

**PROPOSED AMENDMENTS TO
SENATE BILL 401**

1 On page 1 of the printed bill, line 2, delete “390.805 and 390.826;” and in-
2 sert “390.835; repealing sections 3 and 4, chapter 499, Oregon Laws 2001;”.

3 Delete lines 5 through 31 and delete pages 2 through 5 and insert:

4 **“SECTION 1.** ORS 390.835 is amended to read:

5 “390.835. (1) It is declared that the highest and best uses of the waters
6 within scenic waterways are recreation, fish and wildlife uses. The free-
7 flowing character of these waters shall be maintained in quantities necessary
8 for recreation, fish and wildlife uses. No dam, or reservoir, or other water
9 impoundment facility shall be constructed on waters within scenic
10 waterways. No water diversion facility shall be constructed or used except
11 by right previously established or as permitted by the Water Resources
12 Commission, upon a finding that such diversion is necessary to uses desig-
13 nated in ORS 536.310 (12), and in a manner consistent with the policies set
14 forth under ORS 390.805 to 390.925. The Water Resources Commission shall
15 administer and enforce the provisions of this subsection.

16 “(2) Filling of the beds or removal of material from or other alteration
17 of the beds or banks of scenic waterways for purposes other than recre-
18 ational prospecting not requiring a permit shall be prohibited, except as
19 permitted by the Director of the Department of State Lands upon a finding
20 that such activity would be consistent with the policies set forth under ORS
21 390.805 to 390.925 for scenic waterways and in a manner consistent with the
22 policies set forth under ORS 196.800 to 196.825 and 196.845 to 196.870 for re-

1 removal of material from the beds and banks and filling of any waters of this
2 state. The Director of the Department of State Lands shall administer and
3 enforce the provisions of this subsection.

4 “(3)(a) Upon a finding of emergency circumstances, the Director of the
5 Department of State Lands may issue a temporary permit for the removal,
6 filling or alteration of the beds or banks within a scenic waterway. The
7 temporary permit shall include conditions developed after consultation with
8 the State Department of Fish and Wildlife and the State Parks and Recre-
9 ation Department.

10 “(b) As used in this subsection, ‘emergency circumstances’ exist if prompt
11 action is necessary to prevent irreparable harm, injury or damage to persons
12 or property.

13 “(4) Any person adversely affected or aggrieved by the grant or denial of
14 a permit under subsection (2) or (3) of this section may appeal in accordance
15 with the procedure set forth in ORS 196.835.

16 “(5) Nothing in ORS 390.805 to 390.925 affects the authority of the State
17 Fish and Wildlife Commission to construct facilities or make improvements
18 to facilitate the passage or propagation of fish or to exercise other respon-
19 sibilities in managing fish and wildlife resources. Nothing in ORS 390.805 to
20 390.925 affects the authority of the Water Resources Commission to construct
21 and maintain stream gauge stations and other facilities related to the
22 commission’s duties in administration of the water laws.

23 “(6) Upon a finding of necessity under subsection (1) of this section, the
24 Water Resources Commission may issue a water right for human consump-
25 tion not to exceed 0.005 cubic feet per second per household, or livestock
26 consumption uses not to exceed one-tenth of one cubic foot per second per
27 1,000 head of livestock, as designated in ORS 536.310 (12) within or above a
28 scenic waterway if the Water Resources Commission makes the following
29 findings:

30 “(a) That issuing the water right does not significantly impair the free-

1 flowing character of these waters in quantities necessary for recreation, fish
2 and wildlife.

3 “(b) That issuing the water right is consistent with provisions pertaining
4 to water appropriation and water rights under ORS chapters 536 and 537 and
5 rules adopted thereunder.

6 “(c) That construction, operation and maintenance of the diversion system
7 will be carried out in a manner consistent with the purposes set forth in ORS
8 390.805 to 390.925.

9 “(d) If the water right is for human consumption, an additional finding
10 that:

11 “(A) The applicant cannot reasonably obtain water from any other source;

12 “(B) Denial of the water right would result in loss of reasonable expect-
13 tations for use of the property; and

14 “(C) The system installed to divert water shall include monitoring equip-
15 ment to permit water use measurement and reporting.

16 “(e) If the water right is for livestock consumption, an additional finding
17 that:

18 “(A) The right is necessary to prevent the livestock from watering in or
19 along the stream bed;

20 “(B) The applicant cannot reasonably obtain water from any other source;
21 and

22 “(C) The applicant has excluded livestock from the stream and its adja-
23 cent riparian zone.

24 “(7) In making the findings required under subsection (6) of this section,
25 the Water Resources Commission shall consider the existing or potential
26 cumulative impacts of issuing the water right.

27 “(8) The Water Resources Commission may not allow human consumption
28 and livestock uses authorized under subsection (6) of this section in excess
29 of a combined cumulative total of one percent of the average daily flow or
30 one cubic foot per second, whichever is less, unless:

1 “(a) The Water Resources Commission, the State Parks and Recreation
2 Department, the State Department of Fish and Wildlife, the Department of
3 Environmental Quality and the Department of State Lands unanimously
4 agree to exceed that amount; and

5 “(b) Exceeding that amount will not significantly impair the free-flowing
6 character of these waters in quantities necessary for recreation, fish and
7 wildlife.

8 “(9)(a) The provisions of this section shall not apply to a water right ap-
9 plication for the use of ground water as defined in ORS 537.515, except upon
10 a finding by the Water Resources Director based on a preponderance of evi-
11 dence that the use of ground water will measurably reduce the surface water
12 flows necessary to maintain the free-flowing character of a scenic waterway
13 in quantities necessary for recreation, fish and wildlife.

14 “(b) The Water Resources Department shall review every application for
15 the use of ground water to determine whether to make the finding specified
16 in paragraph (a) of this subsection. The finding shall be based upon the
17 application of generally accepted hydrogeologic methods using relevant and
18 available field information concerning the proposed use.

19 “(c) In making the determination required by paragraph (a) of this sub-
20 section, the Water Resources Department shall consider the timing of
21 projected impacts of the proposed use in relation to other factors, including
22 but not limited to: Changing climate, recharge, incidental precipitation,
23 out-of-stream appropriations and return flows.

24 “(d) If the Water Resources Director makes the finding specified in para-
25 graph (a) of this subsection, the Water Resources Director shall issue an
26 order denying the application unless:

27 “(A) Mitigation is provided in accordance with subsection (10) of this
28 section; or

29 “(B) The applicant submits evidence to overcome the finding under para-
30 graph (a) of this subsection.

1 “(e) Except as provided under subsection (13) of this section, if the Water
2 Resources Director does not make the finding specified in paragraph (a) of
3 this subsection, the Water Resources Director shall issue an order approving
4 the application if the application otherwise meets the requirements of ORS
5 537.505 to 537.795.

6 “(f) A protest of any order issued under this subsection may be filed in
7 the same manner as a protest on any application for a right to appropriate
8 ground water.

9 “(g) Each water right permit and certificate for appropriation of ground
10 water issued after July 19, 1995, for which a source of appropriation is within
11 or above a scenic waterway shall be conditioned to allow the regulation of
12 the use if analysis of data available after the permit or certificate is issued
13 discloses that the appropriation will measurably reduce the surface water
14 flows necessary to maintain the free-flowing character of a scenic waterway
15 in quantities necessary for recreation, fish and wildlife in effect as of the
16 priority date of the right or as those quantities may be subsequently reduced.

17 “(h) Nothing in this subsection shall limit the use of ground water for a
18 use exempted under ORS 537.545.

19 “(10) The Water Resources Commission or Water Resources Director shall
20 consider mitigation measures and may include mitigation measures as con-
21 ditions in any water right permit or certificate to ensure the maintenance
22 of the free-flowing character of the scenic waterway in quantities necessary
23 for recreation, fish and wildlife.

24 “(11) The Water Resources Commission and the Water Resources Director
25 shall carry out their responsibilities under ORS 536.220 to 536.590 with re-
26 spect to the waters within scenic waterways in conformity with the pro-
27 visions of this section.

28 “(12) As used in this section, ‘measurably reduce’ means that the use au-
29 thorized under subsection (9) of this section will individually or cumulatively
30 reduce surface water flows within the scenic waterway in excess of a com-

1 bined cumulative total of one percent of the average daily flow or one cubic
2 foot per second, whichever is less, unless:

3 “(a) The Water Resources Department, the State Parks and Recreation
4 Department, the State Department of Fish and Wildlife, the Department of
5 Environmental Quality and the Department of State Lands unanimously
6 agree to exceed that amount; and

7 “(b) Exceeding that amount will not significantly impair the free-flowing
8 character of these waters in quantities necessary for recreation, fish and
9 wildlife.

10 “(13) Before authorizing an appropriation that will reduce streamflows
11 within a scenic waterway in amounts up to but not exceeding the amounts
12 described in subsection (12) of this section, the Water Resources Director
13 shall find:

14 “(a) That the appropriation will not significantly impair the free-flowing
15 character of these waters in quantities necessary for recreation, fish and
16 wildlife.

17 “(b) That the appropriation is consistent with provisions pertaining to
18 water appropriations and water rights under ORS chapters 536 and 537 and
19 the rules adopted thereunder.

20 “(c) That construction, operation and maintenance of the appropriation
21 will be carried out in a manner consistent with the purposes set forth in ORS
22 390.805 to 390.925.

23 “(14) No placer mining shall be permitted on waters within scenic
24 waterways other than recreational placer mining.

25 “(15) No person shall be required to obtain a permit for recreational
26 prospecting resulting in the fill, removal or other alteration of less than one
27 cubic yard of material at any one individual site and, cumulatively, not more
28 than five cubic yards of material from within the bed or wet perimeter of
29 any single scenic waterway in a single year. Recreational prospecting shall
30 not occur at any site where fish eggs are present.

1 “(16) No provision of this section shall be construed to exempt recre-
2 ational placer mining on a scenic waterway, other than recreational pros-
3 pecting not requiring a permit, from compliance with the provisions of ORS
4 196.800 to 196.825 and 196.845 to 196.870 or rules adopted pursuant to ORS
5 196.800 to 196.825 and 196.845 to 196.870.

6 “(17) Recreational placer mining, other than recreational prospecting not
7 requiring a permit, shall not:

8 “(a) Dam or divert a waterway or obstruct fish passage;

9 “(b) Include nozzling, sluicing or digging outside the wet perimeter of the
10 stream, nor extend the wet perimeter;

11 “(c) Include movement of boulders, logs, stumps or other woody material
12 from the wet perimeter other than movement by hand and nonmotorized
13 equipment;

14 “(d) Involve the disturbance of rooted or embedded woody plants, includ-
15 ing trees and shrubs, regardless of their location;

16 “(e) Include excavation from the streambank;

17 “(f) Fail to level pits, piles, furrows or potholes outside the main channel
18 of the waterway upon leaving the site;

19 “[g] *Include operation of a suction dredge without a suction dredge waste*
20 *discharge permit from the Department of Environmental Quality including, but*
21 *not limited to, a prohibition against dredging during periods when fish eggs*
22 *could be in the dredging site gravel;]*

23 “[h] **(g)** Be conducted on federal lands except as allowed by agencies of
24 the federal government; **or**

25 “[i] **(h)** Impede boating.[:;]

26 “[j] *Include operation of a dredge between the hours of 6 p.m. and 8 a.m.*
27 *within 500 feet of a residence or within 500 feet of a campground except within*
28 *a federally designated recreational mining site; or]*

29 “[k] *Include operation of a dredge within the marked or posted swimming*
30 *area of a designated campground or day use area except within a federally*

1 *designated recreational mining site.]*

2 “(18) As used in this section:

3 “(a) ‘Bed’ means the land within the wet perimeter and any adjacent
4 nonvegetated dry gravel bar.

5 “(b) ‘Prospecting’ means to search or explore for samples of gold, silver
6 or other precious minerals, using nonmotorized methods, from among small
7 quantities of aggregate.

8 “(c)(A) ‘Recreational placer mining’ [*includes, but is not limited to, the*
9 *use of*] **means mining using** nonmotorized equipment [*and motorized surface*
10 *dredges having an intake nozzle with an inside diameter not exceeding four*
11 *inches, a motor no larger than 16 horsepower and a muffler meeting or ex-*
12 *ceeding factory-installed noise reduction standards].*

13 “(B) ‘Recreational placer mining’ does not [*include*] **mean** recreational
14 prospecting that does not require a permit.

15 “(d) ‘Wet perimeter’ means the area of the stream that is underwater, or
16 is exposed as a nonvegetated dry gravel bar island surrounded on all sides
17 by actively moving water at the time the activity occurs.

18 “**SECTION 2.** ORS 390.835, as amended by section 8, chapter 516, Oregon
19 Laws 2001, is amended to read:

20 “390.835. (1) It is declared that the highest and best uses of the waters
21 within scenic waterways are recreation, fish and wildlife uses. The free-
22 flowing character of these waters shall be maintained in quantities necessary
23 for recreation, fish and wildlife uses. A dam, reservoir or other water
24 impoundment facility may not be constructed on waters within scenic
25 waterways. A water diversion facility may not be constructed or used except
26 by right previously established or as permitted by the Water Resources
27 Commission, upon a finding that such diversion is necessary to uses desig-
28 nated in ORS 536.310 (12), and in a manner consistent with the policies set
29 forth under ORS 390.805 to 390.925. The Water Resources Commission shall
30 administer and enforce the provisions of this subsection.

1 “(2) Filling of the beds or removal of material from or other alteration
2 of the beds or banks of scenic waterways for purposes other than recre-
3 ational prospecting not requiring a permit shall be prohibited, except as
4 permitted by the Director of the Department of State Lands upon a finding
5 that such activity would be consistent with the policies set forth under ORS
6 390.805 to 390.925 for scenic waterways and in a manner consistent with the
7 policies set forth under ORS 196.800 to 196.825 and 196.845 to 196.870 for re-
8 moval of material from the beds and banks and filling of any waters of this
9 state. The Director of the Department of State Lands shall administer and
10 enforce the provisions of this subsection.

11 “(3)(a) Upon a finding of emergency circumstances, the Director of the
12 Department of State Lands may issue a temporary permit for the removal,
13 filling or alteration of the beds or banks within a scenic waterway. The
14 temporary permit shall include conditions developed after consultation with
15 the State Department of Fish and Wildlife and the State Parks and Recre-
16 ation Department.

17 “(b) As used in this subsection, ‘emergency circumstances’ exist if prompt
18 action is necessary to prevent irreparable harm, injury or damage to persons
19 or property.

20 “(4) Any person adversely affected or aggrieved by the grant or denial of
21 a permit under subsection (2) or (3) of this section may appeal in accordance
22 with the procedure set forth in ORS 196.835.

23 “(5) Nothing in ORS 390.805 to 390.925 affects the authority of the State
24 Fish and Wildlife Commission to construct facilities or make improvements
25 to facilitate the passage or propagation of fish or to exercise other respon-
26 sibilities in managing fish and wildlife resources. Nothing in ORS 390.805 to
27 390.925 affects the authority of the Water Resources Commission to construct
28 and maintain stream gauge stations and other facilities related to the
29 commission’s duties in administration of the water laws.

30 “(6) Upon a finding of necessity under subsection (1) of this section, the

1 Water Resources Commission may issue a water right for human consump-
2 tion not to exceed 0.005 cubic feet per second per household, or livestock
3 consumption uses not to exceed one-tenth of one cubic foot per second per
4 1,000 head of livestock, as designated in ORS 536.310 (12) within or above a
5 scenic waterway if the Water Resources Commission makes the following
6 findings:

7 “(a) That issuing the water right does not significantly impair the free-
8 flowing character of these waters in quantities necessary for recreation, fish
9 and wildlife.

10 “(b) That issuing the water right is consistent with provisions pertaining
11 to water appropriation and water rights under ORS chapters 536 and 537 and
12 rules adopted thereunder.

13 “(c) That construction, operation and maintenance of the diversion system
14 will be carried out in a manner consistent with the purposes set forth in ORS
15 390.805 to 390.925.

16 “(d) If the water right is for human consumption, an additional finding
17 that:

18 “(A) The applicant cannot reasonably obtain water from any other source;

19 “(B) Denial of the water right would result in loss of reasonable expect-
20 tations for use of the property; and

21 “(C) The system installed to divert water shall include monitoring equip-
22 ment to permit water use measurement and reporting.

23 “(e) If the water right is for livestock consumption, an additional finding
24 that:

25 “(A) The right is necessary to prevent the livestock from watering in or
26 along the stream bed;

27 “(B) The applicant cannot reasonably obtain water from any other source;
28 and

29 “(C) The applicant has excluded livestock from the stream and its adja-
30 cent riparian zone.

1 “(7) In making the findings required under subsection (6) of this section,
2 the Water Resources Commission shall consider the existing or potential
3 cumulative impacts of issuing the water right.

4 “(8) The Water Resources Commission may not allow human consumption
5 and livestock uses authorized under subsection (6) of this section in excess
6 of a combined cumulative total of one percent of the average daily flow or
7 one cubic foot per second, whichever is less, unless:

8 “(a) The Water Resources Commission, the State Parks and Recreation
9 Department, the State Department of Fish and Wildlife, the Department of
10 Environmental Quality and the Department of State Lands unanimously
11 agree to exceed that amount; and

12 “(b) Exceeding that amount will not significantly impair the free-flowing
13 character of these waters in quantities necessary for recreation, fish and
14 wildlife.

15 “(9)(a) The provisions of this section do not apply to a water right appli-
16 cation for the use of ground water as defined in ORS 537.515, except upon
17 a finding by the Water Resources Director based on a preponderance of evi-
18 dence that the use of ground water will measurably reduce the surface water
19 flows necessary to maintain the free-flowing character of a scenic waterway
20 in quantities necessary for recreation, fish and wildlife.

21 “(b) The Water Resources Department shall review every application for
22 the use of ground water to determine whether to make the finding specified
23 in paragraph (a) of this subsection. The finding shall be based upon the
24 application of generally accepted hydrogeologic methods using relevant and
25 available field information concerning the proposed use.

26 “(c) In making the determination required by paragraph (a) of this sub-
27 section, the Water Resources Department shall consider the timing of
28 projected impacts of the proposed use in relation to other factors, including
29 but not limited to: Changing climate, recharge, incidental precipitation,
30 out-of-stream appropriations and return flows.

1 “(d) If the Water Resources Director makes the finding specified in para-
2 graph (a) of this subsection, the Water Resources Director shall issue an
3 order denying the application unless:

4 “(A) Mitigation is provided in accordance with subsection (10) of this
5 section; or

6 “(B) The applicant submits evidence to overcome the finding under para-
7 graph (a) of this subsection.

8 “(e) Except as provided under subsection (13) of this section, if the Water
9 Resources Director does not make the finding specified in paragraph (a) of
10 this subsection, the Water Resources Director shall issue an order approving
11 the application if the application otherwise meets the requirements of ORS
12 537.505 to 537.795.

13 “(f) A protest of any order issued under this subsection may be filed in
14 the same manner as a protest on any application for a right to appropriate
15 ground water.

16 “(g) Each water right permit and certificate for appropriation of ground
17 water issued after July 19, 1995, for which a source of appropriation is within
18 or above a scenic waterway shall be conditioned to allow the regulation of
19 the use if analysis of data available after the permit or certificate is issued
20 discloses that the appropriation will measurably reduce the surface water
21 flows necessary to maintain the free-flowing character of a scenic waterway
22 in quantities necessary for recreation, fish and wildlife in effect as of the
23 priority date of the right or as those quantities may be subsequently reduced.

24 “(h) This subsection does not limit the use of ground water for a use ex-
25 empted under ORS 537.545.

26 “(10) The Water Resources Commission or Water Resources Director shall
27 consider mitigation measures and may include mitigation measures as con-
28 ditions in any water right permit or certificate to ensure the maintenance
29 of the free-flowing character of the scenic waterway in quantities necessary
30 for recreation, fish and wildlife.

1 “(11) The Water Resources Commission and the Water Resources Director
2 shall carry out their responsibilities under ORS 536.220 to 536.590 with re-
3 spect to the waters within scenic waterways in conformity with the pro-
4 visions of this section.

5 “(12) As used in this section, ‘measurably reduce’ means that the use au-
6 thorized under subsection (9) of this section will individually or cumulatively
7 reduce surface water flows within the scenic waterway in excess of a com-
8 bined cumulative total of one percent of the average daily flow or one cubic
9 foot per second, whichever is less, unless:

10 “(a) The Water Resources Department, the State Parks and Recreation
11 Department, the State Department of Fish and Wildlife, the Department of
12 Environmental Quality and the Department of State Lands unanimously
13 agree to exceed that amount; and

14 “(b) Exceeding that amount will not significantly impair the free-flowing
15 character of these waters in quantities necessary for recreation, fish and
16 wildlife.

17 “(13) Before authorizing an appropriation that will reduce streamflows
18 within a scenic waterway in amounts up to but not exceeding the amounts
19 described in subsection (12) of this section, the Water Resources Director
20 shall find:

21 “(a) That the appropriation will not significantly impair the free-flowing
22 character of these waters in quantities necessary for recreation, fish and
23 wildlife.

24 “(b) That the appropriation is consistent with provisions pertaining to
25 water appropriations and water rights under ORS chapters 536 and 537 and
26 the rules adopted thereunder.

27 “(c) That construction, operation and maintenance of the appropriation
28 will be carried out in a manner consistent with the purposes set forth in ORS
29 390.805 to 390.925.

30 “(14) Placer mining is not permitted on waters within scenic waterways,

1 other than recreational placer mining.

2 “(15) A person may not be required to obtain a permit for recreational
3 prospecting or other nonmotorized recreational activity resulting in the fill,
4 removal or other alteration of less than one cubic yard of material at any
5 one individual site and, cumulatively, not more than five cubic yards of ma-
6 terial from within the bed or wet perimeter of any single scenic waterway
7 in a single year. Recreational prospecting shall not occur at any site where
8 fish eggs are present.

9 “(16) This section does not exempt recreational placer mining on a scenic
10 waterway, other than recreational prospecting not requiring a permit, from
11 compliance with the provisions of ORS 196.800 to 196.825 and 196.845 to
12 196.870 or rules adopted pursuant to ORS 196.800 to 196.825 and 196.845 to
13 196.870.

14 “(17) Recreational placer mining may not:

15 “(a) Dam or divert a waterway or obstruct fish passage;

16 “(b) Include nozzling, sluicing or digging outside the wet perimeter of the
17 stream, nor extend the wet perimeter;

18 “(c) Include movement of boulders, logs, stumps or other woody material
19 from the wet perimeter other than movement by hand and nonmotorized
20 equipment;

21 “(d) Involve the disturbance of rooted or embedded woody plants, includ-
22 ing trees and shrubs, regardless of their location;

23 “(e) Include excavation from the streambank;

24 “(f) Fail to level pits, piles, furrows or potholes outside the main channel
25 of the waterway upon leaving the site;

26 “[g] *Include operation of a suction dredge without a suction dredge waste*
27 *discharge permit from the Department of Environmental Quality including, but*
28 *not limited to, a prohibition against dredging during periods when fish eggs*
29 *could be in the dredging site gravel;]*

30 “[h] (g) Be conducted on federal lands except as allowed by agencies of

1 the federal government; **or**

2 “[*i*] **(h)** Impede boating.[;]

3 “[*j*] *Include operation of a dredge between the hours of 6 p.m. and 8 a.m.*
4 *within 500 feet of a residence or within 500 feet of a campground except within*
5 *a federally designated recreational mining site; or]*

6 “[*k*] *Include operation of a dredge within the marked or posted swimming*
7 *area of a designated campground or day use area except within a federally*
8 *designated recreational mining site.]*

9 “(18) As used in this section:

10 “(a) ‘Bed’ means the land within the wet perimeter and any adjacent
11 nonvegetated dry gravel bar.

12 “(b) ‘Prospecting’ means to search or explore for samples of gold, silver
13 or other precious minerals, using nonmotorized methods, from among small
14 quantities of aggregate.

15 “(c)(A) ‘Recreational placer mining’ [*includes, but is not limited to, the*
16 *use of*] **means mining using** nonmotorized equipment [*and motorized surface*
17 *dredges having an intake nozzle with an inside diameter not exceeding four*
18 *inches, a motor no larger than 16 horsepower and a muffler meeting or ex-*
19 *ceeding factory-installed noise reduction standards].*

20 “(B) ‘Recreational placer mining’ does not [*include*] **mean** recreational
21 prospecting that does not require a permit.

22 “(d) ‘Wet perimeter’ means the area of the stream that is underwater, or
23 is exposed as a nonvegetated dry gravel bar island surrounded on all sides
24 by actively moving water at the time the activity occurs.

25 “**SECTION 3. Sections 3 and 4, chapter 499, Oregon Laws 2001, are**
26 **repealed.**

27 “**SECTION 4. (1) In order to achieve compliance with ORS 390.855**
28 **related to scenic waterways, the State Parks and Recreation Depart-**
29 **ment shall undertake a study of the following waterways for consid-**
30 **eration under the provisions of ORS 390.805 to 390.925 as scenic**

1 **waterways:**

2 **“(a) The McKenzie River from Paradise Campground downstream**
3 **to its confluence with Cone Creek.**

4 **“(b) The Illinois River from the boundary of the Rogue River-**
5 **Siskiyou National Forest in section 29, township 38 south, range 8**
6 **west, downstream to its confluence with Deer Creek.**

7 **“(c) The East Fork Illinois River from the Oregon border with**
8 **California downstream to its confluence with the Illinois River.**

9 **“(d) The West Fork Illinois River from the Oregon border with**
10 **California downstream to its confluence with Rough and Ready Creek.**

11 **“(e) The Rogue River from its confluence with Bear Creek down-**
12 **stream to the confluence of Bear Creek with Applegate River.**

13 **“(f) The Grande Ronde River from its headwaters to the boundary**
14 **of Wallowa-Whitman National Forest in section 15, township 4 south,**
15 **range 35 east.**

16 **“(g) The Middle Fork Willamette River from Timpanogas Lake**
17 **downstream to Hills Creek Lake.**

18 **“(h) The Brice Creek Scenic Waterway, which includes Brice Creek**
19 **from its headwaters to Row River.**

20 **“(i) The South Umpqua Scenic Waterway, which includes the South**
21 **Umpqua River from Castle Rock Fork downstream to the Highway 42**
22 **bridge.**

23 **“(j) The Sucker Scenic Waterway, which includes Sucker Creek**
24 **from its headwaters to its confluence with the East Fork Illinois River.**

25 **“(k) The Yachats Scenic Waterway, which includes the Yachats**
26 **River from its headwaters to the Pacific Ocean.**

27 **“(L) The Applegate Scenic Waterway, which includes the Applegate**
28 **River from immediately below Applegate Lake to the confluence of the**
29 **Applegate River with Forest Creek.**

30 **“(m) The Briggs Creek Scenic Waterway, which includes Briggs**

1 **Creek from its headwaters to its confluence with the Illinois River.**

2 **“(n) The Cedar Creek Scenic Waterway, which includes Cedar Creek**
3 **from its headwaters to its confluence with the Little North Fork**
4 **Santiam River.**

5 **“(o) The Chetco Scenic Waterway, which includes the segment of**
6 **the Chetco River from the Kalmiopsis Wilderness boundary in section**
7 **5, township 38 south, range 11 west, downstream to the United States**
8 **Forest Service boundary below Wilson Creek.**

9 **“(p) The Cow Creek Scenic Waterway, which includes Cow Creek**
10 **from Tunnel Creek downstream to the confluence of Cow Creek with**
11 **the South Umpqua River.**

12 **“(q) The Eagle Creek Scenic Waterway, which includes Eagle Creek**
13 **from its headwaters in the Eagle Cap Wilderness downstream to the**
14 **United States Forest Service boundary in section 7, township 8 south,**
15 **range 45 east.**

16 **“(r) The Elk Creek Scenic Waterway, which includes Elk Creek**
17 **from its headwaters to its confluence with the South Umpqua River.**

18 **“(s) The Grave Creek Scenic Waterway, which includes Grave Creek**
19 **from its headwaters downstream to its confluence with the Rogue**
20 **River.**

21 **“(t) The Silver Creek Scenic Waterway, which includes:**

22 **“(A) Silver Creek from its headwaters to its confluence with the**
23 **Illinois River;**

24 **“(B) The North Fork Silver Creek from its headwaters to its con-**
25 **fluence with Silver Creek; and**

26 **“(C) The South Fork Silver Creek from its headwaters to its con-**
27 **fluence with Silver Creek.**

28 **“(u) The Josephine Creek Scenic Waterway, which includes**
29 **Josephine Creek from its headwaters to its confluence with the Illinois**
30 **River.**

1 “(v) The Little Applegate Scenic Waterway, which includes the
2 Little Applegate River from its headwaters to its confluence with the
3 Applegate River.

4 “(w) The Molalla River Scenic Waterway, which includes the
5 Molalla River from the Bureau of Land Management boundary in sec-
6 tion 19, township 7 south, range 4 east, downstream to the Bureau of
7 Land Management boundary in section 7, township 6 south, range 3
8 east.

9 “(x) The Quartzville Scenic Waterway, which includes Quartzville
10 Creek from its headwaters to Green Peter Lake.

11 “(y) The Rough and Ready Scenic Waterway, which includes:

12 “(A) The Rough and Ready Creek from the confluence at the north
13 and south forks of the Rough and Ready Creek downstream to its
14 confluence with the West Fork Illinois River;

15 “(B) The North Fork Rough and Ready Creek from its headwaters
16 to its confluence with the South Fork Rough and Ready Creek; and

17 “(C) The South Fork Rough and Ready Creek from its headwaters
18 downstream to its confluence with the North Fork Rough and Ready
19 Creek.

20 “(z) The Sandy Scenic Waterway, which includes the Sandy River
21 from the Mount Hood Wilderness boundary downstream to its conflu-
22 ence with the Bull Run River.

23 “(aa) The South Fork Alsea Scenic Waterway, which includes the
24 South Fork Alsea River from its headwaters to its confluence with the
25 North Fork Alsea River.

26 “(2) The State Parks and Recreation Department shall report the
27 results of the study to the Governor and the interim committees of the
28 Legislative Assembly related to environment and natural resources on
29 or before January 1, 2015. The department shall make recommen-
30 dations about whether the waterways specified in subsection (1) of this

1 section should be designated as scenic waterways and shall provide
2 justifications for the recommendations. The department may make
3 recommendations regarding waterways other than those specified in
4 subsection (1) of this section.

5 **“SECTION 5. Section 4 of this 2013 Act is repealed on January 2,**
6 **2015.**

7 **“SECTION 6. This 2013 Act being necessary for the immediate**
8 **preservation of the public peace, health and safety, an emergency is**
9 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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