

# Chapter 477

1993 EDITION

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

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

(8) "Forestland" 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.

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

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

(11) "Forester" means the State Forester or authorized representative.

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

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

(14) "Operation" means any industrial activity or any development or improvement on forestland, or within one-eighth of one mile of forestland, 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.

(15) "Operation in progress" means that time when workers 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 workers are engaged in hazard control or abatement work.

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

(17) "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 forestland.

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

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

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

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

(22) "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.

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

(24) "Warden" means a fire warden appointed under ORS 477.355. [1959 c.363 §2 (enacted in lieu of 477.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1; 1983 c.22 §1; 1985 c.759 §32]

**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 acknowl-

edged and the primary mission of the department in such a system is protecting forest resources, second only to saving lives. Structural protection, though indirect, shall not inhibit protection of forest resources; and

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

477.006 [Repealed by 1965 c.253 §153]

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

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

(a) Attendance of witnesses;

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

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

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

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

477.010 [Repealed by 1965 c.253 §153]

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

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 forestland declared nuisance; notice to protect; work at expense of owner; collection of amount expended.** (1) All forestland 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 the forester shall direct the owner or operator of such forestland to take proper steps for its protection and advise the owner or operator of means to that end. In case of refusal or neglect by either to take precautions against fire required by law or 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 the forester or warden 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 forestland shall be recoverable from the offender by an action prosecuted in the name of the state.

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

### FIRE ABATEMENT

**477.064 Uncontrolled fire declared nuisance.** Any fire on any forestland in Oregon burning uncontrolled or without proper action being taken to prevent its spread, notwithstanding its origin, is declared a public nuisance by reason of its menace to life and property. The spread of fire in forestland 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 forestland on which a fire exists or from which it may have spread, notwithstanding the origin or subsequent spread thereof, shall immediately proceed to control and extinguish such fire when its existence comes to the knowledge of the owner or operator, without awaiting instructions from the forester, and shall continue until the fire is extinguished.

(2) If the forester determines the fire is either burning uncontrolled or the owner or operator does not then have readily and immediately available personnel and equipment to control or extinguish the fire, the forester, or any forest protective association or agency under contract or agreement with the board for the protection of forestland against fire, and within whose protection area the fire exists, shall summarily abate the nuisance thus constituted by controlling and extinguishing the fire. [Formerly 477.036; 1961 c.603 §7; 1965 c.253 §51; 1967 c.429 §1; 1983 c.22 §2]

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

**477.068 Liability for cost of abatement; interest; lien; foreclosure; attorney**

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

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

(3) The actual cost in cases covered by ORS 477.066 shall constitute a general lien upon the real and personal property of such owner or operator. A written notice of the lien, containing a description of the property and a statement of the actual cost, shall be certified under oath by the forester or any warden and filed in the office of the county clerk of the county in which the lands and personal property are situated within 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 10 percent per year from the date of the filing of the written notice of the lien.

(4) Upon request of the forester, the district attorney for the district in which the lands and personal property are situated or the Attorney General shall prosecute such action or foreclose the lien in the name of the State of Oregon or such forest protective association or agency, or both. Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within 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 at trial and on appeal to the prevailing party. [Formerly 477.038; 1955 c.218 §1; 1959 c.363 §6; 1961 c.603 §8; 1965 c.253 §53; 1965 c.428 §§11,12; 1973 c.66 §1; 1981 c.897 §54; 1983 c.22 §3; 1983 c.27 §1]

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

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

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

**477.072** [Repealed by 1953 c.372 §22]

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

**477.074** [Repealed by 1953 c.372 §22]

**477.076** [Repealed by 1953 c.372 §22]

**477.078** [Repealed by 1953 c.372 §22]

**477.080** [Repealed by 1953 c.372 §22]

**477.082** [Repealed by 1953 c.372 §22]

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

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

**477.102** [Repealed by 1953 c.372 §22]

**477.104** [Repealed by 1953 c.372 §22]

**477.106** [Repealed by 1953 c.372 §22]

**477.108** [Repealed by 1953 c.372 §22]

**477.110** [Repealed by 1953 c.372 §22]

**477.112** [Repealed by 1953 c.372 §22]

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

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

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

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

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

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

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

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

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

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

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

(5) The provisions of subsections (3) and (4) of this section do not apply to the owner

or operator if the owner or operator fails to make every reasonable effort.

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

**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) The owner or operator is willful, malicious or negligent in the origin of a fire on such rangeland; or

(b) The owner or operator 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) The owner or operator has failed to give notice to the forester pursuant to ORS 477.580 (1) or the owner or operator has failed within the time prescribed in any order or notice issued by the forester to reduce, abate, or offset any hazard determined to exist pursuant to ORS 477.062 or 477.580 and a fire originates on or spreads to the area on which such hazard exists and for which no release has been granted pursuant to ORS 477.580 (3) or (4). [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 forestland, within a forest protection district, that has been classified as Class 3, agricultural class, as provided by ORS 526.305 to 526.370.

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

**477.210 Duty of owner to protect forestland; forester's duty to provide protection upon noncompliance.** (1) During the season of the year when there is danger of fire, every owner of forestland shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the 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 forestland shall fail or neglect to file such a fire plan or maintain the standard of protection approved by the board, either through compliance with the fire plan or membership in an approved association, then the forester under the direction of the board shall provide forest protection pursuant to ORS 477.205 to 477.291.

(4) The forester shall provide protection pursuant to ORS 477.205 to 477.291 for

forestland owned by the state or by a political subdivision located within a forest protection district, unless adequate protection as required by this section is otherwise provided. [Formerly 477.024]

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

477.214 [Repealed by 1953 c.68 §19]

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

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

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

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

**477.220 Lands not provided protection; lands not included within ORS 477.205 to 477.291.** (1) The forester is not required to provide protection for forestland that is either a small parcel or a tract isolated from a forest protection district and which land is found by the forester as not practicable to be included in a forest patrol system.

(2) ORS 477.205 to 477.291 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 forestland; 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 forestland within this state as forest protection districts within which the forester is required to provide protection pursuant to this chapter. In establishing new boundaries or changes in boundaries of the districts, the 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; insurance.** (1) The annual cost of protection provided by the forester for forestland within a forest protection district shall be as follows:

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

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

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

**Note:** Sections 2 and 3, chapter 299, Oregon Laws 1993, provide:

**Sec. 2.** Notwithstanding ORS 477.230, during the period July 1, 1993, through June 30, 1995, the forest patrol assessments imposed under ORS 477.230 (1), levied and assessed under ORS 477.270, shall not exceed 55 percent of the pro rata cost per acre, exclusive of any assessment under ORS 477.880. [1993 c.299 §2]

**Sec. 3.** Section 2 of this Act is repealed June 30, 1995. [1993 c.299 §3]

**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 ORS 477.406 (1), and the association or agency has appointed an advisory and guidance committee for the purposes of analysis and review of the protection plans and budgets for the district, the forester shall prepare the protection plans and budgets in conjunction with the committee. [1965 c.253 §63]

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

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

**477.245 Owners entitled to be heard on budget matters; public budget meetings to be held in district.** (1) All owners of lands assessed under ORS 477.205 to 477.291 shall have an opportunity to be heard on

matters pertaining to the budgeting of monies 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) of this section on the same date and at the same place as a regular meeting of the agency. [Formerly 477.043]

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

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

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

(2) Whenever the forester determines that any privately owned land should be subject to assessment for forest protection and such land was not subject to the assessment during the preceding year, the forester shall give written notice by mail of the determination to each owner of such land not later than May 1 of the year the assessment is to be made. The notice shall inform the owner of the acreage and tax lot number of the lands to be assessed and the name and address of the nearest representative of the forester the owner may contact if review of the proposed assessment is desired. The notice shall also inform the owner of the procedure for hearing and appeals prescribed in ORS 477.205 to 477.291. [Formerly 477.045; 1979 c.276 §1]

**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 forestland shall be a lien upon such property, shall be reported by the forester to the governing body of the county in which the lands are situated on or after July 1 of each fiscal year, and shall be levied and collected by the governing body with the next taxes on the land in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state. The governing body shall instruct the proper officer to extend the amounts on the assessment roll in a separate 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 forestland and receive payment of the cost therefrom. In the event that under such billing procedures any owners fail to make payment, the unpaid budgeted cost shall become a lien against the property so billed and shall be levied and collected with the next taxes on such property as described in paragraph (a) of this subsection.

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

(2) Except as provided in ORS 477.230 (2), all moneys received by the forester pursuant to this section shall be paid into the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of ORS 477.205 to 477.291. [Formerly 477.033; 1983 c.16 §2]

477.272 [Repealed by 1953 c.152 §10]

477.274 [Repealed by 1953 c.152 §10]

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

477.276 [Repealed by 1953 c.152 §10]

**477.277 Additional assessment to maintain reserve base of Oregon Forest Land Protection Fund.** (1) In addition to any other assessment prescribed by ORS 477.205 to 477.291, in any fiscal year in which the Emergency Fire Cost Committee determines that the reserve base of the Oregon Forest Land Protection Fund is less than \$15 million, a surcharge shall be levied and assessed in the amount of \$38 for each improved lot or parcel, except as provided in ORS 477.760, to defray the increased cost of fire suppression on forestland that is caused by the existence of the improvements.

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

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

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

477.278 [Repealed by 1953 c.152 §10]

477.280 [Repealed by 1953 c.152 §10]

**477.281 Limitation on liability of landowner for fire suppression.** The liability of an owner of timberland or grazing land for payment of costs of fire suppression is limited to the payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund reserve base at \$15 million and for the payment of forest protection district assessment pursuant to ORS 477.205 to 477.291. [1989 c.769 §9; 1991 c.639 §3]

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

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

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

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

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

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

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

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

(3) Upon application to the State Forester under subsection (5) of this section, contiguous lots in a subdivision held under the same ownership shall be considered as

one combined lot for purposes of subsection (1) of this section, except that the combined lot shall not include:

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

(b) A lot that:

(A) Is in a subdivision containing lots that are being offered for sale; and

(B) Is not subject to state or local government restrictions prohibiting occupancy of the property.

(4) Upon application to the State Forester under subsection (5) of this section, contiguous parcels not in a subdivision held under the same ownership and containing lands that are designated forest or agricultural land for the purpose of land use or special tax assessment purposes shall be considered as one combined lot for purposes of subsection (1) of this section, except that the combined lot shall not include:

(a) Parcels more than one of which is improved as provided in ORS 477.277 (4).

(b) Parcels that are not within the same tax code area.

(5) To qualify under subsection (3) or (4) of this section, an owner of forestland shall make application to the State Forester no later than April 15 of the fiscal year preceding each fiscal year for which the owner desires the land to be assessed under subsection (3) or (4) of this section. The application shall be on a form prescribed by the State Forester. A fee of \$25 per combined lot shall be assessed and paid to the State Forester at the time of first application for the combined lot. In addition, a fee of \$5 per combined lot shall be assessed and paid to the State Forester at the time of each subsequent annual application for the combined lot.

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

**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 forestland from fire.

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

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

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

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

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

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

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

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

**477.314** [Repealed by 1965 c.253 §153]

## RANGELAND

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

(1) That is located in that part of the state lying easterly of the summit of the Cascade Mountains; and

(2) That has not been classified as Class 1, Class 2 or Class 3 forestland under ORS 526.305 to 526.370; and

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

**477.320 Request of rangeland owners for protection; hearings; determination; cooperative agreements for protection.** (1)

Owners of rangeland may request the 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 ORS 477.320 (3) 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 ORS 477.320 (3) shall be in accordance with the budget approved under subsection (1) of this section. The cost shall be collected pursuant to the cooperative agreement or contract entered into between the board and the owners of the rangeland under ORS 477.320 (3). All moneys received by the board pursuant to this subsection shall be paid into the State Treasury and credited to the State

Forestry Department Account and shall be used exclusively for the purposes of ORS 477.315 to 477.325. [Formerly 477.146]

## 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 employees 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 employees whose duties make their services as wardens especially desirable as a convenience to the public. Such officers and employees 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 the forester 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 the forest protection district of the warden 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 or issue citations pursuant to ORS 477.985 for violation of this chapter or rules or orders adopted pursuant thereto.

(e) Enter upon the lands of any owner 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 the jurisdiction of the forester, may administer oaths in investigations of violations of this chapter and the preparation of reports thereon. [Formerly 477.012; 1971 c.743 §388; 1993 c.697 §4]

**477.370 Refusal to assist warden; compensation.** No able-bodied person 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; 1987 c.158 §104]

**477.375 Powers of fire wardens for federal grazing districts.** Fire wardens appointed under ORS 477.355 (1)(b) have the powers and duties described in ORS 477.365, insofar 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 or forest related activities; negotiation.** (1) The forester and a forest protective association may enter into a contract or agreement with each other or, jointly or separately, with a federal or state agency, political subdivision, corporation, responsible organization or responsible landowner or group of landowners for the prevention and suppression of fire on forestland or on land other than forestland, or both, to prevent and suppress fire.

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

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

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

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

(1) Exchange services on a cooperative basis.

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

(3) Loan or lease equipment.

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

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

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

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

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

pensation coverage as may be required by law.

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

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

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

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

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

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

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

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

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

**477.450 Election of committee chairman.** After July 1, 1961, the committee shall meet and elect one of its members chairman. The chairman shall hold 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; committee administrator.** (1) Regular meetings of the committee shall be held quarterly prior to the day set for meetings of the State Board of Forestry, as otherwise provided by law. Special meetings of the committee may be called by its chairman or by three members. The act or decision of any three members shall be deemed the act or decision of the committee.

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

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

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

## FIRE PREVENTION

### (Closed Seasons)

**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 forestlands; 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 forestland, 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 willful 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 ORS 477.515 (1), when necessary in the judgment of the forester or warden to prevent danger to life, health or property. The forester or warden may also refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester or warden, and after consultation with the Environmental Quality Commission to prevent air pollution, as defined in ORS 468A.005.

(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 forestland, grass, grain or stubble within the area enclosed 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 ORS 477.355 (1)(b).

(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 the judgment of the warden to prevent danger to life or property, and may prescribe conditions under which permits are not required. Any permit obtained through willful 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 468A.105. [1969 c.680 §5]

**(Restricted Uses)**

**477.535 Forester may proclaim forestland subject to restricted uses; coordination of state and federal land restrictions; prohibited entry on certain federal lands.** (1) If the forester determines that any forestland is particularly exposed to fire danger, by proclamation the forester may designate such forestland as an extra fire hazard and may restrict the use of such forestland.

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

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

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

(4) For the purpose of consistency and coordination between all affected agencies in the administration of forestland restrictions, a plan shall be developed by the forester, in cooperation with federal, state and local governmental agencies, landowners and organizations affected by the restrictions. The primary objective of the plan is uniformity of regulations regardless of land ownership. The plan must recognize variation in fire danger and must specify levels of closure by unique but easily recognizable geographic boundaries.

(5) Notwithstanding any other provision of law, no person shall enter any forestland managed by the United States Forest Service of the United States Department of Agriculture in any area in which an industrial fire prevention level 4 closure is in effect, unless authorized by the United States Forest Service Region 6 Forester. [Formerly 477.156; 1967 c.429 §45; 1989 c.615 §3]

**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 the land of the owner or prohibits free access to any area by anyone for the sole purpose of preventing or extinguishing fires. [Formerly 477.162; 1967 c.429 §48]

**(Smoke Management)**

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

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

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

**477.554 Program establishment; content.** (1) With the advice and assistance of

the advisory committee established under ORS 477.556, and subject to the review of the State Board of Forestry, the State Forester shall adopt and implement programs for meeting the objectives set forth in ORS 477.552 to 477.562 and in ORS 477.515 (3). The programs shall include:

(a) Collection, analysis and distribution of information regarding prescribed burning and other alternative slash management techniques;

(b) Assistance to landowners wanting to evaluate alternative burning and nonburning slash management strategies and the collection of data regarding fuel conditions existing before and after slash treatment;

(c) Aerial monitoring of prescribed burning activity;

(d) Distribution of information to the Department of Environmental Quality on progress toward meeting federal and state air quality standards; and

(e) Establishment of a system to track forest burning on a geographically specific basis.

(2) The programs shall be administered by the State Forestry Department. [1989 c.920 §3]

**477.556 Advisory committee; membership; terms; staff.** (1) An advisory committee shall be created by the State Forester to advise and assist the State Forester in carrying out the programs required by ORS 477.515 and 477.552 to 477.462. The advisory committee shall consist of five members as set forth in subsections (2) and (3) of this section.

(2) The following three members shall be appointed by the State Forester:

(a) One member representing a nonindustrial forest landowner;

(b) One member representing an industrial forest landowner; and

(c) One member representing the public.

(3) In addition to the members designated in subsection (2) of this section, representatives of the following federal agencies shall be invited to serve as members of the advisory committee:

(a) A representative of the United States Forest Service.

(b) A representative of the United States Bureau of Land Management.

(4) Each member of the advisory committee shall serve for a term of two years.

(5) Members of the advisory committee are entitled to compensation as provided in ORS 292.495.

(6) A vacancy for any cause occurring before the expiration of a term shall be filled for the unexpired term by a person appointed by the State Forester.

(7) A staff member of the State Forestry Department shall be designated by the State Forester to serve as secretary for the committee. [1989 c.920 §4]

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

(1) Advise the State Forestry Department in collecting information about prescribed burning operations;

(2) Advise the State Forestry Department on the collection, analysis and distribution of information required under ORS 477.554; and

(3) Review and comment on the report required under ORS 477.560. [1989 c.920 §5]

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

(2) The following moneys shall be credited to the Oregon Forest Smoke Management Account:

(a) Nonrefundable registration fees received by the department for Class 1 forestland under ORS 526.324 to be burned lying within the restricted area described under ORS 477.515 (3).

(b) Fees received by the State Forester for Class 1 forestland under ORS 526.324 treated by a prescription burn method under ORS 477.515 (1).

(c) Fees for federal forestland included within the restricted area under ORS 477.515 (3) to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the Federal Clean Air Act received by the State Forester.

(3) The moneys in the Oregon Forest Smoke Management Account are appropriated continuously for and shall be used by the State Forester exclusively for the administration of the smoke management program approved under ORS 477.515 (3) and 477.554. [1989 c.920 §7]

**477.562 Registration fee; exemption.** (1) The department shall collect a nonrefundable registration fee for forestland to be burned lying within the restricted area described under ORS 477.515 (3). However, the State Forester, by rule, shall provide an exemption from payment of the fee for burning of understory materials that occurs on forest-

land for which regular, periodic burning of understory materials is required for forest health.

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

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

(a) Fifty cents per acre for registration.

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

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

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

### SNAGS; SLASHING AND OTHER DEBRIS

#### 477.565 Felling dead trees and snags.

(1) In an operation on forestland:

(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 forestland west of the summit of the Cascade Mountains, the operator shall fell all dead trees and snags within the operation area of such size, at such times and in such manner as may be required by rules promulgated by the 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 [Formerly 477.244; 1969 c.680 §3; 1973 c.46 §4; repealed by 1987 c.154 §1]

**477.580 Determination of additional fire hazards; notice to landowner; plan for reducing hazard; release from liability.** (1) Following 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, the forester 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, extra protection or other means. The notice shall also specify a reasonable time for completion of the provisions contained therein.

(3) When the forester finds that the provisions set forth in subsection (2) of this section have been complied with or that the additional hazard has been, in the opinion of the forester, sufficiently reduced by other means to offset the hazard, the forester shall immediately issue to the operator or landowner a release from all obligations imposed by ORS 477.120 (2)(c).

(4) If the forester determines that an additional fire hazard exists, the forester shall, at the request of the owner or operator, with the approval of the owner, grant a release upon payment by the owner or operator of such sum of money as the forester finds necessary to provide additional protection or means necessary to reduce or offset the additional hazard created by such slashing and other debris. In no event may this sum exceed (a) \$3 for each 1,000 board feet of timber harvested in a commercial operation; or (b) the forester's estimated cost of reducing or providing other means to offset the additional hazard; or (c) \$5 for each acre in a stand improvement operation where no timber is harvested, whichever amount is the lesser. Moneys received under this subsection shall be placed in the State Treasury,

credited to the State Forestry Department Account and used exclusively for the purposes of forest protection within the district.

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

(6) Any order or determination made by the forester pursuant to this section is final unless modified or vacated in an appeal to the 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; 1975 c.74 §1; 1979 c.222 §1]

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 the person complies with these sections. [Formerly 477.218]

**477.610 Standardization of fire-fighting equipment used to protect forestland.** (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 forestland 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 forestland 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 forestland. [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 forestland 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 forestland 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 forestland, shall require a cleared fire line around such refuse which in the judgment of the forester 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 forestland 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; exception; conditions.**

(1) 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:

(a) 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.

(b) Designate a representative authorized to act on all matters having to do with fire

control, which representatives shall be available at all times by direct means of communication with the forester.

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

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

(2) Routine road maintenance is excepted from the requirement to obtain a permit to operate power-driven machinery under this section. As used in this subsection "routine road maintenance" means grading, cleaning ditches, culvert cleaning, spot rocking or mechanical brushing along the roadside to maintain visibility. [Formerly 477.286; 1991 c.634 §1]

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

**477.630 Description of area.** Each permit issued under ORS 477.625 shall state by legal description the area upon which any operation is being conducted. [1965 c.253 §108; 1975 c.185 §1]

**477.635 Authority to issue, refuse, suspend or revoke permit.** The forester may issue the permits required in ORS 477.625 and suspend or revoke such permits because of violation of the terms thereof or noncompliance with this chapter. The forester shall refuse to issue a permit to any person for the conduct of an operation when, in the judgment of the forester, an excessive amount of forest debris in and around the operation 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 forestland, 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 forestland 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 forestland:

(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 subsection (1)(a) of this section, any additional engines operated by the person within 150 feet of the equipped engine shall be exempt from the requirements of subsection (1)(a) 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 equip-

ment that are in conformity with rules promulgated by the forester.

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

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

**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 forestland 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 notice to that effect. Thereafter the use of fire in any form by any person, except for fire control under the supervision of the forester, or the use of any power-driven machinery in any operation on such forestland, 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; 1993 c.415 §3]

## 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 forestland, whether upon the land of the person 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 forestland for which an operation permit is in effect.

(3) A person engaged in clearing any right of way on forestland 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 forestland 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 the motion of the forester, investigate the condition existing. If ORS 477.685 has not been complied with, the forester 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 com-

ply 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 this order. [1965 c.253 §125; 1971 c.562 §1]

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

### MISCELLANEOUS

**477.710 Starting of campfire or other open fire restricted; exceptions.** It is unlawful for any person to start a campfire or other open fire without first clearing the area immediately around and above it of material that will carry fire, or leave a campfire or other open fire unattended, or permit a campfire or other open fire to spread. This section does not apply to any activity conducted in compliance with ORS 477.365, 477.515, 477.530, 477.625, 478.960, 526.041, 526.360 or 527.670. [Formerly 477.304; 1967 c.429 §50; 1993 c.430 §2]

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

**477.720 Accidentally setting fire to forestland; failure to prevent spread.** (1) It is unlawful, having accidentally set fire to any forestland, or any place from which fire may be communicated to forestland, to fail

to extinguish the fire or use every possible effort so to do.

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

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

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

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

(1) 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

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

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

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

### OREGON FOREST LAND PROTECTION FUND

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

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

**477.755 Appropriation of fund for emergency fire suppression costs; limitation on expenditures.** Notwithstanding ORS

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

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

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

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

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

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

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

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

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

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

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

**477.770 Rules relating to use of fund.** The Emergency Fire Cost Committee shall promulgate rules relating to the disposition of moneys from the Oregon Forest Land Protection Fund. Under such rules the committee may require that prior to the payment of moneys from the fund the forest protection district expend an amount for fire suppression not to exceed a per acre amount determined to be 10 percent of the total budgeted amount of all districts as set forth in ORS 477.220 to 477.415 divided by the total protected acres of all districts. However, any such amount per acre shall apply uniformly to each forest protection district. [1969 c.524 §6; 1977 c.182 §3; 1981 c.321 §5]

**477.775 Insurance to meet expenses payable from fund; payment of premium from fund.** The Emergency Fire Cost Committee shall purchase insurance through the 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. Any premium for such insurance shall be paid from the Oregon Forest Land Protection Fund. [1969 c.524 §10; 1985 c.158 §2; 1989 c.91 §1; 1989 c.769 §11; 1991 c.639 §7]

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

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

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

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

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

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

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

### ASSESSMENT FOR FIRE SUPPRESSION COSTS

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

(a) The forester under ORS 477.210 (3), with the approval of the 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 forestlands, and in return, the United States of America agrees to protect specific lands of such agency.

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

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

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

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

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

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

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

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

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

**477.960 Collection of assessment.** (1) Insofar as applicable, the assessment levied under ORS 477.880 shall be due and payable to the forester in like manner and procedure, including penalties and interest, as set forth

for the collection of the protection costs provided in ORS 477.270. Wherever applicable, the assessment levied under ORS 477.880 shall be combined with the budgeted cost certified to the county under ORS 477.270 as one amount for each account listed so that the officer in charge of the roll can extend the amounts on the assessment roll in a separate column in a single figure.

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

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

### PENALTIES

**477.980 Infraction classification; sentencing policy.** (1) Notwithstanding ORS 153.310, for the purpose of enforcing violations prescribed in ORS 477.993, fire prevention infractions are classified for the purpose of sentence into the following categories:

(a) Class A infractions;

(b) Class B infractions; and

(c) Class C infractions.

(2) A sentence to pay a fine for a fire prevention infraction shall be a sentence to pay an amount not exceeding:

(a) \$500 for a Class A infraction.

(b) \$100 for a Class B infraction.

(c) \$50 for a Class C infraction.

(3) The State Board of Forestry, by rule, shall establish the enforcement policy for violations prescribed in ORS 477.993. In determining the enforcement policy, the board may consider the following factors:

(a) Prior violation of the same or similar statutes, rules or orders.

(b) The gravity and magnitude of the violation.

(c) Whether the violations were repeated or continuous.

(d) Whether the cause of the violation was an unavoidable accident or a willful, malicious or negligent act.

(e) Whether the violation directly threatened human life or caused property damage of \$10,000 or more. [1993 c.697 §2]

**477.985 Infraction enforcement procedure; disposition of fines and costs.** (1) The fire prevention infractions provided in ORS 477.993 are infractions that are subject to ORS 8.665, 153.110 to 153.310 and 153.990.

Except as otherwise specifically provided in this chapter any offense that is designated as a fire prevention infraction is subject to citation and enforcement as provided under ORS 8.665, 153.110 to 153.310 and 153.990.

(2) In addition to any other persons permitted to enforce infractions under ORS 8.665, 153.110 to 153.310 and 153.990, the State Forestry Department and the State Forester have jurisdiction of and may enforce any fire prevention infraction established under ORS 477.993 in the manner provided under ORS 8.665, 153.110 to 153.310 and 153.990 for the enforcement of infractions.

(3) All fines and court costs recovered from violations of fire prevention infractions shall be paid to the clerk of the court involved. Such moneys shall be credited and distributed under ORS 137.290 and 137.295 as monetary obligations payable to the state. [1993 c.697 §3]

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

**477.992** [Repealed by 1959 c.363 §21]

**477.993 Penalties.** (1) Violation of any of the provisions of ORS 477.370, 477.510, 477.515, 477.535 to 477.550, 477.565, 477.615 to 477.625, 477.635 to 477.670, 477.685, 477.695, 477.710, 477.720 or 477.740, or any rule or

order adopted pursuant thereto, is a fire prevention infraction punishable as follows:

(a) For the first offense, as a Class C infraction.

(b) For the second offense, as a Class B infraction.

(c) For the third offense, as a Class A infraction.

(2) Multiple violations of any single requirement of this chapter, or of any rule or order adopted pursuant thereto, in an operation shall be considered a single infraction. However, each day an infraction continues shall be considered a separate violation.

(3) Notwithstanding subsection (1) of this section, violations of any of the statutes listed in subsection (1) of this section which proximately cause human injury, loss of human life or property damage of \$10,000 or more, may be punishable as a Class A misdemeanor.

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

**PROTECTION FROM FIRE**

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