

*Senate* BILL NO. *157*  
INTRODUCED BY *Phyllis Kaskis Eastender Colby*

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A BILL FOR AN ACT ENTITLED: "AN ACT TO GRANT AUTHORITY TO THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO ADOPT RULES ESTABLISHING MINIMUM STANDARDS FOR FOREST PRACTICES ON STATE AND PRIVATE FOREST LANDS RELATING TO REFORESTATION, ROAD CONSTRUCTION, AND ROAD MAINTENANCE, HARVESTING OF FOREST TREE SPECIES, APPLICATION OF CHEMICALS AND FERTILIZERS, AND DISPOSAL OF SLASHINGS; PROVIDING FOR A FOREST PRACTICES ADVISORY COUNCIL; GRANTING AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADMINISTER AND ENFORCE THE ACT; AND REPEALING SECTIONS 28-404 AND 28-406 THROUGH 28-412, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
Section 1. Short title. This chapter shall be known and may be cited as "The Montana Forest Practices Act".  
Section 2. Policy of the state -- purpose of act. (1) Recognizing that state and private forest lands make a vital contribution to Montana by providing employment, products, tax base, and other social and economic benefits, by helping to maintain forest tree species, soil, air, and water resources, and by providing a habitat for wildlife and aquatic life, it is the public policy of the state to

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encourage forest practices on those lands which maintain and enhance these benefits and resources.  
(2) To encourage forest practices implementing the policy of this act, and to provide a procedure for harmonizing and assisting in the enforcement of laws and rules relating to forest land, it is the purpose of this act to vest in the board authority to adopt rules designed to assure the continuous growing and harvesting of forest tree species and the protection and maintenance of the forest soil, air, and water resources, and wildlife and aquatic habitat.  
Section 3. Definitions. Unless the context requires otherwise, in this act:  
(1) "Forest practice" means  
(a) the harvesting of forest tree species;  
(b) road construction which requires the cutting or removal of forest tree species;  
(c) reforestation;  
(d) the use of chemicals or fertilizers for the purpose of growing or managing forest tree species; or  
(e) the disposal of slashings resulting from the harvest, management, or improvement of forest tree species.  
(2) "Forest land" means state and private land growing forest tree species which are, or at maturity, could be capable of furnishing raw material used in the manufacture

1 of wood products. The term includes state and private land  
 2 from which forest tree species have been removed but have  
 3 not been restocked, but it does not include lands  
 4 affirmatively converted to uses other than the growing of  
 5 forest tree species, or lands used for the growing of  
 6 Christmas trees which are cultivated, hoed, sheared, or  
 7 cultured during the period of growth.

8 (3) "Operator" means a person, corporation,  
 9 association, partnership, or other entity that conducts or  
 10 is required to conduct a forest practice.

11 (4) "Harvesting" means an activity related to the  
 12 cutting or removal of forest tree species to be used as a  
 13 forest product. The term does not include the cutting or  
 14 removal of forest tree species for the personal use of the  
 15 landowner, timberowner, or lessee.

16 (5) "Rules" means the rules adopted by the board under  
 17 section [4 of this act].

18 (6) "Landowner" means a person, partnership,  
 19 corporation, association, or other entity holding an  
 20 ownership interest in forest land, including the state.

21 (7) "Timberowner" means a person, partnership,  
 22 corporation, association, or other entity other than the  
 23 landowner, holding an ownership interest in forest tree  
 24 species on forest land.

25 (8) "Forest regions" means the region west of the

1 continental divide, and the region east of the continental  
 2 divide in the state.

3 (9) "Director" means the director of the department of  
 4 natural resources and conservation.

5 (10) "Department" means the department of natural  
 6 resources and conservation.

7 (11) "Board" means the board of natural resources and  
 8 conservation.

9 (12) "State" means the state of Montana or any  
 10 political subdivision thereof.

11 Section 4. Duties of the board. (1) The board shall  
 12 adopt rules for each forest region establishing minimum  
 13 standards for the conduct of forest practices on forest  
 14 land. These rules shall:

15 (a) provide for the harvesting of forest tree species  
 16 in a manner which will maintain the productivity of the  
 17 forest land; minimize soil and debris from entering streams;  
 18 protect wildlife and fish habitat; and provide for the  
 19 maximum utilization of forest products to the extent  
 20 feasible;

21 (b) provide for road construction which will insure  
 22 the protection and maintenance of forest productivity, soil  
 23 stability, water quality, and fish and wildlife habitat  
 24 during the period of construction and maintenance;

25 (c) provide for reforestation which will maintain a

1 continuous growing and harvesting of forest tree species by  
 2 describing the conditions under which reforestation will be  
 3 required, specifying the minimum number of trees per acre  
 4 and the maximum period of time allowed after harvesting for  
 5 establishment of forest tree species, and requiring  
 6 stabilization of soils which have become exposed as a result  
 7 of harvesting; however, an acreage exemption from  
 8 reforestation may be established provided that within one  
 9 (1) year following harvesting some form of vegetative cover  
 10 shall be required which is sufficient to maintain continuing  
 11 soil productivity and stabilization.

12 (d) provide for the use of chemicals or fertilizers in  
 13 such a manner that the public health and aquatic and  
 14 wildlife habitat will not be endangered by their handling,  
 15 storage, and application;

16 (e) provide for disposal of slashings resulting from  
 17 the harvesting, management, or improvement of forest tree  
 18 species in a manner necessary to protect reproduction and  
 19 residual stands, to reduce risk from fire and insects and  
 20 disease, to optimize the conditions for future regeneration  
 21 of forest tree species, and to maintain air and water  
 22 quality and fish and wildlife habitat.

23 (2) The board shall designate the rules which will be  
 24 subject to subsections (1) through (4) of section 28-908 and  
 25 clearly indicate such designation in the adoption of the

1 rules. The designated rules shall be those which if  
 2 violated will result in significant resource damage.

3 Section 5. Powers and duties of department --  
 4 delegation by director. (1) The department shall:

5 (a) enforce and administer this act and rules adopted  
 6 by the board;

7 (b) within sixty (60) days after the passage and  
 8 approval of this act appoint a forest practices advisory  
 9 council to the board in accordance with section 82A-110,  
 10 R.C.M. 1947, for the purpose of providing advice to the  
 11 board in carrying out the board's powers and duties set  
 12 forth in section [4 of this act]. The council shall be  
 13 composed of seven (7) members, three (3) residing in the  
 14 west forest region and three (3) residing in the east forest  
 15 region. The remaining member shall be a resident of  
 16 Montana. Members of the council shall be qualified by  
 17 experience or education to provide advice related to forest  
 18 practices.

19 (2) The department may:

20 (a) enter into agreements with federal, state, or  
 21 local agencies or private entities necessary to carry out  
 22 its functions under this act;

23 (b) prescribe procedures, forms, and requirements for  
 24 the administration of this act;

25 (c) apply for, accept, administer, and expend funds,

1 grants, gifts, and loans from the federal government or any  
 2 other public or private source necessary for the  
 3 administration of this act;

4 (d) enter upon any public or private lands to  
 5 investigate compliance with this act and the rules adopted  
 6 under it, after reasonable notice has been given to the  
 7 landowner.

8 (3) The director shall delegate to employees of the  
 9 department trained and competent in the field of forestry  
 10 and related disciplines the responsibility and authority to  
 11 administer and enforce this act.

12 Section 6. Notice. (1) Before commencing a forest  
 13 practice, the operator shall notify the department; however,  
 14 the timberowner or landowner may also provide the notice.  
 15 When more than one (1) forest practice is to be conducted  
 16 concurrently in relation to harvesting of forest tree  
 17 species, one (1) notice including each forest practice  
 18 associated with the harvesting activity to be conducted  
 19 shall be filed with the department. The notice shall be on  
 20 forms prescribed and provided by the department, and the  
 21 notice shall include all of the following:

22 (a) the location of the proposed forest practice given  
 23 by legal description or in a manner that will enable the  
 24 department to locate the forest practice;

25 (b) the type of forest practice;

1 (c) if a harvesting practice, the estimated volume of  
 2 tree species to be harvested;

3 (d) the estimated dates within which the forest  
 4 practice is to take place;

5 (e) the names of the landowner, timberowner, and  
 6 operator and their addresses;

7 (f) the signature of the operator, timberowner, or  
 8 landowner giving the notice;

9 (g) any other information that the department may  
 10 consider necessary in the administration of this act and the  
 11 rules adopted by the board under section [4 of this act].

12 (2) With written approval by the department, an  
 13 operator may include in the notice required by this section  
 14 any or all forest practices to be commenced during the  
 15 calendar year.

16 (3) Upon receipt of the notice required by this  
 17 section, the department shall mail two (2) copies to the  
 18 operator named in the notice. The department shall also  
 19 mail a copy of the notice to the operator, timberowner, or  
 20 landowner named in the notice that did not submit the  
 21 notice. The department shall make available to the  
 22 operator, the timberowner, and landowner a copy of the  
 23 rules.

24 (4) The operator, timberowner, or landowner filing the  
 25 original notice shall inform the department of any

1 subsequent change in the information contained in the notice  
 2 within thirty (30) days of the change. Promptly upon  
 3 receipt of notice of change, but not to exceed fifteen (15)  
 4 days from receipt of notice, the department shall mail a  
 5 copy of the notice to the operator, timberowner, or  
 6 landowner that did not submit the notice of change.

7 (5) The notice is valid for a period not to exceed two  
 8 (2) years from the date of receipt of the original notice.  
 9 At the expiration of the two (2) year period, if the forest  
 10 practice is continuing, the notice shall be renewed using  
 11 the same procedures provided for in this section.

12 (6) If the notice required by subsection (1) of this  
 13 section indicates that at the expiration of two (2) years  
 14 from the date of notification the forest practice will be  
 15 continuing, the department, at least sixty (60) days before  
 16 the expiration of the two (2) year period, shall advise the  
 17 operator, timberowner, or landowner filing the original  
 18 notice of the expiration date.

19 (7) An operator subject to a cease and desist order  
 20 under section [8 of this act] may not file a new notice for  
 21 the performance of the forest practice restrained by the  
 22 order.

23 Section 7. Duty of purchaser of forest products. The  
 24 initial sawmill purchaser or commercial processing purchaser  
 25 of forest tree species which have been harvested from forest

1 lands shall, before making such purchase or contract to  
 2 purchase or accepting delivery of the same, receive and keep  
 3 on file a copy of the notice required by section [6 of this  
 4 act] relating to the forest products under which the forest  
 5 tree species are being acquired by the initial sawmill  
 6 purchaser or commercial processing purchaser. The notice  
 7 shall be available for inspection upon request by the  
 8 department at all reasonable times.

9 Section 8. Violation of rules -- remedies. (1)  
 10 Whenever the department determines that an operator or his  
 11 employees or contractees have committed a violation of any  
 12 rule designated by the board as being subject to subsections  
 13 (1) through (4) of this section, it may issue and serve upon  
 14 the operator or his authorized representative a notice of  
 15 violation directing that the operator cease further  
 16 violation, and it shall cause a copy of the notice to be  
 17 mailed or delivered to the timberowner and landowner. If  
 18 neither the operator nor his authorized representative is  
 19 available at the site where the forest practice is being  
 20 conducted, the notice of violation may be served on the  
 21 person in charge at the site, or if no person claims to be  
 22 in charge, to the violator. The notice of violation shall  
 23 specify the rule violated and the nature of the damage or  
 24 unsatisfactory condition which is occurring.

25 (2) If the notice of violation issued under subsection

1 (1) of this section has not been complied with, and the  
 2 violation specified in the notice is resulting in continuing  
 3 damage or unsatisfactory condition, the department by a  
 4 temporary cease and desist order may direct the operator to  
 5 cease and desist further conduct of the forest practice.  
 6 The temporary cease and desist order shall be served upon  
 7 the operator or his authorized representative. If neither  
 8 the operator nor authorized representative is available at  
 9 the site, the temporary order may be mailed to the address  
 10 of the operator shown on the notice submitted under section  
 11 [6 of this act]. If no notice was submitted under section  
 12 6, the temporary order may be mailed to the operator at his  
 13 last known postal address. The temporary cease and desist  
 14 order shall be in effect from the time of delivery to the  
 15 operator or his authorized representative, or upon receipt  
 16 of the order if mailed, until the date of the expiration of  
 17 the period prescribed in subsection (3) of this section when  
 18 a hearing is requested, or until fifteen (15) days after  
 19 delivery or receipt of the temporary order by the operator  
 20 or his authorized representative if no hearing is requested  
 21 as provided for in subsection (3) of this section. If no  
 22 hearing is requested, the temporary order becomes a final  
 23 order to cease and desist upon expiration of the fifteen  
 24 (15) day period. The board may after hearing and upon a  
 25 showing of good cause by the violator terminate or modify

1 the final order.

2 (3) A copy of the temporary order to cease and desist  
 3 issued under subsection (2) of this section shall be mailed  
 4 or delivered to the timberowner or landowner. If requested  
 5 by the operator, timberowner, or landowner within fifteen  
 6 (15) days of the date of receipt of the temporary order by  
 7 the operator or his authorized representative, the board, in  
 8 accordance with the Administrative Procedure Act (Title 82,  
 9 chapter 42, R.C.M. 1947), shall hold a hearing on the  
 10 temporary order within fifteen (15) working days after the  
 11 receipt of the request by the board or its chairman. For  
 12 good cause, the hearing may be held not more than thirty  
 13 (30) days after receipt by the board or its chairman of the  
 14 request. A temporary order issued and served pursuant to  
 15 subsection (2) of this section shall remain in effect for  
 16 not more than five (5) working days after the hearing unless  
 17 the order is sooner affirmed, modified, or revoked by the  
 18 board. Upon affirmation or modification by the board, the  
 19 order becomes a final cease and desist order.

20 (4) At any time after a temporary order is issued  
 21 under subsection (2) of this section, the department upon  
 22 request by the operator may give written approval to the  
 23 operator to continue the conduct of the forest practice  
 24 except that portion relating to the violation. If a hearing  
 25 is requested and conducted under subsection (3) of this

1 section, the written approval may remain in effect until  
2 either affirmed, modified, or revoked by the board.

3 Section 9. Misdemeanor violations -- fines --  
4 exemptions. (1) Failure to provide notice as required by  
5 subsections (1) through (3) of section [6 of this act], or  
6 to comply with a notice of violation, a temporary cease and  
7 desist order or a final cease and desist order issued under  
8 section [8 of this act] or a violation of any rule adopted  
9 under section [4 of this act] is a misdemeanor punishable  
10 upon conviction by a fine of not less than twenty-five  
11 dollars (\$25) and not more than two thousand five hundred  
12 dollars (\$2,500), or imprisonment in the county jail for not  
13 more than sixty (60) days, or both.

14 (2) When the department has determined that a  
15 misdemeanor has been committed under this act, it may serve  
16 upon the violator or the operator, or both, a notice to  
17 appear and send copies of the notice to the landowner and  
18 timberowner. A duplicate copy of the notice to appear shall  
19 be filed with the justice of the peace in the county where  
20 the violation occurred or with the district court for the  
21 district where the violation occurred. The notice shall  
22 specify the nature of the misdemeanor committed, the date,  
23 time, and place when the violator or operator must appear  
24 for a hearing on the misdemeanor charge, and may indicate  
25 the bond which has been approved. The bond may be posted

1 with the justice of the peace or the district court if no  
2 mandatory appearance is required by the notice to appear.

3 (3) Fines collected under this act shall be deposited  
4 in the state general fund.

5 (4) The notice provisions of section [6 of this act]  
6 do not apply to forest practices performed by the department  
7 on forest land owned by the state of Montana, but do apply  
8 to other agencies of the state and to political subdivisions  
9 of the state.

10 Section 10. Legal assistance. When requested by the  
11 department, the attorney general and the county attorneys  
12 within their respective jurisdictions shall perform legal  
13 services and conduct legal proceedings necessary to enforce  
14 this act, including court action. The department may also  
15 employ its own legal counsel to enforce this act.

16 Section 11. Power of peace officers to enforce  
17 provisions of this act or any state forest law. The  
18 director may delegate to competent and trained persons  
19 within the department the powers and duties of peace  
20 officers to enforce this chapter and any forest law provided  
21 for in section 28-125, R.C.M. 1947.

22 Section 12. Conversion of forest land. This chapter  
23 does not prevent the conversion of forest land to any other  
24 use. When a landowner wishes to convert his forest land to  
25 another use, he shall accomplish a conversion within the

1 period of time required to achieve reforestation.

2 Section 13. Effective date. (1) Except as provided  
3 in subsection (2) of this section, this act is effective on  
4 January 1, 1976; however, it shall not apply to forest  
5 practices to be performed by an operator under written  
6 agreements executed prior to the passage and approval of  
7 this chapter.

8 (2) The board and the department may take any action  
9 before January 1, 1976, that is necessary to carry out  
10 sections [4 and 5 of this act].

11 Section 14. Severability. If a part of this act is  
12 invalid, all valid parts that are severable from the invalid  
13 part remain in effect. If a part of this act is invalid in  
14 one (1) or more of its applications, the part remains in  
15 effect in all valid applications that are severable from the  
16 invalid applications.

17 Section 15. Sections 28-404 and 28-406 through 28-412,  
18 R.C.M. 1947, are repealed.

-End-



Approved by Committee  
on Natural Resources

Approved by Comm.  
on Fish and Game

SENATE BILL NO. 157

INTRODUCED BY FLYNN, ROSKIE, PASBENDER, COLBERG

A BILL FOR AN ACT ENTITLED: "AN ACT TO GRANT AUTHORITY TO THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO ADOPT RULES ESTABLISHING MINIMUM STANDARDS FOR FOREST PRACTICES ON STATE AND PRIVATE FOREST LANDS RELATING TO REFORESTATION, ROAD CONSTRUCTION, AND ROAD MAINTENANCE, HARVESTING OF FOREST TREE SPECIES, APPLICATION OF CHEMICALS AND FERTILIZERS, AND DISPOSAL OF SLASHINGS; PROVIDING FOR A FOREST PRACTICES ADVISORY COUNCIL; GRANTING AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADMINISTER AND ENFORCE THE ACT; AND REPEALING SECTIONS 28-404 AND 28-406 THROUGH 28-412, R.C.M. 1947."

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Section 1. Short title. This chapter shall be known and may be cited as "The Montana Forest Practices Act".

Section 2. Policy of the state — purpose of act. (1) Recognizing that state and private forest lands make a vital contribution to Montana by providing employment, products, tax base, and other social and economic benefits, by helping to maintain forest tree species, soil, air, and water resources, and by providing a habitat for wildlife and aquatic life, it is the public policy of the state to

encourage forest practices on those lands which maintain and enhance these benefits and resources.

(2) To encourage forest practices implementing the policy of this act, and to provide a procedure for harmonizing and assisting in the enforcement of laws and rules relating to forest land, it is the purpose of this act to vest in the board authority to adopt rules designed to assure the continuous growing and harvesting of forest tree species and the protection and maintenance of the forest soil, air, and water resources, and wildlife and aquatic habitat.

Section 3. Definitions. Unless the context requires otherwise, in this act:

(1) "Forest practice" means

- (a) the harvesting of forest tree species;
- (b) road construction which requires the cutting or removal of forest tree species;
- (c) reforestation;
- (d) the use of chemicals or fertilizers for the

purpose of growing or managing forest tree species; or (e) the disposal of slashings resulting from the harvest, management, or improvement of forest tree species.

(2) "Forest land" means state and private land growing forest tree species which are, or at maturity, could be capable of furnishing raw material used in the manufacture

1 of wood products. The term includes state and private land  
 2 from which forest tree species have been removed but have  
 3 not been restocked, but it does not include lands  
 4 affirmatively converted to uses other than the growing of  
 5 forest tree species, or lands used for the growing of  
 6 Christmas trees which are cultivated, hoed, sheared, or  
 7 cultured during the period of growth.

8 (3) "Operator" means a person, corporation,  
 9 association, partnership, or other entity that conducts or  
 10 is required to conduct a forest practice.

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 12 cutting or removal of forest tree species to be used as a  
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 14 removal of forest tree species for the personal use of the  
 15 landowner, timberowner, or lessee.

16 (5) "Rules" means the rules adopted by the board under  
 17 section [4 of this act].

18 (6) "Landowner" means a person, partnership,  
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 20 ownership interest in forest land, including the state.

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1 continental divide, and the region east of the continental  
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 4 natural resources and conservation.

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 17 forest land; minimize soil and debris from entering streams;  
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 9 council to the board in accordance with section 82A-110,  
 10 R.C.M. 1947, for the purpose of providing advice to the  
 11 board in carrying out the board's powers and duties set  
 12 forth in section [4 of this act]. The council shall be  
 13 composed of seven (7) members, three (3) residing in the  
 14 west forest region and three (3) residing in the east forest  
 15 region. The remaining member shall be a resident of Montana  
 16 AND A SUPERVISOR OF A CONSERVATION DISTRICT. Members of the  
 17 council shall be qualified by experience or education to  
 18 provide TECHNICAL advice related to forest practices.

19 (2) The department may:

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 21 local agencies or private entities necessary to carry out  
 22 its functions under this act;

23 (b) prescribe procedures, forms, and requirements for  
 24 the administration of this act;

25 (c) apply for, accept, administer, and expend funds,

1 grants, gifts, and loans from the federal government or any  
2 other public or private source necessary for the  
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5 investigate compliance with this act and the rules adopted  
6 under it, after reasonable notice has been given to the  
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21 forms prescribed and provided by the department, and the  
22 notice shall include all of the following:

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24 by legal description or in a manner that will enable the  
25 department to locate the forest practice;

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3 tree species to be harvested;

4 (d) the estimated dates within which the forest  
5 practice is to take place;

6 (e) the names of the landowner, timberowner, and  
7 operator and their addresses;

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9 landowner giving the notice;

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 5 days from receipt of notice, the department shall mail a  
 6 copy of the notice to the operator, timberowner, or  
 7 landowner that did not submit the notice of change.

8 (5) The notice is valid for a period not to exceed two  
 9 (2) years from the date of receipt of the original notice.  
 10 At the expiration of the two (2) year period, if the forest  
 11 practice is continuing, the notice shall be renewed using  
 12 the same procedures provided for in this section.

13 (6) If the notice required by subsection (1) of this  
 14 section indicates that at the expiration of two (2) years  
 15 from the date of notification the forest practice will be  
 16 continuing, the department, at least sixty (60) days before  
 17 the expiration of the two (2) year period, shall advise the  
 18 operator, timberowner, or landowner filing the original  
 19 notice of the expiration date.

20 (7) An operator subject to a cease and desist order  
 21 under section [8 of this act] may not file a new notice for  
 22 the performance of the forest practice restrained by the  
 23 order.

24 Section 7. Duty of purchaser of forest products. The  
 25 initial sawmill purchaser or commercial processing purchaser

1 of forest tree species which have been harvested from forest  
 2 lands shall, before making such purchase or contract to  
 3 purchase or accepting delivery of the same, receive and keep  
 4 on file a copy of the notice required by section [6 of this  
 5 act] relating to the forest products under which the forest  
 6 tree species are being acquired by the initial sawmill  
 7 purchaser or commercial processing purchaser. The notice  
 8 shall be available for inspection upon request by the  
 9 department at all reasonable times.

10 Section 8. Violation of rules — remedies. (1)

11 Whenever the department determines that an operator or his  
 12 employees or contractees have committed a violation of any  
 13 rule designated by the board as being subject to subsections  
 14 (1) through (4) of this section, it may issue and serve upon  
 15 the operator or his authorized representative a notice of  
 16 violation directing that the operator cease further  
 17 violation, and it shall cause a copy of the notice to be  
 18 mailed or delivered to the timberowner and landowner. If  
 19 neither the operator nor his authorized representative is  
 20 available at the site where the forest practice is being  
 21 conducted, the notice of violation may be served on the  
 22 person in charge at the site, or if no person claims to be  
 23 in charge, to the violator. The notice of violation shall  
 24 specify the rule violated and the nature of the damage or  
 25 unsatisfactory condition which is occurring.

1 (2) If the notice of violation issued under subsection  
 2 (1) of this section has not been complied with, and the  
 3 violation specified in the notice is resulting in continuing  
 4 damage or unsatisfactory condition, the department by a  
 5 temporary cease and desist order may direct the operator to  
 6 cease and desist further conduct of the forest practice.  
 7 The temporary cease and desist order shall be served upon  
 8 the operator or his authorized representative. If neither  
 9 the operator nor authorized representative is available at  
 10 the site, the temporary order may be mailed to the address  
 11 of the operator shown on the notice submitted under section  
 12 [6 of this act]. If no notice was submitted under section  
 13 6, the temporary order may be mailed to the operator at his  
 14 last known postal address. The temporary cease and desist  
 15 order shall be in effect from the time of delivery to the  
 16 operator or his authorized representative, or upon receipt  
 17 of the order if mailed, until the date of the expiration of  
 18 the period prescribed in subsection (3) of this section when  
 19 a hearing is requested, or until fifteen (15) days after  
 20 delivery or receipt of the temporary order by the operator  
 21 or his authorized representative if no hearing is requested  
 22 as provided for in subsection (3) of this section. If no  
 23 hearing is requested, the temporary order becomes a final  
 24 order to cease and desist upon expiration of the fifteen  
 25 (15) day period. The board may after hearing and upon a

1 showing of good cause by the violator terminate or modify  
 2 the final order.

3 (3) A copy of the temporary order to cease and desist  
 4 issued under subsection (2) of this section shall be mailed  
 5 or delivered to the timberowner or landowner. If requested  
 6 by the operator, timberowner, or landowner within fifteen  
 7 (15) days of the date of receipt of the temporary order by  
 8 the operator or his authorized representative, the board, in  
 9 accordance with the Administrative Procedure Act (Title 82,  
 10 chapter 42, R.C.M. 1947), shall hold a hearing on the  
 11 temporary order within fifteen (15) working days after the  
 12 receipt of the request by the board or its chairman. For  
 13 good cause, the hearing may be held not more than thirty  
 14 (30) days after receipt by the board or its chairman of the  
 15 request. A temporary order issued and served pursuant to  
 16 subsection (2) of this section shall remain in effect for  
 17 not more than five (5) working days after the hearing unless  
 18 the order is sooner affirmed, modified, or revoked by the  
 19 board. Upon affirmation or modification by the board, the  
 20 order becomes a final cease and desist order.

21 (4) At any time after a temporary order is issued  
 22 under subsection (2) of this section, the department upon  
 23 request by the operator may give written approval to the  
 24 operator to continue the conduct of the forest practice  
 25 except that portion relating to the violation. If a hearing

1 is requested and conducted under subsection (3) of this  
 2 section, the written approval may remain in effect until  
 3 either affirmed, modified, or revoked by the board.

4 Section 9. Misdemeanor violations — fines —  
 5 exemptions. (1) Failure to provide notice as required by  
 6 subsections (1) through (3) of section [6 of this act], or  
 7 to comply with a notice of violation, a temporary cease and  
 8 desist order or a final cease and desist order issued under  
 9 section [8 of this act] or a violation of any rule adopted  
 10 under section [4 of this act] is a misdemeanor punishable  
 11 upon conviction by a fine of not less than twenty-five  
 12 dollars (\$25) and not more than two thousand five hundred  
 13 dollars (\$2,500), or imprisonment in the county jail for not  
 14 more than sixty (60) days, or both.

15 (2) When the department has determined that a  
 16 misdemeanor has been committed under this act, it may serve  
 17 upon the violator or the operator, or both, a notice to  
 18 appear and send copies of the notice to the landowner and  
 19 timberowner. A duplicate copy of the notice to appear shall  
 20 be filed with the justice of the peace in the county where  
 21 the violation occurred or with the district court for the  
 22 district where the violation occurred. The notice shall  
 23 specify the nature of the misdemeanor committed, the date,  
 24 time, and place when the violator or operator must appear  
 25 for a hearing on the misdemeanor charge, and may indicate

1 the bond which has been approved. The bond may be posted  
 2 with the justice of the peace or the district court if no  
 3 mandatory appearance is required by the notice to appear.

4 (3) Fines collected under this act shall be deposited  
 5 in the state general fund.

6 (4) The notice provisions of section [6 of this act]  
 7 do not apply to forest practices performed by the department  
 8 on forest land owned by the state of Montana, but do apply  
 9 to other agencies of the state and to political subdivisions  
 10 of the state.

11 Section 10. Legal assistance. When requested by the  
 12 department, the attorney general and the county attorneys  
 13 within their respective jurisdictions shall perform legal  
 14 services and conduct legal proceedings necessary to enforce  
 15 this act, including court action. The department may also  
 16 employ its own legal counsel to enforce this act.

17 Section 11. Power of peace officers to enforce  
 18 provisions of this act or any state forest law. The  
 19 director may delegate to competent and trained persons  
 20 within the department the powers and duties of peace  
 21 officers to enforce this chapter and any forest law provided  
 22 for in section 28-125, R.C.M. 1947.

23 Section 12. Conversion of forest land. This chapter  
 24 does not prevent the conversion of forest land to any other  
 25 use. When a landowner wishes to convert his forest land to

1 another use, he shall accomplish a conversion within the  
2 period of time required to achieve reforestation.

3 Section 13. Effective date. (1) Except as provided  
4 in subsection (2) of this section, this act is effective on  
5 January 1, 1976; however, it shall not apply to forest  
6 practices to be performed by an operator under written  
7 agreements executed prior to the passage and approval of  
8 this chapter.

9 (2) The board and the department may take any action  
10 before January 1, 1976, that is necessary to carry out  
11 sections [4 and 5 of this act].

12 SECTION 14. THE DEPARTMENT SHALL EXPAND ITS PROGRAMS  
13 DEVELOPED UNDER SECTION 28-106, TO PROVIDE FURTHER ADVICE  
14 AND ASSISTANCE TO FOREST LAND OWNERS, INCLUDING BUT NOT  
15 LIMITED TO THE MEASUREMENT, MARKETING, REFORESTATION,  
16 MANAGEMENT AND PROTECTION OF THEIR FOREST LANDS.

17 Section 15. Severability. If a part of this act is  
18 invalid, all valid parts that are severable from the invalid  
19 part remain in effect. If a part of this act is invalid in  
20 one (1) or more of its applications, the part remains in  
21 effect in all valid applications that are severable from the  
22 invalid applications.

23 Section 16. Sections 28-404 and 28-406 through 28-412,  
24 R.C.M. 1947, are repealed.

-End-