acre well distributed over the area.

(c) The requirements of paragraphs (a) and (b) shall be complied with at all times; provided, however, that pondersoa pine seed trees, over 16 inches in diameter breast high outside the bark, may be harvested if the area involved is adequately restocked as defined in this paragraph. "Adequately restocked" for the purposes of this paragraph means not less than 300 live ponderosa pine seedlings per acre at least six inches in height, established by natural or artificial

means, sufficiently spaced for individual normal growth and development, 100 of which are well distributed over the area; or means not less than 100 live ponderosa pine seedlings or trees per acre between one and sixteen inches in diameter, established by natural or artificial means, well distributed over the area; or means any combination thereof.

(d) The provisions of this subsection shall not apply to those areas within this type which are determined by the State Forester to be lands unsuitable for the growing of timber; such determination shall be made at the time of application for the permit required by ORS 527.040 and 527.050.

(4) On lodgepole pine type areas within a legal 40-acre subdivision involving a single ownership, or each ownership within a legal 40-acre subdivision, trees shall be reserved and left uncut on not less than five percent of the area; such area shall be well stocked with trees of seed-bearing size.

(5) On mixed species type areas within a legal 40-acre subdivision involving a single ownership, or each ownership within a legal 40-acre subdivision:

(a) All thrifty, immature trees representative of the type, 14 inches and less in diameter breast high outside the bark, shall be reserved and left uncut.

(b) Where compliance with paragraph (a) of this subsection would not result in leaving at least four of such trees per acre, there shall be reserved and left uncut additional seed trees representative of the type, larger than 14 inches in diameter breast high outside the bark, in a quantity sufficient to aggregate four seed trees per acre well distributed over the area.

(6) On hardwood type areas, and other forest type areas, the seed source requirements for such types shall be those determined by the State Forester to be the equivalent of the seed source requirements set forth in subsections (1) to (5) of this section. [1959 c.28 §5]

527.100 [Amended by 1957 c.33 §5; repealed by 1959 c.28 §9]

527.101 Equivalent or better forest practices. As an alternative to the respective requirements of forest types set forth in ORS 527.091, should an operator or landowner desire to use other equivalent or better forest practices which will accomplish the purposes of ORS 527.010 to 527.240, including but not limited to artificial restocking of the area, and partial or selective cutting of the stand to promote regeneration or to benefit the general health and increase the annual growth per acre of residual stands, such practices may be used, provided:

(1) That not less than 30 days prior to the commencement of harvesting operations the operator and landowner submit in writing to the State Forester a substitute plan detailing the forest practices desired to be used; and

(2) That prior to the commencement of the harvesting operations such plan has not been disapproved by the State Forester. [1959 c.28 §6]

527.110 Compliance with ORS 527.091 not required when trees are removed for excepted purposes. ORS 527.091 shall not apply to any lands from which trees are removed for the following purposes:

(1) To clear land for bona fide agricultural, mining, business or residential purposes.

(2) To clear rights of way, landings, camp sites or fire breaks. [Amended by 1955 c.100 §5; 1957 c.33 §6; 1959 c.28 §7]

527.120 Proceedings to determine whether removal of trees is subject to Oregon Forest Conservation Act. (1) Whenever the State Forester finds that any lands from which trees have been removed are not being used for any excepted purposes, as specified in ORS 527.110, he shall notify the landowner of such findings by serving him personally with written notice or by mailing to him written notice.

(2) The notice shall specify in either case the lands involved and shall state that unless written objections are filed with the State Forester within 30 days the lands shall be reclassified and thereafter be deemed forest lands within the meaning of ORS 527.010 to 527.240 and subject to the provisions thereof.

(3) Should the landowner file objections within this time, the State Forester may, at his discretion, bring a suit in the circuit court of the county where such lands are situated, and the court shall judicially determine whether the lands are within any of the excepted classes or are subject to the provisions of ORS 527.010 to 527.240.

527.130 [Reserved for expansion]

527.140 Examination by State Forester following harvesting operations and issuance of release; subsequent harvesting in released areas to be examined. (1) At least once each year the State Forester shall examine all forest areas upon which timber harvesting operations for commercial purposes have been conducted, or timber cut in accordance with ORS 527.110 and 527.120, in order to determine whether the operations have been conducted in compliance with the terms and conditions of ORS 527.010 to 527.240. Upon completion of the examination the State Forester shall issue to the operator or landowner found to have conducted the operations in compliance with the terms of ORS 527.010 to 527.240, a release from any penalties and obligations provided for in ORS 527.150 to 527.240.

(2) However, if at any time after the release is issued, additional forest products are harvested for sale from the area released, such harvesting shall again be subject to the provisions of ORS 527.010 to 527.240. [Amended by 1957 c.33 §7]

527.150 Notice of violation; contents. Immediately upon the detection of any violation of the provisions of ORS 527.050 to 527.140, the State Forester shall notify the operator and landowner, or their agents, in writing, of his finding that the harvesting operations have not been or are not being conducted in accordance with such provisions, specifying in which respects the operator has been delinquent and directing such steps as he deems necessary to assure future compliance with such provisions with respect to the entire operation.

527.160 When operation to be discontinued; bond to insure restocking; suspension or revocation of permits. (1) If the operator notified as provided in ORS 527.150 fails, neglects or refuses to conform to the practices directed in the notice, or if no appeal has been taken as provided in ORS 527.240 within 30 days after notification, the State Forester shall order the operation discontinued until the operator or landowner has given satisfactory assurance that he will resume operations in compliance with the provisions of ORS 527.050 to 527.140 and furnish cash deposit or surety bond approved by the State Forester, in an amount set by him, which shall not exceed $16 per acre for that portion of the area which through failure to carry out the provisions of such sections does not have sufficient source of seed to restock the area. Such cash deposit or surety bond shall be furnished to insure that the owner or operator will artificially restock the area for which the money was collected within five years of the date of completion of the harvesting operations, which operations include the disposition of slashing as required by law. Moneys furnished under the provisions of this section shall be paid into the State Treasury and credited to the State Board of Forestry Account for the purposes of ORS 527.170 and 527.180.

(2) Upon ordering an operation discontinued, as required by this section, the State Forester may suspend all permits required by the Oregon Forest Conservation Act and any permit issued to the operator under the provisions of ORS 477.282 to 477.288; thereafter, if the operator fails to comply with the provisions of ORS 527.050 to 527.140, as such compliance is directed by the notice required by ORS 527.150, the State Forester may revoke any and all permits referred to in this subsection. After revocation of such permits, no further harvesting operation shall be permitted until the area in violation is brought into compliance with the Oregon Forest Conservation Act. [Amended by 1953 c.262 §2; 1957 c.33 §8; 1959 c.28 §8]

527.170 State Forester to restock area, when; maximum expenditure. In the event that at the end of the five-year period specified in ORS 527.160 the operator or landowner has not adequately artificially restocked the area and if it has not become adequately restocked through natural means, the State Forester shall enter upon the lands and take such steps as are necessary to correct the conditions caused by the violation of ORS 527.050 to 527.140. He shall keep full records of the costs incurred. The maximum amount to be expended by him for such purposes is determined at a rate not to exceed an average of $16 per acre for each quarter section or fractional part thereof upon which such correction is necessary. [Amended by 1953 c.262 §2]

527.180 Notification of cost of restocking area; forfeit of cash deposit or bond. Upon completion of all steps necessary to repair the damage caused by the violation of ORS 527.050 to 527.140, the State Forester shall notify the delinquent operator or landowner, or his agent, in writing, of the costs

incurred. Thereupon the cash deposit shall be forfeited, or so much thereof as the forester has found necessary to correct the conditions caused in the area by the delinquency; or, if a bond has been posted in lieu of a cash deposit, the sureties on the bond shall be liable for all costs incurred hereunder, provided that the operator or landowner has failed, within 30 days after notification in writing by the State Forester, to pay the amount of money for which he has posted bond, or so much thereof as the forester has found necessary to correct the conditions caused in the area by the violation.

527.190 Action by State Forester upon failure of operator to furnish cash deposit or bond after notification of violation. (1) In the event that any operator or landowner, upon notification by the State Forester of a violation of ORS 527.050 to 527.140, fails, neglects or refuses to furnish cash deposit, or bonds in lieu thereof, the State Forester shall, within 30 days after said notice becomes final, file a certified copy of the notice of violation as of record with the county clerk or other recorder of deeds in every county in which any part of the premises lies. Such notice shall contain the names of the parties, the nature of the violation, a description of the real property in the county involved, affected or brought into question thereby, and the amount of the lien which may be claimed. From the time of filing such notice, and such time only, the violation shall be notice to purchasers and encumbrancers of the rights and equities of the State of Oregon in and to the premises. Such notice shall be recorded in the same book and in the same manner in which mortgages are recorded and shall be discharged by the forester in a like manner as mortgages are discharged.

(2) As soon as is practicable, and in no event later than five years after the date of filing the notice of violation, the forester shall enter upon the lands and take such steps as are necessary to correct the conditions caused by the violation of such sections. The maximum amount to be expended by him for such purposes is determined at a rate not to exceed an average of $16 per acre for each quarter section or fractional part thereof upon which such correction is necessary. [Amended by 1953 c.262 §2; 1955 c.100 §6]

527.200 Costs incurred pursuant to ORS 527.190 to be a lien on the land and a debt of the operator. Upon the completion of all steps taken pursuant to ORS 527.190 which were necessary to repair the damage caused by the violation, the forester shall notify the delinquent operator or landowner in writing of the costs incurred. Thereupon the total of the amount shall become a lien against the lands upon which the costs were incurred and a debt or obligation of the operator or landowner due the State of Oregon. The debt or obligation shall be collectible in an action brought for that purpose by the Attorney General in the name of the state. A written statement and notice of such lien, describing the land and stating the itemized amount of said cost shall be certified under oath by the forester and filed in the offices of the county clerk of the county in which the land is situated within 90 days following the completion of the repair of damage. Such lien shall be recorded in the same book and in the same manner in which mortgages are recorded, and shall be discharged by the forester in a like manner as mortgages are discharged. No lien provided for in this section shall bind the land for a longer period than one year after the same shall have been filed, unless suit be brought in a proper court within that time to enforce the same. Suits to enforce the liens created by this section shall be brought in the circuit court, and the pleadings, process, practice and other proceedings shall be, as nearly as possible, made to conform to the proceedings of a foreclosure of a mortgage lien upon real property. In all suits under this section, the court shall, upon entering the judgment for the plaintiff, allow as part of the costs all moneys paid for the filing and recording of the lien, and also a reasonable amount as attorney's fees. The remedies herein prescribed are not exclusive, and the state, in its own name, may have any other civil remedies provided by law to insure compliance with ORS 527.010 to 527.240, except that no injunctive relief shall be granted against any operator unless he has been notified by the State Forester, in writing, of a delinquency at least 30 days immediately prior to the date of application therefor. [Amended by 1953 c.262 §2]

527.210 [Repealed by 1953 c.262 §2]

527.215 Operation to be discontinued when certain taxes are not paid. Immediately upon becoming informed of the delinquency in the payment of any taxes on timber being harvested pursuant to ORS 527.010 to 527.240, or the delinquency of the operator or timber owner for timber severance taxes due to the State of Oregon or yield taxes due under ORS 528.110, or of the harvesting of forest crops by the operator or owner without the permit required by ORS 528.100, the State Tax Commission shall notify the operator and timber owner or their agents in writing of such delinquency or absence of such permit. If such taxes are not paid in full within 10 days after such notification, and a receipt therefor filed with the State Tax Commission, or if such permit is not obtained within such 10-day period, the State Tax Commission shall notify the State Forester, who shall order the operation discontinued until such taxes have been paid in full and receipt therefor filed with him and, where applicable, until evidence also is filed with him of the issuance of the permit to the operator or owner. [1953 c.262 §3; 1955 c.100 §7; 1959 c.83 §2]

527.220 Administration and enforcement of Oregon Forest Conservation Act; duty and powers of State Forester; effective date of rules. (1) The State Forester, acting under the authority and direction of the State Board of Forestry, is charged with the administration and enforcement of ORS 527.010 to 527.240 and has and may exercise all powers necessary or convenient. He is empowered to perform all duties imposed upon him by such sections and to employ sufficient personnel to assure compliance with them, including assistance to applicants in formulating necessary harvesting plans. The foregoing powers are in addition to all others conferred upon him by statute.

(2) All rules and regulations issued under the provisions of ORS 527.010 to 527.240 shall not become effective until 30 days after filing thereof with the Secretary of State as provided by ORS 183.020.

527.230 Findings or orders of State Forester; appeal. Any findings or orders made by the State Forester pursuant to the duties imposed upon him by ORS 527.010 to 527.240 are final unless modified or vacated in an appeal taken within 30 days after the issuance of such finding or order in the manner provided in ORS 527.240.

527.240 Appeal from findings or orders of forester. Any person affected by any finding or order of the State Forester under the terms and provisions of ORS 527.010 to 527.240 may appeal to the State Board of Forestry under such rules as it may prescribe. An appeal from any decision of the board under such sections may be taken by any person affected by such decision. The appeal shall be taken to the circuit court of the county in which the land or any part thereof affected by the decision is located and must be taken within 30 days from the date of the decision by the State Board of Forestry.

527.250 [Reserved for expansion]

527.260 Injuring forest tree of another or extracting pitch without, or in violation of, a permit prohibited; permit to extract pitch. (1) No person shall wilfully and unlawfully:

(a) Bore or cut any forest tree belonging to another for the purpose of extracting pitch;

(b) Cut, injure or deface any such tree for the purpose of taking any part of it; or

(c) Injure or destroy any such tree.

(2) The State Forester, with the consent of the owner of the land, shall issue permits for the extraction of pitch from forest trees. The terms of the permits shall clearly describe the area to which the extraction shall be confined and state the precautions necessary, in the judgment of the State Forester, to be taken by the permittee, so that the extraction will not result in an increased fire hazard to life and adjoining property.

(3) No person shall:

(a) Bore or cut any forest tree for the purpose of extracting pitch without having first obtained a permit to do so; or

(b) Wilfully or negligently fail to comply with the terms of the permit.

527.270 [Reserved for expansion]

FOREST PROTECTION AND CONSERVATION COMMITTEE

527.280 Forest Protection and Conservation Committee established; membership. There hereby is established the Forest Protection and Conservation Committee consisting of five members. Three members of the committee shall be members of the State Board of Forestry actively and principally engaged in an administrative capacity in the

production or manufacture of forest products. One member shall be appointed by the Governor from the public at large for a four-year term commencing July 1, 1953. The fifth member of the committee shall be the person acting as Dean of the School of Forestry at Oregon State College. Upon the expiration of the term of the public member, the Governor shall appoint a successor for a term of four years. [1953 c.375 §24; 1957 c.654 §2]

527.282 Duties of committee; power to make rules. (1) The committee shall supervise and coordinate the activities of state agencies under the jurisdiction of the State Board of Forestry relating to:

(a) The equalization of emergency fire suppression costs.

(b) Research in the utilization of forest products.

(c) Research and experiment in the development of techniques for the protection, rehabilitation and management of forest lands.

(2) The committee is authorized to make and promulgate all rules and regulations reasonably required for the performance of the duties and powers imposed on the committee by law. [1953 c.375 §25]

527.284 Duties of committee relating to forest products research. The Forest Protection and Conservation Committee shall:

(1) Guide and approve all research activities in the utilization of forest products, including the research activities undertaken by the Forest Products Laboratory.

(2) Determine and establish the policies to be followed by the Advisory Committee under ORS 526.210 to 526.260, with respect to research activities in the utilization of forest products.

(3) Supervise and control expenditures from the Forest Products Research Subaccount established by ORS 321.185. [1953 c.375 §26; 1957 c.309 §12]

527.286 Duties of committee relating to forest lands research; director of forest lands research. (1) The Forest Protection and Conservation Committee shall:

(a) Guide and approve all experiments and research to develop techniques for the rehabilitation, protection and management of forest lands.

(b) Determine and establish the policies to be followed by any advisory committee with reference to the experiments and research to develop techniques for the rehabilitation, protection and management of forest lands.

(c) Supervise and control expenditures from the Forest Lands Research Subaccount established by ORS 321.185.

(2) The Forest Protection and Conservation Committee shall supervise and coordinate research activities in the development of techniques for the protection, rehabilitation and management of forest lands. The committee shall appoint a director to supervise and carry on such research activities. The director shall have authority to hire personnel, purchase material and equipment and to do or have done all things necessary for such research activities. The director and those persons holding technical research positions requiring a college degree in a specialized technical field are not included in the classified civil service. [1953 c.375 §27; 1957 c.309 §13; subsection (2) enacted as 1957 c.216 §1]

527.288 Election of committee chairman. After July 21, 1953, the committee shall meet and elect one of its members chairman. The chairman shall hold his office for a period determined by the committee. Whenever the office of chairman of the committee becomes vacant, the committee at its next regular or special meeting shall elect one of its members to fill the vacancy. [1953 c.375 §28]

527.290 Meetings of committee. Regular meetings of the committee shall be coincident with the day and place set for meetings of the State Board of Forestry, as otherwise provided by law. Special meetings of the committee may be called by its chairman or by three members. The act or decision of any three members shall be deemed the act or decision of the committee. [1953 c.375 §29]

527.292 Appointment of administrator; duties. The committee shall appoint an administrator who shall hold office at the pleasure of the committee. The committee shall have authority to fix the compensation and conditions of employment of the administrator. The administrator shall act as secretary of the committee and shall carry out the provisions of ORS 477.133, 477.135 and 527.280 to 527.290 in such manner as the committee shall direct. The salary and other expenses of the administrator shall be paid

from the Forest Protection and Conservation Committee Account as are other expenses of the committee. [1953 c.375 §30]

527.294 to 527.300 [Reserved for expansion]

INSECT AND DISEASE CONTROL

527.310 Definitions for ORS 527.310 to 527.400. As used in and for the purposes of ORS 527.310 to 527.400:

(1) "Owner" means any person owning timberlands or timber as shown on the latest records of the tax collector of the county in which the timberlands or timber is situated. Where timber is owned entirely separate and apart from the land whereon it grows or is situated, "owner" means any person owning such timber as shown on the latest records of the tax collector of the county in which the timber is situated.

(2) "Timberland" means any land which has enough timber or forest growths, standing or down, to constitute, in the judgment of the State Board of Forestry, a forest insect pest or forest tree disease breeding ground of a nature to be harmful, detrimental and injurious to timber or forest growth in the district under consideration.

527.320 Pests and diseases harmful to timber a public nuisance. Forest insect pests and forest tree diseases harmful, detrimental and injurious to timber and forest growths infested thereby are declared to be a public nuisance.

527.330 Owner to destroy pests and diseases. Every owner of timberlands or timber shall control and destroy forest insect pests and forest tree diseases, or provide for the same to be done on timberlands or timber owned by him or under his control. In case of his failure, neglect or inability to do so, the work may be performed as provided in ORS 527.350.

527.340 Designation of infestation control district by State Forester; service of notice to abate infestation. (1) Whenever the State Forester finds timberlands or timber infested with forest insects or forest tree diseases, which infestation is of such character as to be harmful, detrimental and injurious to timber and forest growths, and if adequate tested control techniques exist which are reasonable in cost with respect to the value of the timberlands or timber to be protected, the State Forester shall, with the approval of the State Board of Forestry, designate an infestation control district and declare and fix the boundaries thereof so as definitely to describe and identify such district. The district may include timberlands or timber threatened by the infestation as well as those timberlands or timber already infested.

(2) Immediately thereafter the State Forester shall notify in writing all owners of timberlands or timber within the district to proceed without delay to destroy the forest insect pests or forest tree diseases. The notice may be served by delivery of a copy of the notice to the owner, or by mail addressed to his last known place of address, sealed, plainly addressed, with the requisite amount of postage stamps thereon, and deposited in the United States postoffice. In addition there shall be published a legal description of the infestation control district at least once a week for two consecutive weeks in one or more newspapers having a general circulation in the county, or counties, in which the infestation control district is situated. [Amended by 1955 c.116 §1]

527.350 State Forester to eradicate infestation if owner fails to act; exceptions. If an owner so notified, fails, refuses, neglects or is unable to undertake compliance with the requirements of the notice within 30 days after the date of service, the State Forester shall, using such funds as are made available, alone or in cooperation with the owners involved, proceed with the destruction of such forest insect pests or forest tree diseases in a manner approved by the State Board of Forestry. However, the State Forester shall not proceed with the destruction within the infestation control district so long as an owner notified as provided in ORS 527.340 proceeds within 30 days and continues in good faith thereafter to destroy the forest insect pests and forest tree diseases upon the timberlands or timber in a manner approved by the State Board of Forestry. Nor shall the State Forester proceed with the destruction of forest insect pests or forest tree diseases upon the timberlands or timber of an owner in an infestation control district who is a member of a cooperative association of timberland or timber owners which actively engages in the destruction and control of the forest insect pests and forest tree diseases, using methods approved by the State Board of Forestry.

527.360 Costs of eradication; state may contribute; unpaid costs to be charge against timber; collection of charge. (1) Upon completion of any work authorized and performed under the provisions of ORS 527.350, the State Forester shall prepare a certified statement of the expenses necessarily incurred in performing the work of eradicating the forest insects or forest tree diseases. The state may assist in the payment of control costs from funds available for that purpose and in amounts to be determined by the State Board of Forestry. The balance of the expenses, after deducting the sum of such amounts as may be contributed by the state, the Federal Government or any other agencies or persons to defray control costs, shall constitute a charge against the timberlands or timber involved.

(2) The existence of the charge shall be reported by the State Forester to the tax levying authority for the county in which the timberlands or timber is situated. The charge shall become a lien against the property and become due and payable at the same time and in the same manner, with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state, and, in case of delinquency, shall be subject to the same procedure for foreclosure as are property tax liens. However, if the lien is not paid within 90 days after the return is due, the district attorney of the county, upon request of the State Board of Forestry, shall bring suit for foreclosure of the lien.

(3) In case the timberlands or timber against which there is a charge lies in more than one county, the State Forester shall prorate the charge and report its existence to the tax levying authorities for the counties in which the timberlands or timber is located. The tax levying authority shall instruct the proper officer to extend the charges on the assessment roll in a separate column, and the procedure and remedies provided by law for the collection of taxes and delinquent taxes shall be applicable thereto.

(4) Upon collection of the charges, the county court or board of county commissioners shall cause the amounts to be paid to the State Forester. Any unpaid charge or lien against timberlands or timber shall not be affected by the sale of the timberlands or timber or dissolution of the infestation control district.

527.370 Deposit of moneys in State Board of Forestry Account. All moneys collected under the provisions of ORS 527.360, together with such moneys as have been and may be appropriated by the legislature for the purposes of ORS 527.310 to 527.400, and with such moneys as may be contributed by the Federal Government or any agencies or persons, shall be paid into the State Treasury and credited to the State Board of Forestry Account and shall be used exclusively for the purposes of ORS 527.310 to 527.400. [Amended by 1953 c.15 §3; 1955 c.116 §2; 1957 c.83 §11]

527.380 Dissolution of infestation control districts. Whenever the State Board of Forestry determines that forest insect pest or forest tree disease control work within the designated infestation control district is no longer necessary or feasible, the board by resolution may dissolve the district.

527.390 White pine blister rust; acceptance of funds for protection; expenditure; matching fund. The State Forester, under the supervision and direction of the State Board of Forestry may accept funds from any source for use in protecting timberlands or timber within the state from white pine blister rust, in cooperation with agencies of the United States, under the provisions of the Act of Congress of April 26, 1940, c.159, 54 Stat. 136, and may expend from funds available to the board not to exceed the sum of $10,000 in matching the funds received of the United States, for such purpose. The moneys received from the Federal Government shall be paid into the State Treasury and credited to the State Board of Forestry Account and shall be used exclusively for the purposes of such Act of Congress. [Amended by 1957 c.83 §12]

527.400 State Forester to employ assistants, purchase equipment and award contracts. The State Forester may employ assistants and personnel and purchase equipment and supplies required to accomplish the purposes of ORS 527.310 to 527.400, and also may enter into and award, subject to any applicable provisions of ORS 527.510 to 527.530, all contracts in the name of the State Board of Forestry as are necessary for control and destruction of forest insect pests and forest tree diseases.

527.410 [Repealed by 1957 c.83 §26]

527.420 [Repealed by 1957 c.83 §26]

527.430 [Repealed by 1957 c.83 §26]

527.440 to 527.500 [Reserved for expansion]

AERIAL SPRAYING OF FOREST LANDS

527.510 Contractor engaging in aerial spraying of forest lands with insecticides must furnish proof of financial responsibility; federal agency provisions. (1) Any contract for the aerial spraying of forest lands with insecticides entered into under the provisions of ORS 527.400 shall not be executed until and unless the contractor files with the State Forester proof of financial responsibility which may consist of a deposit of money, certified check, liability insurance or surety bond, corporate or otherwise, in the sum of $10,000 to indemnify any landowner for damages to his lands or crops caused by the wilful or negligent operation of aircraft of the contractor while engaged in such spraying. Any person whose lands or crops are so damaged shall have a right of action against such contractor and the underwriter of liability insurance or the surety upon such bond or security. The action shall be commenced within two years of the date on which the wilful or negligent operation occurred, and if no action is filed within that time the contractor shall be relieved of liability and the policy of insurance canceled or the surety bond or security withdrawn.

(2) Before entering into any cooperative agreement with any agency of the United States under which the agency undertakes the spraying of forest lands, the State Forester and the State Board of Forestry shall urgently request the federal agency to provide for similar protection from damages in any aerial spraying contracts entered into by it.

527.520 State Forester, in awarding aerial spraying contracts, may give preference to Oregon bidders. When a bid is submitted or a price quoted by a bidder who is an individual residing in Oregon, or a bidder, not an individual, who has a place of business in Oregon, and if the bid is not more than five percent in excess of the lowest bid or price quoted by a bidder not residing or not having a place of business in Oregon, and if other factors considered in awarding the contract are equal, the State Forester, in awarding a contract for the aerial spraying of forest lands or timberlands under the provisions of ORS 527.400, may give preference to the bidder residing or having a place of business in Oregon.

527.530 Pilot to be certified for aerial spraying; examination; fee. In addition to other qualifications required by law, no pilot shall engage in aerial spraying of forest lands by aircraft until he has been certified as competent to perform such services by the State Board of Aeronautics. Examinations and instructions, under such rules and regulations as the board may prescribe, shall be conducted by the board at such times and places as it shall determine. An application for a certificate shall be accompanied by a $5 filing fee.

527.540 Operation of aircraft in violation of ORS 527.510 to 527.530 prohibited. No person shall operate an aircraft in violation of ORS 527.510 to 527.530.

527.550 to 527.980 [Reserved for expansion]

PENALTIES

527.990 Penalties. (1) Violation of ORS 527.040 or ORS 527.215 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than three months, or both. Justices of the peace and district courts shall have concurrent jurisdiction with the circuit court of all prosecutions for violations of this subsection.

(2) Violation of subsection (1) of ORS 527.260 is a misdemeanor. Violation of subsection (3) of ORS 527.260 is punishable, upon conviction, by a fine of not more than $250 or by imprisonment in the county jail for not more than 60 days, or both.

(3) Violation of ORS 527.540 is punishable, upon conviction, by a fine of not more than $100 or by imprisonment in the county jail for not more than 30 days, or both. [Amended by 1953 c.262 §2]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on November 1, 1959.

Sam R. Haley
Legislative Counsel