

HOUSE BILL 351

Introduced by Cohen, et al.

1/22	Introduced
1/22	Referred to Natural Resources
1/23	First Reading
2/18	Hearing
2/21	Committee Report--Bill Passed As Amended
2/23	2nd Reading Passed
2/26	3rd Reading Passed
	Transmitted to Senate
2/27	First Reading
2/27	Referred to Natural Resources
3/18	Hearing
3/23	Committee Report--Bill Not Passed
3/23	Adverse Committee Report Adopted

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INTRODUCED BY *House* BILL NO. *351*
John Measme *Robert Brown*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR INCREASED PROTECTION AND CONSERVATION OF MONTANA'S WILDLIFE RESOURCES BY ADDING WILDLIFE AS A FACTOR TO BE CONSIDERED IN THE BETTER MANAGEMENT OF FOREST LANDS; AND AMENDING SECTIONS 76-13-101, 76-13-102, 76-13-104, 76-13-111, 76-13-131, 76-13-132, AND 76-13-134, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-13-101, MCA, is amended to read:

"76-13-101. Purpose. (1) It is the purpose of this part and part 2 to provide for the protection and conservation of forest resources, wildlife, range, and water; the regulation of streamflow; and the prevention of soil erosion. It is further the purpose of this part and part 2 to more adequately promote and facilitate the cooperation, financial and otherwise, between the state and public and private agencies which are associated in such work.

(2) To achieve the conservation of forest, wildlife, and watershed resources, the legislature encourages the use of best management practices in timber sale planning, associated road construction and reconstruction, timber harvesting, site preparation, and related activities and

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establishes a process to ensure that information on best management practices is provided to owners and operators engaged in forest practices on private land."

Section 2. Section 76-13-102, MCA, is amended to read:

"76-13-102. Definitions. Unless the context requires otherwise, in this part and part 2 the following definitions apply:

(1) "Board" means the board of land commissioners provided for in Article X, section 4, of the Montana Constitution.

(2) "Conservation" means the protection and wise use of forest, forest range, forest water, forest wildlife, and forest soil resources in keeping with the common welfare of the people of this state.

(3) "Department" means the department of state lands provided for in Title 2, chapter 15, part 32.

(4) "Forest fire" means a fire burning uncontrolled on forest lands.

(5) "Forest fire protection" means the work of prevention, detection, and suppression of forest fires and includes training required to perform those functions.

(6) "Forest fire season" means the period of each year beginning on May 1 and ending on September 30, inclusive.

(7) "Forest fire protection district" means a definite forest land area, the boundaries of which are fixed and

1 wherein forest fire protection is provided through the
2 medium of an agency recognized by the board.

3 (8) "Forest land" means land which has enough timber,
4 standing or down, slash, or brush to constitute in the
5 judgment of the department a fire menace to life or
6 property. Grassland and agricultural areas are included when
7 those areas are intermingled with or contiguous to and no
8 further than one-half mile from areas of forest land.

9 (9) (a) "Forest practices" means the harvesting of
10 trees, road construction or reconstruction associated with
11 harvesting and accessing trees, site preparation for
12 regeneration of a timber stand, reforestation, and the
13 management of logging slash.

14 (b) The term does not include activities for the
15 purpose of:

- 16 (i) the operation of a nursery or Christmas tree farm;
- 17 (ii) the harvest of Christmas trees;
- 18 (iii) the harvest of firewood; or
- 19 (iv) the cutting of trees for personal use by an owner
20 or operator.

21 (10) "Lands" for conservation purposes means all forest
22 lands within this state which are officially classified by
23 the department as forest lands under 76-13-107.

24 (11) "Operator" means a person responsible for
25 conducting forest practices. An operator may be the owner,

1 the owner's agent, or a person who, through contractual
2 agreement with the landowner, is obligated to or entitled to
3 conduct forest practices or to carry out a timber sale.

4 (12) "Owner" means the person, firm, association, or
5 corporation having the actual, beneficial ownership of
6 forest land or timber other than an easement, right-of-way,
7 or mineral reservation.

8 (13) "Person" means an individual, corporation,
9 partnership, or association of any kind.

10 (14) "Recognized agency" means an agency organized for
11 the purpose of providing forest fire protection and
12 recognized by the board as giving adequate fire protection
13 to forest lands in accordance with rules adopted by the
14 board.

15 (15) "Timber sale" means a series of forest practices
16 designed to access, harvest, and regenerate trees on a
17 defined land area.

18 (16) "Wildlife" means any species of nondomesticated
19 animal naturally occurring on forest land."

20 **Section 3.** Section 76-13-104, MCA, is amended to read:
21 "76-13-104. Functions of department. (1) The department
22 may give technical and practical advice concerning forest,
23 range, wildlife, water, and soil conservation and the
24 establishment and maintenance of woodlots, windbreaks,
25 shelterbelts, and forest fire protection.

1 (2) The department shall cooperate with all public and
2 other agencies in the development, protection, and
3 conservation of the forest, range, wildlife, and water
4 resources in this state.

5 (3) The department shall require an owner or operator
6 to provide a notification prior to conducting forest
7 practices as provided in 76-13-131, shall adapt as necessary
8 any procedure used for notification with respect to an
9 agreement under 76-13-408 to ensure that the operator
10 provides information on the location of the forest practices
11 in relation to watershed features, and shall conduct onsite
12 consultations as provided for in 76-13-132."

13 **Section 4.** Section 76-13-111, MCA, is amended to read:

14 "76-13-111. **Permissible expenditures.** (1) The following
15 funds may be expended as directed by the department for fire
16 prevention, detection, suppression and for forest range,
17 wildlife, water, and soil conservation:

18 (a) all moneys collected by county treasurers as
19 assessments on forest lands for forest protection;

20 (b) moneys collected for the abatement of public
21 nuisances;

22 (c) all fines collected, except those collected in a
23 justice's court, for violations of this part or part 2;

24 (d) the state's share of the cooperative fire
25 protection funds allocated by the federal government;

1 (e) any other funds provided for the purposes herein
2 indicated.

3 (2) All other cooperative funds collected,
4 appropriated, or allocated for the use of the department,
5 including funds for the removal of slash hazards resulting
6 from logging or other wood operations on state and private
7 forest lands, those provided for the purpose of helping to
8 maintain the maximum productivity of the forests of the
9 state, those provided for purposes designed to assist the
10 farmers of the state in the establishment of windbreaks and
11 woodlots in localities where those forest plantings are
12 helpful, and funds for other cooperative work, may not be
13 expended except for the specific purposes for which they
14 were collected, appropriated, or allocated."

15 **Section 5.** Section 76-13-131, MCA, is amended to read:

16 "76-13-131. **Notification prior to forest practices --**
17 **department response.** (1) An operator or, pursuant to
18 subsection (3), an owner shall notify the department prior
19 to conducting forest practices. The notification may be
20 provided as part of the notification made with respect to an
21 agreement under 76-13-408.

22 (2) (a) Except as provided in subsection (3), within 5
23 working days, but not exceeding 7 calendar days, of
24 receiving notification of forest practices, the department
25 shall mail to the operator and, if an address has been

1 provided, to the owner:

- 2 (i) a receipt of notification;
- 3 (ii) information on best management practices for
4 forestry;
- 5 (iii) information on conservation district permit
6 requirements related to stream crossings; and
- 7 (iv) any other information the department believes would
8 assist the operator or the owner with conducting forest
9 practices.

10 (b) The receipt of notification must include a
11 statement that:

- 12 (i) forest practices may proceed; or
- 13 (ii) an onsite consultation is required prior to
14 conducting forest practices.

15 (3) (a) An owner may submit to the department a notice
16 providing an annual, semiannual, or quarterly operating plan
17 that indicates the estimated starting date of forest
18 practices for each timber sale planned by the owner during
19 the operating period. The plan must be submitted no less
20 than 15 days before the beginning of the operating period
21 covered.

22 (b) Upon receipt of an operating plan, the department
23 may:

- 24 (i) meet with the owner to review the proposed timber
25 sales, discuss watershed and wildlife concerns, and schedule

1 onsite consultations at appropriate sites; or

- 2 (ii) provide a receipt of notification, as described in
3 subsection (2)(b), for individual timber sales.

4 (c) If the department requires an onsite consultation
5 for any of the timber sales, it shall notify the owner of
6 this requirement as soon as possible but no less than 10
7 calendar days prior to the estimated starting date of forest
8 practices associated with the timber sale. The onsite
9 consultation must then be scheduled according to the
10 provisions of 76-13-132(2) through (4)."

11 **Section 6.** Section 76-13-132, MCA, is amended to read:

12 **"76-13-132. Onsite consultation.** (1) The department
13 shall make its decision on whether or not to require an
14 onsite consultation based on whether:

15 (a) the proposed timber sale is in a high-priority
16 location for watershed or wildlife resources;

17 (b) a consultation could contribute to improved
18 watershed or wildlife management; and

19 (c) the department has sufficient resources to conduct
20 the consultation.

21 (2) The department shall schedule an onsite
22 consultation at a time mutually agreeable to the operator,
23 the owner (if he can be contacted and wishes to
24 participate), and the department. Unless otherwise agreeable
25 to the operator and a participating owner, a consultation

1 must be held no later than:

2 (a) 10 calendar days after the mailing of the notice by
3 the department, if the site is accessible; or

4 (b) if the site is temporarily inaccessible due to road
5 conditions, weather conditions, or other factors, 10
6 calendar days after the operator indicates the site is
7 accessible.

8 (3) The onsite consultation must include
9 representatives of the department, the operator, and, if the
10 owner desires representation, the owner. Representatives of
11 the department of health and environmental sciences, the
12 department of fish, wildlife, and parks, and the local
13 conservation district may also participate but must meet the
14 consultation schedule established under 76-13-131(3)(c) or
15 subsection (2) of this section.

16 (4) If the department and the operator are not able to
17 schedule an onsite consultation within the time limits
18 provided in subsection (2)(a) or (2)(b) or at another
19 mutually agreeable time, the requirement for a consultation
20 is terminated. The operator may then proceed with forest
21 practices immediately upon the expiration of the time limits
22 provided in subsection (2)(a) or (2)(b)."

23 **Section 7.** Section 76-13-134, MCA, is amended to read:

24 "76-13-134. When additional notification required. (1)
25 Except as provided in subsection (2), the department may

1 require only one notification for each timber sale, even
2 though multiple forest practices may be conducted.

3 (2) If an operator modifies his proposed forest
4 practices in a manner that substantially alters the
5 potential watershed or wildlife disturbance, he shall submit
6 a revised notification to the department."

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 351

INTRODUCED BY COHEN, HARPER, RANEY,

B. BROWN, O'KEEFE, MEASURE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR INCREASED PROTECTION AND CONSERVATION OF MONTANA'S WILDLIFE RESOURCES BY ADDING WILDLIFE AS A FACTOR TO BE CONSIDERED IN THE BETTER MANAGEMENT OF FOREST LANDS; AND AMENDING SECTIONS 76-13-101, 76-13-102, 76-13-104, 76-13-111, 76-13-131, 76-13-132, AND 76-13-134, MCA."

STATEMENT OF INTENT

A STATEMENT OF INTENT IS PROVIDED FOR THIS BILL TO CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF STATE LANDS. IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT DEVELOP BEST MANAGEMENT PRACTICES FOR WILDLIFE. THE GOAL OF THE BEST MANAGEMENT PRACTICES SHOULD BE TO PROVIDE A DIVERSITY OF HABITAT AND TO ASSURE THE GREATEST DIVERSITY OF SPECIES WITHIN THOSE HABITATS FOR THE SURVIVAL AND REPRODUCTION OF ENOUGH INDIVIDUALS TO MAINTAIN THE NATIVE WILDLIFE POPULATIONS OF MONTANA FOREST LANDS. IN DEVELOPING THESE BEST MANAGEMENT PRACTICES, THE DEPARTMENT SHOULD CONSULT WITH WILDLIFE OFFICIALS FROM FEDERAL, STATE, AND PRIVATE AGENCIES AND ORGANIZATIONS AND CONSIDER THE EXPERIENCES OF OTHER STATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-13-101, MCA, is amended to read:

"76-13-101. **Purpose.** (1) It is the purpose of this part and part 2 to provide for the protection and conservation of forest resources, wildlife, range, and water; the regulation of streamflow; and the prevention of soil erosion. It is further the purpose of this part and part 2 to more adequately promote and facilitate the cooperation, financial and otherwise, between the state and public and private agencies which are associated in such work.

(2) To achieve the conservation of forest, wildlife, and watershed resources, the legislature encourages the use of best management practices in timber sale planning, associated road construction and reconstruction, timber harvesting, site preparation, and related activities and establishes a process to ensure that information on best management practices is provided to owners and operators engaged in forest practices on private land."

Section 2. Section 76-13-102, MCA, is amended to read:

"76-13-102. **Definitions.** Unless the context requires otherwise, in this part and part 2 the following definitions apply:

(1) "Board" means the board of land commissioners provided for in Article X, section 4, of the Montana



1 Constitution.

2 (2) "Conservation" means the protection and wise use of
3 forest, forest range, forest water, forest wildlife, and
4 forest soil resources in keeping with the common welfare of
5 the people of this state.

6 (3) "Department" means the department of state lands
7 provided for in Title 2, chapter 15, part 32.

8 (4) "Forest fire" means a fire burning uncontrolled on
9 forest lands.

10 (5) "Forest fire protection" means the work of
11 prevention, detection, and suppression of forest fires and
12 includes training required to perform those functions.

13 (6) "Forest fire season" means the period of each year
14 beginning on May 1 and ending on September 30, inclusive.

15 (7) "Forest fire protection district" means a definite
16 forest land area, the boundaries of which are fixed and
17 wherein forest fire protection is provided through the
18 medium of an agency recognized by the board.

19 (8) "Forest land" means land which has enough timber,
20 standing or down, slash, or brush to constitute in the
21 judgment of the department a fire menace to life or
22 property. Grassland and agricultural areas are included when
23 those areas are intermingled with or contiguous to and no
24 further than one-half mile from areas of forest land.

25 (9) (a) "Forest practices" means the harvesting of

1 trees, road construction or reconstruction associated with
2 harvesting and accessing trees, site preparation for
3 regeneration of a timber stand, reforestation, and the
4 management of logging slash.

5 (b) The term does not include activities for the
6 purpose of:

7 (i) the operation of a nursery or Christmas tree farm;

8 (ii) the harvest of Christmas trees;

9 (iii) the harvest of firewood; or

10 (iv) the cutting of trees for personal use by an owner
11 or operator.

12 (10) "Lands" for conservation purposes means all forest
13 lands within this state which are officially classified by
14 the department as forest lands under 76-13-107.

15 (11) "Operator" means a person responsible for
16 conducting forest practices. An operator may be the owner,
17 the owner's agent, or a person who, through contractual
18 agreement with the landowner, is obligated to or entitled to
19 conduct forest practices or to carry out a timber sale.

20 (12) "Owner" means the person, firm, association, or
21 corporation having the actual, beneficial ownership of
22 forest land or timber other than an easement, right-of-way,
23 or mineral reservation.

24 (13) "Person" means an individual, corporation,
25 partnership, or association of any kind.

1 (14) "Recognized agency" means an agency organized for
 2 the purpose of providing forest fire protection and
 3 recognized by the board as giving adequate fire protection
 4 to forest lands in accordance with rules adopted by the
 5 board.

6 (15) "Timber sale" means a series of forest practices
 7 designed to access, harvest, and regenerate trees on a
 8 defined land area.

9 (16) "Wildlife" means any species of nondomesticated
 10 animal naturally occurring on forest land."

11 **Section 3.** Section 76-13-104, MCA, is amended to read:

12 "76-13-104. Functions of department. (1) The department
 13 may give technical and practical advice concerning forest,
 14 range, wildlife, water, and soil conservation and the
 15 establishment and maintenance of woodlots, windbreaks,
 16 shelterbelts, and forest fire protection.

17 (2) The department shall cooperate with all public and
 18 other agencies in the development, protection, and
 19 conservation of the forest, range, wildlife, and water
 20 resources in this state.

21 (3) The department shall require an owner or operator
 22 to provide a notification prior to conducting forest
 23 practices as provided in 76-13-131, shall adapt as necessary
 24 any procedure used for notification with respect to an
 25 agreement under 76-13-408 to ensure that the operator

1 provides information on the location of the forest practices
 2 in relation to watershed features, and shall conduct onsite
 3 consultations as provided for in 76-13-132."

4 **Section 4.** Section 76-13-111, MCA, is amended to read:

5 "76-13-111. Permissible expenditures. (1) The following
 6 funds may be expended as directed by the department for fire
 7 prevention, detection, suppression and for forest range,
 8 wildlife, water, and soil conservation:

9 (a) all moneys collected by county treasurers as
 10 assessments on forest lands for forest protection;

11 (b) moneys collected for the abatement of public
 12 nuisances;

13 (c) all fines collected, except those collected in a
 14 justice's court, for violations of this part or part 2;

15 (d) the state's share of the cooperative fire
 16 protection funds allocated by the federal government;

17 (e) any other funds provided for the purposes herein
 18 indicated.

19 (2) All other cooperative funds collected,
 20 appropriated, or allocated for the use of the department,
 21 including funds for the removal of slash hazards resulting
 22 from logging or other wood operations on state and private
 23 forest lands, those provided for the purpose of helping to
 24 maintain the maximum productivity of the forests of the
 25 state, those provided for purposes designed to assist the

1 farmers of the state in the establishment of windbreaks and
2 woodlots in localities where those forest plantings are
3 helpful, and funds for other cooperative work, may not be
4 expended except for the specific purposes for which they
5 were collected, appropriated, or allocated."

6 **Section 5.** Section 76-13-131, MCA, is amended to read:

7 "76-13-131. Notification prior to forest practices --
8 department response. (1) An operator or, pursuant to
9 subsection (3), an owner shall notify the department prior
10 to conducting forest practices. The notification may be
11 provided as part of the notification made with respect to an
12 agreement under 76-13-408.

13 (2) (a) Except as provided in subsection (3), within 5
14 working days, but not exceeding 7 calendar days, of
15 receiving notification of forest practices, the department
16 shall mail to the operator and, if an address has been
17 provided, to the owner:

- 18 (i) a receipt of notification;
19 (ii) information on best management practices for
20 forestry;
21 (iii) information on conservation district permit
22 requirements related to stream crossings; and
23 (iv) any other information the department believes would
24 assist the operator or the owner with conducting forest
25 practices.

1 (b) The receipt of notification must include a
2 statement that:

- 3 (i) forest practices may proceed; or
4 (ii) an onsite consultation is required prior to
5 conducting forest practices.

6 (3) (a) An owner may submit to the department a notice
7 providing an annual, semiannual, or quarterly operating plan
8 that indicates the estimated starting date of forest
9 practices for each timber sale planned by the owner during
10 the operating period. The plan must be submitted no less
11 than 15 days before the beginning of the operating period
12 covered.

13 (b) Upon receipt of an operating plan, the department
14 may:

- 15 (i) meet with the owner to review the proposed timber
16 sales, discuss watershed and wildlife concerns, and schedule
17 onsite consultations at appropriate sites; or
18 (ii) provide a receipt of notification, as described in
19 subsection (2)(b), for individual timber sales.

20 (c) If the department requires an onsite consultation
21 for any of the timber sales, it shall notify the owner of
22 this requirement as soon as possible but no less than 10
23 calendar days prior to the estimated starting date of forest
24 practices associated with the timber sale. The onsite
25 consultation must then be scheduled according to the

1 provisions of 76-13-132(2) through (4)."

2 **Section 6.** Section 76-13-132, MCA, is amended to read:

3 "76-13-132. **Onsite consultation.** (1) The department
4 shall make its decision on whether or not to require an
5 onsite consultation based on whether:

6 (a) the proposed timber sale is in a high-priority
7 location for watershed or wildlife resources;

8 (b) a consultation could contribute to improved
9 watershed or wildlife management; and

10 (c) the department has sufficient resources to conduct
11 the consultation.

12 (2) The department shall schedule an onsite
13 consultation at a time mutually agreeable to the operator,
14 the owner (if he can be contacted and wishes to
15 participate), and the department. Unless otherwise agreeable
16 to the operator and a participating owner, a consultation
17 must be held no later than:

18 (a) 10 calendar days after the mailing of the notice by
19 the department, if the site is accessible; or

20 (b) if the site is temporarily inaccessible due to road
21 conditions, weather conditions, or other factors, 10
22 calendar days after the operator indicates the site is
23 accessible.

24 (3) The onsite consultation must include
25 representatives of the department, the operator, and, if the

1 owner desires representation, the owner. Representatives of
2 the department of health and environmental sciences, the
3 department of fish, wildlife, and parks, and the local
4 conservation district may also participate but must meet the
5 consultation schedule established under 76-13-131(3)(c) or
6 subsection (2) of this section.

7 (4) If the department and the operator are not able to
8 schedule an onsite consultation within the time limits
9 provided in subsection (2)(a) or (2)(b) or at another
10 mutually agreeable time, the requirement for a consultation
11 is terminated. The operator may then proceed with forest
12 practices immediately upon the expiration of the time limits
13 provided in subsection (2)(a) or (2)(b)."

14 **Section 7.** Section 76-13-134, MCA, is amended to read:

15 "76-13-134. **When additional notification required.** (1)
16 Except as provided in subsection (2), the department may
17 require only one notification for each timber sale, even
18 though multiple forest practices may be conducted.

19 (2) If an operator modifies his proposed forest
20 practices in a manner that substantially alters the
21 potential watershed or wildlife disturbance, he shall submit
22 a revised notification to the department."

-End-

1 HOUSE BILL NO. 351
 2 INTRODUCED BY COHEN, HARPER, RANEY,
 3 B. BROWN, O'KEEFE, MEASURE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR
 6 INCREASED PROTECTION AND CONSERVATION OF MONTANA'S WILDLIFE
 7 RESOURCES BY ADDING WILDLIFE AS A FACTOR TO BE CONSIDERED IN
 8 THE BETTER MANAGEMENT OF FOREST LANDS; AND AMENDING SECTIONS
 9 76-13-101, 76-13-102, 76-13-104, 76-13-111, 76-13-131,
 10 76-13-132, AND 76-13-134, MCA."
 11

12 STATEMENT OF INTENT

13 A STATEMENT OF INTENT IS PROVIDED FOR THIS BILL TO
 14 CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF STATE
 15 LANDS. IT IS THE INTENT OF THE LEGISLATURE THAT THE
 16 DEPARTMENT DEVELOP BEST MANAGEMENT PRACTICES FOR WILDLIFE.
 17 THE GOAL OF THE BEST MANAGEMENT PRACTICES SHOULD BE TO
 18 PROVIDE A DIVERSITY OF HABITAT AND TO ASSURE THE GREATEST
 19 DIVERSITY OF SPECIES WITHIN THOSE HABITATS FOR THE SURVIVAL
 20 AND REPRODUCTION OF ENOUGH INDIVIDUALS TO MAINTAIN THE
 21 NATIVE WILDLIFE POPULATIONS OF MONTANA FOREST LANDS. IN
 22 DEVELOPING THESE BEST MANAGEMENT PRACTICES, THE DEPARTMENT
 23 SHOULD CONSULT WITH WILDLIFE OFFICIALS FROM FEDERAL, STATE,
 24 AND PRIVATE AGENCIES AND ORGANIZATIONS AND CONSIDER THE
 25 EXPERIENCES OF OTHER STATES.

1
 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 3 **Section 1.** Section 76-13-101, MCA, is amended to read:
 4 "76-13-101. Purpose. (1) It is the purpose of this part
 5 and part 2 to provide for the protection and conservation of
 6 forest resources, wildlife, range, and water; the regulation
 7 of streamflow; and the prevention of soil erosion. It is
 8 further the purpose of this part and part 2 to more
 9 adequately promote and facilitate the cooperation, financial
 10 and otherwise, between the state and public and private
 11 agencies which are associated in such work.
 12 (2) To achieve the conservation of forest, wildlife,
 13 and watershed resources, the legislature encourages the use
 14 of best management practices in timber sale planning,
 15 associated road construction and reconstruction, timber
 16 harvesting, site preparation, and related activities and
 17 establishes a process to ensure that information on best
 18 management practices is provided to owners and operators
 19 engaged in forest practices on private land."
 20 **Section 2.** Section 76-13-102, MCA, is amended to read:
 21 "76-13-102. Definitions. Unless the context requires
 22 otherwise, in this part and part 2 the following definitions
 23 apply:
 24 (1) "Board" means the board of land commissioners
 25 provided for in Article X, section 4, of the Montana



1 Constitution.

2 (2) "Conservation" means the protection and wise use of
3 forest, forest range, forest water, forest wildlife, and
4 forest soil resources in keeping with the common welfare of
5 the people of this state.

6 (3) "Department" means the department of state lands
7 provided for in Title 2, chapter 15, part 32.

8 (4) "Forest fire" means a fire burning uncontrolled on
9 forest lands.

10 (5) "Forest fire protection" means the work of
11 prevention, detection, and suppression of forest fires and
12 includes training required to perform those functions.

13 (6) "Forest fire season" means the period of each year
14 beginning on May 1 and ending on September 30, inclusive.

15 (7) "Forest fire protection district" means a definite
16 forest land area, the boundaries of which are fixed and
17 wherein forest fire protection is provided through the
18 medium of an agency recognized by the board.

19 (8) "Forest land" means land which has enough timber,
20 standing or down, slash, or brush to constitute in the
21 judgment of the department a fire menace to life or
22 property. Grassland and agricultural areas are included when
23 those areas are intermingled with or contiguous to and no
24 further than one-half mile from areas of forest land.

25 (9) (a) "Forest practices" means the harvesting of

1 trees, road construction or reconstruction associated with
2 harvesting and accessing trees, site preparation for
3 regeneration of a timber stand, reforestation, and the
4 management of logging slash.

5 (b) The term does not include activities for the
6 purpose of:

- 7 (i) the operation of a nursery or Christmas tree farm;
8 (ii) the harvest of Christmas trees;
9 (iii) the harvest of firewood; or
10 (iv) the cutting of trees for personal use by an owner
11 or operator.

12 (10) "Lands" for conservation purposes means all forest
13 lands within this state which are officially classified by
14 the department as forest lands under 76-13-107.

15 (11) "Operator" means a person responsible for
16 conducting forest practices. An operator may be the owner,
17 the owner's agent, or a person who, through contractual
18 agreement with the landowner, is obligated to or entitled to
19 conduct forest practices or to carry out a timber sale.

20 (12) "Owner" means the person, firm, association, or
21 corporation having the actual, beneficial ownership of
22 forest land or timber other than an easement, right-of-way,
23 or mineral reservation.

24 (13) "Person" means an individual, corporation,
25 partnership, or association of any kind.

1 (14) "Recognized agency" means an agency organized for
2 the purpose of providing forest fire protection and
3 recognized by the board as giving adequate fire protection
4 to forest lands in accordance with rules adopted by the
5 board.

6 (15) "Timber sale" means a series of forest practices
7 designed to access, harvest, and regenerate trees on a
8 defined land area.

9 (16) "Wildlife" means any species of nondomesticated
10 animal naturally occurring on forest land."

11 **Section 3.** Section 76-13-104, MCA, is amended to read:

12 "76-13-104. Functions of department. (1) The department
13 may give technical and practical advice concerning forest,
14 range, wildlife, water, and soil conservation and the
15 establishment and maintenance of woodlots, windbreaks,
16 shelterbelts, and forest fire protection.

17 (2) The department shall cooperate with all public and
18 other agencies in the development, protection, and
19 conservation of the forest, range, wildlife, and water
20 resources in this state.

21 (3) The department shall require an owner or operator
22 to provide a notification prior to conducting forest
23 practices as provided in 76-13-131, shall adapt as necessary
24 any procedure used for notification with respect to an
25 agreement under 76-13-408 to ensure that the operator

1 provides information on the location of the forest practices
2 in relation to watershed features, and shall conduct onsite
3 consultations as provided for in 76-13-132."

4 **Section 4.** Section 76-13-111, MCA, is amended to read:

5 "76-13-111. Permissible expenditures. (1) The following
6 funds may be expended as directed by the department for fire
7 prevention, detection, suppression and for forest range,
8 wildlife, water, and soil conservation:

9 (a) all moneys collected by county treasurers as
10 assessments on forest lands for forest protection;

11 (b) moneys collected for the abatement of public
12 nuisances;

13 (c) all fines collected, except those collected in a
14 justice's court, for violations of this part or part 2;

15 (d) the state's share of the cooperative fire
16 protection funds allocated by the federal government;

17 (e) any other funds provided for the purposes herein
18 indicated.

19 (2) All other cooperative funds collected,
20 appropriated, or allocated for the use of the department,
21 including funds for the removal of slash hazards resulting
22 from logging or other wood operations on state and private
23 forest lands, those provided for the purpose of helping to
24 maintain the maximum productivity of the forests of the
25 state, those provided for purposes designed to assist the

1 farmers of the state in the establishment of windbreaks and
 2 woodlots in localities where those forest plantings are
 3 helpful, and funds for other cooperative work, may not be
 4 expended except for the specific purposes for which they
 5 were collected, appropriated, or allocated."

6 **Section 5.** Section 76-13-131, MCA, is amended to read:

7 "76-13-131. Notification prior to forest practices --
 8 department response. (1) An operator or, pursuant to
 9 subsection (3), an owner shall notify the department prior
 10 to conducting forest practices. The notification may be
 11 provided as part of the notification made with respect to an
 12 agreement under 76-13-408.

13 (2) (a) Except as provided in subsection (3), within 5
 14 working days, but not exceeding 7 calendar days, of
 15 receiving notification of forest practices, the department
 16 shall mail to the operator and, if an address has been
 17 provided, to the owner:

- 18 (i) a receipt of notification;
- 19 (ii) information on best management practices for
 20 forestry;
- 21 (iii) information on conservation district permit
 22 requirements related to stream crossings; and
- 23 (iv) any other information the department believes would
 24 assist the operator or the owner with conducting forest
 25 practices.

1 (b) The receipt of notification must include a
 2 statement that:

- 3 (i) forest practices may proceed; or
- 4 (ii) an onsite consultation is required prior to
 5 conducting forest practices.
- 6 (3) (a) An owner may submit to the department a notice
 7 providing an annual, semiannual, or quarterly operating plan
 8 that indicates the estimated starting date of forest
 9 practices for each timber sale planned by the owner during
 10 the operating period. The plan must be submitted no less
 11 than 15 days before the beginning of the operating period
 12 covered.

13 (b) Upon receipt of an operating plan, the department
 14 may:

- 15 (i) meet with the owner to review the proposed timber
 16 sales, discuss watershed and wildlife concerns, and schedule
 17 onsite consultations at appropriate sites; or
- 18 (ii) provide a receipt of notification, as described in
 19 subsection (2)(b), for individual timber sales.
- 20 (c) If the department requires an onsite consultation
 21 for any of the timber sales, it shall notify the owner of
 22 this requirement as soon as possible but no less than 10
 23 calendar days prior to the estimated starting date of forest
 24 practices associated with the timber sale. The onsite
 25 consultation must then be scheduled according to the

1 provisions of 76-13-132(2) through (4)."

2 **Section 6.** Section 76-13-132, MCA, is amended to read:

3 "76-13-132. Onsite consultation. (1) The department
4 shall make its decision on whether or not to require an
5 onsite consultation based on whether:

6 (a) the proposed timber sale is in a high-priority
7 location for watershed or wildlife resources;

8 (b) a consultation could contribute to improved
9 watershed or wildlife management; and

10 (c) the department has sufficient resources to conduct
11 the consultation.

12 (2) The department shall schedule an onsite
13 consultation at a time mutually agreeable to the operator,
14 the owner (if he can be contacted and wishes to
15 participate), and the department. Unless otherwise agreeable
16 to the operator and a participating owner, a consultation
17 must be held no later than:

18 (a) 10 calendar days after the mailing of the notice by
19 the department, if the site is accessible; or

20 (b) if the site is temporarily inaccessible due to road
21 conditions, weather conditions, or other factors, 10
22 calendar days after the operator indicates the site is
23 accessible.

24 (3) The onsite consultation must include
25 representatives of the department, the operator, and, if the

1 owner desires representation, the owner. Representatives of
2 the department of health and environmental sciences, the
3 department of fish, wildlife, and parks, and the local
4 conservation district may also participate but must meet the
5 consultation schedule established under 76-13-131(3)(c) or
6 subsection (2) of this section.

7 (4) If the department and the operator are not able to
8 schedule an onsite consultation within the time limits
9 provided in subsection (2)(a) or (2)(b) or at another
10 mutually agreeable time, the requirement for a consultation
11 is terminated. The operator may then proceed with forest
12 practices immediately upon the expiration of the time limits
13 provided in subsection (2)(a) or (2)(b)."

14 **Section 7.** Section 76-13-134, MCA, is amended to read:

15 "76-13-134. When additional notification required. (1)
16 Except as provided in subsection (2), the department may
17 require only one notification for each timber sale, even
18 though multiple forest practices may be conducted.

19 (2) If an operator modifies his proposed forest
20 practices in a manner that substantially alters the
21 potential watershed or wildlife disturbance, he shall submit
22 a revised notification to the department."

-End-