Chapter 477

1973 REPLACEMENT PART

Protection of Forests and Vegetation from Fire

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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 and that results from any industrial activity, development or improvement on forest land and because of its quantity or arrangement poses a threat to life, property or adjacent lands if a fire exists thereon.

(2) "Board" means the State Board of Forestry.

(3) "Closed season" means a period designated pursuant to ORS 477.505.

(4) "Department" means the State Forestry Department.

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

(6) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next year.

(7) "Forest land", except as provided in ORS 477.805, means any forested land, woodland, brushland, timberland, cutover land or clearing, which, during any time of the year, contains enough flammable forest growth, forest refuse, slashing or forest debris to constitute a fire hazard.

(8) "Forest patrol assessment" means the costs levied and assessed under ORS 477.270.

(9) "Forest protective association" or "association" means an association, group or agency composed of owners of forest lands, organized for the purpose of protecting such forest lands from fire.

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

(11) "Governing body" of a county means the county court or board of county commissioners.

(12) "Grazing land" is defined by ORS 477.205.

(13) "Operation" means any industrial activity or any development or improvement on forest land, or within one-eighth of one mile of forest land, including but not limited to the clearing of land or rights of way, logging or sawmilling, thinnings or prunings, excluding, however, the culture and harvesting of agricultural crops.

(14) "Operation in progress" means that time when men are on the site for the purpose of an operation, including the period of time watchmen are required to be on the area pursuant to ORS 477.665, or men are engaged in hazard control or abatement work.

(15) "Operator" means any person who, either by himself or through his employes, agents, representatives or contractors, is carrying on or has carried on any operation.

(16) "Owner" means an owner, easement holder or person in control or possession of land. For this purpose an "easement holder" is any person owning, holding or using an easement, right of way, permit, license or other similar interest to cross or use forest land.

(17) "Political subdivision" includes, but is not limited to, counties, cities and districts.

(18) "Rangeland" is defined by ORS 477.315.

(19) "Side" means any single unit of a logging operation employing power-driven yarding or loading equipment.

(20) "Slashing" means the forest debris or refuse on any forest land resulting from the cutting, killing, pruning, severing or removal of brush, trees or other forest growth.

(21) "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.

(22) "Timberland" is defined by ORS 477.205.

(23) "Warden" means a fire warden appointed under ORS 477.355.

[1959 363 §2 (enacted in lieu of 447.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1]

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

(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]

477.006 [Repealed by 1965 c.253 §153]

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

477.010 [Repealed by 1965 c.253 §153]

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

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

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

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]

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

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

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

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

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]

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

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]

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

HAZARD ABATEMENT

477.062 Inadequately protected forest land declared nuisance; notice to protect; work at expense of owner; collection of amount expended. (1) All forest land inadequately protected from fire, which by reason of its situation or condition or lack of protection endangers life or property, is declared to be a public nuisance.

(2) Whenever the forester learns thereof he shall direct the owner or operator of such forest land to take proper steps for its protection and advise him of means to that end. In case of refusal or neglect by either to take precautions against fire required by law or directed by the forester within 10 days after written notice has been given, then the forester or any warden, acting with consent of the forester, may have such work done as he considers necessary for the protection of life or property, summarily, 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 forest land 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 Forestery Department Account and expended as other moneys in that account are expended.
[Formerly 477.032; amended by 1965 c.253 §50]

FIRE ABATEMENT

477.064 Uncontrolled fire declared nuisance. Any fire on any forest land 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 and property. The spread of fire in forest land across an ownership boundary is prima facie evidence of fire burning uncontrolled.
[Formerly 477.034]

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

(2) If the owner or operator fails so to do, or if the fire is burning uncontrolled, the forester, or any forest protective association or agency under contract or agreement with the board for the protection of forest land against fire, and within whose protection area the fire exists, shall summarily abate the nuisance thus constituted by controlling and extinguishing the fire.
[Formerly 477.036; 1961 c.603 §7; 1965 c.253 §51; 1967 c.429 §1]

477.067 Notice of fire. For the purpose of ORS 477.066, notification to the owner or operator of the forest land, 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 make the effort required by ORS 477.066, or is wilful, malicious or negligent in the origin 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, the actual cost 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. In any such action, recovery for the plaintiff shall include, in addition to the amount of the actual cost, interest on such amount at the rate of six percent per year from the date on which the first written demand for the payment of the actual cost was mailed by the State Forester.

(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 six 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 six 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 six 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 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]

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; amended by 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; amended by 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 in forest protection district. Any person who wilfully or negligently sets a fire or causes a fire to be set, which fire burns on land within the exterior boundaries of a forest protection district or within one-half mile of such boundaries, and for which efforts to control or extinguish the fire in order to protect forest land within the district from fire are exerted by the forester or any forest protective association or agency under contract or agreement with the board, 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]

477.090 Civil liability in 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 526.010, 526.041 or this chapter may recover in a civil action double the amount of damages suffered if the fires occurred through wilfulness, 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]

477.101 [1959 c.363 §19; amended by 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 forest land owner or operator. (1) Except as provided in subsection (2) of this section, neither the owner nor operator of forest land is 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 forest land; or

(b) Such forest land 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 forest land 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:

(a) He is wilful, malicious or negligent in the origin of a fire on such forest land; or

(b) He has caused or permitted an operation to exist on such forest land and a fire originates thereon while the operation is in progress or as a result of the operation; or

(c) He has failed to give notice to the forester pursuant to subsection (1) of ORS 477.580 or he 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 subsection (3) or (4) of ORS 477.580.
[Formerly 477.056; 1971 c.743 §385; 1973 c.46 §2]

477.130 Liability of rangeland owner or operator. (1) The owner or operator of rangeland, as defined in ORS 477.315, is not subject to the obligation or penalties of ORS 164.335, 477.064, 477.066, 477.068 and 477.740, if the cost of protection for such rangeland has been regularly paid under ORS 477.325.

(2) The provisions of subsection (1) of

this section do not apply to such owner or operator if:

(a) He is wilful, malicious or negligent in the origin of a fire on such rangeland; or

(b) He has caused or permitted an operation to exist on such rangeland and a fire originates thereon while the operation is in progress or as a result of the operation; or

(c) He has failed to give notice to the forester pursuant to subsection (1) of ORS 477.580 or he 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 subsection (3) or (4) of ORS 477.580.

[Formerly 477.058; 1971 c.743 §386; 1973 c.46 §3]

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]

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]

477.186 [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]

FOREST PROTECTION DISTRICTS

477.205 Definitions for ORS 477.205 to 477.291. As used in ORS 477.205 to 477.291, unless the context requires otherwise:

(1) "Grazing land" means forest land, 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 forest land, 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 forest land; forester's duty to provide protection upon noncompliance. (1) During the season of the year when there is danger of fire, every owner of forest land shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the board.

(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 forest land 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 477.291.

(4) The forester shall provide protection pursuant to ORS 477.205 to 477.291 for forest land 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 477.291. (1) The forester is not required to provide protection for forest land 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 477.291 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 board.

(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 forest land; thereafter, those lands which have been so determined shall be included within ORS 477.205 to 477.291 unless excluded pursuant to subsection (1) of this section.
[Formerly 477.053]

477.225 Establishment and change of forest protection districts. The forester shall designate areas of forest land 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 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 for the landowners concerned.
[Formerly 477.026]

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 forest land 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 shall not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.920 to 477.970.

(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 timberland located east of the summit of the Cascade Mountains, as defined in ORS 321.605, shall not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.920 to 477.970.

(2) The cost of protection described in this section shall be in accordance with a budget for the district approved by the board.
[Formerly 477.030; 1971 c.60 §1; 1973 c.184 §6]

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 board.
[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 subsection (1) of ORS 477.406, 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 each district. (1) All owners of lands assessed under ORS 477.205 to 477.291 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 board, 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) 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. 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.
[Formerly 477.045]

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 board, or the forester, shall act as chairman of the meeting. The forester shall cause the minutes of the meeting to be preserved as a public record.

(3) During the meeting the chairman 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. 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. Such appeal shall be filed in writing with the forester and reviewed by the board at its meeting under ORS 477.265.
[Formerly 477.049]

477.265 Board to deal with budgets and appeals at June meeting. At the meeting of the board on the first Wednesday following the first Monday in June at the offices of the department in Salem, the board shall review the forest protection district budgets, hear appeals from the owners of grazing land or timberland, 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]

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 477.291, in providing protection for privately owned forest land 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 column, 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 board, may make direct billing of the budgeted cost to owners of forest land 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 forest land 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) 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 477.291.

[Formerly 477.033]

477.272 [Repealed by 1953 c.152 §10]

477.274 [Repealed by 1953 c.152 §10]

477.276 [Repealed by 1953 c.152 §10]

477.278 [Repealed by 1953 c.152 §10]

477.280 [Repealed by 1953 c.152 §10]

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 Costs incurred by forester in excess of amounts budgeted to be included in next budget and levied and assessed against lands in district. Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(1) Actual costs incurred by the forester in the suppression of fire on grazing land in any forest protection district in excess of the amount budgeted as required by ORS 477.230, shall be included in the budget for the next fiscal year and shall be levied and assessed against the grazing land in the district without regard to proceedings for the collection of such costs. Prior to the levy and assessment, such excess costs on the grazing land may be reduced or equalized by any emergency moneys made available to the forester for such purpose. Thereafter, any amount of such costs collected shall be credited to the grazing land on a pro rata acreage basis up to the amount that such excess costs have been assessed and paid, the remaining amount, if any, shall reimburse the source of the emergency moneys made available.

(2) Actual costs incurred by the forester in the suppression of fire on timberland in any forest protection district in excess of the amount budgeted as required by ORS 477.230, shall be included in the budget for the next fiscal year and shall be levied and assessed against the timberland in the district without regard to proceedings for the collection of such costs. Prior to the levy and assessment, such excess costs on the timberland may be reduced or equalized by any emergency moneys made available to the forester for such purpose. Thereafter, any amount of such costs collected shall be credited to the timberland on a pro rata acreage basis up to the amount that such excess costs have been assessed and paid. The remaining amount, if any, shall reimburse the source of the emergency moneys made available.

[Formerly 477.035]

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 Hearing before board on owner's request; advance request for hearing on costs. (1) Any owner of grazing land or timberland subject to ORS 477.205 to 477.291 shall, upon request, be granted a hearing before the board on any subject pertaining to the activities of the forester or board affecting the land.

(2) Any hearings pertaining to costs charged against land for protection thereof must be requested in advance of the meeting of the board under ORS 477.265.

[Formerly 477.039]

477.295 Minimum assessment under ORS 477.270 and 477.285. For purposes of making the levy and assessment of costs against forest land under ORS 477.270 and 477.285, the cost against any parcel of real property separately assessed for ad valorem taxes, yield tax under ORS 321.255 to 321.360, or western Oregon small tract optional tax under ORS 321.705 to 321.765, on the current assessment roll shall be not less than $2. Otherwise, such assessments shall be determined under ORS 477.230, 477.270 and 477.285.

[1965 c.428 §6; 1969 c.204 §1]

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 477.291, which moneys are not specifically obligated for other purposes, may be used by the forester with the approval of the board 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 forest land 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 forest land 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 forest land in districts. The forester is authorized to enforce the provisions of ORS 164.805 in so far as such affects forest land 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 forest land under ORS 526.305 to 526.370; and

(3) That contains isolated tracts of forest land 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 board 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, in cooperation with interested persons, shall determine the rangeland to be included within a protection system, and 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 and the board shall provide protection of the extent and type 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 board may enter into cooperative agreements or contracts with individuals, associations, corporations, road districts, rural fire protection districts or agencies of the Federal Government.

[Formerly 477.144]

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 subsection (3) of ORS 477.320 shall prepare in cooperation with the board 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 and the pro rata cost per acre of the rangeland to be protected. 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 and the prorated acreage rate therein.

(2) The cost of protection of rangeland under subsection (3) of ORS 477.320 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 board and the owners of the rangeland under subsection (3) of ORS 477.320. 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]

FIRE WARDENS

477.355 Fire wardens generally. (1) Under such general policy as to qualifications, numbers and localities as the board finds proper, the forester shall appoint:

(a) One or more district fire wardens for each forest protection district, to be paid from the General Fund appropriation or such other moneys as are available for protection within each district, and to serve until their appointments are revoked by the forester for good cause shown.

(b) One or more fire wardens for each federal grazing district located wholly or partially within this state. Officers or employes of the United States may be appointed wardens for the purposes of this paragraph.

(c) Additional fire wardens who are willing to serve as volunteers or under compensation by property owners.

(d) State and county officers and employes whose duties make their services as wardens especially desirable as a convenience to the public. Such officers and employes shall accept appointment as such when requested by the board.

(e) Resident officers of federal agencies, upon recommendation of such agencies.

(f) Either independently or jointly with other agencies, such additional wardens as are needed in times or localities of particular fire danger or to enforce this chapter and apprehend and prosecute violators thereof.

(2) The forester may furnish the fire wardens such assistance and facilities for protecting life or property from fire as he finds necessary for public safety. Unless contributed by other sources, the cost thereof shall be paid from moneys appropriated for carrying out this chapter.
[1965 c.253 §86]

477.360 Duties of fire warden for forest protection district. The district fire warden, under the direction of the forester, has charge of the fire fighting system in his forest protection district and such other duties as are required by law and the rules of the board. Any other wardens appointed by the forester to serve in the district are subject to the direction of the district fire warden.
[Formerly 477.008]

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 in a closed season, as provided by ORS 477.505 to 477.530.

(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 for violation of this chapter, and may enter upon the lands of any owner in the discharge of their duties, provided that in so entering they exercise due care to avoid doing damage.

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

477.370 Refusal to assist warden. No able-bodied man shall refuse, without reasonable excuse, to render assistance in suppressing a grass, brush or forest fire when called upon by a regularly appointed warden. However, any such person so called upon shall be paid the going rate of wages for such work.
[Formerly 477.014]

477.375 Powers of fire wardens for federal grazing districts. Fire wardens appointed under paragraph (b) of subsection (1) of ORS 477.355 have the powers and duties described in ORS 477.365, in so far as such powers and duties are necessary to protect persons and property within their districts from fire, including the issuance of permits under ORS 477.530. However, such fire wardens have only such of the powers and duties described in this section as they are authorized to accept under the laws and regulations of the United States.
[1965 c.253 §91]

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; 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 forest land or on land other than forest land, 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 the rules of the forester, and do not become valid unless approved by the board as adequate for the purposes of subsection (1) of this section.
[1967 c.429 §24 (enacted in lieu of 477.405); 1969 c.204 §2]

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 in return for cash payment or other compensation.

(3) Loan or lease equipment.

(4) Subcontract obligations.
[1967 c.429 §26]

477.410 Liability of parties; responsibility for equipment; unemployment insurance and workmen's 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 workmen's 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 477.425 to 477.460. The definitions in ORS 321.005 apply to ORS 477.425 to 477.460.
[1965 c.253 §78; 1967 c.429 §35]

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

477.425 Cooperative agreements for protection of west side forest lands; payments from Forest Emergency Fire Cost Account. (1) The administrator appointed by the Emergency Fire Cost Committee, with the approval of the committee, may enter into uniform cooperative agreements with the board and any association of forest land owners engaged in forest fire protection and suppression for protected west side forest lands, as defined in ORS 321.005, under such terms as the committee considers advisable to carry out the purposes and intent of ORS 321.005 to 321.225 and 477.425 to 477.460.

(2) Such agreements shall provide for the certification and payment of fire suppression costs from the Forest Emergency Fire Cost Account, created by ORS 321.165, to forest protective associations and forest protection districts. The agreements shall provide for additions to and advances from the Forest Emergency Fire Cost Account from and to such associations and districts.

(3) The Emergency Fire Cost Committee may require for any fiscal year that, prior to payment of costs from the account, a forest protective association or forest protection district expend for fire suppression on protected west side forest lands at least an amount fixed by order of the committee. The committee shall fix such an amount, not to exceed one cent per acre, as it considers necessary to carry out the purposes and intent of ORS 321.005 to 321.225 and 477.425 to 477.460. Such minimum amount per acre shall apply uniformly to each forest protective association and forest protection district.

(4) The payment of all claims against or advances from the Forest Emergency Fire Cost Account shall be pursuant to the terms of such cooperative agreements and shall be conditioned upon presentation to the administrator of a certified statement of fire suppression costs.
[Formerly 477.135; 1967 c.429 §13]

477.430 Prior agreements. Agreements by the State Forester made pursuant to section 3, chapter 89, Oregon Laws 1951, with respect to protected west side forest land, as defined in ORS 321.005, are considered to be agreements made pursuant to ORS 477.425. Such agreements shall be administered by the administrator and the Emergency Fire Cost Committee in the same manner as agreements made by the administrator and the committee pursuant to ORS 477.425.
[1965 c.253 §82; 1967 c.429 §5]

477.440 Emergency Fire Cost Committee; membership. There is in the State Board of Forestry an Emergency Fire Cost Committee consisting of five members, who shall be members of the board actively and principally engaged in an administrative capacity in the production or manufacture of forest products. The members shall be appointed by the chairman of the board.
[Formerly 527.280]

477.445 Distribution of fire emergency funds by committee. The committee shall supervise and control the distribution of funds from the Forest Emergency Fire Cost Account established under ORS 321.165.
[Formerly 527.282; 1967 c.429 §6]

477.450 Election of committee chairman. After July 1, 1961, 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.
[Formerly 527.288]

477.455 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.
[Formerly 527.296]

477.460 Appointment of administrator; duties; compensation and expenses. (1) 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

477.425 to 477.460 in such manner as the committee shall direct. The salary and other expenses of the administrator shall be paid from the Forest Emergency Fire Cost Account 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; amended by 1969 c.314 §51]

CLOSED SEASONS

(General Provisions)

477.505 State Forester may declare closed 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 closed season for that year. The closed 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 closed seasons.

[1965 c.253 §93; 1969 c.204 §3]

477.510 Acts prohibited during closed season. It is unlawful, during a closed season in a forest protection district, to:

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

(2) Use fuse and caps for blasting in the district unless approval is granted by the forester.

(3) Use explosives in the topping of trees in the district unless approval is granted by the forester.

[Formerly 477.165]

(Permits)

477.515 Permits required for fires on forest lands; waiver; permit conditions; smoke management plan; restricted areas; rules; excepted areas. (1) It is unlawful to set or cause to be set on fire any forest land, including flammable forest growth, forest refuse, slashing or forest debris, or any grass, grain, stubble, debris or other such flammable material, within the boundaries of a forest protection district or within one-eighth of one mile of a forest protection district for which a closed season has been designated under ORS 477.505, or when required under rules promulgated pursuant to subsection (3) of this section either on one's own land or on the land of another, without first securing a written permit from the forester or a warden and complying with the conditions of the permit. The forester may waive the requirement that the permit referred to in this section be secured prior to burning whenever conditions are such as to justify oral permission.

(2) In granting permits, the forester or any warden may prescribe conditions necessary to be observed in setting a fire and preventing it from spreading. Any permit obtained through wilful misrepresentation is void.

(3) (a) 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 which 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.

(b) The State Forester shall promulgate rules to carry out the provisions of the smoke management plan approved under this subsection.

(4) The requirements of this section do not apply to lands protected pursuant to ORS 476.010 to 476.730 and 476.990 or ORS chapter 478, or lands protected within a city and for which lands a burning permit is required under such authority.

[1965 c.253 §95; 1969 c.204 §204; 1969 c.680 §1; 1971 c.297 §1]

477.520 Suspension or revocation of permits. (1) The forester or any warden may refuse, suspend or revoke a permit authorized by or issued under subsection (1) of ORS 477.515, when necessary in his judgment to prevent danger to life, health or property. He may also refuse, suspend or revoke a permit authorized by or issued under subsection (1)

of ORS 477.515, when necessary in his judgment, and after consultation with the Environmental Quality Commission to prevent air pollution, as defined in ORS 468.275.

(2) On the advice of the forester that conditions in a forest protection district, or part thereof, so require, the Governor may suspend any or all such permits and prohibit the use of fire therein.

[1965 c.253 §96; 1969 c.680 §2]

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 Fire permits in federal grazing districts. (1) It is unlawful during a closed season to set or cause to be set on fire any forest land, grass, grain or stubble within the area inclosed by the outside boundaries of a federal grazing district established by the United States Department of the Interior, for which area a closed season has been designated, either on one's own land or on the land of another, without first securing a written permit from a fire warden appointed for the grazing district pursuant to paragraph (b) of subsection (1) of ORS 477.355.

(2) In granting permits, a warden in a federal grazing district may prescribe conditions necessary to be observed in setting a fire and preventing it from spreading. The warden may refuse, suspend or revoke a permit when necessary in his judgment to prevent danger to life or property, and may prescribe conditions under which permits are not required. Any permit obtained through wilful misrepresentation is void.

(3) This section does not apply to any land within the boundaries of a city or that does not border or corner on the federal range.

[1965 c.253 §98]

477.532 Regional air quality authority's functions limited. None of the functions of the Environmental Quality Commission under ORS 477.515 and 477.520 shall be performed by any regional air quality authority established pursuant to ORS 468.505.

[1969 c.680 §5]

(Restricted Uses)

477.535 Forester may proclaim forest land subject to restricted uses. (1) If the forester determines that any forest land is particularly exposed to fire danger, by proclamation he may designate such forest land as an extra fire hazard and may restrict the use of such forest land.

(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.

[Formerly 477.156; 1967 c.429 §45]

477.540 Notice of proclamation; suspension or termination; reinstatement. (1) The forester shall cause a notice of the type, restrictions and effective date of closure proclaimed under ORS 477.535 and the manner in which permits may be secured if the area is subject to permit closure, to be posted on the main traveled roads entering the designated areas. The forester shall also cause a notice of each proclamation to be published in at least one newspaper of general circulation in the state and, if the forester considers it practicable, 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]

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 or property.

(2) Permit closures make the area subject to entry only through permit issued by the forester or a warden. The permit shall contain requirements which in the judgment of the forester are necessary to prevent danger to life 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 or property.
[Formerly 477.158; 1967 c.429 §47; 1969 c.204 §6]

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 his own land 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]

SNAGS; SLASHING AND OTHER DEBRIS

477.565 Felling dead trees and snags. (1) In an operation on forest land:

(a) If power-driven equipment 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 forester.

(b) On forest land 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 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]

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

477.575 Burning slashing; methods. At any time of the year in a forest protection district, all burning of slashing in the district shall be done in accordance with ORS 477.515 to 477.532. Before any such burning, the person shall first cut down all dead trees and snags over 25 feet in height for a distance of not less than 250 feet inward from any exterior boundaries of such slashings which are adjacent to standing timber or reproducing areas.
[Formerly 477.244; 1969 c.680 §3; 1973 c.46 §4]

477.580 Determination of additional fire hazards; notice to landowner; plan for reducing hazard; release from liability. (1) Following notice pursuant to ORS 527.670, by the landowner or operator to the forester of the intent to start an operation, and after slashing has been created by the operation, the forester shall make a determination if such slashing and debris exists on the area in sufficient quantity and arrangement as to constitute an additional fire hazard that endangers life, property or adjacent lands, 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 area sufficient to endanger life, property or adjacent lands, and that such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard, he shall so notify the landowner and operator or their representatives in writing of such determination. Pursuant to rules promulgated by the forester, the notice to the landowner or operator shall contain provisions for offsetting the additional fire hazard by burning or extra work, improvements 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 his opinion, sufficiently reduced by other means to offset the hazard, he shall immediately issue to the operator or landowner a release from all obligations imposed by paragraph (c) of subsection (2) of ORS 477.120.

(4) If the forester determines that an additional fire hazard exists, he shall, at the request of the owner or operator, 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 $1 for each 1,000 board feet of timber harvested, or the forester's estimated cost of reducing or providing other means to offset the additional hazard, 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 forest land 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, he 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 board 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]

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

PLANT, MACHINERY AND EQUIPMENT 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 logging equipment, mill or plant until he complies with these sections.

[Formerly 477.218]

477.610 Standardization of fire-fighting equipment used to protect forest land. (1) Notwithstanding any other law, the 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 forest land from fire, and from time to time shall issue rules, with the approval of the board, for such standardization where it is the finding of the forester and board that such standardization is economically feasible and permits greater utility in the use of such equipment.

(2) The provisions of ORS 476.410 to 476.440 shall not apply to equipment used for the protection of forest land from fire.

[1965 c.76 §§2, 3]

(General Regulations)

477.615 Additional water supply. (1) When, in the judgment of the forester, a logging operation is of sufficient size and so planned and operated as to justify additional protection from fire, the owner or operator, within 30 days after having been so directed by the forester in writing, shall provide additional water supply, and equipment for its use in fire suppression, that is in conformity with rules promulgated by the forester.

(2) All such equipment, during a closed season, 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 forest land.

[Formerly 477.212; 1967 c.429 §17]

477.620 Requirements concerning installation or operation of mill or plant. (1) Any person operating a mill or plant from which refuse is burned in or within one-eighth of one mile of forest land shall provide and maintain a closed refuse burner of a type and size which, in the judgment of the forester, is adequate to prevent the spread of fire, unless the forester specifies other measures as equally adequate to prevent the spread of fire. The ground around the mill or plant, including the required refuse burner, shall be cleared for a distance of not less than 200 feet unless a lesser distance is specified by the forester.

(2) Any person operating a mill or plant for the prefabrication or manufacture of forest products, from which refuse is disposed of in forest land without burning, shall clear the ground around the mill or plant for a distance of not less than 200 feet, unless a lesser distance is specified by the forester. The forester, during a closed season affecting such forest land, shall require a cleared fire line around such refuse which in his judgment is adequate to reduce fire hazard conditions.

(3) Any person who constructs or installs a mill or plant for the prefabrication or manufacture of forest products in or within one-eighth of one mile of forest land shall first obtain a written permit from the forester. The permit shall contain requirements which in the judgment of the forester are adequate to prevent the spread of fire from the mill or plant or refuse.

[Formerly 477.215]

477.625 Permit to use fire or power-driven machinery; conditions. Every person conducting an operation using fire in any form or power-driven machinery shall first obtain from the forester a written permit for the calendar year, which shall require that the holder of the permit:

(1) Take reasonable precautions which in the judgment of the forester are necessary in the use of fire and to prevent the spread of fire on or from an operation.

(2) 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.

(3) 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.

(4) If operating west of the summit of the Cascade Mountains, furnish and maintain such weather instruments as the forester may prescribe as adequate in his judgment to indicate fire hazard conditions.
[Formerly 477.286]

477.630 Description of area. Each permit issued under ORS 477.625 shall state by legal subdivisions the area upon which any operation is being conducted.
[1965 c.253 §108]

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. He shall refuse to issue a permit to any person for the conduct of an operation when, in his judgment, an excessive amount of forest debris in and around the operation results in extreme danger of fire damage to adjoining property.
[Formerly 477.288]

477.640 Use and refueling of portable power saws. Any person using, operating or fueling a portable power saw on or within one-eighth of one mile of forest land, which saw is powered by an internal combustion engine, shall comply with the rules of the forester relating thereto, promulgated for the prevention and suppression of fire.
[Formerly 477.290]

(Closed Season Regulations)

477.645 Steam or internal combustion engines. (1) During a closed season in a forest protection district, every person operating a steam or internal combustion engine inside or within one-eighth of one mile of the district shall equip and maintain the engine in conformity with rules promulgated by the 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]

477.650 Stationary steam or internal combustion engines; waiver. (1) During a closed season in a forest protection district every person operating a stationary steam or internal combustion engine inside or within one-eighth of one mile of the district shall:

(a) Provide at each engine on an operation within 300 feet of flammable debris on forest land a water supply, and equipment for its use in fire suppression, in conformity with rules promulgated by the forester. These rules shall prescribe such water supply and equipment as reasonably are necessary to prevent the spread of fire.

(b) If the equipment is on or within 150 feet of any forest land:

(A) Clear the ground of all flammable debris for a distance of 50 feet around such equipment; or

(B) Keep the ground sufficiently moist to prevent the starting of fires.

(2) When a person has equipped one engine as required by paragraph (a) of 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 paragraph (a) of subsection (1) of this section.

(3) For the purposes of this section, a steam or internal combustion engine shall be considered stationary if it is operated for a period of more than two days at one place on any operation, including but not limited to any one sawmill site or logging side.

(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]

477.655 Fire-fighting tools and equipment at operation site and on trucks. During a closed season in a forest protection district:

(1) Every person conducting an operation inside or within one-eighth of one mile of the district shall provide and maintain, at the operation site or at a location designated by the forester, fire-fighting tools that are in conformity with rules promulgated by the forester. The tools shall be used only for fighting fire and for no other purpose.

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

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

(4) For purposes of this section, the rules promulgated by the forester 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. 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]

477.660 Additional protection facilities or services at operation site. During a closed season in a forest protection district, when in the judgment of the forester any operation inside or within one-eighth of one mile of the 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]

477.665 Watchman service; waiver. (1) During a closed season in a forest protection district every operator using power-driven equipment in an operation area in the district shall provide watchman service on the operation area. The watchman service shall consist of not less than one competent person, who shall be constantly on duty at times prescribed by rules promulgated by the forester. These rules shall require watchman service at such times and at such places as the spread of fire on or from the operation to forest land 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]

477.670 When use of fire or power-driven machinery prohibited. During a closed season in a forest protection district situated west of the summit of the Cascade Mountains, if the forest land in such district, or any part thereof, is susceptible to damage by fire due to low humidity, high wind or high temperature or due to the existence thereon of an excessive amount of flammable debris, or due to a combination of any such conditions, the forester shall issue, and give to each person entering or being upon such land, notice to that effect. Thereafter the use of fire in any form by any person receiving such notice, except for fire control under the supervision of the forester, or the use of any power-driven machinery in any operation on such forest land, is unlawful unless approved by the forester. Approval shall be granted only when in the judgment of the forester the activity will not increase the fire hazard conditions.

[Formerly 477.282]

RIGHTS OF WAY

477.685 Clearing rights of way; permit; placing clearing debris on another's land. (1) Before clearing any right of way for any highway or railroad, or any power, commercial telegraph or telephone line, or for any transmission or transportation utility right of way on any forest land, whether upon his land or that of another, where the clearing would constitute a fire hazard, every person shall file with the forester a general description of the right of way to be cleared. The forester shall issue a written permit for such clearing. The permit shall set forth the precautionary conditions and manner under which the clearing shall be done.

(2) Subsection (1) of this section does not apply to railroad spurs or temporary roads not exceeding one-half mile in length, or to forest land for which an operation permit is in effect.

(3) A person engaged in clearing any right of way on forest land shall not place on adjoining land or property any forest material or debris resulting from such clearing without the permission of the owner of the adjoining land.

[Formerly 477.246]

477.690 Clearing rights of way on forest land by state or political subdivision. (1) No contract for the construction of any trail, highway or railroad, or power, light, telegraph or telephone line, or for any transmission or transportation utility, shall be let by the state or any political subdivision therein, or any agencies or officers thereof, unless the contract contains specific provisions for clearing the right of way therefor in conformity with ORS 477.685 and the permit issued by the forester therefor. No such work performed for the state or political subdivision, or the officers thereof, shall be accepted by it until the provisions of this section and of the permit have been complied with. ORS 477.685 applies when the state or political subdivision, or officers thereof, clear any right of way by force account.

(2) Upon failure of the state or political subdivision or officers to clear any right of way in conformity with ORS 477.685, the forester shall, upon complaint of any interested party, or upon his own motion, investigate the condition existing. If ORS 477.685 has not been complied with, he shall notify the state or political subdivision, or officers responsible and set a reasonable time within which that section shall be complied with. Upon failure to comply with these provisions within the time specified, the forester may have the right of way cleared in conformity with the requirements of ORS 477.685.

(3) The expense of the work, together with the expense of any patrol rendered necessary, shall be paid by the forester and certified to the political subdivision in or by which the work was performed and shall be paid by such political subdivision. If the work is being carried on by the state, the certificates shall be transmitted to the proper state agency or officer and shall be paid as an expense of such office. In case of private enterprises the expense of removal and any necessary fire patrol shall be collectible by action in the name of the state.

(4) All moneys collected by the forester 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 477.248]

477.695 Removal of flammable material from railroad rights of way. (1) Every person operating a railroad of any kind in this state within a forest protection district shall annually or more often, if so ordered 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 477.530.

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

MISCELLANEOUS

477.705 Appropriations by counties for forest protection. The governing body of a county may appropriate money for forest protection under this chapter and ORS 476.715, 526.010 and 526.041. Expenses incurred by any governing body in accordance therewith shall be a proper county charge.
[Formerly 477.302]

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 upon lands not his own, without first clearing the area immediately around and above it of material that will carry fire, or leave on such lands a campfire or other open fire unattended, or permit a campfire or other open fire to spread thereon. This section does not apply to any activity conducted in compliance with ORS 477.365, 477.515, 477.526, 477.530, 478.960, 526.041 or 526.360.
[Formerly 477.304; 1967 c.429 §50]

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

477.720 Accidentally setting fire to forest land; failure to prevent spread. (1) It is unlawful, having accidentally set fire to any forest land, or any place from which fire may be communicated to forest land, 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 forest land, through carelessness or neglect to permit the fire to spread to or through the forest land.
[1965 c.253 §130]

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

477.735 Private informer to receive one-half of fine; disposition of fines. Any person not employed and compensated as a warden who detects a violation of this chapter, and furnishes information leading to the arrest and conviction of the violator, shall receive

one-half of the fine paid by the person convicted. Except as so provided, all such fines, less the cost of collection, shall be placed in the general fund of the county.
[Formerly 477.308; 1971 c.743 §389]

477.740 Unlawful use of fire. (1) A person commits the crime of unlawful use of fire if he:

(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; or

(b) Intentionally or negligently allows fire to escape from his own land, or land of which he is in possession or control; or

(c) Accidentally sets any fire on his own land or the land of another and allows it to escape from control without extinguishing it, or using every reasonable effort to do so; or

(d) Having knowledge of a fire burning on his own land, or land of which he is in possession or control, fails or neglects to make every reasonable effort to extinguish the same, regardless of whether or not he is responsible for the starting or existence thereof.

(2) Unlawful use of fire is a Class B misdemeanor.
[1971 c.743 §307]

OREGON FOREST LAND PROTECTION FUND

477.750 Oregon Forest Land Protection Fund; source. The Oregon Forest Land Protection Fund is created. 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, 477.880 and 477.885. The State Treasurer shall deposit and invest moneys in the fund as provided by law, taking into account its uses and purposes. Notwithstanding any other law and as limited by ORS 477.750 to 477.775, 477.880 and 477.885, all moneys remaining in each of the following suspense accounts, after refunds and other costs permitted by law, shall be credited to the Oregon Forest Land Protection Fund:

(1) That part of the suspense account created by ORS 321.145 that is derived from the tax levied by subsection (2) of ORS 321.015.

(2) The suspense account created by ORS 477.850.

(3) The suspense account created by ORS 477.970.
[1969 c.524 §2]

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 forest land in any forest protection district, and for necessary administrative expenses. However, such administrative expenses shall not exceed $17.500 for any fiscal year.
[1969 c.524 §3]

477.760 Reserve base of fund fixed; annual determination of excess over base; tax levies and assessments to maintain base, repay General Fund. The reserve base of the Oregon Forest Land Protection Fund is $4 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. If the committee determines that the moneys in the fund exceed the reserve base, then the taxes described in subsection (2) of ORS 321.015 and 477.830, and the assessments described in ORS 477.880, 477.930 and 477.940 shall not be levied for the following fiscal year. However, the assessments described in ORS 477.880, 477.930 and 477.940 shall continue to be levied until the amount specified in ORS 477.780 has been repaid to the General Fund.
[1969 c.524 §4]

477.765 Prior use of other available funds required. (1) Notwithstanding ORS 477.750 to 477.775, 477.880 and 477.885, moneys in, due or owing to the following account or fund on August 22, 1969, shall be used by the Emergency Fire Cost Committee for the purposes for which such moneys were collected:

(a) Forest Emergency Fire Cost Account of the General Fund, designated in ORS 321.165 and 321.215.

(b) East Side Emergency Fire Cost Fund of the General Fund, designated in ORS 477.850 and 477.970.

(2) The Emergency Fire Cost Committee shall first use moneys available in the account and fund set forth in paragraphs (a) and (b) of subsection (1) of this section prior to use of moneys available for similar purposes from the Oregon Forest Land Protection Fund.
[1969 c.524 §5]

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 one cent per acre; however, any such amount per acre shall apply uniformly to each forest protection district.
[1969 c.524 §6]

477.775 Insurance to meet expenses payable from fund; payment of premium from fund; annual review of coverage and premium. (1) Subject to prior approval by the Emergency Board, the Emergency Fire Cost Committee may purchase insurance through the Department of General 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. Notwithstanding any limitations expressed in ORS 477.755, any premium for such insurance shall be paid from the Oregon Forest Land Protection Fund.

(2) When the Emergency Fire Cost Committee annually determines the unencumbered balance of moneys in the Oregon Forest Land Protection Fund as of February 16, as required by ORS 477.760, the committee also shall certify such amount to the Department of General Services. The Emergency Fire Cost Committee through the Department of General Services thereupon shall reduce the coverage provided under insurance so that the coverage in effect during any calendar year does not exceed the difference between the unencumbered balance of moneys in the Oregon Forest Land Protection Fund as of February 16 in that year and its $4 million reserve base.

(3) Any contract of insurance obtained under subsection (1) of this section shall make provision for annual reductions in coverage under subsection (2) of this section and for concurrent reductions in premiums for such insurance.
[1969 c.524 §10]

477.780 Reimbursement of General Fund; annual determination of excess to transfer. When the Emergency Fire Cost Committee determines that the unencumbered balance of moneys in the Oregon Forest Land Protection Fund as of February 16 in any year exceeds the reserve base, as specified in ORS 477.760, it shall so certify to the State Treasurer. The State Treasurer thereupon shall transfer the amount of such excess to the General Fund, to be available for general governmental expenses, in reimbursement for amounts appropriated out of the General Fund under section 13, chapter 524, Oregon Laws 1969. Amounts transferred under this section shall not exceed amounts so appropriated out of the General Fund.
[1969 c.524 §14]

Note: ORS 477.780 was not added to and made a part of ORS chapter 477 by legislative action.

LEVIES FOR EQUALIZATION OF EMERGENCY FIRE SUPPRESSION COSTS

477.805 Definitions for ORS 477.820 to 477.970. As used in ORS 477.820 to 477.970, unless the context requires otherwise:

(1) "Department" means the Department of Revenue.

(2) "Committee" means the Emergency Fire Cost Committee.

(3) "Forest land", notwithstanding the definition in ORS 477.001, means any land producing forest products.

(4) "Forest products" includes all products derived through the cutting, severing or otherwise removing of forest trees and windfalls.

(5) "Harvesting" means the cutting, severing or otherwise removing of merchantable forest products from forest land.

(6) "Merchantable stand of timber" means a stand on forest land containing living or dead timber that is being or can be harvested.

(7) "Taxpayer" means an individual, partnership, corporation or association of whatever nature, owning the harvested forest products at the time of harvesting, or acquiring title thereto by virtue of such harvesting and payment therefor. However, the grantor of forest products who reacquires the forest products after harvesting is considered as the taxpayer with respect to such forest products.
[1967 c.429 §37]

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

477.820 "East side" and "protected east side" forest lands defined. As used in ORS 477.820 to 477.970, unless the context requires otherwise:

(1) "East side forest lands" means those lands located in that part of this state lying east of the summit of the Cascade Mountains, that are classified under ORS 526.324, 526.328, 526.332 or 526.340.

(2) "Protected east side forest lands" means those east side forest lands and certain federal forest lands located in that part of this state lying east of the summit of the Cascade Mountains, that are protected from the starting or spread of fire thereon or therefrom by:

(a) The forester, with the approval of the board;

(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 forest lands, and in return, the United States of America agrees to protect specific lands of such agency.

[1961 c.689 §3; 1967 c.429 §39]

(Harvest Tax: Protected East Side Forest Lands)

477.830 Harvest tax; rate; collection provisions. (1) There is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on protected east side forest lands, in the amount provided in subsection (2) of this section.

(2) Except as provided in ORS 477.760, for each fiscal year the rate of tax levied by subsection (1) of this section is four cents per thousand feet, board measure, on all merchantable forest products harvested on protected east side forest lands.

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

(4) The tax levied by subsection (1) of this section shall be due and payable to the department in like manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.225.

[1961 c.689 §§4, 5(3); 1969 c.524 §11]

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

477.850 Disposition of revenues. (1) The revenue from the tax levied by subsection (1) of ORS 477.830 shall be remitted to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445. After payment of refunds pursuant to subsection (2) of this section, the balance remaining shall be deposited in the East Side Emergency Fire Cost Fund designated in ORS 477.970.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the tax levied under subsection (1) of ORS 477.830 hereby is appropriated continuously to the department from the suspense account referred to in subsection (1) of this section, and shall be used by the department for the payment of all refunds of the tax levied under subsection (1) of ORS 477.830 which have been audited and approved by the department. Any penalties, interest and taxes then due from the taxpayer shall be applied in that order in computing any refund; and only the balance due the taxpayer, if any, shall be refunded. The department shall on its records charge each refund against the revenue from the tax; and the balance of the revenue from such tax shall be credited to the East Side Emergency Fire Cost Fund.

[1961 c.689 §6]

(Acreage Assessment: West Side Forest Lands)

477.880 Assessment of certain forest lands west of Cascade Mountains. (1) An assessment is levied upon the owners of forest land west of the summit of the Cascade Mountains and which has been classified Class 3, agricultural class, 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, with the approval of the board;

(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 forest lands, 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 by subsection (1) of this section shall be one cent per acre of ownership of forest land designated in subsection (1) of this section.
[1969 c.524 §§7, 8]

477.885 When ORS 477.880 assessment is due; transfer to fund. The assessment levied under subsection (1) of ORS 477.880 shall be due and payable into the suspense account designated in ORS 477.970, in like manner and procedure, including penalties and interest, as set forth in ORS 477.960 and 477.970, and thereafter said moneys shall be transferred to the Oregon Forest Land Protection Fund as in ORS 477.750 provided.
[1969 c.524 §9]

(Acreage Assessment: East Side Forest Lands)

479.910 [1959 c.320 §1; 1965 c.253 §146; repealed by 1967 c.429 §61]

477.920 Policy. It is hereby declared to be the public policy of the State of Oregon that the use of east side forest lands, including but not limited to the harvesting of forest products and the conducting of grazing on such lands, involves conditions and activities making such lands more susceptible to fire; therefore, it is necessary to provide additional funds for the equalization of emergency fire suppression costs for the protection of such lands from fire.
[1959 c.320 §7]

477.930 Levy of assessment on owners of east side forest lands. An assessment is levied upon the owners of east side forest lands for the purpose of carrying out ORS 477.920. This assessment is levied for each fiscal year in the amount provided in ORS 477.940 and 477.950.
[1959 c.320 §2; 1967 c.429 §41]

477.940 Rate of assessment. Except as provided in ORS 477.760, for each fiscal year the assessment levied by ORS 477.930 shall be one cent per acre of ownership of east side forest lands.
[1959 c.320 §3; 1967 c.429 §42; 1969 c.524 §12]

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) In so far as applicable, the assessment levied under ORS 477.930 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 paragraphs (a) and (b) of subsection (1) of ORS 477.270. Wherever applicable, the assessment levied under ORS 477.930 shall be combined with the budgeted cost certified to the county under paragraph (a) of subsection (1) of 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]

477.970 Disposition of receipts. (1) The receipts from the assessment levied by ORS 477.930 shall be remitted to the State Treasurer who shall deposit them in a suspense account established under the provisions of ORS 293.445. After payment of refunds pursuant to subsection (2) of this section, the balance remaining shall be deposited in the East Side Emergency Fire Cost Fund.

(2) Notwithstanding ORS 291.238, the amount of moneys necessary to pay refunds of the assessment levied under ORS 477.930 is appropriated continuously to the forester from the suspense account referred to in subsection (1) of this section, and shall be used by the forester for the payment of all refunds of the assessment levied under ORS 477.930 which have been audited and approved by the forester. Any penalties, interest and assessment then due from the owner of east side forest lands shall be applied in that order in computing any refund; and only the balance due the owner, if any, shall be refunded. The forester shall on his records charge each refund against the receipts from the assessment with respect to which the refund is made; and the balance of the receipts from each such assessment shall be credited to the East Side Emergency Fire Cost Fund of the State Forestry Department Account.

(3) Notwithstanding ORS 291.238, the moneys credited to the East Side Emergency Fire Cost Fund are appropriated continuously for and shall be used by the forester, under the supervision and direction of the board, for the purpose of equalizing emergency fire suppression costs in forest protection districts containing east side forest lands in order to safeguard the interests of the owners of such lands.

[1959 c.320 §6; 1961 c.689 §9; 1967 c.429 §44]

PENALTIES

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) Except as provided in subsection (4) of this section, violation of any of the provisions of ORS 477.370, 477.510, 477.515, 477.535 to 477.550, 477.565 to 477.575, 477.615 to 477.625, 477.635, 477.645 to 477.670, 477.685, 477.695 or 477.710 is punishable, upon conviction, by a fine of not more than $1,000, or by imprisonment in the county jail for not more than 60 days, or both.

(2) In addition to other penalties prescribed by this section, failure to comply with ORS 477.625 or 477.670 subjects the violator to a fine for each day such violation continues.

(3) Justice courts, district courts and circuit courts have concurrent jurisdiction of violations under subsections (1) and (2) of this section.

(4) Violation of any rule or order issued or given by the forester under authority of this chapter is punishable, upon conviction, as a misdemeanor.

[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]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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, 1973.

Thomas G. Clifford
Legislative Counsel