

# HOUSE BILL 715

Introduced by Ream, et al.

2/15	Introduced
2/15	Referred to Natural Resources
2/16	Fiscal Note Requested
2/17	Hearing
2/18	Committee Report--Bill Passed as Amended
2/21	2nd Reading Do Pass as Amended Failed
2/27	Fiscal Note Received

1 House BILL NO. 715  
2 INTRODUCED BY Ream Bob Brown  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANAGEMENT  
5 STANDARDS FOR THE CONDUCT OF FOREST PRACTICES IN STREAMSIDE  
6 MANAGEMENT ZONES; AUTHORIZING THE DEPARTMENT OF STATE LANDS  
7 TO ADOPT AND ENFORCE RULES IMPLEMENTING THE STREAMSIDE  
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; AND PROVIDING PENALTIES FOR NONCOMPLIANCE  
12 WITH STREAMSIDE MANAGEMENT STANDARDS."

## STATEMENT OF INTENT

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

22           It is the intent of the legislature that the department  
23   of state lands adopt rules providing management standards  
24   for forest practices in streamside management zones. The  
25   department shall:

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

4           (2) review the streamside management regulations of  
5   other states;

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

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

11 Based on this information, the department shall develop  
12 specific rules to implement the purposes and management  
13 standards provided in [section 4] for the streamside  
14 management zone, including rules on equipment use, road  
15 drainage, log skidding and yarding, the number and size of  
16 trees to be retained along a stream, slash management, site  
17 preparation, and other related practices. Owners or  
18 operators may receive approval for alternative practices  
19 under the criteria and procedures provided in [section  
20 4(2)].

21 The department shall also develop by rule a method for  
22 site-specific determination of the width of the streamside  
23 management zone based on topographic, hydrologic,  
24 vegetative, and other site characteristics. The zone may  
25 not be narrower than 50 feet on either side of the stream

1 and must increase in width in areas of steep slope, erosive  
2 soils, or wet soils. A change in slope steepness between a  
3 steep-sided stream corridor and a more level upland area can  
4 often be an appropriate boundary for the streamside  
5 management zone.

6 It is the intent of the legislature that the department  
7 of fish, wildlife, and parks develop written guidelines for  
8 methods through which timber harvest may be conducted in  
9 streamside management zones to benefit or to reduce adverse  
10 effects on game and nongame wildlife. These guidelines  
11 should provide information for voluntary use by owners and  
12 operators.

13 Finally, the legislature recognizes that appropriate  
14 limitations on activities in streamside zones, which  
15 comprise only a very small percentage of Montana forests,  
16 can achieve substantial watershed benefits and will cost  
17 owners, operators, and the state far less than a  
18 comprehensive forest practices act.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. **Section 1.** Short title. This act may be  
22 cited as the "Headwaters Conservation Act of 1989".

23 NEW SECTION. **Section 2.** Findings and purposes. (1)  
24 The legislature finds that the streamside management zone:  
25 (a) acts as an effective sediment filter to maintain

1 water quality;

2 (b) provides shade to regulate stream temperature;

3 (c) supports diverse and productive aquatic and  
4 terrestrial riparian habitats;

5 (d) protects the stream channel and banks;

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

9 (f) promotes floodplain stability.

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

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

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

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

25 (a) to protect the legitimate public interest in the

1 quality and quantity of waters carried by forest streams;

2 (b) to provide for standards, oversight,  
3 rehabilitation, and penalties to ensure that streamside  
4 forest practices are conducted in a manner that conserves  
5 the integrity of Montana streams;

6 (c) to offer guidance for voluntary efforts by owners  
7 and operators to conserve wildlife habitat in riparian  
8 zones; and

9 (d) to allow operators necessary flexibility to use  
10 practices appropriate to site-specific conditions in the  
11 streamside management zone.

12 NEW SECTION. **Section 3. Definitions.** As used in  
13 [sections 1 through 7], the following definitions apply:

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

15 (a) conducted in the streamside zone that are  
16 different from practices required by rules adopted under  
17 [sections 1 through 7];

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

20 (c) that are subject to department approval under  
21 [section 4].

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

24 (3) "Forest practices" means the harvesting of trees,  
25 road construction or reconstruction associated with

1 harvesting and accessing trees, site preparation for  
2 regeneration of a timber stand, reforestation, and the  
3 management of logging slash. The term does not include  
4 activities related to the operation of a Christmas tree farm  
5 or nursery that do not involve new road construction.

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

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

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

16 (7) "Stream" means a natural water course of  
17 perceptible extent that has a generally sandy or rocky  
18 bottom, definite banks, and confines and conducts  
19 continuously or intermittently flowing water.

20 (8) "Streamside management zone" or "zone" means the  
21 stream and an adjacent area of varying width where  
22 management practices that might affect water quality, fish,  
23 or other aquatic resources need to be modified. The  
24 streamside management zone encompasses a strip at least 50  
25 feet wide on each side of a stream, measured from the

1 ordinary high-water mark, and extends beyond the high-water  
2 mark to include wetlands along the stream bottom and to  
3 areas that provide additional protection in areas of steep  
4 slopes or erosive soils.

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

8 NEW SECTION. Section 4. Purposes and standards for  
9 forest practices in the streamside management zone --  
10 alternative practices. (1) Except as provided in subsection  
11 (2), forest practices in the streamside management zone must  
12 comply with the following purposes and standards and with  
13 rules adopted under [section 7] to implement these purposes  
14 and standards:

- 15 (a) to prevent soil erosion and stream sedimentation:
- 16 (i) roads and landings may not be constructed in the  
17 zone, except for roads necessary and appropriate for  
18 approaches to stream crossings;
- 19 (ii) tractors or other heavy, motorized vehicles may  
20 not be used for harvesting or removing timber or site  
21 preparation in the zone;
- 22 (iii) water draining from road surfaces and road cuts  
23 must be routed through an undisturbed portion of the zone,  
24 not directly into a stream channel;
- 25 (iv) cables must be used to skid logs out of the zone

1 and logs must be fully suspended if taken across a stream  
2 course; and

3 (v) site preparation must be conducted with minimal  
4 soil disturbance;

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

7 (c) to maintain stream channel stability and aquatic  
8 habitat, trees with roots in the stream bank may not be  
9 harvested;

10 (d) to provide long-term recruitment of large, woody  
11 debris into the stream channel necessary to retain stream  
12 structure, a residual timber stand, including the species  
13 and age composition generally characteristic of the site  
14 prior to harvest, must be retained; and

15 (e) to protect water quality, stream bottom structure,  
16 and bank integrity and to provide unobstructed fish passage,  
17 slash must be kept out of the stream channel.

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

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

watershed protection when compared to the management practices provided by rules adopted under [section 7].

(ii) The department may approve the request if the alternative practices provide nearly equivalent watershed protection and substantially improve the economic benefits of the timber sale for the owner or the operator. However, this subsection (2)(b)(ii) may not be used as grounds for approval of a proposed alternative practice that involves the harvesting of trees that otherwise must be retained.

(iii) Departmental approval of any alternative practices must be provided in writing and state the specific alternative practices authorized.

(3) The department shall publish and distribute the rules implementing the streamside management standards. The department shall also distribute any riparian wildlife habitat guidelines developed and published by the department of fish, wildlife, and parks.

**NEW SECTION. Section 5. Inspection** -- onsite consultation. (1) The department may inspect forest practices on any federal, state, or private land in this state to assess compliance with the provisions of [sections 1 through 7] and rules adopted pursuant to [sections 1 through 7].

(2) The department may conduct an onsite consultation with an owner or operator to review harvest plans and

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

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

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

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

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

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

(c) After a hearing, if the department finds that a violation has occurred and the watershed damage warrants site rehabilitation, it shall affirm or modify the order previously issued. If the department finds that a violation has not occurred or that site rehabilitation is not warranted, it shall rescind the order.

(d) The department may include in an order a provision that the owner or operator immediately cease causing further damage and take immediate action to alleviate the damage or to prevent future damage. The department may institute an action for injunctive relief under Title 27, chapter 19, if

the recipient of the order does not comply with it.

(6) Subsection (5) does not prevent the department from seeking voluntary compliance and site rehabilitation through warning, conference, or any other appropriate means.

(7) If noncompliance with [sections 1 through 7] or a rule adopted pursuant to [sections 1 through 7] has apparently caused water pollution, the department shall inform the department of health and environmental sciences of the circumstances and any forest practices conducted by the owner or operator that do not constitute reasonable land, soil, and water conservation practices. The department of health and environmental sciences shall take any appropriate enforcement action under the authority provided in Title 75, chapter 5.

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

(1) implementing each of the purposes and management standards provided in [section 4];

(2) providing specific direction necessary for owners and operators to understand and comply with the management standards and including additional definition of the streamside management zone and the forest practices permissible within the zone; and

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

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

HOUSE BILL NO. 715

INTRODUCED BY REAM, B. BROWN

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

## STATEMENT OF INTENT

It is the intent of the legislature that the 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, 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 management standards for forest practices in streamside management zones. The department shall:

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

(2) review the streamside 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 4] for the streamside management zone, including rules on equipment use, road drainage, log skidding and yarding, the number and size of trees to be retained along a stream, 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 4(2)].

The department shall also develop by rule a method for site-specific determination of the width of the streamside management zone based on topographic, hydrologic, vegetative, and other site characteristics. The zone may not be narrower than 50 25 feet on either side of the stream



1 and must increase in width in areas of steep slope, erosive  
2 soils, or wet soils. A change in slope steepness between a  
3 steep-sided stream corridor and a more level upland area can  
4 often be an appropriate boundary for the streamside  
5 management zone.

6 It is the intent of the legislature that the department  
7 of fish, wildlife, and parks develop written guidelines for  
8 methods through which timber harvest may be conducted in  
9 streamside management zones to benefit or to reduce adverse  
10 effects on game and nongame wildlife. These guidelines  
11 should provide information for voluntary use by owners and  
12 operators.

13 Finally, the legislature recognizes that appropriate  
14 limitations on activities in streamside zones, which  
15 comprise only a very small percentage of Montana forests,  
16 can achieve substantial watershed benefits and will cost  
17 owners, operators, and the state far less than a  
18 comprehensive forest practices act.

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22 cited as the "Headwaters Conservation Act of 1989".

23 NEW SECTION. **Section 2.** Findings and purposes. (1)

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25 (a) acts as an effective sediment filter to maintain

1 water quality;

2 (b) provides shade to regulate stream temperature;

3 (c) supports diverse and productive aquatic and  
4 terrestrial riparian habitats;

5 (d) protects the stream channel and banks;

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

9 (f) promotes floodplain stability.

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

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

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

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

25 (a) to protect the legitimate public interest in the

1 quality and quantity of waters carried by forest streams;  
 2 (b) to provide for standards, oversight,  
 3 rehabilitation, and penalties to ensure that streamside  
 4 forest practices are conducted in a manner that conserves  
 5 the integrity of Montana streams;  
 6 (c) to offer guidance for voluntary efforts by owners  
 7 and operators to conserve wildlife habitat in riparian  
 8 zones; and  
 9 (d) to allow operators necessary flexibility to use  
 10 practices appropriate to site-specific conditions in the  
 11 streamside management zone.

12 NEW SECTION. **Section 3. Definitions.** As used in  
 13 [sections 1 through 7], the following definitions apply:

14 (1) "Alternative practices" means forest practices:  
 15 (a) conducted in the streamside zone that are  
 16 different from practices required by rules adopted under  
 17 [sections 1 through 7];  
 18 (b) that are designed for site-specific conditions  
 19 encountered during a timber sale; and  
 20 (c) that are subject to department approval under  
 21 [section 4].

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

24 (3) "Forest practices" means the harvesting of trees,  
 25 road construction or reconstruction associated with

1 harvesting and accessing trees, site preparation for  
 2 regeneration of a timber stand, reforestation, and the  
 3 management of logging slash. The term does not include  
 4 activities related to the operation of a Christmas tree farm  
 5 or nursery that do not involve new road construction.

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

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

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

16 (7) "Stream" means a natural ~~water-course~~ WATERCOURSE  
 17 of perceptible extent that has a generally sandy or rocky  
 18 bottom, definite banks, and confines and conducts  
 19 continuously or intermittently flowing water.

20 (8) "Streamside management zone" or "zone" means the  
 21 stream and an adjacent area of varying width where  
 22 management practices that might affect water quality, fish,  
 23 or other aquatic resources need to be modified. The  
 24 streamside management zone encompasses a strip at least 50  
 25 25 feet wide on each side of a stream, measured from the

1 ordinary high-water mark, and extends beyond the high-water  
2 mark to include wetlands along the stream bottom and to  
3 areas that provide additional protection in areas of steep  
4 slopes or erosive soils.

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

8 NEW SECTION. Section 4. Purposes and standards for  
9 forest practices in the streamside management zone --  
10 alternative practices. (1) Except as provided in subsection  
11 (2), forest practices in the streamside management zone must  
12 comply with the following purposes and standards and with  
13 rules adopted under ~~{section-7}~~ [SECTIONS 1 THROUGH 7] to  
14 implement these purposes and standards:

15 (a) to prevent soil erosion and stream sedimentation:

16 (i) roads and landings may not be constructed in the  
17 zone, except for roads necessary and appropriate for  
18 approaches to stream crossings;

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

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

25 (iv) cables must be used to skid logs out of the zone

1 and logs must be fully suspended if taken across a stream  
2 course; and

3 (v) site preparation must be conducted with minimal  
4 soil disturbance;

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

7 (c) to maintain stream channel stability and aquatic  
8 habitat, trees with roots in the stream bank may not be  
9 harvested;

10 (d) to provide long-term recruitment of large, woody  
11 debris into the stream channel necessary to retain stream  
12 structure, a residual timber stand, including the species  
13 and age composition generally characteristic of the site  
14 prior to harvest, must be retained; and

15 (e) to protect water quality, stream bottom structure,  
16 and bank integrity and to provide unobstructed fish passage,  
17 slash must be kept out of the stream channel.

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

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

1 watershed protection when compared to the management  
2 practices provided by rules adopted under ~~{section--7}~~  
3 [SECTIONS 1 THROUGH 7].

4 (ii) The department may approve the request if the  
5 alternative practices provide nearly equivalent watershed  
6 protection ~~and--substantially-improve-the-economic-benefits~~  
7 ~~of-the-timber-sale-for-the-owner-or-the--operator~~. However,  
8 this subsection (2)(b)(ii) may not be used as grounds for  
9 approval of a proposed alternative practice that involves  
10 the harvesting of trees that otherwise must be retained.

11 (iii) Departmental approval of any alternative  
12 practices 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 streamside management standards. The  
16 department shall also distribute any riparian wildlife  
17 habitat guidelines developed and published by the department  
18 of fish, wildlife, and parks.

19 NEW SECTION. Section 5. 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 streamside management practices,  
5 as provided in [section 4].

6 NEW SECTION. Section 6. 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 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 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. Each day of violation of an order issued

1 under this section is a separate violation.

2 (3) (a) When the department determines that an owner  
3 or operator has violated a provision of [sections 1 through  
4 7] or a rule adopted pursuant to [sections 1 through 7] and  
5 has caused damage to watershed resources, it may serve an  
6 order requiring the person responsible for the conduct of  
7 forest practices to undertake necessary site rehabilitation  
8 within a reasonable period of time stated in the order. The  
9 order must specify the nature of the violation and THE  
10 damage or unsatisfactory condition resulting from the  
11 violation.

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

17 (c) After IF, AFTER a hearing, if the department finds  
18 that a violation has occurred and the watershed damage  
19 warrants site rehabilitation, it shall affirm or modify the  
20 order previously issued. If the department finds that a  
21 violation has not occurred or that site rehabilitation is  
22 not warranted, it shall rescind the order.

23 (d) The department may include in an order a provision  
24 that the owner or operator immediately cease causing further  
25 damage and take immediate action to alleviate the damage or

1 to prevent future damage. The department may institute an  
2 action for injunctive relief under Title 27, chapter 19, if  
3 the recipient of the order does not comply with it.

4 ~~{6}{4}~~ Subsection ~~{5}~~ (3) does not prevent the  
5 department from seeking voluntary compliance and site  
6 rehabilitation through warning, conference, or any other  
7 appropriate means.

8 ~~{7}--if-noncompliance-with-[sections-1-through-7]-or--a~~  
9 ~~rule---adopted--pursuant--to--[sections--1--through--7]--has~~  
10 ~~apparently-caused--water--pollution,--the--department--shall~~  
11 ~~inform--the--department-of-health-and-environmental-sciences~~  
12 ~~of-the-circumstances-and-any-forest-practices--conducted--by~~  
13 ~~the--owner--or--operator--that--do-not-constitute-reasonable~~  
14 ~~land,--soil,--and-water-conservation-practices.--The-department~~  
15 ~~of--health--and--environmental--sciences--shall---take---any~~  
16 ~~appropriate--enforcement-action-under-the-authority-provided~~  
17 ~~in-Title-757-chapter-5.~~

18 NEW SECTION. Section 7. Rulemaking. The department  
19 shall adopt rules:

20 (1) implementing each of the purposes and management  
21 standards provided in [section 4];

22 (2) providing specific direction necessary for owners  
23 and operators to understand and comply with the management  
24 standards and including additional definition of the  
25 streamside management zone and the forest practices

- 1 permissible within the zone; and
- 2 (3) including any other specific provisions necessary
- 3 to achieve the purposes of [sections 1 through 7].

-End-