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Elections Division

Be it enacted by the People of the State of Oregon:

Section 1. (a) Aerial application of pesticides within 500 feet of all forest waters is prohibited. The distances shall be measured as the horizontal distance from the forest waters and are intended to be implemented as exact minimum distances, not averages or variable distances over some unit of stream length.

(b) The prohibitions established in this section are in addition to, and not in lieu of, any other prohibitions on pesticide application established by law.

Section 2. (a) The Department of Forestry shall maintain an electronic reporting and notification system for pesticide operators, timber owners, or landowners proposing to conduct a forest operation involving an aerial application of pesticides to forestland outside the areas in which such application is prohibited pursuant to section 1 of this Act.

(b) A pesticide operator, timber owner, or landowner must file notice of a forest operation involving an aerial application of pesticides to forestland with the State Forester no later than 14 business days prior to the proposed date of the application and no earlier than 21 business days prior to the proposed date of the application. Such notice shall include, at a minimum:

(1) the name and business address of the pesticide operator, timber owner, landowner, and aerial pesticide applicator;

(2) the pesticide product common name or brand name and the name of any carrier substance to be used for the pesticide product and any registration number issued for the pesticide product by the United States Environmental Protection Agency, the Oregon Department of Agriculture, or any other federal or state administrative agency;

(3) the total amount and concentration of the pesticide and any substance used to enhance the effectiveness of the pesticide product expected to be used;

(4) the proposed date for the aerial application of pesticides; and,

(5) a legal description and map for the proposed area for the application.

(c) Upon receipt of a notice required by subsection (b) of this section, the Department shall send notice to any person who has requested notification of planned pesticide applications, submitted a valid e-mail address to the Department, and has provided a physical address that is within one mile of the proposed aerial application of pesticides.

(d) Not later than January 1, 2022, the Oregon Occupational Safety and Health division of the Department of Consumer and Business Services shall update and adopt rules to ensure and protect the health and safety of persons who perform or have contact with pesticides used in any forestland application. When enacting these rules, the Oregon Occupational Safety and Health division shall consult with the Oregon Health Authority and the Department of Environmental Quality.

Section 3. ORS 527.672 is amended as follows:

When a forest operation involves applying [*herbicides*] **pesticides** by aircraft near an inhabited dwelling or school, the operator [*is responsible for leaving an unsprayed strip of at least 60*] **shall not spray the area within 500** feet adjacent to the dwelling or school. The responsibility of the operator under this section is in addition to any responsibility of the aerial pesticide applicator under ORS chapter 634 **or any provision of this Act.**

Section 4. Sections 1 to 3 of this Act, and any rules or regulations adopted or enacted pursuant to any provision of sections 1 to 3 of this Act, are for the protection of public health and safety for the purposes of ORS 195.305(3)(b). The provisions of sections 1 to 3 of this Act, and any rules or regulations enacted pursuant to sections 1 to 3 of this Act, shall not be considered one or more land use regulations that restrict the residential use of private real property or a farming or forest practice.

Section 5. ORS 526.009 is amended as follows:

(1) There is created a State Board of Forestry consisting of seven members appointed by the Governor. The members appointed to the board shall be subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. The Governor shall designate one member of the board as chairperson to hold that position until that member's term expires or until relieved by the Governor as provided in subsection (6) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2) The term of office of a member of the board is four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive full terms. In case of a vacancy for any cause, the Governor shall make an appointment as provided in subsection (1) of this section.

(3) Appointments made by the Governor under subsection (1) of this section shall include appointment of at least one member from each of the forest regions established under ORS 527.640 and the rules adopted thereunder by January 1, 1987.

(4) No more than three members of the board may derive any significant portion of their income directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770, 527.990(1) and 527.992.

(a) Any member of the board who derives any significant portion of their income directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770, 527.990(1) and/or 527.992 shall be considered to have an actual conflict of interest regarding any action, decision, or recommendation as a member of the board regarding forest waters or any provision of this Act.

(b) Any member of the board with an actual conflict of interest as set forth in subsection (4)(a) of this section must announce publicly the nature of the conflict. After announcing the nature of the conflict, any such member may participate as a public official in any discussion or debate on the issue out of which the actual conflict arises but may not vote on the issue.

(5) Except as provided in subsection (4) of this section, no member of the board shall have any relationship or pecuniary interest that would interfere with the member representing the public interest.

(6) The Governor may at any time remove any member of the board for inefficiency, incompetence, neglect of duty, malfeasance in office, unfitness to render effective service or failure to continue to meet the criteria of appointment pursuant to this section.

Section 6. (a) Any action, decision or recommendation by any person acting in a capacity as a public official regarding forest waters or any provision of this Act which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business which the person or a relative of a person is associated, shall be considered an actual conflict of interest regardless of whether the private pecuniary benefit or detriment arises out of circumstances described in ORS 244.020(13)(a) or (c).

(b) Notwithstanding ORS 244.120(1)(c), any public official met with an actual conflict of interest as set forth in subsection (a) of this section must announce publicly the nature of the conflict. After announcing the nature of the conflict, any such public official may participate as a public official in any discussion or debate on the issue out of which the actual conflict arises but may not vote on the issue.

Section 7. The provisions of this Act apply to all forestlands in Oregon including privately owned, state-owned and local government-owned forestlands, except as set forth in this Act. The provisions of this Act do not apply to federal or tribal forestlands exempt from regulation by this Act under federal law, or to Common School Forestlands.

Section 8. (a) The words and phrases in this Act shall have the meaning provided in the Oregon Forest Practices Act, and in the version of OAR 629-600-0100 in effect as of January 1, 2020, unless specifically set forth and defined in subsection (b) of this section.

(b) As used in this Act:

(1) "Act" and "this Act" mean this 2020 initiative petition submitted to the electors of Oregon as a statewide ballot measure on the November 3, 2020 General Election ballot.

(2) "Actual conflict of interest" has the meaning provided in ORS 244.020(1).

(3) "Aerial application of pesticides" means the spraying or any other application of pesticide by aircraft.

(4) "Aerial pesticide applicator" means a person certified under ORS 634.128.

(5) "Common School Forestlands" means forest parcels owned by the State Land Board granted to the state by the federal government when Oregon obtained statehood.

(6) "Forest operation" means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

- (7) “Forest waters” means any waters of the state on forestland.
- (8) “Pesticide” has the meaning provided in ORS 634.006(8).
- (9) “Pesticide operator” has the meaning provided in ORS 634.006(13).
- (10) “Public official” has the meaning provided in ORS 244.020(15).

