

HOUSE BILL NO. 731

INTRODUCED BY REAM, HALLIGAN, LEE, MEASURE,
B. BROWN, COHEN, GRADY

IN THE HOUSE

FEBRUARY 9, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON NATURAL RESOURCES.

FEBRUARY 11, 1991 FIRST READING.

MARCH 21, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 23, 1991 PRINTING REPORT.

MARCH 25, 1991 ON MOTION, TAKEN FROM SECOND READING
 AND REREFERRED TO COMMITTEE
 ON APPROPRIATIONS.

MARCH 27, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 28, 1991 PRINTING REPORT.

 SECOND READING, DO PASS AS AMENDED.

 ENGROSSING REPORT.

 ON MOTION, RULES SUSPENDED. BILL
 PLACE ON THIRD READING ON THIS DAY.

 THIRD READING, PASSED.
 AYES, 73; NOES, 26.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON NATURAL RESOURCES.

 FIRST READING.

APRIL 11, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

APRIL 13, 1991 SECOND READING, CONCURRED IN.

APRIL 15, 1991

THIRD READING, CONCURRED IN.
AYES, 39; NOES, 9.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 17, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 731
 2 INTRODUCED BY Ream Hillman
 3 Full Name Bob Brown

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANAGEMENT
 5 STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN RIPARIAN
 6 MANAGEMENT ZONES; AUTHORIZING THE DEPARTMENT OF STATE LANDS
 7 TO ADOPT AND ENFORCE RULES IMPLEMENTING THE RIPARIAN
 8 MANAGEMENT STANDARDS; ALLOWING ALTERNATIVE FOREST PRACTICES
 9 IN CERTAIN CIRCUMSTANCES; AUTHORIZING THE DEPARTMENT OF
 10 STATE LANDS TO ISSUE ADMINISTRATIVE ORDERS FOR SITE
 11 REHABILITATION; PROVIDING PENALTIES FOR NONCOMPLIANCE WITH
 12 RIPARIAN MANAGEMENT STANDARDS; AND ESTABLISHING A FOREST
 13 STEWARDSHIP SPECIAL REVENUE ACCOUNT."

14 STATEMENT OF INTENT

16 It is the intent of the legislature that the riparian
 17 management zone be an area of closely managed activity, but
 18 not a zone where timber harvest is excluded. Timber harvest
 19 activities must be managed within the zone to achieve
 20 objectives relating to water quality, beneficial water uses,
 21 protection of wildlife habitat, and the long-term stability
 22 of the stream system, in addition to timber harvest
 23 objectives.

24 It is the intent of the legislature that the department
 25 of state lands adopt rules providing enforceable management

1 standards for forest practices in riparian management zones.
 2 The department shall:

3 (1) consult with forestry officials from federal,
 4 state, and private agencies and organizations involved in
 5 forest watershed issues and wildlife management;

6 (2) review the riparian management regulations of other
 7 states;

8 (3) consider the experiences and recommendations of
 9 persons who have developed, administered, and been subject
 10 to these regulations; and

11 (4) consider recent research findings on forest
 12 management in riparian areas.

13 Based on this information, the department shall develop
 14 specific rules to implement the purposes and management
 15 standards provided in [section 3] for riparian management
 16 zones, including rules on equipment use; road drainage; log
 17 skidding and yarding; the number, size, and type of trees to
 18 be retained along the zone; tree canopy cover; snag
 19 retention; slash management; site preparation; and other
 20 related practices. Owners or operators may receive approval
 21 for alternative practices under the criteria and procedures
 22 provided in [section 3(2)].

23 The department shall also develop by rule a method for
 24 site-specific determination of the width of each riparian
 25 management zone based on topographic, hydrologic,



1 vegetative, and other site characteristics. The zone may not
2 be narrower than 50 feet on either side of the streambank or
3 lakeshore and must increase in width in areas of steep
4 slope, erosive soils, or wet soils. A change in slope
5 steepness between a steep-sided stream corridor and a more
6 level upland area can often be an appropriate boundary for
7 the riparian management zone.

8 It is the intent of the legislature that the department
9 develop written guidelines for methods through which timber
10 harvest may be conducted in riparian management zones to
11 benefit or to reduce adverse effects on wildlife.

12 Finally, the legislature recognizes that appropriate
13 limitations on activities in riparian zones, which comprise
14 only a very small percentage of Montana forests, can achieve
15 substantial watershed and wildlife benefits.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 NEW SECTION. **Section 1.** Findings and purpose. (1) The
19 legislature finds that the riparian management zone:

- 20 (a) acts as an effective sediment filter to maintain
21 water quality;
- 22 (b) provides shade to regulate stream temperature;
- 23 (c) supports diverse and productive aquatic and
24 terrestrial riparian habitats;
- 25 (d) protects the stream channel and banks;

1 (e) provides large, woody debris that is eventually
2 recruited into a stream to maintain riffles, pools, and
3 other elements of channel structure; and

4 (f) promotes floodplain stability.

5 (2) The legislature further finds that maintaining the
6 integrity of forest streams is crucial to the quality and
7 quantity of water available to Montanans for domestic,
8 agricultural, industrial, and recreational use.

9 (3) The legislature further finds that forest streams
10 are highly susceptible to impacts from land development and
11 that in many cases forest practices in riparian zones in
12 Montana are causing excessive and unnecessary damage to the
13 banks, beds, and protective vegetation of forest streams.

14 (4) The legislature further finds that, through careful
15 management in the riparian zone, owners and operators can
16 achieve timber harvest goals without sacrificing water
17 quality or impairing the beneficial uses of the water.

18 (5) The purposes of [sections 1 through 7] are:

19 (a) to protect the legitimate public interest in the
20 quality and quantity of forest waters;

21 (b) to provide for standards, oversight,
22 rehabilitation, and penalties to ensure that forest
23 practices are conducted in a manner that conserves the
24 integrity of Montana's riparian zones;

25 (c) to provide standards for the protection of wildlife

1 habitat in riparian zones; and

2 (d) to allow operators necessary flexibility to use
3 practices appropriate to site-specific conditions in the
4 riparian management zone.

5 NEW SECTION. Section 2. Definitions. As used in
6 [sections 1 through 7], the following definitions apply:

7 (1) "Alternative practices" means forest practices:

8 (a) conducted in the riparian management zone that are
9 different from practices required by rules adopted under
10 [sections 1 through 7];

11 (b) that are designed for site-specific conditions
12 encountered during a timber sale; and

13 (c) that are subject to department approval under
14 [section 3].

15 (2) "Department" means the department of state lands
16 provided for in 2-15-3201.

17 (3) "Forest practices" means the harvesting of trees,
18 road construction or reconstruction associated with
19 harvesting and accessing trees, site preparation for
20 regeneration of a timber stand, reforestation, and
21 management of logging slash. The term does not include
22 activities related to the operation of a Christmas tree farm
23 or nursery that do not involve new road construction.

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

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

4 (5) "Owner" means an individual, firm, partnership,
5 corporation, or association of any nature that holds an
6 ownership interest in forest land or timber.

7 (6) "Person" means an individual, firm, partnership,
8 company, commercial entity, corporation, or association.

9 (7) "Riparian management zone" or "zone" means the
10 stream, lake, or other body of water and an adjacent area of
11 varying width where management practices that might affect
12 wildlife or water quality, fish, or other aquatic resources
13 need to be modified. The riparian management zone
14 encompasses a strip at least 50 feet wide on each side of a
15 stream, lake, or other body of water, measured from the
16 ordinary high-water mark, and extends beyond the high-water
17 mark to include wetlands and areas that provide additional
18 protection in zones with steep slopes or erosive soils.

19 (8) "Stream" means a natural watercourse of perceptible
20 extent that has a generally sandy or rocky bottom and
21 definite banks and that confines and conducts continuously
22 or intermittently flowing water.

23 (9) "Timber sale" means a series of forest practices
24 designed to access, harvest, and regenerate trees on a
25 defined land area.

1 NEW SECTION. Section 3. Purposes and standards for
 2 forest practices in riparian management zones -- alternative
 3 practices. (1) Except as provided in subsection (2), forest
 4 practices in a riparian management zone must comply with the
 5 following purposes and standards and with rules adopted
 6 under [sections 1 through 7] to implement these purposes and
 7 standards:

- 8 (a) to prevent soil erosion and stream sedimentation:
- 9 (i) roads and landings may not be constructed in the
 10 zone, except for roads necessary and appropriate for
 11 approaches to stream crossings;
- 12 (ii) tractors or other heavy, motorized vehicles may not
 13 be used for harvesting or removing timber or for site
 14 preparation in the zone;
- 15 (iii) water draining from road surfaces and road cuts
 16 must be routed through an undisturbed portion of the zone,
 17 not directly into a stream channel;
- 18 (iv) cables must be used to skid logs out of the zone
 19 and logs must be fully suspended if taken across a
 20 streamcourse; and
- 21 (v) site preparation must be conducted with minimal
 22 soil disturbance;
- 23 (b) to provide shade to the stream and to maintain soil
 24 stability, nonmerchantable vegetation must be retained;
- 25 (c) to maintain stream channel stability and aquatic

1 habitat, trees with roots in the streambank may not be
 2 harvested;

3 (d) to provide long-term recruitment of large, woody
 4 debris into the stream channel necessary to retain stream
 5 structure, a residual timber stand, including the species
 6 and age composition generally characteristic of the site
 7 prior to harvest, must be retained;

8 (e) to protect water quality, stream bottom structure,
 9 and bank integrity and to provide unobstructed fish passage,
 10 slash must be kept out of the stream channel; and

11 (f) to maintain populations of wildlife that use
 12 riparian zones, habitat must be protected.

13 (2) (a) An owner or operator may request approval by
 14 the department to use alternative practices. The department
 15 shall work cooperatively with the owner or operator to
 16 develop the best site-specific practices to meet timber and
 17 watershed objectives. The department may review onsite
 18 conditions prior to taking final action on a request.

19 (b) The department shall approve the request if the
 20 alternative practices provide equivalent or improved
 21 watershed protection when compared to the management
 22 practices provided by rules adopted under [sections 1
 23 through 7].

24 (c) The department may approve the request if the
 25 alternative practices provide nearly equivalent watershed

1 protection. However, this subsection (c) may not be used as
2 grounds for approval of a proposed alternative practice that
3 involves the harvesting of trees that otherwise must be
4 retained.

5 (d) Departmental approval of any alternative practices
6 must be provided in writing and state the specific
7 alternative practices authorized.

8 (3) The department shall publish and distribute the
9 rules implementing the riparian management standards.

10 NEW SECTION. Section 4. Inspection -- onsite
11 consultation. (1) The department may inspect forest
12 practices on any federal, state, or private land in this
13 state to assess compliance with the provisions of [sections
14 1 through 7] and rules adopted pursuant to [sections 1
15 through 7].

16 (2) The department may conduct an onsite consultation
17 with an owner or operator to review harvest plans and
18 watershed conditions. During the onsite consultation, the
19 department may review and, if appropriate, approve the
20 proposed use of alternative riparian management practices,
21 as provided in [section 3].

22 NEW SECTION. Section 5. Responsibility for compliance
23 -- penalties -- administrative orders. (1) (a) Except as
24 provided in subsection (1)(b), it is the responsibility of
25 the owner to ensure compliance with the provisions of

1 [sections 1 through 7] and rules adopted pursuant to
2 [sections 1 through 7].

3 (b) If a written contract between an owner and an
4 operator specifies that the operator is responsible for
5 compliance with laws relating to forest practices, the
6 operator is considered the responsible party for all
7 enforcement actions taken by the department under this
8 section.

9 (2) (a) A person who violates a provision of [sections
10 1 through 7], a rule adopted pursuant to [sections 1 through
11 7], or an order issued under this section is guilty of a
12 misdemeanor and shall be punished by a fine of not more than
13 \$500. A person convicted of a second or subsequent offense
14 under this section is subject to a fine of not more than
15 \$1,000, imprisonment in the county jail for not more than 6
16 months, or both. Each day of violation of an order issued
17 under this section is a separate violation;

18 (b) A person who violates a provision of [sections 1
19 through 7], a rule adopted pursuant to [sections 1 through
20 7], or an order issued under this section shall forfeit the
21 value of the timber harvested from the riparian area in
22 which the violation occurred.

23 (3) (a) When the department determines that an owner or
24 operator has violated a provision of [sections 1 through 7]
25 or a rule adopted pursuant to [sections 1 through 7] and has

1 caused damage to watershed or wildlife resources, the
 2 department may serve an order requiring the person
 3 responsible for the conduct of forest practices to undertake
 4 necessary site rehabilitation within a reasonable period of
 5 time stated in the order. The order must specify the nature
 6 of the violation and the damage or unsatisfactory condition
 7 resulting from the violation.

8 (b) The order becomes final unless, within 30 days
 9 after the notice is served, the person named requests in
 10 writing a hearing before the department. On receipt of the
 11 request, the department shall schedule a hearing. Service by
 12 mail is complete on the date of mailing.

13 (c) If, after a hearing, the department finds that a
 14 violation has occurred and the watershed or wildlife habitat
 15 damage warrants site rehabilitation, it shall affirm or
 16 modify the order previously issued. If the department finds
 17 that a violation has not occurred or that site
 18 rehabilitation is not warranted, it shall rescind the order.

19 (d) The department may include in an order a provision
 20 that the owner or operator immediately cease causing further
 21 damage and take immediate action to alleviate the damage or
 22 to prevent future damage. The department may institute an
 23 action for injunctive relief under Title 27, chapter 19, if
 24 the recipient of the order does not comply with it.

25 (4) Subsection (3) does not prevent the department from

1 seeking voluntary compliance and site rehabilitation through
 2 warning, conference, or any other appropriate means.

3 NEW SECTION. **Section 6. Forest stewardship special**
 4 **revenue account.** (1) There is a forest stewardship special
 5 revenue account.

6 (2) All fines and penalties levied under [section 5]
 7 must be deposited in the forest stewardship special revenue
 8 account.

9 (3) The department shall spend funds deposited in the
 10 account on activities and programs that promote the
 11 stewardship of forest resources.

12 NEW SECTION. **Section 7. Rulemaking.** The department
 13 shall adopt rules:

14 (1) implementing each of the purposes and management
 15 standards provided in [section 3];

16 (2) providing specific direction necessary for owners
 17 and operators to understand and comply with the management
 18 standards, including additional definition of the riparian
 19 management zone and the forest practices permissible within
 20 the zone; and

21 (3) including any other specific provisions necessary
 22 to achieve the purposes of [sections 1 through 7].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0731, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing for standards and administrative rules to be developed and implemented by the Department of State Lands concerning forest practices in riparian zones.

ASSUMPTIONS:

1. DSL would have the following responsibilities: a) adopt and publish rules for riparian zone forest practices standards; b) provide information and education to landowners and operators regarding implementation of riparian zone rules; c) review applications for alternative practices; d) conduct field consultations requested by owner (or determined necessary by DSL) to assist with compliance or evaluate applications for alternative practices; e) inspect cases of reported noncompliance; f) serve orders for rehabilitation for damage caused by violations; and g) hold hearings requested by persons named in orders served.
2. There will be approximately 2,300 separate timber harvesting operations initiated annually during the 1993 biennium on federal, state, industrial private and nonindustrial private forest lands in Montana. Field work would be required on approximately 15% of these operations.
3. There will be required 4.75 FTE comprised of 1.00 FTE program supervisor, grade 15; 3.00 FTE foresters, grade 12; 0.25 FTE attorney, grade 17; 0.25 FTE secretary, grade 8; and 0.25 FTE clerk, grade 7.
4. DSL would develop, organize and implement educational programs and training workshops on implementation of riparian zone rules for timber operators, landowners, timber sale contract administrators, conservation district personnel and others.

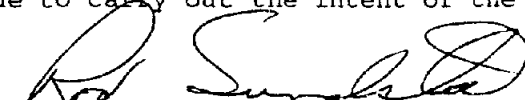
FISCAL IMPACT:

Department of State Lands:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0.00	4.75	4.75	0.00	4.75	4.75
Personal Services	0	116,731	116,731	0	116,731	116,731
Operating Expenses	0	21,875	21,875	0	21,875	21,875
Capital Outlay	0	44,000	44,000	0	0	0
Total	0	182,606	182,606	0	138,606	138,606
<u>Funding:</u>						
General Fund	0	182,606	182,606	0	138,606	138,606

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If the number of forest practices covered by this act increases significantly, additional resources will be required to continue to carry out the intent of the act.



 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

ROBERT R. (BOB) REAM, PRIMARY SPONSOR DATE
 Fiscal Note for ⁷³¹HB0731, as introduced **HB 731**

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0731, third reading, as amended.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill providing for standards and administrative rules to be developed and implemented by the Department of State Lands concerning forest practices in streamside management zones. The bill also establishes the forest stewardship special revenue account.

ASSUMPTIONS:

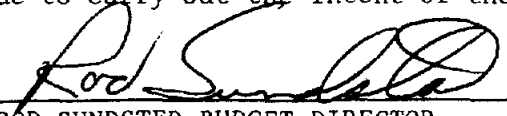
1. DSL would have the following responsibilities: a) adopt and publish rules for streamside management zone (SMZ) practices standards; b) provide information and education to landowners and operators regarding implementation of SMZ rules; c) review applications for alternative practices if received with initial notification to conduct a forest practice; d) conduct field consultations requested by owner (or determined necessary by DSL) to assist with compliance or evaluate applications for alternative practices; e) inspect cases of reported noncompliance; f) serve orders for rehabilitation for damage caused by violations; g) hold hearings requested by persons named in orders served; h) request injunctive relief if necessary; and i) develop guidelines for wildlife habitat in streamside management zones.
2. There will be approximately 2,300 separate timber harvesting operations initiated annually during the 1993 biennium on federal, state, and private forest lands. Inspections would be required on approximately 20% of these operations, and the department would have to respond to reports of noncompliance on approximately 5% of the operations.
3. DSL will require 1.00 FTE enforcement specialist, grade 14; 1.00 FTE forester, grade 12; and 0.25 FTE clerk, grade 7.

FISCAL IMPACT:Department of State Lands:

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
F.T.E.	0.00	2.25	2.25	0.00	2.25	2.25
Personal Services	0	55,084	55,084	0	55,084	55,084
Operating Expenses	0	10,000	10,000	0	10,000	10,000
Capital Outlay	0	28,500	28,500	0	0	0
Total	0	93,584	93,584	0	65,084	65,084
<u>Funding:</u>						
General Fund	0	93,584	93,584	0	65,084	65,084
General Fund Impact (decrease)			(93,584)			(65,084)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

If the number of forest practices covered by this act increases significantly additional resources will be required to continue to carry out the intent of the act


ROD SUNDSTED BUDGET DIRECTOR

DATE

Office of Budget and Program Planning


ROBERT R. BOB REAM, PRIMARY SPONSOR

DATE

Fiscal Note for HB0731, third reading, as amended

HB 731-2

APPROVED BY COMM. ON NATURAL RESOURCES

HOUSE BILL NO. 731

INTRODUCED BY REAM, HALLIGAN, LEE, MEASURE,

B. BROWN, COHEN, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANAGEMENT STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN RIPARIAN STREAMSIDE MANAGEMENT ZONES; AUTHORIZING THE DEPARTMENT OF STATE LANDS TO ADOPT AND ENFORCE RULES IMPLEMENTING THE RIPARIAN STREAMSIDE MANAGEMENT STANDARDS; ALLOWING ALTERNATIVE FOREST PRACTICES IN CERTAIN CIRCUMSTANCES; AUTHORIZING THE DEPARTMENT OF STATE LANDS TO ISSUE ADMINISTRATIVE ORDERS FOR SITE REHABILITATION; PROVIDING PENALTIES FOR NONCOMPLIANCE WITH RIPARIAN STREAMSIDE MANAGEMENT STANDARDS; AND ESTABLISHING A FOREST STEWARDSHIP SPECIAL REVENUE ACCOUNT."

STATEMENT OF INTENT

It is the intent of the legislature that the riparian STREAMSIDE management zone be an area of closely managed activity, but not a zone where timber harvest is excluded. Timber harvest activities must be managed within the zone to achieve objectives relating to water quality, beneficial water uses, protection MANAGEMENT of wildlife habitat, and the long-term stability of the stream system, in addition to timber harvest objectives.

It is the intent of the legislature that the department of state lands adopt rules providing enforceable management standards for forest practices in riparian management zones. The department shall:

(1) consult with forestry officials from federal, state, and private agencies and organizations involved in forest watershed issues and wildlife management;

(2) review the riparian management regulations of other states;

(3) consider the experiences and recommendations of persons who have developed, administered, and been subject to these regulations; and

(4) consider recent research findings on forest management in riparian areas.

Based on this information, the department shall develop specific rules to implement the purposes and management standards provided in section 3 for riparian management zones, including rules on equipment use, road drainage, log skidding and yarding, the number, size, and type of trees to be retained along the zone, tree canopy cover, snag retention, slash management, site preparation, and other related practices. Owners or operators may receive approval for alternative practices under the criteria and procedures provided in section 3(2).

The department shall also develop by rule a method for

1 ~~site-specific--determination--of--the-width-of-each-riparian~~
 2 ~~management---zone---based---on---topographic,---hydrologic,~~
 3 ~~vegetative,--and--other--site--characteristics. The zone may not~~
 4 ~~be narrower than 50 feet on either side of the streambank or~~
 5 ~~take shore and must increase in width in areas of steep~~
 6 ~~slope, erosive soils, or wet soils. A change in slope~~
 7 ~~steepness between a steep-sided stream corridor and a more~~
 8 ~~level upland area can often be an appropriate boundary for~~
 9 ~~the riparian management zone.~~

10 ~~It is the intent of the legislature that the department~~
 11 ~~develop written guidelines for methods through which timber~~
 12 ~~harvest may be conducted in riparian management zones to~~
 13 ~~benefit or to reduce adverse effects on wildlife.~~

14 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 15 OF STATE LANDS ADOPT RULES TO IMPLEMENT THE MANAGEMENT
 16 STANDARDS PROVIDED FOR IN [SECTION 3] AS ENFORCEABLE
 17 STANDARDS FOR STREAMSIDE MANAGEMENT ZONES. THESE STANDARDS
 18 ARE TO BE COORDINATED WITH THE OBJECTIVES AND GUIDELINES
 19 CONTAINED IN THE EXISTING SYSTEM OF VOLUNTARY BEST
 20 MANAGEMENT PRACTICES, WHICH WILL STILL GUIDE FOREST
 21 PRACTICES OUTSIDE OF THE STREAMSIDE MANAGEMENT ZONE. THE
 22 DEPARTMENT SHALL ADOPT RULES GOVERNING THE HARVEST OF TIMBER
 23 IN STREAMSIDE MANAGEMENT ZONES TO ENSURE THE RETENTION OF
 24 MERCHANTABLE AND SUBMERCHANTABLE TIMBER NECESSARY TO
 25 MAINTAIN THE INTEGRITY OF THE STREAMSIDE MANAGEMENT ZONE.

1 THE DEPARTMENT SHALL ALSO ADOPT RULES UNDER WHICH OWNERS AND
 2 OPERATORS MAY RECEIVE APPROVAL FOR ALTERNATIVE PRACTICES
 3 UNDER THE CRITERIA AND PROCEDURES PROVIDED IN [SECTION
 4 3(2)].

5 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 6 DEVELOP VOLUNTARY, NONENFORCEABLE GUIDELINES CONCERNING THE
 7 SELECTION AND RETENTION OF TREES AND VEGETATION, INCLUDING
 8 SNAGS, FOR WILDLIFE HABITAT WITHIN THE STREAMSIDE MANAGEMENT
 9 ZONE.

10 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 11 ESTABLISH AN INTERDISCIPLINARY TECHNICAL COMMITTEE TO ASSIST
 12 THE DEPARTMENT IN ADOPTING RULES, DEVELOPING VOLUNTARY
 13 GUIDELINES FOR THE MANAGEMENT OF WILDLIFE HABITAT, AND
 14 MONITORING THE IMPLEMENTATION OF THIS BILL. THE MEMBERS OF
 15 THE COMMITTEE SHOULD HAVE TECHNICAL KNOWLEDGE OR EXPERTISE
 16 IN WATER QUALITY, WILDLIFE MANAGEMENT, OR FOREST MANAGEMENT
 17 AND INCLUDE REPRESENTATIVES FROM THE U.S. FOREST SERVICE;
 18 U.S. BUREAU OF LAND MANAGEMENT; THE MONTANA DEPARTMENTS OF
 19 HEALTH AND ENVIRONMENTAL SCIENCES AND FISH, WILDLIFE, AND
 20 PARKS; CONSERVATION DISTRICTS; THE MONTANA STATE UNIVERSITY
 21 EXTENSION FORESTRY PROGRAM; THE MONTANA FORESTLAND
 22 CONSERVATION EXPERIMENT STATION; THE FOREST PRODUCTS
 23 INDUSTRY; AND THE CONSERVATION COMMUNITY.

24 TO THE EXTENT PRACTICAL, THE DEPARTMENT SHOULD CONDUCT
 25 ONSITE CONSULTATIONS UNDER [SECTION 4] IN CONJUNCTION WITH

1 CONSULTATIONS OR INSPECTIONS CONDUCTED PURSUANT TO TITLE 76,
 2 CHAPTER 13, PARTS 1 AND 4. IT IS ALSO THE INTENT OF THE
 3 LEGISLATURE THAT WHENEVER DEPARTMENT PERSONNEL IN THE FIELD
 4 NOTICE A PROBABLE WATER QUALITY OR 310 PERMIT VIOLATION THAT
 5 THEY NOTIFY THE APPROPRIATE AUTHORITY.

6 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT,
 7 WITH THE ASSISTANCE OF THE TECHNICAL COMMITTEE, EVALUATE THE
 8 IMPLEMENTATION OF THIS BILL, DEVELOP RECOMMENDATIONS TO
 9 ADDRESS PROBLEMS, IF ANY, THAT ARISE, AND REPORT ITS
 10 FINDINGS AND RECOMMENDATIONS TO THE ENVIRONMENTAL QUALITY
 11 COUNCIL.

12 Finally, the legislature recognizes that appropriate
 13 limitations on activities in riparian STREAMSIDE zones,
 14 which comprise only a very small percentage of Montana
 15 forests, can achieve substantial watershed and wildlife
 16 benefits.

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Findings and purpose. (1) The
 20 legislature finds that the riparian STREAMSIDE management
 21 zone:

- 22 (a) acts as an effective sediment filter to maintain
- 23 water quality;
- 24 (b) provides shade to regulate stream temperature;
- 25 (c) supports diverse and productive aquatic and

1 terrestrial riparian habitats;

- 2 (d) protects the stream channel and banks;
- 3 (e) provides large, woody debris that is eventually
- 4 recruited into a stream to maintain riffles, pools, and
- 5 other elements of channel structure; and
- 6 (f) promotes floodplain stability.

7 (2) The legislature further finds that maintaining the
 8 integrity of forest streams is crucial to the quality and
 9 quantity of water available to Montanans for domestic,
 10 agricultural, industrial, and recreational use.

11 (3) The legislature further finds that forest streams
 12 are highly susceptible to impacts from land development and
 13 that in many cases forest practices in riparian STREAMSIDE
 14 zones in Montana are causing excessive and unnecessary
 15 damage to the banks, beds, and protective vegetation of
 16 forest streams.

17 (4) The legislature further finds that, through careful
 18 management in the riparian STREAMSIDE zone, owners and
 19 operators can achieve timber harvest goals without
 20 sacrificing water quality or impairing the beneficial uses
 21 of the water.

22 (5) The purposes of [sections 1 through 7] are:

- 23 (a) to protect the legitimate public interest in the
- 24 quality and quantity of forest waters;
- 25 (b) to provide for standards, oversight,

1 rehabilitation, and penalties to ensure that forest
2 practices are conducted in a manner that conserves the
3 integrity of Montana's riparian STREAMSIDE zones;

4 (c) to provide standards GUIDELINES for the protection
5 MANAGEMENT of wildlife habitat in riparian STREAMSIDE zones;
6 and

7 (d) to allow operators necessary flexibility to use
8 practices appropriate to site-specific conditions in the
9 riparian STREAMSIDE management zone.

10 NEW SECTION. Section 2. Definitions. As used in
11 [sections 1 through 7], the following definitions apply:

12 (1) "Alternative practices" means forest practices:

13 (a) conducted in the riparian STREAMSIDE management
14 zone that are different from practices required by rules
15 adopted under [sections 1 through 7];

16 (b) that are designed for site-specific conditions
17 encountered during a timber sale; and

18 (c) that are subject to department approval under
19 [section 3].

20 (2) "Department" means the department of state lands
21 provided for in 2-15-3201.

22 (3) "Forest practices" means the harvesting of trees,
23 road construction or reconstruction associated with
24 harvesting and accessing trees, site preparation for
25 regeneration of a timber stand, reforestation, and

1 management of logging slash. The term does not include
2 activities related to the operation of a Christmas tree farm
3 or nursery that do not involve new road construction.

4 (4) "Operator" means a person responsible for
5 conducting forest practices. An operator may be the owner or
6 a person who, through contractual agreement with the owner,
7 is obligated to or entitled to conduct forest practices or
8 carry out a timber sale.

9 (5) "Owner" means an individual, firm, partnership,
10 corporation, or association of any nature that holds an
11 ownership interest in forest land or timber.

12 (6) "Person" means an individual, firm, partnership,
13 company, commercial entity, corporation, or association.

14 ~~(7) "Riparian-management-zone" or "zone" means the~~
15 ~~stream, lake, or other body of water and an adjacent area of~~
16 ~~varying width where management practices that might affect~~
17 ~~wildlife or water quality, fish, or other aquatic resources~~
18 ~~need to be modified. The riparian management zone~~
19 ~~encompasses a strip at least 50 feet wide on each side of a~~
20 ~~stream, lake, or other body of water, measured from the~~
21 ~~ordinary high water mark and extends beyond the high water~~
22 ~~mark to include wetlands and areas that provide additional~~
23 ~~protection in zones with steep slopes or erosive soils.~~

24 (7) "Stream" means a natural watercourse of
25 perceptible extent that has a generally sandy or rocky

1 bottom and definite banks and that confines and conducts
 2 continuously or intermittently flowing water.

3 (8) "STREAMSIDE MANAGEMENT ZONE" OR "ZONE" MEANS THE
 4 STREAM, LAKE, OR OTHER BODY OF WATER AND AN ADJACENT AREA OF
 5 VARYING WIDTH WHERE MANAGEMENT PRACTICES THAT MIGHT AFFECT
 6 WILDLIFE HABITAT OR WATER QUALITY, FISH, OR OTHER AQUATIC
 7 RESOURCES NEED TO BE MODIFIED. THE STREAMSIDE MANAGEMENT
 8 ZONE ENCOMPASSES A STRIP AT LEAST 50 FEET WIDE ON EACH SIDE
 9 OF A STREAM, LAKE, OR OTHER BODY OF WATER, MEASURED FROM THE
 10 ORDINARY HIGH-WATER MARK, AND EXTENDS BEYOND THE HIGH-WATER
 11 MARK TO INCLUDE WETLANDS AND AREAS THAT PROVIDE ADDITIONAL
 12 PROTECTION IN ZONES WITH STEEP SLOPES OR EROSIIVE SOILS.

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

16 NEW SECTION. Section 3. Purposes and standards
 17 STANDARDS for forest practices in riparian STREAMSIDE
 18 management zones -- alternative practices. (1) Except as
 19 provided in subsection (2), forest practices in a riparian
 20 management zone must comply with the following purposes and
 21 standards and with rules adopted under sections 1 through
 22 7 to implement these purposes and standards:

- 23 (a) to prevent soil erosion and stream sedimentation;
 24 (i) roads and landings may not be constructed in the
 25 zone, except for roads necessary and appropriate for

- 1 approaches to stream crossings;
 2 (ii) tractors or other heavy, motorized vehicles may not
 3 be used for harvesting or removing timber or for site
 4 preparation in the zone;
 5 (iii) water draining from road surfaces and road cuts
 6 must be routed through an undisturbed portion of the zone,
 7 not directly into a stream channel;
 8 (iv) cables must be used to skid logs out of the zone
 9 and logs must be fully suspended if taken across a
 10 streamcourse, and
 11 (v) site preparation must be conducted with minimal
 12 soil disturbance;
 13 (b) to provide shade to the stream and to maintain soil
 14 stability, nonmerchantable vegetation must be retained;
 15 (c) to maintain stream channel stability and aquatic
 16 habitat, trees with roots in the streambank may not be
 17 harvested;
 18 (d) to provide long-term recruitment of large, woody
 19 debris into the stream channel necessary to retain stream
 20 structure, a residual timber stand, including the species
 21 and age composition generally characteristic of the site
 22 prior to harvest, must be retained;
 23 (e) to protect water quality, stream bottom structure,
 24 and bank integrity and to provide unobstructed fish passage,
 25 slash must be kept out of the stream channel, and

1 ~~(f) to maintain populations of wildlife that use~~
 2 ~~riparian zones, habitat must be protected.~~ THE FOLLOWING
 3 PRACTICES ARE PROHIBITED IN A STREAMSIDE MANAGEMENT ZONE:

4 (A) BROADCAST BURNING;

5 (B) THE OPERATION OF WHEELED OR TRACKED VEHICLES EXCEPT
 6 ON ESTABLISHED ROADS;

7 (C) THE FOREST PRACTICE OF CLEARCUTTING;

8 (D) THE CONSTRUCTION OF ROADS EXCEPT WHEN NECESSARY TO
 9 CROSS A STREAM OR WETLAND;

10 (E) THE HANDLING, STORAGE, APPLICATION, OR DISPOSAL OF
 11 HAZARDOUS OR TOXIC MATERIALS IN A MANNER THAT POLLUTES
 12 STREAMS, LAKES, OR WETLANDS OR THAT MAY CAUSE DAMAGE OR
 13 INJURY TO HUMANS, LAND, ANIMALS, OR PLANTS.

14 (F) THE SIDE-CASTING OF ROAD MATERIAL INTO A STREAM,
 15 WETLAND, OR WATERCOURSE; AND

16 (G) THE DEPOSIT OF SLASH IN STREAMS OR OTHER WATER
 17 BODIES.

18 (2) (a) An owner or operator may request approval by
 19 the department to use alternative practices. The department
 20 shall work cooperatively with the owner or operator to
 21 develop the best site-specific practices to meet timber and
 22 watershed objectives. The department may review onsite
 23 conditions prior to taking final action on a request.

24 (b) The department shall approve the request if the
 25 alternative practices provide equivalent or improved

1 watershed protection when compared to the management
 2 practices provided by rules adopted under [sections 1
 3 through 7].

4 (c) The department may approve the request if the
 5 alternative practices provide nearly equivalent watershed
 6 protection. However, this subsection (c) may not be used as
 7 grounds for approval of a proposed alternative practice ~~that~~
 8 ~~involves the harvesting of trees that otherwise must be~~
 9 ~~retained~~ FOR THE SOLE PURPOSE OF HARVESTING ADDITIONAL
 10 TREES.

11 (d) Departmental approval of any alternative practices
 12 must be provided in writing and state the specific
 13 alternative practices authorized.

14 (3) The department shall publish and distribute the
 15 rules implementing the riparian STREAMSIDE management
 16 standards.

17 NEW SECTION. Section 4. Inspection -- onsite
 18 consultation. (1) The department may inspect forest
 19 practices on any federal, state, or private land in this
 20 state to assess compliance with the provisions of [sections
 21 1 through 7] and rules adopted pursuant to [sections 1
 22 through 7].

23 (2) The department may conduct an onsite consultation
 24 with an owner or operator to review harvest plans and
 25 watershed conditions. During the onsite consultation, the

1 department may review and, if appropriate, approve the
 2 proposed use of alternative riparian STREAMSIDE management
 3 practices, as provided in [section 3].

4 NEW SECTION. Section 5. Responsibility for compliance
 5 -- penalties -- administrative orders. (1) (a) Except as
 6 provided in subsection (1)(b), it is the responsibility of
 7 the owner to ensure compliance with the provisions of
 8 [sections 1 through 7] and rules adopted pursuant to
 9 [sections 1 through 7].

10 (b) If a written contract between an owner and an
 11 operator specifies that the operator is responsible for
 12 compliance with laws relating to forest practices, the
 13 operator is considered the responsible party for all
 14 enforcement actions taken by the department under this
 15 section.

16 (2) ~~(a) A person who violates a provision of [sections~~
 17 ~~1 through 7], a rule adopted pursuant to [sections 1 through~~
 18 ~~7], or an order issued under this section is guilty of a~~
 19 ~~misdemeanor and shall be punished by a fine of not more than~~
 20 ~~\$500. A person convicted of a second or subsequent offense~~
 21 ~~under this section is subject to a fine of not more than~~
 22 ~~\$1,000, imprisonment in the county jail for not more than 6~~
 23 ~~months, or both. SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO~~
 24 ~~EXCEED \$1,000. Each day of violation of an order issued~~
 25 ~~under this section is CONSTITUTES a separate violation.~~

1 ~~(b) A person who violates a provision of [sections 1~~
 2 ~~through 7], a rule adopted pursuant to [sections 1 through~~
 3 ~~7], or an order issued under this section shall forfeit the~~
 4 ~~value of the timber harvested from the riparian area in~~
 5 ~~which the violation occurred.~~

6 (3) (a) When the department determines that an owner or
 7 operator has violated a provision of [sections 1 through 7]
 8 or a rule adopted pursuant to [sections 1 through 7] and has
 9 caused damage to watershed or wildlife resources, the
 10 department may serve an order requiring the person
 11 responsible for the conduct of forest practices to undertake
 12 necessary site rehabilitation within a reasonable period of
 13 time stated in the order. The order must specify the nature
 14 of the violation and the damage or unsatisfactory condition
 15 resulting from the violation.

16 (b) The order becomes final unless, within 30 days
 17 after the notice is served, the person named requests in
 18 writing a hearing before the department. On receipt of the
 19 request, the department shall schedule a hearing. Service by
 20 mail is complete on the date of mailing.

21 (c) If, after a hearing, the department finds that a
 22 violation has occurred and the watershed or wildlife habitat
 23 damage warrants site rehabilitation, it shall affirm or
 24 modify the order previously issued. If the department finds
 25 that a violation has not occurred or that site

1 rehabilitation is not warranted, it shall rescind the order.

2 (d) The department may include in an order a provision
3 that the owner or operator immediately cease causing further
4 damage and take immediate action to alleviate the damage or
5 to prevent future damage. The department may institute an
6 action for injunctive relief under Title 27, chapter 19, if
7 the recipient of the order does not comply with it.

8 (4) Subsection (3) does not prevent the department from
9 seeking voluntary compliance and site rehabilitation through
10 warning, conference, or any other appropriate means.

11 NEW SECTION. Section 6. Forest stewardship special
12 revenue account. (1) There is a forest stewardship special
13 revenue account.

14 (2) All fines and penalties levied under {section 5}
15 must be deposited in the forest stewardship special revenue
16 account.

17 (3) The department shall spend funds deposited in the
18 account on activities and programs that promote the
19 stewardship of forest resources.

20 NEW SECTION. Section 7. Rulemaking. The department
21 shall adopt rules:

22 (1) implementing each of the ~~purposes--and~~ management
23 standards provided in [section 3];

24 (2) providing specific direction necessary for owners
25 and operators to understand and comply with the management

1 standards, including additional definition of the riparian
2 STREAMSIDE management zone and the forest practices
3 permissible within the zone; and

4 (3) ~~including--any--other--specific--provisions--necessary~~
5 ~~to--achieve--the--purposes--of--{sections--1--through--7}~~ GOVERNING
6 THE ALTERNATIVE PRACTICES PROVIDED FOR IN [SECTION 3]; AND

7 (4) REGULATING THE HARVEST OF TIMBER IN STREAMSIDE
8 MANAGEMENT ZONES.

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS

AS AMENDED

HOUSE BILL NO. 731

INTRODUCED BY REAM, HALLIGAN, LEE, MEASURE,

B. BROWN, COHEN, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANAGEMENT STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN RIPARIAN STREAMSIDE MANAGEMENT ZONES; AUTHORIZING THE DEPARTMENT OF STATE LANDS TO ADOPT AND ENFORCE RULES IMPLEMENTING THE RIPARIAN STREAMSIDE MANAGEMENT STANDARDS; ALLOWING ALTERNATIVE FOREST PRACTICES IN CERTAIN CIRCUMSTANCES; AUTHORIZING THE DEPARTMENT OF STATE LANDS TO ISSUE ADMINISTRATIVE ORDERS FOR SITE REHABILITATION; PROVIDING PENALTIES FOR NONCOMPLIANCE WITH RIPARIAN STREAMSIDE MANAGEMENT STANDARDS; AND ESTABLISHING A FOREST STEWARDSHIP SPECIAL REVENUE ACCOUNT."

STATEMENT OF INTENT

It is the intent of the legislature that the riparian STREAMSIDE management zone be an area of closely managed activity, but not a zone where timber harvest is excluded. Timber harvest activities must be managed within the zone to achieve objectives relating to water quality, beneficial water uses, protection MANAGEMENT of wildlife habitat, and the long-term stability of the stream system, in addition to timber harvest objectives.

~~It is the intent of the legislature that the department of state lands adopt rules providing enforceable management standards for forest practices in riparian management zones. The department shall:~~

~~(1) consult with forestry officials from federal, state, and private agencies and organizations involved in forest watershed issues and wildlife management;~~

~~(2) review the riparian management regulations of other states;~~

~~(3) consider the experiences and recommendations of persons who have developed, administered, and been subject to these regulations; and~~

~~(4) consider recent research findings on forest management in riparian areas.~~

~~Based on this information, the department shall develop specific rules to implement the purposes and management standards provided in {section 3} for riparian management zones, including rules on equipment use, road drainage, log skidding and yarding, the number, size, and type of trees to be retained along the zone, tree canopy cover, snag retention, slash management, site preparation, and other related practices. Owners or operators may receive approval for alternative practices under the criteria and procedures provided in {section 3(2)}.~~

~~The department shall also develop by rule a method for~~



1 ~~site-specific determination of the width of each riparian~~
 2 ~~management zone based on topographic, hydrologic,~~
 3 ~~vegetative, and other site characteristics. The zone may not~~
 4 ~~be narrower than 50 feet on either side of the streambank or~~
 5 ~~lakeshore and must increase in width in areas of steep~~
 6 ~~slope, erosive soils, or wet soils. A change in slope~~
 7 ~~steepness between a steep-sided stream corridor and a more~~
 8 ~~level upland area can often be an appropriate boundary for~~
 9 ~~the riparian management zone.~~

10 ~~It is the intent of the legislature that the department~~
 11 ~~develop written guidelines for methods through which timber~~
 12 ~~harvest may be conducted in riparian management zones to~~
 13 ~~benefit or to reduce adverse effects on wildlife.~~

14 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 15 OF STATE LANDS ADOPT RULES TO IMPLEMENT THE MANAGEMENT
 16 STANDARDS PROVIDED FOR IN [SECTION 3] AS ENFORCEABLE
 17 STANDARDS FOR STREAMSIDE MANAGEMENT ZONES. THESE STANDARDS
 18 ARE TO BE COORDINATED WITH THE OBJECTIVES AND GUIDELINES
 19 CONTAINED IN THE EXISTING SYSTEM OF VOLUNTARY BEST
 20 MANAGEMENT PRACTICES, WHICH WILL STILL GUIDE FOREST
 21 PRACTICES OUTSIDE OF THE STREAMSIDE MANAGEMENT ZONE. THE
 22 DEPARTMENT SHALL ADOPT RULES GOVERNING THE HARVEST OF TIMBER
 23 IN STREAMSIDE MANAGEMENT ZONES TO ENSURE THE RETENTION OF
 24 MERCHANTABLE AND SUBMERCHANTABLE TIMBER NECESSARY TO
 25 MAINTAIN THE INTEGRITY OF THE STREAMSIDE MANAGEMENT ZONE.

1 THE DEPARTMENT SHALL ALSO ADOPT RULES UNDER WHICH OWNERS AND
 2 OPERATORS MAY RECEIVE APPROVAL FOR ALTERNATIVE PRACTICES
 3 UNDER THE CRITERIA AND PROCEDURES PROVIDED IN [SECTION
 4 3(2)].

5 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 6 DEVELOP VOLUNTARY, NONENFORCEABLE GUIDELINES CONCERNING THE
 7 SELECTION AND RETENTION OF TREES AND VEGETATION, INCLUDING
 8 SNAGS, FOR WILDLIFE HABITAT WITHIN THE STREAMSIDE MANAGEMENT
 9 ZONE.

10 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 11 ESTABLISH AN INTERDISCIPLINARY TECHNICAL COMMITTEE TO ASSIST
 12 THE DEPARTMENT IN ADOPTING RULES, DEVELOPING VOLUNTARY
 13 GUIDELINES FOR THE MANAGEMENT OF WILDLIFE HABITAT, AND
 14 MONITORING THE IMPLEMENTATION OF THIS BILL. THE MEMBERS OF
 15 THE COMMITTEE SHOULD HAVE TECHNICAL KNOWLEDGE OR EXPERTISE
 16 IN WATER QUALITY, WILDLIFE MANAGEMENT, OR FOREST MANAGEMENT
 17 AND INCLUDE REPRESENTATIVES FROM THE U.S. FOREST SERVICE;
 18 U.S. BUREAU OF LAND MANAGEMENT; THE MONTANA DEPARTMENTS OF
 19 HEALTH AND ENVIRONMENTAL SCIENCES AND FISH, WILDLIFE, AND
 20 PARKS; CONSERVATION DISTRICTS; THE MONTANA STATE UNIVERSITY
 21 EXTENSION FORESTRY PROGRAM; THE MONTANA FORESTLAND
 22 CONSERVATION EXPERIMENT STATION; THE FOREST PRODUCTS
 23 INDUSTRY; AND THE CONSERVATION COMMUNITY.

24 TO THE EXTENT PRACTICAL, THE DEPARTMENT SHOULD CONDUCT
 25 ONSITE CONSULTATIONS UNDER [SECTION 4] IN CONJUNCTION WITH

1 CONSULTATIONS OR INSPECTIONS CONDUCTED PURSUANT TO TITLE 76,
 2 CHAPTER 13, PARTS 1 AND 4. IT IS ALSO THE INTENT OF THE
 3 LEGISLATURE THAT WHENEVER DEPARTMENT PERSONNEL IN THE FIELD
 4 NOTICE A PROBABLE WATER QUALITY OR 310 PERMIT VIOLATION THAT
 5 THEY NOTIFY THE APPROPRIATE AUTHORITY.

6 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT,
 7 WITH THE ASSISTANCE OF THE TECHNICAL COMMITTEE, EVALUATE THE
 8 IMPLEMENTATION OF THIS BILL, DEVELOP RECOMMENDATIONS TO
 9 ADDRESS PROBLEMS, IF ANY, THAT ARISE, AND REPORT ITS
 10 FINDINGS AND RECOMMENDATIONS TO THE ENVIRONMENTAL QUALITY
 11 COUNCIL.

12 Finally, the legislature recognizes that appropriate
 13 limitations on activities in riparian STREAMSIDE zones,
 14 which comprise only a very small percentage of Montana
 15 forests, can achieve substantial watershed and wildlife
 16 benefits.

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Findings and purpose. (1) The
 20 legislature finds that the riparian STREAMSIDE management
 21 zone:

- 22 (a) acts as an effective sediment filter to maintain
 23 water quality;
 24 (b) provides shade to regulate stream temperature;
 25 (c) supports diverse and productive aquatic and

1 terrestrial riparian habitats;

2 (d) protects the stream channel and banks;

3 (e) provides large, woody debris that is eventually
 4 recruited into a stream to maintain riffles, pools, and
 5 other elements of channel structure; and

6 (f) promotes floodplain stability.

7 (2) The legislature further finds that maintaining the
 8 integrity of forest streams is crucial to the quality and
 9 quantity of water available to Montanans for domestic,
 10 agricultural, industrial, and recreational use.

11 (3) The legislature further finds that forest streams
 12 are highly susceptible to impacts from land development and
 13 that in many cases forest practices in riparian STREAMSIDE
 14 zones in Montana are causing excessive and unnecessary
 15 damage to the banks, beds, and protective vegetation of
 16 forest streams.

17 (4) The legislature further finds that, through careful
 18 management in the riparian STREAMSIDE zone, owners and
 19 operators can achieve timber harvest goals without
 20 sacrificing water quality or impairing the beneficial uses
 21 of the water.

22 (5) The purposes of [sections 1 through 7] are:

23 (a) to protect the legitimate public interest in the
 24 quality and quantity of forest waters;

25 (b) to provide for standards, oversight,

1 rehabilitation, and penalties to ensure that forest
2 practices are conducted in a manner that conserves the
3 integrity of Montana's riparian STREAMSIDE zones;

4 (c) to provide standards GUIDELINES for the protection
5 MANAGEMENT of wildlife habitat in riparian STREAMSIDE zones;
6 and

7 (d) to allow operators necessary flexibility to use
8 practices appropriate to site-specific conditions in the
9 riparian STREAMSIDE management zone.

10 NEW SECTION. Section 2. Definitions. As used in
11 [sections 1 through 7], the following definitions apply:

12 (1) "Alternative practices" means forest practices:

13 (a) conducted in the riparian STREAMSIDE management
14 zone that are different from practices required by rules
15 adopted under [sections 1 through 7];

16 (b) that are designed for site-specific conditions
17 encountered during a timber sale; and

18 (c) that are subject to department approval under
19 [section 3].

20 (2) "Department" means the department of state lands
21 provided for in 2-15-3201.

22 (3) "Forest practices" means, WITHIN A TIMBER SALE, the
23 harvesting of trees, road construction or reconstruction
24 associated with harvesting and accessing trees, site
25 preparation for regeneration of a timber stand,

1 reforestation, and management of logging slash. The term
2 does not include activities related to the operation of a
3 Christmas tree farm or nursery that do not involve new road
4 construction.

5 (4) "Operator" means a person responsible for
6 conducting forest practices. An operator may be the owner or
7 a person who, through contractual agreement with the owner,
8 is obligated to or entitled to conduct forest practices or
9 carry out a timber sale.

10 (5) "Owner" means an individual, firm, partnership,
11 corporation, or association of any nature that holds an
12 ownership interest in forest land or timber.

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14 company, commercial entity, corporation, or association.

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16 ~~stream, lake, or other body of water and an adjacent area of~~
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18 ~~wildlife or water quality, fish, or other aquatic resources~~
19 ~~need to be modified. The riparian management zone~~
20 ~~encompasses a strip at least 50 feet wide on each side of a~~
21 ~~stream, lake, or other body of water, measured from the~~
22 ~~ordinary high water mark, and extends beyond the high water~~
23 ~~mark to include wetlands and areas that provide additional~~
24 ~~protection in zones with steep slopes or erosive soils;~~

25 (7) "Stream" means a natural watercourse of

1 perceptible extent that has a generally sandy or rocky
 2 bottom and definite banks and that confines and conducts
 3 continuously or intermittently flowing water.

4 (8) "STREAMSIDE MANAGEMENT ZONE" OR "ZONE" MEANS THE
 5 STREAM, LAKE, OR OTHER BODY OF WATER AND AN ADJACENT AREA OF
 6 VARYING WIDTH WHERE MANAGEMENT PRACTICES THAT MIGHT AFFECT
 7 WILDLIFE HABITAT OR WATER QUALITY, FISH, OR OTHER AQUATIC
 8 RESOURCES NEED TO BE MODIFIED. THE STREAMSIDE MANAGEMENT
 9 ZONE ENCOMPASSES A STRIP AT LEAST 50 FEET WIDE ON EACH SIDE
 10 OF A STREAM, LAKE, OR OTHER BODY OF WATER, MEASURED FROM THE
 11 ORDINARY HIGH-WATER MARK, AND EXTENDS BEYOND THE HIGH-WATER
 12 MARK TO INCLUDE WETLANDS AND AREAS THAT PROVIDE ADDITIONAL
 13 PROTECTION IN ZONES WITH STEEP SLOPES OR EROSIIVE SOILS.

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 15 designed to access, harvest, and regenerate trees on a
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 18 STANDARDS for forest practices in riparian STREAMSIDE
 19 management zones -- alternative practices. (1) Except as
 20 provided in subsection (2), forest practices in a riparian
 21 management zone must comply with the following purposes and
 22 standards and with rules adopted under sections 1 through
 23 7 to implement these purposes and standards:

24 (a) to prevent soil erosion and stream sedimentation;

25 (i) roads and landings may not be constructed in the

1 zone, except for roads necessary and appropriate for
 2 approaches to stream crossings;

3 (ii) tractors or other heavy, motorized vehicles may not
 4 be used for harvesting or removing timber or for site
 5 preparation in the zone;

6 (iii) water draining from road surfaces and road cuts
 7 must be routed through an undisturbed portion of the zone,
 8 not directly into a stream channel;

9 (iv) cables must be used to skid logs out of the zone
 10 and logs must be fully suspended if taken across a
 11 streamcourse; and

12 (v) site preparation must be conducted with minimal
 13 soil disturbance;

14 (b) to provide shade to the stream and to maintain soil
 15 stability, nonmerchantable vegetation must be retained;

16 (c) to maintain stream channel stability and aquatic
 17 habitat, trees with roots in the streambank may not be
 18 harvested;

19 (d) to provide long-term recruitment of large, woody
 20 debris into the stream channel necessary to retain stream
 21 structure, a residual timber stand, including the species
 22 and age composition generally characteristic of the site
 23 prior to harvest, must be retained;

24 (e) to protect water quality, stream bottom structure,
 25 and bank integrity and to provide unobstructed fish passage;

1 slash-must-be-kept-out-of-the-stream-channel;-and
 2 (f)--to--maintain--populations--of--wildlife--that---use
 3 riparian--zones--habitat--must--be-protected; THE FOLLOWING
 4 PRACTICES ARE PROHIBITED IN A STREAMSIDE MANAGEMENT ZONE:
 5 (A) BROADCAST BURNING;
 6 (B) THE OPERATION OF WHEELED OR TRACKED VEHICLES EXCEPT
 7 ON ESTABLISHED ROADS;
 8 (C) THE FOREST PRACTICE OF CLEARCUTTING;
 9 (D) THE CONSTRUCTION OF ROADS EXCEPT WHEN NECESSARY TO
 10 CROSS A STREAM OR WETLAND;
 11 (E) THE HANDLING, STORAGE, APPLICATION, OR DISPOSAL OF
 12 HAZARDOUS OR TOXIC MATERIALS IN A MANNER THAT POLLUTES
 13 STREAMS, LAKES, OR WETLANDS OR THAT MAY CAUSE DAMAGE OR
 14 INJURY TO HUMANS, LAND, ANIMALS, OR PLANTS.
 15 (F) THE SIDE-CASTING OF ROAD MATERIAL INTO A STREAM,
 16 WETLAND, OR WATERCOURSE; AND
 17 (G) THE DEPOSIT OF SLASH IN STREAMS OR OTHER WATER
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 19 (2) (a) An owner or operator may request approval by
 20 the department to use alternative practices. The department
 21 shall work cooperatively with the owner or operator to
 22 develop the best site-specific practices to meet timber and
 23 watershed objectives. The department may review onsite
 24 conditions prior to taking final action on a request.
 25 (b) The department shall approve the request if the

1 alternative practices provide equivalent or improved
 2 watershed protection when compared to the management
 3 practices provided by rules adopted under [sections 1
 4 through 7].
 5 (c) The department may approve the request if the
 6 alternative practices provide nearly equivalent watershed
 7 protection. However, this subsection (c) may not be used as
 8 grounds for approval of a proposed alternative practice that
 9 involves-the-harvesting-of-trees--that--otherwise--must--be
 10 retained FOR THE SOLE PURPOSE OF HARVESTING ADDITIONAL
 11 TREES.
 12 (d) Departmental approval of any alternative practices
 13 must be provided in writing and state the specific
 14 alternative practices authorized.
 15 (3) The department shall publish and distribute the
 16 rules implementing the riparian STREAMSIDE management
 17 standards.
 18 NEW SECTION. Section 4. Inspection -- onsite
 19 consultation. (1) The department may inspect forest
 20 practices on any federal, state, or private land in this
 21 state to assess compliance with the provisions of [sections
 22 1 through 7] and rules adopted pursuant to [sections 1
 23 through 7].
 24 (2) The department may conduct an onsite consultation
 25 with an owner or operator to review harvest plans and

1 watershed conditions. During the onsite consultation, the
 2 department may review and, if appropriate, approve the
 3 proposed use of alternative riparian STREAMSIDE management
 4 practices, as provided in [section 3].

5 NEW SECTION. Section 5. Responsibility for compliance
 6 -- penalties -- administrative orders. (1) (a) Except as
 7 provided in subsection (1)(b), it is the responsibility of
 8 the owner to ensure compliance with the provisions of
 9 [sections 1 through 7] and rules adopted pursuant to
 10 [sections 1 through 7].

11 (b) If a written contract between an owner and an
 12 operator specifies that the operator is responsible for
 13 compliance with laws relating to forest practices, the
 14 operator is considered the responsible party for all
 15 enforcement actions taken by the department under this
 16 section.

17 (2) ~~(a) A person who violates a provision of [sections~~
 18 ~~1 through 7], a rule adopted pursuant to [sections 1 through~~
 19 ~~7], or an order issued under this section is guilty of a~~
 20 ~~misdemeanor and shall be punished by a fine of not more than~~
 21 ~~\$500. A person convicted of a second or subsequent offense~~
 22 ~~under this section is subject to a fine of not more than~~
 23 ~~\$1,000, imprisonment in the county jail for not more than 6~~
 24 ~~months, or both SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO~~
 25 EXCEED \$1,000. Each day of violation of ~~an order issued~~

1 ~~under this section is~~ CONSTITUTES a separate violation.

2 ~~(b) A person who violates a provision of [sections 1~~
 3 ~~through 7], a rule adopted pursuant to [sections 1 through~~
 4 ~~7], or an order issued under this section shall forfeit the~~
 5 ~~value of the timber harvested from the riparian area in~~
 6 ~~which the violation occurred.~~

7 (3) (a) When the department determines that an owner or
 8 operator has violated a provision of [sections 1 through 7]
 9 or a rule adopted pursuant to [sections 1 through 7] and has
 10 caused damage to watershed or wildlife resources, the
 11 department may serve an order requiring the person
 12 responsible for the conduct of forest practices to undertake
 13 necessary site rehabilitation within a reasonable period of
 14 time stated in the order. The order must specify the nature
 15 of the violation and the damage or unsatisfactory condition
 16 resulting from the violation.

17 (b) The order becomes final unless, within 30 days
 18 after the notice is served, the person named requests in
 19 writing a hearing before the department. On receipt of the
 20 request, the department shall schedule a hearing. Service by
 21 mail is complete on the date of mailing.

22 (c) If, after a hearing, the department finds that a
 23 violation has occurred and the watershed or wildlife habitat
 24 damage warrants site rehabilitation, it shall affirm or
 25 modify the order previously issued. If the department finds

1 that a violation has not occurred or that site
2 rehabilitation is not warranted, it shall rescind the order.

3 (d) The department may include in an order a provision
4 that the owner or operator immediately cease causing further
5 damage and take immediate action to alleviate the damage or
6 to prevent future damage. The department may institute an
7 action for injunctive relief under Title 27, chapter 19, if
8 the recipient of the order does not comply with it.

9 (4) Subsection (3) does not prevent the department from
10 seeking voluntary compliance and site rehabilitation through
11 warning, conference, or any other appropriate means.

12 NEW SECTION. Section 6. Forest stewardship special
13 revenue account. (1) There is a forest stewardship special
14 revenue account.

15 (2) All fines and penalties levied under [section 5]
16 must be deposited in the forest stewardship special revenue
17 account.

18 (3) The department shall spend funds deposited in the
19 account on activities and programs that promote the
20 stewardship of forest resources.

21 NEW SECTION. Section 7. Rulemaking. The department
22 shall adopt rules:

23 (1) implementing each of the ~~purposes--and~~ management
24 standards provided in [section 3];

25 (2) providing specific direction necessary for owners

1 and operators to understand and comply with the management
2 standards, including additional definition of the ~~riparian~~
3 STREAMSIDE management zone and the forest practices
4 permissible within the zone; and

5 (3) ~~including--any--other--specific--provisions--necessary~~
6 ~~to--achieve--the--purposes--of--{sections--i--through--7}~~ GOVERNING
7 THE ALTERNATIVE PRACTICES PROVIDED FOR IN [SECTION 3]; AND

8 (4) REGULATING THE HARVEST OF TIMBER IN STREAMSIDE
9 MANAGEMENT ZONES.

-End-

1 HOUSE BILL NO. 731

2 INTRODUCED BY REAM, HALLIGAN, LEE, MEASURE,

3 B. BROWN, COHEN, GRADY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANAGEMENT
6 STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN RIPARIAN
7 STREAMSIDE MANAGEMENT ZONES; AUTHORIZING THE DEPARTMENT OF
8 STATE LANDS TO ADOPT AND ENFORCE RULES IMPLEMENTING THE
9 RIPARIAN STREAMSIDE MANAGEMENT STANDARDS; ALLOWING
10 ALTERNATIVE FOREST PRACTICES IN CERTAIN CIRCUMSTANCES;
11 AUTHORIZING THE DEPARTMENT OF STATE LANDS TO ISSUE
12 ADMINISTRATIVE ORDERS FOR SITE REHABILITATION; PROVIDING
13 PENALTIES FOR NONCOMPLIANCE WITH RIPARIAN STREAMSIDE
14 MANAGEMENT STANDARDS; AND ESTABLISHING A FOREST STEWARDSHIP
15 SPECIAL REVENUE ACCOUNT."

16
17 STATEMENT OF INTENT

18 It is the intent of the legislature that the riparian
19 STREAMSIDE management zone be an area of closely managed
20 activity, but not a zone where timber harvest is excluded.
21 Timber harvest activities must be managed within the zone to
22 achieve objectives relating to water quality, beneficial
23 water uses, protection MANAGEMENT of wildlife habitat, and
24 the long-term stability of the stream system, in addition to
25 timber harvest objectives.

1 ~~It--is--the--intent--of--the--legislature--that--the--department~~
2 ~~of--state--lands--adopt--rules--providing--enforceable--management~~
3 ~~standards--for--forest--practices--in--riparian--management--zones;~~
4 ~~The--department--shall:~~

5 ~~{1}--consult--with--forestry--officials--from--federal,~~
6 ~~state,--and--private--agencies--and--organizations--involved--in~~
7 ~~forest--watershed--issues--and--wildlife--management;~~

8 ~~{2}--review--the--riparian--management--regulations--of--other~~
9 ~~states;~~

10 ~~{3}--consider--the--experiences--and--recommendations--of~~
11 ~~persons--who--have--developed,--administered,--and--been--subject~~
12 ~~to--these--regulations,--and~~

13 ~~{4}--consider--recent--research--findings--on--forest~~
14 ~~management--in--riparian--areas;~~

15 ~~Based--on--this--information,--the--department--shall--develop~~
16 ~~specific--rules--to--implement--the--purposes--and--management~~
17 ~~standards--provided--in--{section-3}--for--riparian--management~~
18 ~~zones,--including--rules--on--equipment--use,--road--drainage,--log~~
19 ~~skidding--and--yarding,--the--number,--size,--and--type--of--trees--to~~
20 ~~be--retained--along--the--zone,--tree--canopy--cover,--snag~~
21 ~~retention,--slash--management,--site--preparation,--and--other~~
22 ~~related--practices. Owners--or--operators--may--receive--approval~~
23 ~~for--alternative--practices--under--the--criteria--and--procedures~~
24 ~~provided--in--{section-3(2)};~~

25 ~~The--department--shall--also--develop--by--rule--a--method--for~~

THIRD READING

1 ~~site-specific determination of the width of each riparian~~
 2 ~~management zone based on topographic, hydrologic,~~
 3 ~~vegetative, and other site characteristics. The zone may not~~
 4 ~~be narrower than 50 feet on either side of the streambank or~~
 5 ~~lakeshore and must increase in width in areas of steep~~
 6 ~~slope, erosive soils, or wet soils. A change in slope~~
 7 ~~steepness between a steep-sided stream corridor and a more~~
 8 ~~level upland area can often be an appropriate boundary for~~
 9 ~~the riparian management zone.~~

10 ~~It is the intent of the legislature that the department~~
 11 ~~develop written guidelines for methods through which timber~~
 12 ~~harvest may be conducted in riparian management zones to~~
 13 ~~benefit or to reduce adverse effects on wildlife.~~

14 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 15 OF STATE LANDS ADOPT RULES TO IMPLEMENT THE MANAGEMENT
 16 STANDARDS PROVIDED FOR IN [SECTION 3] AS ENFORCEABLE
 17 STANDARDS FOR STREAMSIDE MANAGEMENT ZONES. THESE STANDARDS
 18 ARE TO BE COORDINATED WITH THE OBJECTIVES AND GUIDELINES
 19 CONTAINED IN THE EXISTING SYSTEM OF VOLUNTARY BEST
 20 MANAGEMENT PRACTICES, WHICH WILL STILL GUIDE FOREST
 21 PRACTICES OUTSIDE OF THE STREAMSIDE MANAGEMENT ZONE. THE
 22 DEPARTMENT SHALL ADOPT RULES GOVERNING THE HARVEST OF TIMBER
 23 IN STREAMSIDE MANAGEMENT ZONES TO ENSURE THE RETENTION OF
 24 MERCHANTABLE AND SUBMERCHANTABLE TIMBER NECESSARY TO
 25 MAINTAIN THE INTEGRITY OF THE STREAMSIDE MANAGEMENT ZONE.

1 THE DEPARTMENT SHALL ALSO ADOPT RULES UNDER WHICH OWNERS AND
 2 OPERATORS MAY RECEIVE APPROVAL FOR ALTERNATIVE PRACTICES
 3 UNDER THE CRITERIA AND PROCEDURES PROVIDED IN [SECTION
 4 3(2)].

5 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 6 DEVELOP VOLUNTARY, NONENFORCEABLE GUIDELINES CONCERNING THE
 7 SELECTION AND RETENTION OF TREES AND VEGETATION, INCLUDING
 8 SNAGS, FOR WILDLIFE HABITAT WITHIN THE STREAMSIDE MANAGEMENT
 9 ZONE.

10 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 11 ESTABLISH AN INTERDISCIPLINARY TECHNICAL COMMITTEE TO ASSIST
 12 THE DEPARTMENT IN ADOPTING RULES, DEVELOPING VOLUNTARY
 13 GUIDELINES FOR THE MANAGEMENT OF WILDLIFE HABITAT, AND
 14 MONITORING THE IMPLEMENTATION OF THIS BILL. THE MEMBERS OF
 15 THE COMMITTEE SHOULD HAVE TECHNICAL KNOWLEDGE OR EXPERTISE
 16 IN WATER QUALITY, WILDLIFE MANAGEMENT, OR FOREST MANAGEMENT
 17 AND INCLUDE REPRESENTATIVES FROM THE U.S. FOREST SERVICE;
 18 U.S. BUREAU OF LAND MANAGEMENT; THE MONTANA DEPARTMENTS OF
 19 HEALTH AND ENVIRONMENTAL SCIENCES AND FISH, WILDLIFE, AND
 20 PARKS; CONSERVATION DISTRICTS; THE MONTANA STATE UNIVERSITY
 21 EXTENSION FORESTRY PROGRAM; THE MONTANA FOREST AND FOREST
 22 AND CONSERVATION EXPERIMENT STATION; THE FOREST PRODUCTS
 23 INDUSTRY; AND THE CONSERVATION COMMUNITY.

24 TO THE EXTENT PRACTICAL, THE DEPARTMENT SHOULD CONDUCT
 25 ONSITE CONSULTATIONS UNDER [SECTION 4] IN CONJUNCTION WITH

1 CONSULTATIONS OR INSPECTIONS CONDUCTED PURSUANT TO TITLE 76,
 2 CHAPTER 13, PARTS 1 AND 4. IT IS ALSO THE INTENT OF THE
 3 LEGISLATURE THAT WHENEVER DEPARTMENT PERSONNEL IN THE FIELD
 4 NOTICE A PROBABLE WATER QUALITY OR 310 PERMIT VIOLATION THAT
 5 THEY NOTIFY THE APPROPRIATE AUTHORITY.

6 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT,
 7 WITH THE ASSISTANCE OF THE TECHNICAL COMMITTEE, EVALUATE THE
 8 IMPLEMENTATION OF THIS BILL, DEVELOP RECOMMENDATIONS TO
 9 ADDRESS PROBLEMS, IF ANY, THAT ARISE, AND REPORT ITS
 10 FINDINGS AND RECOMMENDATIONS TO THE ENVIRONMENTAL QUALITY
 11 COUNCIL.

12 Finally, the legislature recognizes that appropriate
 13 limitations on activities in riparian STREAMSIDE zones,
 14 which comprise only a very small percentage of Montana
 15 forests, can achieve substantial watershed and wildlife
 16 benefits.

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Findings and purpose. (1) The
 20 legislature finds that the riparian STREAMSIDE management
 21 zone:

- 22 (a) acts as an effective sediment filter to maintain
- 23 water quality;
- 24 (b) provides shade to regulate stream temperature;
- 25 (c) supports diverse and productive aquatic and

1 terrestrial riparian habitats;

2 (d) protects the stream channel and banks;

3 (e) provides large, woody debris that is eventually
 4 recruited into a stream to maintain riffles, pools, and
 5 other elements of channel structure; and

6 (f) promotes floodplain stability.

7 (2) The legislature further finds that maintaining the
 8 integrity of forest streams is crucial to the quality and
 9 quantity of water available to Montanans for domestic,
 10 agricultural, industrial, and recreational use.

11 (3) The legislature further finds that forest streams
 12 are highly susceptible to impacts from land development and
 13 that in many cases forest practices in riparian STREAMSIDE
 14 zones in Montana are causing excessive and unnecessary
 15 damage to the banks, beds, and protective vegetation of
 16 forest streams.

17 (4) The legislature further finds that, through careful
 18 management in the riparian STREAMSIDE zone, owners and
 19 operators can achieve timber harvest goals without
 20 sacrificing water quality or impairing the beneficial uses
 21 of the water.

22 (5) The purposes of [sections 1 through 7] are:

- 23 (a) to protect the legitimate public interest in the
- 24 quality and quantity of forest waters;
- 25 (b) to provide for standards, oversight,

1 rehabilitation, and penalties to ensure that forest
2 practices are conducted in a manner that conserves the
3 integrity of Montana's riparian STREAMSIDE zones;

4 (c) to provide standards GUIDELINES for the protection
5 MANAGEMENT of wildlife habitat in riparian STREAMSIDE zones;
6 and

7 (d) to allow operators necessary flexibility to use
8 practices appropriate to site-specific conditions in the
9 riparian STREAMSIDE management zone.

10 NEW SECTION. Section 2. Definitions. As used in
11 [sections 1 through 7], the following definitions apply:

12 (1) "Alternative practices" means forest practices:

13 (a) conducted in the riparian STREAMSIDE management
14 zone that are different from practices required by rules
15 adopted under [sections 1 through 7];

16 (b) that are designed for site-specific conditions
17 encountered during a timber sale; and

18 (c) that are subject to department approval under
19 [section 3].

20 (2) "Department" means the department of state lands
21 provided for in 2-15-3201.

22 (3) "Forest practices" means, WITHIN A TIMBER SALE, the
23 harvesting of trees, road construction or reconstruction
24 associated with harvesting and accessing trees, site
25 preparation for regeneration of a timber stand,

1 reforestation, and management of logging slash. The term
2 does not include activities related to the operation of a
3 Christmas tree farm or nursery that do not involve new road
4 construction.

5 (4) "Operator" means a person responsible for
6 conducting forest practices. An operator may be the owner or
7 a person who, through contractual agreement with the owner,
8 is obligated to or entitled to conduct forest practices or
9 carry out a timber sale.

10 (5) "Owner" means an individual, firm, partnership,
11 corporation, or association of any nature that holds an
12 ownership interest in forest land or timber.

13 (6) "Person" means an individual, firm, partnership,
14 company, commercial entity, corporation, or association.

15 ~~{7}--"Riparian-management-zone"---or---"zone"---means---the~~
16 ~~stream, lake, or other body of water and an adjacent area of~~
17 ~~varying width where management practices that might affect~~
18 ~~wildlife or water quality, fish, or other aquatic resources~~
19 ~~need to be modified. The riparian management zone~~
20 ~~encompasses a strip at least 50 feet wide on each side of a~~
21 ~~stream, lake, or other body of water, measured from the~~
22 ~~ordinary high water mark, and extends beyond the high water~~
23 ~~mark to include wetlands and areas that provide additional~~
24 ~~protection in zones with steep slopes or erosive soils.~~

25 {8}(7) "Stream" means a natural watercourse of

1 perceptible extent that has a generally sandy or rocky
 2 bottom and OR definite banks and that confines and conducts
 3 continuously or intermittently flowing water.

4 (8) "STREAMSIDE MANAGEMENT ZONE" OR "ZONE" MEANS THE
 5 STREAM, LAKE, OR OTHER BODY OF WATER AND AN ADJACENT AREA OF
 6 VARYING WIDTH WHERE MANAGEMENT PRACTICES THAT MIGHT AFFECT
 7 WILDLIFE HABITAT OR WATER QUALITY, FISH, OR OTHER AQUATIC
 8 RESOURCES NEED TO BE MODIFIED. THE STREAMSIDE MANAGEMENT
 9 ZONE ENCOMPASSES A STRIP AT LEAST 50 FEET WIDE ON EACH SIDE
 10 OF A STREAM, LAKE, OR OTHER BODY OF WATER, MEASURED FROM THE
 11 ORDINARY HIGH-WATER MARK, AND EXTENDS BEYOND THE HIGH-WATER
 12 MARK TO INCLUDE WETLANDS AND AREAS THAT PROVIDE ADDITIONAL
 13 PROTECTION IN ZONES WITH STEEP SLOPES OR EROSION SOILS.

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

17 NEW SECTION. Section 3. Purposes and standards
 18 STANDARDS for forest practices in riparian STREAMSIDE
 19 management zones -- alternative practices. (1) Except as
 20 provided in subsection (2), forest practices in a riparian
 21 management zone must comply with the following purposes and
 22 standards and with rules adopted under sections 1 through
 23 7 to implement these purposes and standards:

- 24 (a) to prevent soil erosion and stream sedimentation;
 25 (i) roads and landings may not be constructed in the

1 zone, except for roads necessary and appropriate for
 2 approaches to stream crossings;

3 (ii) tractors or other heavy, motorized vehicles may not
 4 be used for harvesting or removing timber or for site
 5 preparation in the zone;

6 (iii) water draining from road surfaces and road cuts
 7 must be routed through an undisturbed portion of the zone
 8 not directly into a stream channel;

9 (iv) cables must be used to skid logs out of the zone
 10 and logs must be fully suspended if taken across a
 11 streamcourse; and

12 (v) site preparation must be conducted with minimal
 13 soil disturbance;

14 (b) to provide shade to the stream and to maintain soil
 15 stability, nonmerchantable vegetation must be retained;

16 (c) to maintain stream channel stability and aquatic
 17 habitat, trees with roots in the streambank may not be
 18 harvested;

19 (d) to provide long-term recruitment of large, woody
 20 debris into the stream channel necessary to retain stream
 21 structure, a residual timber stand, including the species
 22 and age composition generally characteristic of the site
 23 prior to harvest, must be retained;

24 (e) to protect water quality, stream bottom structure,
 25 and bank integrity and to provide unobstructed fish passage;

1 slash-must-be-kept-out-of-the-stream-channel,-and
 2 ~~(f)--to--maintain--populations--of--wildlife--that---use~~
 3 ~~riperian--zones,-habitat--must--be-protected.~~ THE FOLLOWING
 4 PRACTICES ARE PROHIBITED IN A STREAMSIDE MANAGEMENT ZONE:
 5 (A) BROADCAST BURNING;
 6 (B) THE OPERATION OF WHEELED OR TRACKED VEHICLES EXCEPT
 7 ON ESTABLISHED ROADS;
 8 (C) THE FOREST PRACTICE OF CLEARCUTTING;
 9 (D) THE CONSTRUCTION OF ROADS EXCEPT WHEN NECESSARY TO
 10 CROSS A STREAM OR WETLAND;
 11 (E) THE HANDLING, STORAGE, APPLICATION, OR DISPOSAL OF
 12 HAZARDOUS OR TOXIC MATERIALS IN A MANNER THAT POLLUTES
 13 STREAMS, LAKES, OR WETLANDS OR THAT MAY CAUSE DAMAGE OR
 14 INJURY TO HUMANS, LAND, ANIMALS, OR PLANTS.
 15 (F) THE SIDE-CASTING OF ROAD MATERIAL INTO A STREAM,
 16 WETLAND, OR WATERCOURSE; AND
 17 (G) THE DEPOSIT OF SLASH IN STREAMS OR OTHER WATER
 18 BODIES.
 19 (2) (a) An owner or operator may request approval by
 20 the department to use alternative practices. The department
 21 shall work cooperatively with the owner or operator to
 22 develop the best site-specific practices to meet timber and
 23 watershed objectives. The department may review onsite
 24 conditions prior to taking final action on a request.
 25 (b) The department shall approve the request if the

1 alternative practices provide equivalent or improved
 2 watershed protection when compared to the management
 3 practices provided by rules adopted under [sections 1
 4 through 7].
 5 (c) The department may approve the request if the
 6 alternative practices provide nearly equivalent watershed
 7 protection. However, this subsection (c) may not be used as
 8 grounds for approval of a proposed alternative practice that
 9 ~~involves-the-harvesting-of--trees--that--otherwise--must--be~~
 10 retained FOR THE SOLE PURPOSE OF HARVESTING ADDITIONAL
 11 TREES.
 12 (d) Departmental approval of any alternative practices
 13 must be provided in writing and state the specific
 14 alternative practices authorized.
 15 (3) The department shall publish and distribute the
 16 rules implementing the riparian STREAMSIDE management
 17 standards.
 18 NEW SECTION. Section 4. Inspection -- onsite
 19 consultation. (1) The department may inspect forest
 20 practices on any federal, state, or private land in this
 21 state to assess compliance with the provisions of [sections
 22 1 through 7] and rules adopted pursuant to [sections 1
 23 through 7].
 24 (2) The department may conduct an onsite consultation
 25 with an owner or operator to review harvest plans and

1 watershed conditions. During the onsite consultation, the
 2 department may review and, if appropriate, approve the
 3 proposed use of alternative riparian STREAMSIDE management
 4 practices, as provided in [section 3].

5 NEW SECTION. Section 5. Responsibility for compliance
 6 -- penalties -- administrative orders. (1) (a) Except as
 7 provided in subsection (1)(b), it is the responsibility of
 8 the owner to ensure compliance with the provisions of
 9 [sections 1 through 7] and rules adopted pursuant to
 10 [sections 1 through 7].

11 (b) If a written contract between an owner and an
 12 operator specifies that the operator is responsible for
 13 compliance with laws relating to forest practices, the
 14 operator is considered the responsible party for all
 15 enforcement actions taken by the department under this
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 23 ~~\$1,000, imprisonment in the county jail for not more than 6~~
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 6 ~~which the violation occurred.~~

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 8 operator has violated a provision of [sections 1 through 7]
 9 or a rule adopted pursuant to [sections 1 through 7] and has
 10 caused damage to watershed or wildlife resources, the
 11 department may serve an order requiring the person
 12 responsible for the conduct of forest practices to undertake
 13 necessary site rehabilitation within a reasonable period of
 14 time stated in the order. The order must specify the nature
 15 of the violation and the damage or unsatisfactory condition
 16 resulting from the violation.

17 (b) The order becomes final unless, within 30 days
 18 after the notice is served, the person named requests in
 19 writing a hearing before the department. On receipt of the
 20 request, the department shall schedule a hearing. Service by
 21 mail is complete on the date of mailing.

22 (c) If, after a hearing, the department finds that a
 23 violation has occurred and the watershed or wildlife habitat
 24 damage warrants site rehabilitation, it shall affirm or
 25 modify the order previously issued. If the department finds

1 that a violation has not occurred or that site
2 rehabilitation is not warranted, it shall rescind the order.

3 (d) The department may include in an order a provision
4 that the owner or operator immediately cease causing further
5 damage and take immediate action to alleviate the damage or
6 to prevent future damage. The department may institute an
7 action for injunctive relief under Title 27, chapter 19, if
8 the recipient of the order does not comply with it.

9 (4) Subsection (3) does not prevent the department from
10 seeking voluntary compliance and site rehabilitation through
11 warning, conference, or any other appropriate means.

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13 revenue account. (1) There is a forest stewardship special
14 revenue account.

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16 must be deposited in the forest stewardship special revenue
17 account.

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19 account on activities and programs that promote the
20 stewardship of forest resources.

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22 shall adopt rules:

23 (1) implementing each of the purposes--and management
24 standards provided in [section 3];

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1 and operators to understand and comply with the management
2 standards, including additional definition of the riparian
3 STREAMSIDE management zone and the forest practices
4 permissible within the zone; and

5 (3) ~~including--any--other--specific--provisions--necessary~~
6 ~~to--achieve--the--purposes--of--(sections--1--through--7)~~ GOVERNING
7 THE ALTERNATIVE PRACTICES PROVIDED FOR IN [SECTION 3]; AND

8 (4) REGULATING THE HARVEST OF TIMBER IN STREAMSIDE
9 MANAGEMENT ZONES.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 11, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 731 (third reading copy -- blue), respectfully report that House Bill No. 731 be amended and as so amended be concurred in:

1. Page 4, line 3.
Strike: "UNDER" through "PROCEDURES"
Insert: "for the standards"
2. Page 4, line 4.
Strike: "(2)"
3. Page 9, line 16.
Following: "area"
Insert: "for commercial purposes"
4. Page 9, lines 19 and 20.
Strike: "--" on line 19 through "(2)," on line 20
Insert: "."
5. Page 11, line 3.
Following: "~~protected.~~"
Insert: "(1)"
6. Page 11, line 19 through page 12, line 14.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection
7. Page 16, line 6.
Strike: "GOVERNING"
Insert: "providing"
8. Page 16, line 7.
Strike: "THE"
Following: "PRACTICES"
Insert: "for the standards"

Signed: 
Lawrence G. Stimatz, Chairman

ZB 4-11-91
Amd. Coord.

SB 4-11 10:05
Sec. of Senate

HB 731
SENATE

1 HOUSE BILL NO. 731

2 INTRODUCED BY REAM, HALLIGAN, LEE, MEASURE,

3 B. BROWN, COHEN, GRADY

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6 STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN RIPARIAN
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19 STREAMSIDE management zone be an area of closely managed
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21 Timber harvest activities must be managed within the zone to
22 achieve objectives relating to water quality, beneficial
23 water uses, protection MANAGEMENT of wildlife habitat, and
24 the long-term stability of the stream system, in addition to
25 timber harvest objectives.

1 It--is-the-intent-of-the-legislature-that-the-department
2 of-state-lands-adopt-rules-providing-enforceable--management
3 standards-for-forest-practices-in-riparian-management-zones.
4 The-department-shall:

5 {1}--consult---with---forestry---officials---from---federal,
6 state,-and-private-agencies-and--organizations--involved--in
7 forest-watershed-issues-and-wildlife-management;

8 {2}--review-the-riparian-management-regulations-of-other
9 states;

10 {3}--consider--the--experiences--and--recommendations-of
11 persons-who-have-developed,-administered,-and--been--subject
12 to-these-regulations,-and

13 {4}--consider---recent---research---findings--on--forest
14 management-in-riparian-areas;

15 Based-on-this-information,-the-department-shall--develop
16 specific--rules--to--implement--the--purposes-and-management
17 standards-provided-in-{section-3}--for--riparian--management
18 zones,-including-rules-on-equipment-use,-road-drainage,-log
19 skidding-and-yarding,-the-number,-size,-and-type-of-trees-to
20 be--retained--along--the--zone;-tree--canopy--cover;-snag
21 retention;-slash--management;-site-preparation;-and-other
22 related-practices;-owners-or-operators-may-receive--approval
23 for--alternative-practices-under-the-criteria-and-procedures
24 provided-in-{section-3(2)};

25 The-department-shall-also-develop-by-rule-a--method--for

1 site-specific--determination--of--the-width-of-each-riparian
 2 management---zone---based---on---topographic---hydrologic
 3 vegetative-and-other-site-characteristics.-The-zone-may-not
 4 be-narrower-than-50-feet-on-either-side-of-the-streambank-or
 5 lakeshore--and--must--increase--in--width--in--areas-of-steep
 6 slope-erosive-soils--or--wet--soils.--A-change--in--slope
 7 steepness--between--a-steep-sided-stream-corridor-and-a-more
 8 level-upland-area-can-often-be-an-appropriate--boundary--for
 9 the-riparian-management-zone-

10 It--is-the-intent-of-the-legislature-that-the-department
 11 develop-written-guidelines-for-methods-through-which--timber
 12 harvest--may--be--conducted--in-riparian-management-zones-to
 13 benefit-or-to-reduce-adverse-effects-on-wildlife-

14 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 15 OF STATE LANDS ADOPT RULES TO IMPLEMENT THE MANAGEMENT
 16 STANDARDS PROVIDED FOR IN [SECTION 3] AS ENFORCEABLE
 17 STANDARDS FOR STREAMSIDE MANAGEMENT ZONES. THESE STANDARDS
 18 ARE TO BE COORDINATED WITH THE OBJECTIVES AND GUIDELINES
 19 CONTAINED IN THE EXISTING SYSTEM OF VOLUNTARY BEST
 20 MANAGEMENT PRACTICES, WHICH WILL STILL GUIDE FOREST
 21 PRACTICES OUTSIDE OF THE STREAMSIDE MANAGEMENT ZONE. THE
 22 DEPARTMENT SHALL ADOPT RULES GOVERNING THE HARVEST OF TIMBER
 23 IN STREAMSIDE MANAGEMENT ZONES TO ENSURE THE RETENTION OF
 24 MERCHANTABLE AND SUBMERCHANTABLE TIMBER NECESSARY TO
 25 MAINTAIN THE INTEGRITY OF THE STREAMSIDE MANAGEMENT ZONE.

1 THE DEPARTMENT SHALL ALSO ADOPT RULES UNDER WHICH OWNERS AND
 2 OPERATORS MAY RECEIVE APPROVAL FOR ALTERNATIVE PRACTICES
 3 UNDER THE CRITERIA AND PROCEDURES FOR THE STANDARDS PROVIDED
 4 IN [SECTION 3(2)].

5 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 6 DEVELOP VOLUNTARY, NONENFORCEABLE GUIDELINES CONCERNING THE
 7 SELECTION AND RETENTION OF TREES AND VEGETATION, INCLUDING
 8 SNAGS, FOR WILDLIFE HABITAT WITHIN THE STREAMSIDE MANAGEMENT
 9 ZONE.

10 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT
 11 ESTABLISH AN INTERDISCIPLINARY TECHNICAL COMMITTEE TO ASSIST
 12 THE DEPARTMENT IN ADOPTING RULES, DEVELOPING VOLUNTARY
 13 GUIDELINES FOR THE MANAGEMENT OF WILDLIFE HABITAT, AND
 14 MONITORING THE IMPLEMENTATION OF THIS BILL. THE MEMBERS OF
 15 THE COMMITTEE SHOULD HAVE TECHNICAL KNOWLEDGE OR EXPERTISE
 16 IN WATER QUALITY, WILDLIFE MANAGEMENT, OR FOREST MANAGEMENT
 17 AND INCLUDE REPRESENTATIVES FROM THE U.S. FOREST SERVICE;
 18 U.S. BUREAU OF LAND MANAGEMENT; THE MONTANA DEPARTMENTS OF
 19 HEALTH AND ENVIRONMENTAL SCIENCES AND FISH, WILDLIFE, AND
 20 PARKS; CONSERVATION DISTRICTS; THE MONTANA STATE UNIVERSITY
 21 EXTENSION FORESTRY PROGRAM; THE MONTANA FORESTLAND FOREST
 22 AND CONSERVATION EXPERIMENT STATION; THE FOREST PRODUCTS
 23 INDUSTRY; AND THE CONSERVATION COMMUNITY.

24 TO THE EXTENT PRACTICAL, THE DEPARTMENT SHOULD CONDUCT
 25 ONSITE CONSULTATIONS UNDER [SECTION 4] IN CONJUNCTION WITH

1 CONSULTATIONS OR INSPECTIONS CONDUCTED PURSUANT TO TITLE 76,
 2 CHAPTER 13, PARTS 1 AND 4. IT IS ALSO THE INTENT OF THE
 3 LEGISLATURE THAT WHENEVER DEPARTMENT PERSONNEL IN THE FIELD
 4 NOTICE A PROBABLE WATER QUALITY OR 310 PERMIT VIOLATION THAT
 5 THEY NOTIFY THE APPROPRIATE AUTHORITY.

6 IT IS THE INTENT OF THE LEGISLATURE THAT THE DEPARTMENT,
 7 WITH THE ASSISTANCE OF THE TECHNICAL COMMITTEE, EVALUATE THE
 8 IMPLEMENTATION OF THIS BILL, DEVELOP RECOMMENDATIONS TO
 9 ADDRESS PROBLEMS, IF ANY, THAT ARISE, AND REPORT ITS
 10 FINDINGS AND RECOMMENDATIONS TO THE ENVIRONMENTAL QUALITY
 11 COUNCIL.

12 Finally, the legislature recognizes that appropriate
 13 limitations on activities in riparian STREAMSIDE zones,
 14 which comprise only a very small percentage of Montana
 15 forests, can achieve substantial watershed and wildlife
 16 benefits.

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Findings and purpose. (1) The
 20 legislature finds that the riparian STREAMSIDE management
 21 zone:

- 22 (a) acts as an effective sediment filter to maintain
 23 water quality;
 24 (b) provides shade to regulate stream temperature;
 25 (c) supports diverse and productive aquatic and

1 terrestrial riparian habitats;

- 2 (d) protects the stream channel and banks;
 3 (e) provides large, woody debris that is eventually
 4 recruited into a stream to maintain riffles, pools, and
 5 other elements of channel structure; and
 6 (f) promotes floodplain stability.

7 (2) The legislature further finds that maintaining the
 8 integrity of forest streams is crucial to the quality and
 9 quantity of water available to Montanans for domestic,
 10 agricultural, industrial, and recreational use.

11 (3) The legislature further finds that forest streams
 12 are highly susceptible to impacts from land development and
 13 that in many cases forest practices in riparian STREAMSIDE
 14 zones in Montana are causing excessive and unnecessary
 15 damage to the banks, beds, and protective vegetation of
 16 forest streams.

17 (4) The legislature further finds that, through careful
 18 management in the riparian STREAMSIDE zone, owners and
 19 operators can achieve timber harvest goals without
 20 sacrificing water quality or impairing the beneficial uses
 21 of the water.

22 (5) The purposes of [sections 1 through 7] are:

- 23 (a) to protect the legitimate public interest in the
 24 quality and quantity of forest waters;
 25 (b) to provide for standards, oversight,

1 rehabilitation, and penalties to ensure that forest
2 practices are conducted in a manner that conserves the
3 integrity of Montana's riparian STREAMSIDE zones;

4 (c) to provide standards GUIDELINES for the protection
5 MANAGEMENT of wildlife habitat in riparian STREAMSIDE zones;
6 and

7 (d) to allow operators necessary flexibility to use
8 practices appropriate to site-specific conditions in the
9 riparian STREAMSIDE management zone.

10 NEW SECTION. Section 2. Definitions. As used in
11 [sections 1 through 7], the following definitions apply:

12 (1) "Alternative practices" means forest practices:

13 (a) conducted in the riparian STREAMSIDE management
14 zone that are different from practices required by rules
15 adopted under [sections 1 through 7];

16 (b) that are designed for site-specific conditions
17 encountered during a timber sale; and

18 (c) that are subject to department approval under
19 [section 3].

20 (2) "Department" means the department of state lands
21 provided for in 2-15-3201.

22 (3) "Forest practices" means, WITHIN A TIMBER SALE, the
23 harvesting of trees, road construction or reconstruction
24 associated with harvesting and accessing trees, site
25 preparation for regeneration of a timber stand,

1 reforestation, and management of logging slash. The term
2 does not include activities related to the operation of a
3 Christmas tree farm or nursery that do not involve new road
4 construction.

5 (4) "Operator" means a person responsible for
6 conducting forest practices. An operator may be the owner or
7 a person who, through contractual agreement with the owner,
8 is obligated to or entitled to conduct forest practices or
9 carry out a timber sale.

10 (5) "Owner" means an individual, firm, partnership,
11 corporation, or association of any nature that holds an
12 ownership interest in forest land or timber.

13 (6) "Person" means an individual, firm, partnership,
14 company, commercial entity, corporation, or association.

15 ~~(7) "Riparian management zone" or "zone" means the~~
16 ~~stream, lake, or other body of water and an adjacent area of~~
17 ~~varying width where management practices that might affect~~
18 ~~wildlife or water quality, fish, or other aquatic resources~~
19 ~~need to be modified. The riparian management zone~~
20 ~~encompasses a strip at least 50 feet wide on each side of a~~
21 ~~stream, lake, or other body of water, measured from the~~
22 ~~ordinary high water mark and extends beyond the high water~~
23 ~~mark to include wetlands and areas that provide additional~~
24 ~~protection in zones with steep slopes or erosive soils.~~

25 ~~(8) (7)~~ "Stream" means a natural watercourse of

1 perceptible extent that has a generally sandy or rocky
 2 bottom and OR definite banks and that confines and conducts
 3 continuously or intermittently flowing water.

4 (8) "STREAMSIDE MANAGEMENT ZONE" OR "ZONE" MEANS THE
 5 STREAM, LAKE, OR OTHER BODY OF WATER AND AN ADJACENT AREA OF
 6 VARYING WIDTH WHERE MANAGEMENT PRACTICES THAT MIGHT AFFECT
 7 WILDLIFE HABITAT OR WATER QUALITY, FISH, OR OTHER AQUATIC
 8 RESOURCES NEED TO BE MODIFIED. THE STREAMSIDE MANAGEMENT
 9 ZONE ENCOMPASSES A STRIP AT LEAST 50 FEET WIDE ON EACH SIDE
 10 OF A STREAM, LAKE, OR OTHER BODY OF WATER, MEASURED FROM THE
 11 ORDINARY HIGH-WATER MARK, AND EXTENDS BEYOND THE HIGH-WATER
 12 MARK TO INCLUDE WETLANDS AND AREAS THAT PROVIDE ADDITIONAL
 13 PROTECTION IN ZONES WITH STEEP SLOPES OR EROSION SOILS.

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

17 NEW SECTION. Section 3. Purposes and standards
 18 STANDARDS for forest practices in riparian STREAMSIDE
 19 management zones --- alternative practices: (i) Except as
 20 provided in subsection (2), forest practices in a riparian
 21 management zone must comply with the following purposes and
 22 standards and with rules adopted under (sections 1 through
 23 7) to implement these purposes and standards:

- 24 (a) to prevent soil erosion and stream sedimentation;
 25 (i) roads and landings may not be constructed in the

1 zone, except for roads necessary and appropriate for
 2 approaches to stream crossings;

3 (ii) tractors or other heavy, motorized vehicles may not
 4 be used for harvesting or removing timber or for site
 5 preparation in the zone;

6 (iii) water draining from road surfaces and road cuts
 7 must be routed through an undisturbed portion of the zone,
 8 not directly into a stream channel;

9 (iv) cables must be used to skid logs out of the zone
 10 and logs must be fully suspended if taken across a
 11 streamcourse; and

12 (v) site preparation must be conducted with minimal
 13 soil disturbance;

14 (b) to provide shade to the stream and to maintain soil
 15 stability, nonmerchantable vegetation must be retained;

16 (c) to maintain stream channel stability and aquatic
 17 habitat, trees with roots in the streambank may not be
 18 harvested;

19 (d) to provide long-term recruitment of large, woody
 20 debris into the stream channel necessary to retain stream
 21 structure, a residual timber stand, including the species
 22 and age composition generally characteristic of the site
 23 prior to harvest, must be retained;

24 (e) to protect water quality, stream bottom structure,
 25 and bank integrity and to provide unobstructed fish passage;

1 slash-must-be-kept-out-of-the-stream-channel;-and
 2 {f)--to--maintain--populations--of--wildlife--that--use
 3 riparian-zones;-habitat-must-be-protected;

4 (1) THE FOLLOWING PRACTICES ARE PROHIBITED IN A
 5 STREAMSIDE MANAGEMENT ZONE:

6 (A) BROADCAST BURNING;

7 (B) THE OPERATION OF WHEELED OR TRACKED VEHICLES EXCEPT
 8 ON ESTABLISHED ROADS;

9 (C) THE FOREST PRACTICE OF CLEARCUTTING;

10 (D) THE CONSTRUCTION OF ROADS EXCEPT WHEN NECESSARY TO
 11 CROSS A STREAM OR WETLAND;

12 (E) THE HANDLING, STORAGE, APPLICATION, OR DISPOSAL OF
 13 HAZARDOUS OR TOXIC MATERIALS IN A MANNER THAT POLLUTES
 14 STREAMS, LAKES, OR WETLANDS OR THAT MAY CAUSE DAMAGE OR
 15 INJURY TO HUMANS, LAND, ANIMALS, OR PLANTS;

16 (F) THE SIDE-CASTING OF ROAD MATERIAL INTO A STREAM,
 17 WETLAND, OR WATERCOURSE; AND

18 (G) THE DEPOSIT OF SLASH IN STREAMS OR OTHER WATER
 19 BODIES.

20 {2)--{a)-An--owner--or--operator--may--request--approval--by
 21 the--department--to--use--alternative--practices--The--department
 22 shall--work--cooperatively--with--the--owner--or--operator--to
 23 develop--the--best--site--specific--practices--to--meet--timber--and
 24 watershed--objectives--The--department--may--review--onsite
 25 conditions--prior--to--taking--final--action--on--a--request-

1 {b)--The--department--shall--approve--the--request--if--the
 2 alternative--practices--provide--equivalent--or--improved
 3 watershed--protection--when--compared--to--the--management
 4 practices--provided--by--rules--adopted--under--{sections--i
 5 through--7};

6 {c)--The--department--may--approve--the--request--if--the
 7 alternative--practices--provide--nearly--equivalent--watershed
 8 protection;-However;-this--subsection--{c)--may--not--be--used--as
 9 grounds--for--approval--of--a--proposed--alternative--practice--that
 10 involves--the--harvesting--of--trees--that--otherwise--must--be
 11 retained FOR--THE--SOLE--PURPOSE--OF--HARVESTING--ADDITIONAL
 12 TREES-

13 {d)--Departmental--approval--of--any--alternative--practices
 14 must--be--provided--in--writing--and--state--the--specific
 15 alternative--practices--authorized;

16 {3}(2) The department shall publish and distribute the
 17 rules implementing the riparian STREAMSIDE management
 18 standards.

19 NEW SECTION. Section 4. Inspection -- onsite
 20 consultation. (1) The department may inspect forest
 21 practices on any federal, state, or private land in this
 22 state to assess compliance with the provisions of {sections
 23 1 through 7} and rules adopted pursuant to [sections 1
 24 through 7].

25 (2) The department may conduct an onsite consultation

1 with an owner or operator to review harvest plans and
 2 watershed conditions. During the onsite consultation, the
 3 department may review and, if appropriate, approve the
 4 proposed use of alternative riparian STREAMSIDE management
 5 practices, as provided in [section 3].

6 NEW SECTION. Section 5. Responsibility for compliance
 7 -- penalties -- administrative orders. (1) (a) Except as
 8 provided in subsection (1)(b), it is the responsibility of
 9 the owner to ensure compliance with the provisions of
 10 [sections 1 through 7] and rules adopted pursuant to
 11 [sections 1 through 7].

12 (b) If a written contract between an owner and an
 13 operator specifies that the operator is responsible for
 14 compliance with laws relating to forest practices, the
 15 operator is considered the responsible party for all
 16 enforcement actions taken by the department under this
 17 section.

18 (2) ~~(a) A person who violates a provision of [sections~~
 19 ~~1 through 7], a rule adopted pursuant to [sections 1 through~~
 20 ~~7], or an order issued under this section is--guilty--of--a~~
 21 ~~misdemeanor-and-shall-be-punished-by-a-fine-of-not-more-than~~
 22 ~~\$500.--A--person-convicted-of-a-second-or-subsequent-offense~~
 23 ~~under-this-section-is-subject-to-a-fine--of--not--more--than~~
 24 ~~\$1,000--imprisonment-in-the-county-jail-for-not-more-than-6~~
 25 ~~months--or-both SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO~~

1 EXCEED \$1,000. Each day of violation ~~of-an-order-issued~~
 2 ~~under-this-section-is~~ CONSTITUTES a separate violation~~7.~~

3 ~~(b)--A-person-who-violates-a-provision--of--[sections--1~~
 4 ~~through--7]--a-rule-adopted-pursuant-to-[sections-1-through~~
 5 ~~7]--or-an-order-issued-under-this-section-shall-forefeit--the~~
 6 ~~value--of--the--timber--harvested--from-the-riparian-area-in~~
 7 ~~which-the-violation-occurred--~~

8 (3) (a) When the department determines that an owner or
 9 operator has violated a provision of [sections 1 through 7]
 10 or a rule adopted pursuant to [sections 1 through 7] and has
 11 caused damage to watershed or wildlife resources, the
 12 department may serve an order requiring the person
 13 responsible for the conduct of forest practices to undertake
 14 necessary site rehabilitation within a reasonable period of
 15 time stated in the order. The order must specify the nature
 16 of the violation and the damage or unsatisfactory condition
 17 resulting from the violation.

18 (b) The order becomes final unless, within 30 days
 19 after the notice is served, the person named requests in
 20 writing a hearing before the department. On receipt of the
 21 request, the department shall schedule a hearing. Service by
 22 mail is complete on the date of mailing.

23 (c) If, after a hearing, the department finds that a
 24 violation has occurred and the watershed or wildlife habitat
 25 damage warrants site rehabilitation, it shall affirm or

1 modify the order previously issued. If the department finds
 2 that a violation has not occurred or that site
 3 rehabilitation is not warranted, it shall rescind the order.

4 (d) The department may include in an order a provision
 5 that the owner or operator immediately cease causing further
 6 damage and take immediate action to alleviate the damage or
 7 to prevent future damage. The department may institute an
 8 action for injunctive relief under Title 27, chapter 19, if
 9 the recipient of the order does not comply with it.

10 (4) Subsection (3) does not prevent the department from
 11 seeking voluntary compliance and site rehabilitation through
 12 warning, conference, or any other appropriate means.

13 NEW SECTION. Section 6. Forest stewardship special
 14 revenue account. (1) There is a forest stewardship special
 15 revenue account.

16 (2) All fines and penalties levied under [section 5]
 17 must be deposited in the forest stewardship special revenue
 18 account.

19 (3) The department shall spend funds deposited in the
 20 account on activities and programs that promote the
 21 stewardship of forest resources.

22 NEW SECTION. Section 7. Rulemaking. The department
 23 shall adopt rules:

24 (1) implementing each of the ~~purposes-and~~ management
 25 standards provided in [section 3];

1 (2) providing specific direction necessary for owners
 2 and operators to understand and comply with the management
 3 standards, including additional definition of the ~~riparian~~
 4 STREAMSIDE management zone and the forest practices
 5 permissible within the zone; and

6 (3) ~~including any other specific provisions necessary~~
 7 ~~to achieve the purposes of [sections 1 through 7]~~ GOVERNING
 8 PROVIDING THE ALTERNATIVE PRACTICES FOR THE STANDARDS
 9 PROVIDED FOR IN [SECTION 3]; AND

10 (4) REGULATING THE HARVEST OF TIMBER IN STREAMSIDE
 11 MANAGEMENT ZONES.

-End-