

Emergency Fire Cost Committee Statutory Authorities
Statutory Authority and Responsibility for the Emergency Fire cost Committee and
the Oregon Forest Land Protection Fund

Oregon Revised Statutes:

CHAPTER 321 — TIMBER AND FORESTLAND TAXATION

2011 EDITION

[Editor's note: all applicable Forest Products Harvest Tax statutes are included here]

FOREST PRODUCTS HARVEST TAX

321.005 Definitions for ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460.

As used in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460, unless the context requires otherwise:

- (1) "Board" means the State Board of Forestry.
- (2) "Protected forestlands" means those lands which are protected from the starting or spread of fire thereon or therefrom by:
 - (a) The State Forester, with the approval of the board;
 - (b) The United States of America through contract with the State Forester;
 - (c) Any forest protective agency under contract with the State Forester or the board pursuant to ORS 477.406; or
 - (d) Any forest protective agency, described in paragraph (c) of this subsection, under an 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.
- (3) "Department" means the Department of Revenue.
- (4) "Committee" means the Emergency Fire Cost Committee.
- (5) "Forestland" means any land producing forest products.
- (6) "Forest products" means products from harvested timber, but does not include products from short rotation fiber grown under agricultural conditions as described in ORS 321.267 (3) or 321.824 (3), western juniper or products from harvested western juniper.
- (7) "Harvest" means the point at which timber that has been cut, severed, or removed for purposes of sale or use is first measured in the ordinary course of business as determined by reference to common practice in the timber industry.
- (8) "Merchantable stand of timber" means any stand on forestlands containing living or dead timber which is being or can be harvested.

(9) "Taxpayer" means the owner of timber at time of harvest.

(10) "Taxes" means the taxes provided for in ORS 321.015.

(11) "Owner of timber" means any individual or combination of individuals, partnership, firm, corporation or association of whatever nature holding title to harvested timber by virtue of:

(a) An instrument of conveyance;

(b) The harvesting of the timber; or

(c) The harvesting of the timber and payment therefor.

(12) "Timber" means all logs which can be measured in board feet and other forest products as determined by department rule. [1953 c.375 §1; 1957 c.309 §3; 1961 c.726 §412; 1965 c.253 §139; 1967 c.429 §38; 1981 c.321 §9; 1983 c.539 §1; 1985 c.759 §5; 1993 c.653 §1; 1995 c.132 §1; 1999 c.631 §2; 2003 c.454 §125; 2003 c.621 §100a]

321.010 [Repealed by 1953 c.375 §38]

321.011 Policy. The prevention and suppression of forest fires on forestlands for the preservation of forest resources and the continuous growth of timber on lands suitable therefor are declared to be the public policy of the State of Oregon. The Legislative Assembly recognizes that:

(1) The forested areas situated within eastern Oregon predominate in Ponderosa pine trees and associated species, and that the forested areas situated within western Oregon predominate in Douglas fir and associated species;

(2) Because of this difference in species, different forest fire protection problems exist in eastern and western Oregon, and different logging conditions and circumstances in each necessitate varied forest practices in the disposal of forest slashings and debris; and

(3) Therefore, in order to give recognition to such differences and their effect on the accomplishment of the public policy stated in this section, certain classifications of forestlands within the State of Oregon are established by ORS 321.005 to 321.185 and 321.560 to 321.600. [1957 c.309 §2; 2005 c.94 §100]

321.012 Public to share cost of suppressing fires caused by public. The Legislative Assembly finds that it is in the interest of the State of Oregon that the public as a whole share responsibility for protecting the forests of this state, by making funds available from time to time for suppression of fires caused by the public. [1967 c.429 §60]

321.015 Levy of privilege tax upon harvest of timber for forest research, fire suppression and administering Oregon Forest Practices Act; exclusion. (1) For the calendar years beginning January 1, 2012, and January 1, 2013, there is levied a privilege tax of 87.39 cents per thousand feet, board measure, upon taxpayers for the privilege of harvesting of all merchantable forest products harvested on forestlands. Subject to ORS 321.145, the proceeds of the tax shall be transferred as provided in ORS 321.152 (2) to the Forest Research and Experiment Account for use for the forest resource research, experimentation and studies described in ORS 526.215 and for the Forest Research Laboratory established under ORS 526.225.

(2) Except as provided in ORS 477.760, in addition to the tax levied by subsection (1) of this section, there is levied a forest products harvest tax upon taxpayers of 62.5 cents per thousand feet, board measure, for the privilege of harvesting all merchantable forest products harvested on forestlands for the payment of benefits related to fire suppression as provided in ORS 321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460.

(3) For the calendar years beginning January 1, 2012, and January 1, 2013, in addition to the taxes levied under subsections (1) and (2) of this section, there is levied a privilege tax upon taxpayers for

the privilege of harvesting all merchantable forest products harvested on forestlands in the amount of \$1.2952 per thousand feet, board measure, for the purpose of administering the Oregon Forest Practices Act in an amount not to exceed 40 percent of the total expenditures approved by the Legislative Assembly for this purpose, including salary adjustments approved by the Legislative Assembly for fiscal years 2012 and 2013.

(4) Subject to subsection (5) of this section, the taxes shall be measured by and be applicable to each per thousand feet, board measure, on the total quantity of forest products harvested in this state measured by use of any log scale which is or may be in general use in the logging industry and which is designed to measure total volume of merchantable forest products in board feet. However, if the Department of Revenue finds that the scale used by any taxpayer in computing the taxes due under ORS 321.005 to 321.185 and 321.560 to 321.600 does not accurately reflect the total quantity of merchantable forest products harvested by the taxpayer, it may require the taxpayer to adopt another log scale in general use in the industry which in the department's opinion will accurately reflect merchantable harvest in board feet.

(5) The first 25,000 feet, board measure, of forest products harvested annually by any taxpayer during each calendar year shall be excluded from the total quantity of harvested forest products that constitutes the measure of the taxes under ORS 321.005 to 321.185 and 321.560 to 321.600. [1953 c.375 §2; 1957 c.309 §14; 1981 c.321 §10; 1985 c.759 §6; 1989 c.769 §1; 1991 c.459 §273; 1991 c.639 §1; 1993 c.653 §2; 1995 c.507 §1; 1997 c.519 §1; 1999 c.968 §§1,1a; 1999 c.1061 §1; 2001 c.872 §1; 2003 c.769 §1; 2005 c.796 §1; 2007 c.779 §1; 2007 c.852 §1; 2009 c.763 §1; 2011 c.594 §1]

Note: Section 2, chapter 594, Oregon Laws 2011, provides:

Sec. 2. The amendments to ORS 321.015 by section 1 of this 2011 Act apply to forest products harvest tax reporting periods beginning on or after January 1, 2012. [2011 c.594 §2]

321.016 [1991 c.919 §28; repealed by 1993 c.657 §6]

321.017 Levy of additional privilege tax; distribution to Oregon Forest Resources Institute Fund. (1) In addition to the taxes levied under ORS 321.015 (1) to (3), there hereby is levied a privilege tax upon taxpayers on the harvesting of all merchantable forest products harvested on forestlands in the amount provided in subsection (2) of this section.

(2) The rate of tax levied in subsection (1) of this section shall be established annually at the beginning of each calendar year by the board of directors of the institute, at a rate not to exceed 75 cents per thousand feet, board measure, on all merchantable forest products harvested on forestlands. The maximum tax rate prescribed by this subsection may be increased by the board of directors in an amount equal to the previous year's increase in the Consumer Price Index (Portland area -- all items) as published by the Bureau of Labor Statistics of the United States Department of Labor for the Portland, Oregon, area.

(3) The tax shall be measured by and be applicable to each per thousand feet, board measure, and such shall be subject to and determined by the procedures and provisions of ORS 321.015 (4) and (5).

(4) The tax levied by subsection (1) of this section shall be due and payable to the Department of Revenue in the manner and procedure, including penalties and interest, as set forth for the collection of the privilege tax in ORS 321.005 to 321.185.

(5) The revenue from the tax levied by subsection (1) of this section shall be remitted to the State Treasurer who shall deposit it in a suspense account established under ORS 321.145 (1). After payment of refunds, which shall be paid in the same manner as other forest products harvest tax refunds are paid in ORS 321.145 (2), the balance of the additional tax imposed under subsection (1) of this section shall be deposited in the Oregon Forest Resources Institute Fund. [1991 c.949 §22; 1993

c.653 §4; 1999 c.968 §§2,2a; 2001 c.872 §2; 2003 c.769 §2]

321.020 [Repealed by 1953 c.375 §38]

321.025 [1953 c.375 §3; 1959 c.537 §1; 1961 c.242 §1; 1967 c.429 §11; 1977 c.182 §1; 1981 c.321 §1; repealed by 1985 c.759 §40]

321.027 [1977 c.172 §2; 1979 c.375 §1; 1981 c.348 §1; 1983 c.682 §1; repealed by 1985 c.746 §3 and 1985 c.759 §40]

321.028 [1977 c.172 §3; 1979 c.375 §2; 1981 c.348 §2; 1983 c.682 §2; 1985 c.759 §7; 1987 c.551 §3; 1989 c.766 §3; 1991 c.881 §3; 1993 c.657 §4; repealed by 1995 c.507 §6]

321.030 [Repealed by 1953 c.375 §38]

321.035 Determination of moneys available in Oregon Forest Land Protection Fund. (1) For purposes of determining the moneys available in the Oregon Forest Land Protection Fund described in ORS 477.750 as of February 16, such shall be the balance shown on such date less the total of:

(a) The unexpended balance as of February 16 of the amount budgeted to be expended from the account for the fiscal year in which the determination is made; and

(b) The amount budgeted to be expended from the account for the following fiscal year.

(2) The insurance principle is recognized in providing funds for emergency forest fire control. [1953 c.375 §4; 1961 c.297 §4; 1963 c.88 §1; 1967 c.429 §7; 1985 c.759 §8]

321.037 [1967 c.429 §9; repealed by 1985 c.759 §40]

321.040 [Repealed by 1953 c.375 §38]

321.042 [1967 c.429 §10; repealed by 1969 c.524 §15]

321.045 Payment of tax; returns; estimated tax; payment. (1) The taxes levied under ORS 321.015 shall be due and payable annually, on or before the last day of January, for the preceding year. The tax shall be delinquent if not paid by the due date, which shall be determined without regard to any extension of time for filing the return.

(2) Subject to the provisions relating to estimated tax payments provided in subsections (4) and (5) of this section, on or before the last day of January, each taxpayer shall make out a return on the form prescribed by the Department of Revenue showing the amount of the tax for which the taxpayer is liable for the preceding year and the other information the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the amount of the tax, to the office of the department. The return shall be signed and verified by the taxpayer or a duly authorized agent of the taxpayer. Whenever in its judgment good cause exists, the department may allow upon written application made on or before the due date further time not exceeding 30 days for filing a return.

(3) All payments received under ORS 321.005 to 321.185 and 321.560 to 321.600 shall be credited, first, to penalty and interest accrued, and then to tax due.

(4) Each taxpayer expecting to incur a liability pursuant to this section in excess of \$1,500 for any calendar year shall, on forms prescribed by the Department of Revenue, make and file with the department on or before the last day of the month following the end of each calendar quarter an

estimate of the taxpayer's tax liability for the year. At least one-quarter of the estimated tax shall be remitted to the department with each estimated tax report and the balance shall be remitted to the department on or before the due date of the tax return required by subsection (2) of this section, without regard for any extension of the due date thereof.

(5) If the amount remitted with an estimated tax report filed on or before the due date thereof is at least 25 percent of the tax of the taxpayer as due for the calendar year preceding the year for which the report is made or at least 20 percent of the taxpayer's tax liability as due for the year for which the report is made, or 100 percent of the tax liability on the actual merchantable forest products harvested for the calendar quarter preceding the due date of the estimated tax report, no penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate established under ORS 305.220 for each month or fraction thereof shall be assessed for the period of delinquency calculated on the difference between the payment made and the payment that would have been due had the taxpayer estimated the liability for the quarter in an amount equal to the liability as due for such quarter. The provisions of ORS chapters 305 and 314 relating to penalties and interest shall not apply to the estimated tax payments described in this section. [1953 c.375 §§5,6; 1965 c.331 §1; 1981 c.363 §1; 1982 s.s.1 c.16 §12; 1989 c.588 §1; 1991 c.459 §274; 1993 c.653 §5; 2005 c.94 §101]

321.050 [Repealed by 1953 c.375 §38]

321.055 [1953 c.375 §7; 1975 c.593 §19; 1977 c.870 §45; 1981 c.706 §8; 1982 s.s.1 c.16 §13; 1985 c.759 §10; renumbered 321.560]

321.060 [Repealed by 1953 c.375 §38]

321.065 [1953 c.375 §8; repealed by 1977 c.870 §24 (321.126 enacted in lieu of 321.065)]

321.070 [Repealed by 1953 c.375 §38]

321.075 [1953 c.375 §9; 1981 c.706 §9; 1983 c.696 §14; 1985 c.759 §11; 1985 c.761 §17; renumbered 321.570]

321.080 [Repealed by 1953 c.375 §38]

321.085 [1953 c.375 §10; repealed by 1961 c.573 §2 (305.140 enacted in lieu of 314.435, 315.635 and 321.085)]

321.090 [Repealed by 1953 c.375 §38]

321.092 [1981 c.706 §2; 1985 c.759 §12; renumbered 321.580]

321.095 [1953 c.375 §11; 1983 c.740 §92; 1985 c.759 §13; renumbered 321.590]

321.100 [Repealed by 1953 c.375 §38]

321.105 [1953 c.375 §12; 1985 c.759 §14; renumbered 321.600]

321.110 [Repealed by 1953 c.375 §38]

321.115 [1953 c.375 §13; 1961 c.533 §55; repealed by 1977 c.870 §24 (321.126 enacted in lieu of 321.115)]

321.120 [Repealed by 1953 c.375 §38]

321.125 [1953 c.375 §14; repealed by 1977 c.870 §24 (321.126 enacted in lieu of 321.125)]

321.126 [1977 c.870 §25 (enacted in lieu of 321.065, 321.115 and 321.125); repealed by 1981 c.706 §16]

321.130 [Repealed by 1953 c.375 §38]

321.135 [1953 c.375 §15; 1985 c.759 §15; renumbered 321.609]

321.140 [Repealed by 1953 c.375 §38]

321.145 Tax revenue credited to suspense account; refunds. (1) The revenue from the taxes levied by ORS 321.005 to 321.185 and 321.560 to 321.600 shall be remitted to the State Treasurer who shall deposit it in a suspense account established under the provisions of ORS 293.445.

(2) Notwithstanding the provisions of ORS 291.238, the amount of moneys necessary to pay refunds of the taxes levied under ORS 321.015 (1) to (3) hereby is appropriated continuously to the Department of Revenue from the suspense account referred to in subsection (1) of this section, and shall be used by the department for the payment of all refunds of taxes levied under ORS 321.015 (1) to (3) that have been audited and approved by the department. Any penalties, interest and taxes then due from the taxpayer shall be applied in that order in computing any refund, and only the balance due the taxpayer, if any, shall be refunded. The department shall on its records charge each refund against the revenue from the tax with respect to which the refund is made. [1953 c.375 §16; 1957 c.309 §4; 1957 c.528 §6; 1961 c.270 §1; 1985 c.759 §16; 1999 c.968 §3; 2003 c.769 §3]

321.150 [Repealed by 1953 c.375 §38]

321.152 Distribution of tax revenue to Forest Research and Experiment Account, State Forestry Department Account and Oregon Forest Land Protection Fund. (1) Subject to ORS 321.145 (2), moneys remaining in the Department of Revenue's suspense account referred to in ORS 321.145 on February 10, May 10, August 10 and November 10 of each year shall be transferred to the various appropriation accounts described in subsections (2), (3) and (4) of this section.

(2) That part of the moneys derived from taxes levied by ORS 321.015 (1) shall be transferred to the Forest Research and Experiment Account described in ORS 321.185.

(3) That part of the moneys derived from taxes levied by ORS 321.015 (3) shall be transferred to the State Forestry Department Account referred to in ORS 526.060. Notwithstanding ORS 291.238, the moneys transferred to the State Forestry Department Account under this section are appropriated continuously for and shall be used by the State Forester, under the supervision and direction of the State Board of Forestry, for the purposes of administering the Oregon Forest Practices Act and the forest practices monitoring program.

(4) That part of the moneys derived from taxes levied by ORS 321.015 (2) shall be transferred to the Oregon Forest Land Protection Fund described in ORS 477.750. [1985 c.759 §3; 1995 c.507 §2; 1999 c.968 §4; 2003 c.769 §4]

Note: 321.152 was added to and made a part of ORS chapter 321 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

321.155 [1953 c.375 §17; repealed by 1957 c.309 §15]

321.160 [Repealed by 1953 c.375 §38]

321.165 [1953 c.375 §19; 1957 c.309 §5; 1961 c.297 §5; 1965 c.253 §140; 1967 c.429 §12; 1981 c.321 §11; repealed by 1985 c.759 §40]

321.170 [Repealed by 1953 c.375 §38]

321.175 [1953 c.375 §20; 1965 c.253 §141; repealed by 1967 c.429 §61]

321.180 [Repealed by 1953 c.375 §38]

321.185 Forest Research and Experiment Account; appropriation. (1) There hereby is established in the State Treasury in the General Fund an account to be known as the Forest Research and Experiment Account, which account hereby is appropriated continuously to the State Board of Higher Education for the purposes of ORS 526.215 and 526.225.

(2) The Forest Research and Experiment Account shall consist of allocations from harvest taxes as provided in ORS 321.015 (1). [1953 c.375 §21; 1957 c.309 §6; 1961 c.297 §6; 1985 c.759 §17; 2003 c.46 §46]

321.190 [Repealed by 1953 c.375 §38]

321.195 [1953 c.375 §22; repealed by 1957 c.309 §15]

321.200 [Repealed by 1953 c.375 §38]

CHAPTER 477 — FIRE PROTECTION OF FORESTS AND VEGETATION

2011 EDITION

[Editor's note: selected applicable statutory authority is included here; not all of ORS Chapter 477 is included]

GENERAL PROVISIONS

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

- (1) "Additional fire hazard" means a hazard that has been determined to exist by the forester pursuant to ORS 477.580.
- (2) "Board" means the State Board of Forestry.
- (3) "Campfire" means any open fire used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes that is hand built and that is not associated with any debris disposal activities.
- (4) "Department" means the State Forestry Department.
- (5) "District" means a forest protection district organized under ORS 477.225.
- (6) "Every reasonable effort" means the use of the reasonably available personnel and equipment under the supervision and control of an owner or operator, which are needed and effective to fight the fire in the judgment of the forester and which can be brought to bear on the fire in a timely fashion.
- (7) "Fire season" means a period designated pursuant to ORS 477.505.
- (8) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next year.
- (9) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar forestland opening that is surrounded by or contiguous to forestland and that has been included in areas classified as forestland under ORS 526.305 to 526.370.
- (10) "Forest patrol assessment" means the costs levied and assessed under ORS 477.270.
- (11) "Forest protective association" or "association" means an association, group or agency composed of owners of forestlands, organized for the purpose of protecting such forestlands from fire.
- (12) "Forest resource" means the various types of vegetation normally growing on Oregon's forestland, the associated harvested products and the associated residue, including but not limited to brush, grass, logs, saplings, seedlings, trees and slashing.
- (13) "Forester" means the State Forester or authorized representative.
- (14) "Governing body" of a county means the county court or board of county commissioners.
- (15) "Grazing land" is defined by ORS 477.205.
- (16) "Open fire" means any outdoor fire that occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.
- (17) "Operation" means any industrial activity, any development or any improvement on forestland inside or within one-eighth of one mile of a forest protection district, including but not limited to the harvesting of forest tree species, the clearing of land, the use of power-driven machinery and the use of fire, excluding, however, the culture and harvesting of agricultural crops.
- (18) "Operation area" means the area on which an operation is being conducted and the area on which operation activity may have resulted in the ignition of a fire.

(19) “Operation in progress” means that time when workers are on an operation area for the purpose of an operation, including the period of time when fire watches are required to be on the operation area pursuant to ORS 477.665.

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

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

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

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

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

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

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

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

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

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

(30) “Warden” means a fire warden appointed under ORS 477.355. [1959 c.363 §2 (enacted in lieu of 477.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1; 1983 c.22 §1; 1985 c.759 §32; 1997 c.274 §1; 1999 c.59 §156; 1999 c.355 §2; 2003 c.54 §3]

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

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

477.004 [Repealed by 1965 c.253 §153]

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

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

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

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

FIRE ABATEMENT

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

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

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

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

477.067 Notice of fire. For the purpose of ORS 477.066, notification to the owner or operator of

the forestland, is considered sufficient notification to the owner of the existence of a fire. [Formerly 477.042 and then 477.071]

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

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

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

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

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

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

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

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

477.072 [Repealed by 1953 c.372 §22]

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

477.074 [Repealed by 1953 c.372 §22]

477.076 [Repealed by 1953 c.372 §22]

477.078 [Repealed by 1953 c.372 §22]

477.080 [Repealed by 1953 c.372 §22]

477.082 [Repealed by 1953 c.372 §22]

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

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

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

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

477.100 Ability of owner to suppress fire; limitation. (1) The State Forester, or any agency or organization with responsibility under this chapter to suppress fires, may not prohibit an owner or the owner's agent from suppressing a fire occurring on the owner's property or that poses a threat to the owner's property.

(2) Notwithstanding subsection (1) of this section, the forester, agency or organization may prohibit an owner or the owner's agent from suppressing a fire if the owner or agent conducts the action in a manner that the forester, agency or organization reasonably determines is likely to increase the risk of injury or damage to the personnel or equipment of the forester, agency or organization. [2005 c.802 §4]

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 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;

(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 527.670 (6), has failed to obtain a permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625 or has failed within the time prescribed in any order or notice issued by the forester to reduce, abate, or offset any hazard determined to exist pursuant to ORS 477.062 or 477.580 and a fire originates on or spreads to the area on which such hazard exists and for which no release has been granted pursuant to ORS 477.580 (3) or (4); or

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

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

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

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

(6) For the purpose of subsection (2)(b) of this section, if a fire originates while an operation is in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the operation. [Formerly 477.056; 1971 c.743 §385; 1973 c.46 §2; 1983 c.22 §4; 1989 c.615 §1; 1997 c.274 §48; 2007 c.847 §2]

477.277 Additional assessment to maintain unencumbered balance of Oregon Forest Land Protection Fund. (1) In addition to any other assessment prescribed by ORS 477.205 to 477.281, in any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund is less than \$22.5 million, a surcharge shall be levied and assessed in the amount of \$47.50 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) Contiguous lots included in a combined lot that is described in ORS 477.295 (3)(a) and whose owner has made application to the forester under ORS 477.295 (4) are considered one lot for purposes of subsection (1) of this section.

(5) 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; 2003 c.685 §§1,6; 2005 c.802 §7; 2007 c.779 §2]

477.278 [Repealed by 1953 c.152 §10]

477.280 [Repealed by 1953 c.152 §10]

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

(a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund; and

(b) The payment of forest protection district assessments pursuant to ORS 477.060 and 477.205 to 477.281.

(2) As used in this section, “obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland” does not include the duties or obligations of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included in a rural fire protection district pursuant to ORS 478.010. [1989 c.769 §9; 1991 c.639 §3; 1997 c.206 §2; 1999 c.59 §157; 2003 c.685 §§2,7; 2005 c.802 §8; 2009 c.69 §1]

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

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

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

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

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

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

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

477.295 Minimum assessment under ORS 477.270; combining lots; fees; rules. (1) For purposes of making the levy and assessment of costs against forestland under ORS 477.270, the minimum cost to provide fire protection or suppression for any lot or parcel of real property separately assessed for ad valorem taxes or other taxes provided by law in lieu thereof, on the current assessment roll shall be not less than \$18.75, except as provided in ORS 477.760. Three dollars and seventy-five cents 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 pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund has:

(a) Increased to an amount:

(A) More than \$22.5 million but less than or equal to \$30 million, the minimum assessment referred to in subsection (1) of this section shall be \$16.88 for each lot or parcel. Of that amount, \$1.88 of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund.

(B) More than \$30 million, the minimum assessment referred to in subsection (1) of this section shall be \$15 for each lot or parcel. This amount shall be treated in the same manner as assessments under ORS 477.230 and 477.270.

(b) Decreased to an amount that is at or below \$22.5 million, the minimum assessment referred to in subsection (1) of this section shall be \$18.75 for each lot or parcel. This amount shall be treated in the same manner as assessments under subsection (1) of this section.

(3) Upon application to the forester under subsection (4) of this section, contiguous lots held under identical ownership shall be considered as one combined lot for purposes of subsection (1) of this section. However, the following may not be included in a combined lot:

(a) Except as provided in this paragraph, a lot on which a structure has been placed or improvements made for the purpose of erecting any temporary or permanent structure. One lot on which a single-family dwelling has been placed, and lots on which the structures and improvements that are appurtenant to that single-family dwelling have been placed, may be included in a combined lot that does not exceed 20 acres.

(b) A lot that is in a subdivision containing lots that have been or are being offered for sale.

(c) A lot that is not designated forest or agricultural land for the purpose of land use or special tax assessment purposes.

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

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

(6) For the purposes of this section, “lot” and “subdivision” have the meanings given those terms in ORS 92.010. [1965 c.428 §6; 1969 c.204 §1; 1977 c.153 §1; 1977 c.892 §49; 1981 c.321 §13; 1983 c.108 §1; 1989 c.769 §7; 1991 c.623 §1; 1991 c.639 §4; 1997 c.274 §7; 1999 c.355 §9; 2003 c.685 §§3,8; 2005 c.802 §§9,10; 2007 c.779 §3]

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) In the ignition of a fire:

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

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

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

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

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

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

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

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

(a) Foster parents.

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

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. (1) 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 may not exceed the limit authorized by the Legislative Assembly each biennium.

(2) 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) and (2), 477.750 (1) and (2), 477.760 (4) and 477.880 (2) may not exceed \$10 million.

(3) As used in this section, "annual expenditure" means the expenses of the Oregon Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire Cost Committee

by rule that corresponds to the policy period of any insurance for emergency fire costs. [1969 c.524 §3; 1989 c.23 §1; 1991 c.639 §5; 2003 c.685 §§4,9; 2005 c.802 §§11,12]

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 \$22.5 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 \$22.5 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:

(a) The reserve base, and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the Department of Revenue shall reduce the taxes described in ORS 321.015 (2) by 50 percent for the following calendar year and the surcharge for each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880 shall be reduced by 50 percent for the following fiscal year.

(b) \$30 million, and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the Department of Revenue may not collect the taxes described in ORS 321.015 (2) for the following calendar year and the surcharge for each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880 may not be collected until the calendar year or fiscal year following the determination of the committee that the unencumbered balance in the fund is less than or equal to \$22.5 million.

(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 ensure 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; 2003 c.685 §§5,10; 2005 c.802 §§13,14]

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 emergency 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; 2007 c.847 §3]

477.775 Emergency fire suppression costs insurance; considerations; payment of premium from fund. (1) Prior to February 1 of each year, the Emergency Fire Cost Committee and the forester shall consult regarding the purchase of emergency fire suppression costs insurance and the level of coverage to purchase for the fire season of that year.

(2) In determining whether the purchase of insurance is advisable, the forester and the committee shall consider:

- (a) The cost, coverage and deductible of insurance available from private insurance carriers;
- (b) The funding available for fire suppression from the Oregon Forest Land Protection Fund and other sources;
- (c) The current condition of forests;
- (d) Long-term weather predictions;
- (e) Available fire fighting resources; and
- (f) Available funds for the purchase of insurance.

(3) If the committee and the forester agree to purchase insurance, the forester shall purchase insurance through the Oregon Department of Administrative Services to cover any lawful expense incurred by the State Forestry Department, or contractors or cooperators, that is payable by the Oregon Forest Land Protection Fund. The insurance may be obtained through negotiation or competitive bids, whichever is in the best interest of the state, its contractors and cooperators.

(4) The Oregon Forest Land Protection Fund may not be charged for payment of more than one-half of any premium for the insurance. [1969 c.524 §10; 1985 c.158 §2; 1989 c.91 §1; 1989 c.769 §11; 1991 c.639 §7; 2005 c.802 §15]

477.777 Budget request required for fire insurance and fire suppression resources; report. (1) As part of the preparation of the budget forms submitted to the Oregon Department of Administrative Services pursuant to ORS 291.208 for the State Forestry Department, the State Forester shall prepare, in addition to any amounts budgeted for forest protection districts pursuant to ORS 477.205 to 477.281, a budget request for a General Fund appropriation that may be used for any or all of the following:

- (a) Providing funds for the purchase of insurance under ORS 477.775.
- (b) Placement of centrally managed fire suppression resources for statewide use.
- (c) Acquisition of fast-mobilizing, short-term contingency resources to be used based on predictions of unusually severe fire weather, widespread lightning events or serious resource shortage due to a heavy fire season.
- (d) Enhancement of forest protection district resources in limited cases where land productivity or other economic factors seriously limit the protection district's ability to provide adequate funding to meet performance standards.

(2) The State Forester shall utilize critical discretion in the expenditure of the funds provided to the State Forestry Department pursuant to the separate budget request required under subsection (1) of this section.

(3) The State Forester shall report to the Emergency Board, each year, after the close of the fire season, on:

- (a) The nature and severity of the fire season;
- (b) The moneys expended on fire suppression;

- (c) The rationale for the expenditures; and
- (d) The balance remaining from the biennial appropriation. [2005 c.802 §2]

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 that 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 (4), with the approval of the State Board of Forestry;
- (b) The United States of America through contract or agreement with the forester or board;
- (c) Any forest protective agency under contract or agreement with the forester or board pursuant to ORS 477.406; or
- (d) Any forest protective agency, described in paragraph (c) of this subsection, under a contract or agreement with the United States of America wherein such agency agrees to protect specific federal forestlands, and in return, the United States of America agrees to protect specific lands of such agency.

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

(a) Seven and one-half 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) Five 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; 2003 c.14 §318; 2007 c.779 §4]

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]

Oregon Administrative Rules:

EMERGENCY FIRE COST COMMITTEE

DIVISION 60

PROCEDURAL RULES

629-060-0000

Administrative Rule Notification

Prior to the adoption, amendment, or repeal of any rule, the Emergency Fire Cost Committee shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in [ORS 183.335\(1\)\(b\)](#) at least 21 days prior to the effective date of the proposed rule.

(2) By mailing a copy of the Notice to persons on the Emergency Fire Cost Committee's mailing list established pursuant to [ORS 183.335\(7\)](#), at least 30 days prior to the effective date.

(3) By mailing a copy of the Notice to the following persons, organizations, and publications at least 30 days prior to the effective date:

(a) Associated Oregon Industries;

- (b) Associated Oregon Loggers;
- (c) Association of Oregon Counties;
- (d) Oregon Forest Resource Institute;
- (e) Louisiana Pacific Corporation - LaGrande;
- (f) Oregon Cattlemen's Association;
- (g) Oregon Farm Bureau Federation;
- (h) Oregon Sheep Growers Association;
- (i) Oregon Small Woodlands Association;
- (j) Oregon State Grange;
- (k) Clackamas-Marion Forest Protective Association;
- (l) Coos Forest Protective Association;
- (m) Douglas Forest Protective Association;
- (n) East Oregon Forest Protective Association;
- (o) Eastern Lane Forest Protective Association;
- (p) Klamath Forest Protective Association;
- (q) Linn Forest Protective Association;
- (r) NW Oregon Forest Protective Association;
- (s) Rogue Forest Protective Association;
- (t) Walker Range Patrol Association;
- (u) Western Lane Forest Protective Association;
- (v) West Oregon Forest Protective Association;
- (w) Western Oregon Livestock Association;
- (x) Boise Cascade Corporation -- LaGrande - Medford;
- (y) Georgia-Pacific Corporation -- Portland;

(z) Weyerhaeuser Company -- Springfield & Klamath Falls;

(aa) Willamette Industries, Inc. -- Albany;

(bb) Forestry, Oregon Department of;

(cc) Governor's Office, Assistant on Natural Resources;

(dd) Revenue, Oregon Department of;

(ee) Associated Press, Salem;

(ff) United Press International, Salem;

(gg) The Capitol Building Press Room.

Stat. Auth.: [ORS 183](#)

Stats. Implemented: [ORS 477.001](#), [ORS 477.005](#) & [ORS 477.440](#)

Hist.: FB 5-1982, f. & ef. 6-16-82; FB 1-1995, f. & cert. ef. 1-12-95

629-060-0005

Model Rules of Procedure

Pursuant to the provision of [ORS 183.341](#), the Emergency Fire Cost Committee adopts the Attorney General's Model Rules of Procedure, effective November 4, 1993.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the agency.]

Stat. Auth.: [ORS 183](#) & [ORS 477](#)

Stats. Implemented: [ORS 447.001](#) & [ORS 477.005](#)

Hist.: FB 4-1982, f. & ef. 4-29-82; FB 2-1984, f. & ef. 1-6-84; FB 4-1986, f. & ef. 6-17-86; FB 1-1989, f. & cert. ef. 1-18-89; FB 1-1995, f. & cert. ef. 1-12-95

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DIVISION 61

OREGON FOREST LAND PROTECTION FUND

629-061-0000

Definitions

The definitions set forth in [ORS 477.001](#) are made a part of this division by this reference; and further the following special definitions are also applicable:

- (1) "Oregon Forest Land Protection Fund" means that account established in the State Treasury as a trust fund for the purpose of equalizing emergency fire suppression costs pursuant to Chapter 524, Oregon Law, 1969.
- (2) "Regular Fire Suppression Costs" means those fire suppression costs which are regularly budgeted for and incurred by a forest protection district pursuant to [ORS 477.205](#) to [477.291](#).
- (3) "Emergency Fire Suppression Costs" means those fire suppression costs in excess of \$25,000 in any single day which are incurred in an forest protection district in excess of the regular fire suppression costs, which costs shall include, but not limited to labor, services, transportation, supplies, reconditioning and rental equipment, contingency forces costs and expenses incurred for the recovery of emergency fire suppression costs; such emergency fire suppression costs, where applicable, to be based upon the wage rates and equipment rental rates approved by the State Forester.
- (4) "District" means a forest protection district organized under [ORS 477.255](#).
- (5) "Fiscal Year" means the period beginning July 01 of any year and ending on June 30 of the next year.
- (6) "Association" means any forest protective association under contract or agreement with the Forester or Board pursuant to [ORS 477.406](#).
- (7) "Administrator" means the administrator appointed pursuant to [ORS 477.455\(2\)](#).
- (8) "Contingency Forces" means fire suppression resources added to a district regular forces during time of high fire hazard and/or risk. Such forces may be resources moved from other protection districts, or local forces placed on standby for initial fire attack.
- (9) An "Emergency Fire" is a fire that requires greater fire suppression action than a district can reasonably provide at a given time and place under closed fire season suppression resource levels. The following are examples of "emergency fire":
 - (a) A fire occurs in a unit of a district during August, when the district is at full strength. The dispatch plan on the fire at this time and place specifies a dispatch of two engines, six persons and a district cat. If these forces are inadequate to suppress the fire and additional forces must be hired, it becomes an emergency fire;

(b) If the same fire occurs in February, when the readiness resources are substantially less, the district must still suppress the fire. Hired resources from cooperators will normally be used to supplement limited district resources. The fire becomes an emergency fire when hired and regular district resources exceed the resources equivalent to the closed fire season dispatch of two engines, six person and a cat;

(c) An emergency fire situation may occur when there are multiple fires in a district, although none of the fires may escape initial attack stage. This situation generally occurs during and after severe lightning storms. Extra resources hired to supplement regular forces in the multiple fire situation are emergency fire resources eligible for payment from emergency fire funds.

Stat. Auth.: [ORS 477](#)

Stats. Implemented: [ORS 477.750](#)

Hist.: FB 21, f. 9-25-69; FB 1-1981, f. 6-10-81, ef. 7-1-81, Renumbered from 629-044-0100; FB 1-1995, f. & cert. ef. 1-12-95; FB 3-1996, f. & cert. ef. 3-13-96

629-061-0005

Deductible Amount Per Acre

Emergency fire suppression costs are subject to a deductible amount. The Emergency Fire Cost Committee shall establish the deductible amount for each district on or before January 15 of each year. The deductible amount shall be an amount for each acre covered by the timber budget and an amount for each acre covered by the grazing budget established under [ORS 477.230](#), but may not exceed the limit established under [ORS 477.770](#).

(1) Payment for activities that may be included in meeting the deductible amount shall include, but are not limited to labor, services, transportation, supplies and rental of equipment other than those of the claiming district when incurred in:

(a) Emergency fire suppression, or

(b) Contingency forces costs not to exceed an amount equal to the deductible specified in this rule; provided that the costs were approved by the State Forester before they were incurred and that they were expended on emergency fires.

(2) The requirement in OAR 629-061-0000 that \$25,000/ fire/day be expended before emergency fire suppression costs may be paid may be waived by the Committee if conditions so warrant. Conditions that may warrant waiver of the requirement include, but are not limited to one or more of the following:

(a) The unencumbered balance of the fund is determined to be in excess of the reserve base established in [ORS 477.760](#).

(b) The district requesting waiver has over-expended the regular protection budget for the year in which the waiver request is made.

(3) If the requirement in OAR 629-061-0000, defining Emergency Fire Suppression Costs, directly results in an increase in any District Annual Protection Budget in excess of 15 cents per acre on

Timber Land or six cents on Grazing Land, the Committee will waive that part of the requirement in excess of this level. It is the intent of the Emergency Fire Cost Committee that the maximum impact of OAR 629-061-0005(2) be limited to an additional 15 cents per acre on Timber Land and six cents per acre on Grazing Land in any District Annual Protection Budget.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.445](#) & [ORS 477.755](#)

Hist.: FB 21, f. 9-25-69; FB 2-1978, f. 1-6-78, ef. 7-1-78; FB 1-1981, f. 6-10-81, ef. 7-1-81; FB 6-1982, f. 6-16-82, ef. 7-1-82, Renumbered from 629-044-0105; FB 1-1995, f. & cert. ef. 1-12-95; FB 3-1996, f. & cert. ef. 3-13-96; FB 5-1996, f. & cert. ef. 6-13-96

629-061-0015

Evidence of Necessity

Each district shall, where payment is claimed from the Oregon Forest Land Protection Fund, provide Administrator with evidence acceptable to Administrator of the necessity for district to incur emergency fire suppression costs in

which an owner or operator has obligations to pay for controlling and extinguishing fire pursuant to provisions of [ORS 477.062](#), [477.068](#), [477.085](#) and [477.120](#). Evidence which may be acceptable to Administrator shall include, but is not limited to:

- (1) A statement signed by the district forester or district manager stating the entity responsible for fire suppression costs has refused to accept responsibility or is unable to pay fire costs.
- (2) A notification to Administrator that fire cost recovery proceedings have been initiated against an owner or operator that has obligations to pay fire suppression costs.
- (3) A statement from an authorized State Forester's staff member or by an assistant attorney general that fire suppression costs are deemed uncollectible. This statement shall include the reason for the decision.
- (4) A statement by a district forester that recovery of fire costs appears assured but delays in the recovery process will make it necessary to support the district financial resources until costs can be processed and the responsible party is billed and payment is received.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.505](#) - [ORS 477.550](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0115; FB 1-1995, f. & cert. ef. 1-12-95

629-061-0020

Qualifications For Payment

Administrator shall pay only those emergency fire suppression costs as defined in section 629-061-0000(3) incurred by any district during the fiscal year if district has first expended for similar or other fire emergency costs the deductible amount described in OAR 629-061-0005, provided, however,

when a fire originates in one fiscal year and continues burning in fiscal year next following, all emergency fire suppression costs for said fire shall be included in the expenditures for the fiscal year in which the fire started.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.220](#) & [ORS 477.755](#)

Hist.: FB 21, f. 9-25-69; FB 24, f. 6-11-71, ef. 7-11-71, Renumbered from 629-044-0120; FB 1-1995, f. & cert. ef. 1-12-95

629-061-0025

Claim Forms

Any claim for emergency fire suppression costs shall be submitted on forms supplied or approved by Administrator. "Current claims" shall be those claims covering such costs for the current fiscal year.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.406](#), [ORS 477.440](#) & [ORS 477.755](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0125

629-061-0035

Payments

Administrator shall pay to any district an amount from the Oregon Forest Land Protection Fund equal to the emergency fire suppression costs such district has qualified for under OAR 629-061-0020, hereof; the payment shall be 100 percent of the itemized certified costs unless otherwise determined by the Emergency Fire Cost Committee.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.755](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0135

629-061-0040

Percentage Payment

In the event Administrator makes a payment under rule 629-061-0035, hereof, less than 100 percent of the itemized and certified emergency fire suppression costs, no final payment of said costs shall be made until all emergency fire suppression cost claims against the Oregon Forest Land Protection Fund have been submitted for the current fiscal year.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.755](#) - [ORS 477.770](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0140

629-061-0045

Payments Conditional -- Audits

Any payment made under OAR 629-061-0035 shall be a conditional payment until:

- (1) All emergency fire suppression cost claims against the Oregon Forest Land Protection Fund have been submitted for the current fiscal year; and
- (2) The Administrator has audited each claim; and
- (3) The Emergency Fire Cost Committee has approved each audit.
- (4) The district shall reimburse the Oregon Forest Land Protection Fund for any conditional payments that are not approved by the Emergency Fire Cost Committee.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.755](#) - [ORS 477.775](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0145; FB 1-1995, f. & cert. ef. 1-12-95

629-061-0050

Proceedings -- Recovery of Costs

In addition to OAR 629-061-0045, any payment made by Administrator to a claimant, shall be conditioned upon proceedings being brought to recover fire suppression costs from any party or parties liable therefor under ORS Chapter 477, or other law.

Stat. Auth.: [ORS 477.770](#)

Stats. Implemented: [ORS 477.755](#) - [ORS 477.775](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0150

629-061-0060

Collection -- Approval

If an Association or the State Forester institutes collection under OAR 629-061-0050, prior to acceptance of any payment there-under, Association or the State Forester whichever the case may be shall first secure the approval of the Administrator, if:

- (1) Such fire suppression costs include moneys which have been advanced by Administrator to a district from the Oregon Forest Land Protection Fund; or
- (2) Such settlement will affect the amount otherwise payable from the Oregon Forest Land Protection Fund to a district; or

(3) Such settlement will affect the amount otherwise reimbursable by a district to the Oregon Forest Land Protection Fund.

Stat. Auth.: [ORS 477](#)

Stats. Implemented: [ORS 477.960](#)

Hist.: FB 21, f. 9-25-69; FB 6-1982, f. 6-16-82, ef. 7-1-82, Renumbered from 629-044-0160

629-061-0065

Reimbursement to Account

Whenever an Association or the State Forester receives payment pursuant to OAR 629-061-0060, hereof, they shall retain an amount equal to the emergency fire suppression costs not paid by Administrator from the Oregon Forest Land Protection Fund but eligible for payment, and reimburse the Oregon Forest Land Protection Fund with the remainder, if any; however, any such reimbursement shall in no event exceed the amount paid from said Account.

Stat. Auth.: [ORS 477](#) & [ORS 526](#)

Stats. Implemented: [ORS 477.755](#)

Hist.: FB 21, f. 9-25-69, Renumbered from 629-044-0165

629-061-0075

Transfer of Funds From State Treasurer

(1) The Emergency Fire Cost Committee is authorized by [ORS 477.760\(2\)](#) to request a transfer of funds from the State Treasurer to the Oregon Forest Land Protection Fund at any time and in any amount that will not cause the fund to exceed the reserve base specified in [ORS 477.760\(1\)](#). In the event a transfer of funds is made from the State Treasurer, the Emergency Fire Cost Committee shall notify the State Forester of the amount of the transfer.

(2) The State Forester shall increase taxes and assessments as specified in [ORS 477.760\(4\)](#) in an amount adequate to assure repayment of the transfer and the interest charged thereon. The increase in taxes and assessments specified in [ORS 477.760\(4\)\(a\)](#) shall be added to the taxes and assessments made under [321.015\(2\)](#), [477.277\(1\)](#), [477.295\(1\)](#), [477.750\(1\)](#), (2), [477.760\(4\)](#) and [477.880\(2\)](#) for the following fiscal year. The amount of transfer will be limited to the amount of money by which known and anticipated claims will exceed the cash balance in the fund, plus anticipated revenues for the remainder of the fiscal year. Negotiations for and approval of the transfer shall be completed before March 1 of each year to allow the State Forester to meet the requirements of [477.760](#), which requires setting of tax and assessment rates by March 1 of the ensuing year.

Stat. Auth.: [ORS 477](#)

Stats. Implemented: [ORS 477.760](#)

Hist.: FB 1-1995, f. & cert. ef. 1-12-95

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