

# Senate Bill 1501

Sponsored by Senator COURTNEY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs State Board of Forestry to adopt single rule package on or before November 30, 2022, to implement Private Forest Accord Report.

Directs board to adopt rules related to post-disturbance harvest and to initiate rulemaking concerning tethered logging by certain dates.

Establishes certain exemptions from requirements for just compensation for land use regulation.

Directs State Forestry Department to procure services for development and application of landslide modeling.

Directs board to prepare habitat conservation plan consistent with Private Forest Accord Report, procure related services and apply for incidental take permit.

Provides exemption from Oregon Forest Practices Act requirements related to species addressed in certain federal agreement.

Establishes alternative practice options related to forest practices by small forestland owners.

Directs board to adopt by rule Small Forestland Owner Investment in Stream Habitat Program.

Creates Small Forest Owner Assistance Office within department.

Establishes certain requirements and prohibitions related to beaver.

Establishes Private Forest Accord Mitigation Advisory Committee. Directs State Fish and Wildlife Commission to establish by rule Private Forest Accord Grant Program.

Directs board to establish by rule adaptive management program. Establishes Adaptive Management Program Committee and Independent Research and Science Team as advisory committees to board.

Amends Oregon Forest Practices Act.

Authorizes department to adopt rules related to pesticide applications.

Makes operability of new provisions and amendments contingent on issuance of incidental take permit on or before December 31, 2027, and incidental take permit remaining in effect.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to a negotiated agreement concerning private forestland; creating new provisions; amending ORS 105.810, 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

## RULE PACKAGE

**SECTION 1.** Section 2 of this 2022 Act is added to and made a part of ORS 527.610 to 527.770.

**SECTION 2.** The State Board of Forestry shall, as a single rule package following a single, consolidated rulemaking process:

(1) Adopt rules consistent with the requirements of the Private Forest Accord Report dated \_\_\_ and published by the State Forestry Department on \_\_\_, to the extent that requirements in the Private Forest Accord Report do not contravene statutory requirements.

(2) As needed to conform with the rules described in subsection (1) of this section, and only as needed to conform with the rules described in subsection (1) of this section, amend or repeal the rules in effect on the effective date of this 2022 Act that implement ORS 527.610

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to 527.770.

2 (3) When adopting, amending or repealing rules as described in this section, the board  
3 shall resolve any gaps or ambiguities in the requirements of the Private Forest Accord Re-  
4 port by:

5 (a) Referring to the intent and structure of the rules implementing ORS 527.610 to 527.770  
6 that are in effect on the effective date of this 2022 Act; and

7 (b) Achieving the outcomes described in the Private Forest Accord Report.

8 **SECTION 3.** (1) On or before November 30, 2022, the State Board of Forestry shall adopt  
9 the rule package described in section 2 of this 2022 Act.

10 (2) In developing the rule package, the board shall:

11 (a) Regularly and closely consult with representatives of the authors of the Private For-  
12 est Accord Report dated \_\_\_ and published by the State Forestry Department on \_\_\_ to  
13 ensure that the rule package is consistent with the intent of the report.

14 (b) Prioritize development of the rule package over other obligations to the extent pos-  
15 sible.

16 (3) Adoption or amendment of rules included in the rule package is not subject to the  
17 requirements of ORS 183.333, 183.335 or 527.714 or section 40 of this 2022 Act.

18 (4) When adopting the rule package, the board is subject to the requirements of sub-  
19 sections (5) to (11) of this section.

20 (5) The board shall give notice of its intent to adopt the proposed rule package in the  
21 bulletin described in ORS 183.360 at least 30 days prior to the date proposed for adopting or  
22 amending the rules.

23 (6) The notice must include:

24 (a) A caption of not more than 15 words that reasonably identifies the subject matter of  
25 the rule package.

26 (b) An objective, simple and understandable statement summarizing the subject matter  
27 and purpose of the rule package in sufficient detail to inform a person that the person's in-  
28 terests may be affected, and the time, place and manner in which interested persons may  
29 present their views on the proposed rule package.

30 (c) A citation of the law the rule package is intended to implement.

31 (d) A full or abbreviated list of the principal documents, reports or studies, if any, pre-  
32 pared by or relied upon by the board in preparing the rule package and a statement of the  
33 location at which those documents are available for public inspection.

34 (7) The Secretary of State may omit the information described in subsection (6)(c) and  
35 (d) of this section from publication in the bulletin.

36 (8) After giving the notice, the board shall accept public comments for 30 days.

37 (9) After receiving public comments, the board may amend the draft rules in the pro-  
38 posed rule package without providing notice or accepting public comments.

39 (10) The board shall hold one public hearing before or during which interested persons  
40 may submit written or oral testimony.

41 (11) The board shall publish notice of the hearing in the bulletin at least 21 days before  
42 the hearing.

43 (12) The provisions of ORS 183.400, 183.410 and 183.480 apply to a petition concerning the  
44 validity or applicability of a rule adopted or amended as part of the rule package or a rule  
45 amended as described in subsection (13) of this section.

1 (13) After adopting the rule package, and on or before July 1, 2023, the board may amend  
2 rules that implement ORS 527.610 to 527.770 to make minor changes as needed to conform  
3 with rules in the rule package.

4 (14) Amendments described in subsection (13) of this section are not subject to the re-  
5 quirements of ORS 183.333, 183.335 or 527.714 or section 40 of this 2022 Act.

6 **SECTION 4.** (1) The State Fish and Wildlife Commission may adopt, amend or repeal  
7 rules as needed to conform with the rule package described in section 2 of this 2022 Act.

8 (2) The provisions of ORS 183.333 and 183.335 do not apply to an adoption, amendment or  
9 repeal of a rule under subsection (1) of this section that occurs on or before November 30,  
10 2022.

11 **SECTION 5.** (1) Rules adopted or amended as part of the rule package described in sec-  
12 tion 2 of this 2022 Act apply only to an operation for which a notification is filed:

13 (a) On or after January 1, 2024.

14 (b) Before January 1, 2024, if the operation is not completed on or before December 31,  
15 2023.

16 (2) Notwithstanding subsection (1) of this section, rules adopted or amended as part of  
17 the rule package that relate to fish buffers apply to an operation, other than an operation  
18 described in section 16 (3)(a) of this 2022 Act, for which a notification is filed on or after July  
19 1, 2023.

20 (3) If the State Forester determines that a forest activity electronic reporting and notice  
21 system operated by the State Forestry Department is not updated with the information  
22 necessary to implement the requirements of the Private Forest Accord Report dated \_\_\_ and  
23 published by the department on \_\_\_ in time for operations to reasonably comply with the  
24 requirements by January 1, 2024, the State Forester may extend the deadlines described in  
25 subsection (1) of this section for application of rules that do not relate to fish buffers.

26  
27 **POST-DISTURBANCE HARVEST RULEMAKING**

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29 **SECTION 6.** (1) On or before November 30, 2025, the State Board of Forestry shall adopt  
30 rules related to post-disturbance harvest.

31 (2) The requirements of section 40 of this 2022 Act do not apply to rulemaking under this  
32 section.

33  
34 **TETHERED LOGGING RULEMAKING**

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36 **SECTION 7.** (1) Not more than three years after the effective date of this 2022 Act, the  
37 State Board of Forestry shall initiate rulemaking concerning tethered logging.

38 (2) The board shall prioritize the rulemaking.

39  
40 **JUST COMPENSATION EXEMPTION**

41  
42 **SECTION 8.** The Legislative Assembly intends that a person is not entitled to just com-  
43 pensation under ORS 195.305 to 195.336 for any restriction placed on the use of real property  
44 by a rule adopted or amended by the State Board of Forestry:

45 (1) As part of the rule package described in section 2 of this 2022 Act.



SUBMISSION OF HABITAT CONSERVATION PLAN

**SECTION 11.** The State Board of Forestry shall prepare and submit to the National Marine Fisheries Service and the United States Fish and Wildlife Service:

(1) A proposed habitat conservation plan consistent with the Private Forest Accord Report dated \_\_\_ and published by the State Forestry Department on \_\_\_.

(2) An application for an incidental take permit, supported by the habitat conservation plan, for the incidental taking of species addressed in the Private Forest Accord Report.

**SECTION 12.** (1) On or before December 31, 2022, the State Board of Forestry shall prepare and submit to the National Marine Fisheries Service and the United States Fish and Wildlife Service the habitat conservation plan described in section 11 of this 2022 Act.

(2) The board shall procure the services of a person to develop and draft the habitat conservation plan.

(3) Pursuant to ORS 279A.050 (6)(m) and notwithstanding ORS 279B.050, 279B.055, 279B.060, 279B.065 and 279B.070, the board may award a contract for the services without undertaking a process of competitive sealed bidding or competitive sealed proposals or soliciting competitive price quotes or competitive proposals.

(4) The board shall ensure that representatives of the authors of the Private Forest Accord Report dated \_\_\_ and published by the State Forestry Department on \_\_\_ are:

(a) Regularly and closely consulted concerning the development and drafting of the habitat conservation plan.

(b) Consulted if any question arises concerning the intent of the Private Forest Accord Report.

(5) The habitat conservation plan and application for an incidental take permit described in section 11 of this 2022 Act do not constitute rules for purposes of ORS 183.310 to 183.410 or 527.714.

PASS-THROUGH PROTECTION FOR ENDANGERED SPECIES ACT AGREEMENTS

**SECTION 13.** Section 14 of this 2022 Act is added to and made a part of ORS 527.610 to 527.770.

**SECTION 14.** If a person is party to an agreement with the National Marine Fisheries Service or the United States Fish and Wildlife Service under the federal Endangered Species Act of 1973 (16 U.S.C. 1531 to 1544) and is engaging in a forest practice in compliance with the agreement, the forest practice is not subject to provisions of ORS 527.610 to 527.770 or rules adopted thereunder that relate to protection of a species addressed in the agreement.

SMALL FORESTLAND OWNER PROVISIONS

**SECTION 15.** Section 16 of this 2022 Act is added to and made a part of ORS 527.610 to 527.770.

**SECTION 16.** (1) As used in this section:

(a) "Alternative practice option" means an alternative practice option available for small forestland owners pursuant to rules adopted by the State Board of Forestry under section 2 of this 2022 Act that addresses timber harvest in riparian areas, timber harvest on steep

1 slopes or requirements related to forest roads.

2 (b) “Common ownership” means direct ownership by one or more individuals or owner-  
3 ship by a corporation, partnership, association or other entity in which an individual owns  
4 a majority interest.

5 (2) The board may not establish riparian prescriptions that result in alternative minimum  
6 riparian buffer widths or lengths that measure less than the alternative minimum riparian  
7 buffer widths or lengths set forth in sections 6.3.1.3 and 6.3.1.4 of chapter 6 of the Private  
8 Forest Accord Report dated \_\_\_ and published by the State Forestry Department on \_\_\_.

9 (3)(a) An operator, timber owner or landowner may not follow an alternative practice  
10 option for an operation unless the department determines that, as of the date the depart-  
11 ment receives a notification related to the operation under ORS 527.670:

12 (A) The landowner of the forestland where the operation will occur owns or holds com-  
13 mon ownership interest in less than 5,000 acres of forestland in this state;

14 (B) No more than an average yearly volume of two million board feet of merchantable  
15 forest products has been harvested from the landowner’s forestland in this state, when av-  
16 eraged over the three years prior to the date the department receives the notification; and

17 (C) The landowner has submitted an affirmation to the department that it does not ex-  
18 pect to exceed an average yearly volume of two million board feet of merchantable forest  
19 products to be harvested from the landowner’s forestland in this state during the 10 years  
20 following the date the department receives the notification.

21 (b) Notwithstanding paragraph (a)(B) and (C) of this subsection, the department may al-  
22 low a landowner to follow an alternative practice option if the landowner establishes to the  
23 department’s reasonable satisfaction that any exceedance of the harvest limits set forth in  
24 paragraph (a)(B) or (C) of this subsection was or will be necessary to raise funds to pay es-  
25 tate taxes or for a compelling and unexpected obligation.

26 (4) The department may require a landowner to submit, as part of the notification re-  
27 quired under ORS 527.670, any additional information or statements necessary to determine  
28 whether a landowner meets the requirements of subsection (3) of this section.

29 (5) The board may adopt any rules necessary to implement this section.

30 **SECTION 17.** (1) The State Board of Forestry shall adopt by rule a Small Forestland  
31 Owner Investment in Stream Habitat Program.

32 (2) The purpose of the program is to provide grants to certain small forestland owners  
33 to fund projects that:

34 (a) Result in environmental benefits to fish species addressed in the Private Forest Ac-  
35 cord Report dated \_\_\_ and published by the State Forestry Department on \_\_\_; or

36 (b) Mitigate risks to natural resources arising from the construction, operation or  
37 maintenance of forest roads or related activities.

38 (3) The Small Forest Owner Assistance Office established by section 19 of this 2022 Act  
39 shall implement and administer the program.

40 (4)(a) To be eligible for a grant under the program, a landowner must:

41 (A) Own or hold common ownership interest in less than 5,000 acres of forestland in this  
42 state.

43 (B) Submit documentation showing that no more than an average yearly volume of two  
44 million board feet of merchantable forest products has been harvested from the landowner’s  
45 forestland in this state, when averaged over the three years prior to the date the office re-

1 ceives the grant application.

2 (C) Affirm to the office that the landowner does not expect to exceed an average yearly  
3 volume of two million board feet of merchantable forest products to be harvested from the  
4 landowner's forestland in this state during the 10 years following the date the office receives  
5 the grant application.

6 (D) Have on file with the State Forestry Department a road condition assessment for the  
7 roads, abandoned roads, culverts or fish passage barriers that:

8 (i) Are located within the forestland owned by the landowner.

9 (ii) Will be the subject of the project funded by the grant.

10 (b) For purposes of this subsection, a landowner must be considered to hold common  
11 ownership interest in forestland if the forestland is owned by the landowner directly or by  
12 a corporation, partnership, association or other entity in which the landowner owns a ma-  
13 jority interest.

14 (c) Notwithstanding paragraph (a)(B) and (C) of this subsection, a landowner may be eli-  
15 gible for a grant if the landowner establishes to the department's reasonable satisfaction  
16 that any exceedance of the harvest limits set forth in paragraph (a)(B) or (C) of this sub-  
17 section was or will be necessary to raise funds to pay estate taxes or for a compelling and  
18 unexpected obligation.

19 (5) In administering and implementing the program, the office shall coordinate with the  
20 State Department of Fish and Wildlife to prioritize awarding grants for projects on high  
21 conservation value sites, as described in section 6.3.5.3 of chapter 6 of the Private Forest  
22 Accord Report.

23 (6) In addition to the requirements described in subsection (4) of this section, when  
24 awarding grants under the program, the office may consider:

25 (a) The length of time that has elapsed since an application for a grant was received.

26 (b) Any potential efficiencies gained through coordinating grant-funded activities with  
27 other activities at a proposed project site.

28 (7) The office shall annually publish, and make publicly available on a website of the State  
29 Forestry Department, a report for the previous calendar year that addresses:

30 (a) Each funded project that was completed during the calendar year.

31 (b) The costs of each completed project and the mileage of streams improved as a result  
32 of the completed project.

33 (8) The department shall submit a copy of the report to an appropriate committee or  
34 interim committee of the Legislative Assembly, in the manner described in ORS 192.245, no  
35 later than September 15 of each year.

36 **SECTION 18.** (1) The Small Forestland Owner Investment in Stream Habitat Program  
37 Fund is established, separate and distinct from the General Fund. Interest earned by the  
38 Small Forestland Owner Investment in Stream Habitat Program Fund shall be credited to  
39 the fund.

40 (2) Moneys in the fund are continuously appropriated to the State Forestry Department  
41 to be distributed by the Small Forest Owner Assistance Office described in section 19 of this  
42 2022 Act as grants to small forestland owners under the Small Forestland Owner Investment  
43 in Stream Habitat Program established under section 17 of this 2022 Act.

44 (3) The fund shall consist of:

45 (a) Moneys appropriated to the department for deposit in the fund or otherwise trans-

ferred to the fund.

(b) Any gifts, grants, contributions or other donations for use as described in subsection (2) of this section that are received by the department from any public or private source and caused to be deposited in the fund or otherwise transferred to the fund.

**SECTION 19.** (1) The Small Forest Owner Assistance Office is created within the State Forestry Department.

(2) The office shall:

(a) Support and promote implementation of financial incentives and technical assistance programs for small forestland owners that align with the intent of the Private Forest Accord Report dated \_\_\_ and published by the department on \_\_\_.

(b) Carry out duties related to the Small Forestland Owner Investment in Stream Habitat Program, as described in section 17 of this 2022 Act.

(c) To support compliance with a habitat conservation plan that is consistent with the requirements of the Private Forest Accord Report, develop and maintain a database of:

(A) Landowners that the department has determined meet the requirements set forth in section 16 (3) of this 2022 Act.

(B) Forestland in this state that is owned by the landowners.

(C) The types and conditions of the forestland.

(D) The roads and streams located within the forestland.

(d) Serve as the lead coordination and support body within the department for programs, partnerships and educational opportunities not otherwise described in this section that support forestland owners that own less than 5,000 acres of forestland in this state.

(e) Identify and implement opportunities to leverage the programs, partnerships and educational opportunities to support activities consistent with the habitat conservation plan, including activities that provide for adequate fish passage, remove fish passage barriers, maintain roads or collect data related to the habitat conservation plan.

(f) Engage in any other duties delegated to the office by the State Board of Forestry or the department.

(3) The board may adopt rules as necessary to implement this section.

**SECTION 20.** The State Board of Forestry shall adopt the rules described in sections 16, 17 and 19 of this 2022 Act as part of the rule package described in section 2 of this 2022 Act.

**BEAVER (CASTOR CANADENSIS) CONSERVATION**

**SECTION 21.** Sections 22, 23 and 25 of this 2022 Act are added to and made a part of ORS chapter 498.

**SECTION 22.** (1) As used in this section:

(a) “Beaver” means a member of the species *Castor canadensis*.

(b) “Forestland” has the meaning given that term in ORS 527.620.

(2) A person that takes a beaver on privately owned forestland shall report the taking to the State Department of Fish and Wildlife, including the reason for the taking, the location of the taking and the number of beavers taken.

(3) The department shall:

(a) Annually submit a summary of the takings of beaver reported under subsection (2) of this section to the State Fish and Wildlife Commission to help the commission better un-

1 **derstand the scale of trapping on privately owned forestland.**

2 **(b) Make the summary described in paragraph (a) of this subsection available to the**  
 3 **public on a department website.**

4 **(4) The commission shall adopt rules to implement this section.**

5 **SECTION 23. (1) As used in this section:**

6 **(a) “Beaver” means a member of the species *Castor canadensis*.**

7 **(b) “Forest practices” has the meaning given that term in ORS 527.620.**

8 **(c) “Forestland” has the meaning given that term in ORS 527.620.**

9 **(d) “Small forestland” has the meaning given that term in ORS 527.678.**

10 **(2) A person or the person’s designee may not take a beaver on privately owned**  
 11 **forestland, other than small forestland, unless the person or the person’s designee first re-**  
 12 **quests that the State Department of Fish and Wildlife address any issues motivating the**  
 13 **taking of the beaver and waits 30 days after making the request.**

14 **(3) If the department receives a request under subsection (2) of this section, the depart-**  
 15 **ment shall make a reasonable attempt to nonlethally relocate the beaver, as department re-**  
 16 **sources allow, or otherwise address the issues, in consultation with the person or person’s**  
 17 **designee.**

18 **(4) Notwithstanding subsection (2) of this section, if a beaver on privately owned**  
 19 **forestland threatens or damages infrastructure, a person or the person’s designee may take**  
 20 **the beaver without submitting a request to the department.**

21 **(5) A person or the person’s designee that takes a beaver under subsection (2) or (4) of**  
 22 **this section must report the taking as described in section 22 of this 2022 Act.**

23 **(6) In consultation with persons engaged in forest practices and other interested**  
 24 **stakeholders, the department shall:**

25 **(a) Make reasonable attempts to nonlethally relocate beavers, as department resources**  
 26 **allow.**

27 **(b) Develop a program for voluntarily relocating beavers.**

28 **(7) Notwithstanding ORS 496.162 (3), the State Fish and Wildlife Commission shall adopt**  
 29 **rules to implement this section.**

30 **SECTION 24. The State Fish and Wildlife Commission shall adopt the rules required by**  
 31 **sections 22 and 23 of this 2022 Act on or before November 30, 2022.**

32 **SECTION 25. (1) As used in this section:**

33 **(a) “Forestland” has the meaning given that term in ORS 527.620.**

34 **(b) “Small forestland” has the meaning given that term in ORS 527.678.**

35 **(2) A person may not solicit or accept a fee for trapping a beaver on privately owned**  
 36 **forestland other than small forestland, unless the trapping occurs pursuant to section 23 (2)**  
 37 **or (4) of this 2022 Act.**

38 **(3) A person that traps a beaver on privately owned forestland other than small**  
 39 **forestland may not sell or exchange the pelt of the beaver, unless the trapping occurs pur-**  
 40 **suant to section 23 (2) or (4) of this 2022 Act.**

41 **SECTION 26. ORS 610.060 is amended to read:**

42 **610.060. Except as provided in section 23 of this 2022 Act, nothing in the wildlife laws is in-**  
 43 **tended to deny the right of any person to control predatory animals as provided in ORS 610.105.**

44 **SECTION 27. ORS 610.105 is amended to read:**

45 **610.105. Except as provided in section 23 of this 2022 Act, any person owning, leasing, oc-**

1 cupying, possessing or having charge of or dominion over any land, place, building, structure, wharf,  
 2 pier or dock which is infested with ground squirrels and other noxious rodents or predatory animals,  
 3 as soon as their presence comes to the knowledge of the person, may, or the agent of the person  
 4 may, proceed immediately and continue in good faith to control them by poisoning, trapping or other  
 5 appropriate and effective means.

6  
 7 **MITIGATING EFFECTS ON AQUATIC WILDLIFE**

8  
 9 **SECTION 28.** ORS 496.252 is amended to read:

10 496.252. (1) The Oregon Conservation and Recreation Fund is established in the State Treasury,  
 11 separate and distinct from the General Fund. Interest earned by the Oregon Conservation and Re-  
 12 creation Fund shall be credited to the fund.

13 (2) Moneys in the fund are continuously appropriated to the State Department of Fish and  
 14 Wildlife to carry out activities that serve to protect, maintain or enhance fish and wildlife resources  
 15 in Oregon. The activities for which the department may expend fund moneys include, but are not  
 16 limited to:

17 (a) Promoting the health of Oregon’s ecosystems and fish and wildlife species by implementing  
 18 conservation programs and strategies identified in the Oregon Conservation Strategy, as defined in  
 19 ORS 541.890, including conservation programs and strategies for the nearshore identified in the  
 20 marine component of the Oregon Conservation Strategy;

21 (b) Improving engagement of the public in hunting and fishing opportunities and in other outdoor  
 22 recreation opportunities related to and in support of healthy fish, wildlife and habitats;

23 (c) Improving educational outreach and engagement of the public, including diverse and under-  
 24 served communities, related to and in support of healthy fish, wildlife and habitats;

25 (d) Engaging in, and providing funding for, joint projects of the department and the State Parks  
 26 and Recreation Department or other state agencies as recommended by the Oregon Conservation  
 27 and Recreation Advisory Committee established under ORS 496.254; and

28 (e) Other conservation, management, research, habitat improvement, enforcement, outdoor re-  
 29 creation or education activities.

30 (3) The fund shall consist of:

31 (a) Moneys appropriated to the State Department of Fish and Wildlife for deposit in the fund  
 32 or otherwise transferred to the fund; *[and]*

33 (b) Gifts, grants, contributions or other donations for use as described in subsection (2) of this  
 34 section, that are received by the department from any public or private source and caused to be  
 35 deposited and credited to the fund[.]; **and**

36 (c) **Moneys in the subaccount described in subsection (4) of this section.**

37 (4) **The Private Forest Accord Mitigation Subaccount is established in the fund. The**  
 38 **subaccount shall consist of moneys appropriated to the department for deposit in the sub-**  
 39 **account or otherwise transferred to the subaccount and gifts, grants, contributions or other**  
 40 **donations that are received by the department from any public or private source and caused**  
 41 **to be deposited and credited to the subaccount. Moneys in the subaccount may be used for:**

42 (a) **Purposes described in section 32 of this 2022 Act.**

43 (b) **Conducting outreach to persons that own or operate an artificial obstruction, as de-**  
 44 **defined in ORS 509.580, to further the goal of fish passage.**

45 (c) **Conducting outreach to persons that may undertake projects described in section 32**

1 of this 2022 Act.

2 (5) The department and the Oregon Conservation and Recreation Advisory Committee  
3 shall jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640  
4 regarding the expenditure of moneys deposited in the fund, other than moneys deposited in  
5 the Private Forest Accord Mitigation Subaccount, and on the status of various activities  
6 funded by the moneys.

7 (6) The department and the Private Forest Accord Mitigation Advisory Committee shall  
8 jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640 re-  
9 garding the expenditure of moneys deposited in the Private Forest Accord Mitigation Sub-  
10 account and on the status of various activities funded by the moneys.

11 **SECTION 29.** ORS 496.254 is amended to read:

12 496.254. (1) The Oregon Conservation and Recreation Advisory Committee is established as an  
13 advisory committee to the State Fish and Wildlife Commission and the State Department of Fish and  
14 Wildlife for the purpose of carrying out the duties described in subsection (2) of this section. The  
15 commission shall determine the number of members of the committee and the geographical repre-  
16 sentation by the members. The Governor shall appoint the members of the committee. The Associate  
17 Director of Outdoor Recreation, or the associate director's designee, shall serve as a nonvoting, ex  
18 officio member.

19 (2) The committee shall review department policies regarding the use of Oregon Conservation  
20 and Recreation Fund moneys, **other than policies regarding the use of Private Forest Accord**  
21 **Mitigation Subaccount moneys**, and make recommendations to the commission and the department  
22 regarding the use of fund moneys for implementing and administering department activities.

23 (3) Members of the committee may not receive compensation for service as members. However,  
24 subject to any applicable law regulating travel and other expenses of state officers and employees,  
25 a member may be reimbursed for actual and necessary travel and other expenses incurred in the  
26 performance of official duties from moneys available to the department for the purpose of re-  
27 imbursement of committee members.

28 *[(4) The department and the committee jointly shall submit a biennial report to the Legislative*  
29 *Assembly as provided in ORS 293.640 regarding the expenditure of moneys deposited in the Oregon*  
30 *Conservation and Recreation Fund established under ORS 496.252 and on the status of various activ-*  
31 *ities funded by the moneys.]*

32 **SECTION 30.** (1) **The Private Forest Accord Mitigation Advisory Committee is established**  
33 **as an advisory committee to the State Fish and Wildlife Commission and the State Depart-**  
34 **ment of Fish and Wildlife for the purpose of carrying out the duties described in subsection**  
35 **(11) of this section.**

36 (2) **The committee shall consist of up to 12 members, including seven voting members**  
37 **appointed pursuant to subsections (3) and (4) of this section and up to five nonvoting mem-**  
38 **bers as provided for in subsection (5) of this section.**

39 (3)(a) **The Governor shall appoint the following six voting members:**

40 (A) **Three members who represent the timber industry.**

41 (B) **Three members who represent nongovernmental organizations that promote conser-**  
42 **vation of freshwater and aquatic habitat.**

43 (b) **In appointing members, the Governor shall solicit and consider recommendations**  
44 **from the timber industry and nongovernmental organizations that promote conservation of**  
45 **freshwater and aquatic habitat.**

1 (4) The members of the Oregon Conservation and Recreation Advisory Committee shall  
 2 select and appoint from among themselves one person to serve as a voting member of the  
 3 Private Forest Accord Mitigation Advisory Committee.

4 (5) The department shall appoint up to five nonvoting members recommended by:

- 5 (a) The State Forestry Department.
- 6 (b) The Oregon Watershed Enhancement Board.
- 7 (c) The State Department of Fish and Wildlife.
- 8 (d) The United States Fish and Wildlife Service.
- 9 (e) The National Marine Fisheries Service.

10 (6)(a) The term of a voting member is four years.

11 (b) Before the expiration of the term of a voting member, the appropriate appointing  
 12 authority shall appoint a successor whose term begins on the following January 31.

13 (c) A voting member may be reappointed but may not serve for more than two full terms.

14 (d) A voting member appointed by the Governor may be removed only for cause.

15 (7) In case of a vacancy, the appropriate appointing authority shall make an appointment  
 16 to become effective immediately for the unexpired portion of the term.

17 (8) The voting members shall biennially select from among themselves a chairperson and  
 18 vice chairperson.

19 (9) The committee shall meet at least four times per year.

20 (10) A majority of the voting members constitutes a quorum for the transaction of busi-  
 21 ness.

22 (11) The committee shall:

23 (a) Review State Department of Fish and Wildlife policies regarding the use of moneys  
 24 deposited in the Private Forest Accord Mitigation Subaccount of the Oregon Conservation  
 25 and Recreation Fund and make recommendations to the commission and the department  
 26 regarding the use of moneys in the subaccount.

27 (b) Review grant applications submitted under the Private Forest Accord Grant Program  
 28 described in section 32 of this 2022 Act and advise the commission and department on how  
 29 to award grants in a manner that will most effectively mitigate the impacts of forest prac-  
 30 tices, as defined in ORS 527.620.

31 (12) In undertaking the duties described in subsection (11) of this section, the committee  
 32 may solicit and consider recommendations from, and otherwise coordinate with, the Oregon  
 33 Conservation and Recreation Advisory Committee.

34 (13) Members of the Private Forest Accord Mitigation Advisory Committee may receive  
 35 compensation and expenses as described in ORS 292.495.

36 **SECTION 31.** (1) Notwithstanding section 30 (3) of this 2022 Act, the voting members first  
 37 appointed by the Governor to the Private Forest Accord Mitigation Advisory Committee  
 38 must be representatives of six authors of the Private Forest Accord Report dated \_\_\_\_ and  
 39 published by the State Forestry Department on \_\_\_\_.

40 (2) Notwithstanding section 30 (6)(a) of this 2022 Act, of the voting members first ap-  
 41 pointed by the Governor:

- 42 (a) Two shall serve for terms ending one year after the date of appointment.
- 43 (b) Two shall serve for terms ending two years after the date of appointment.
- 44 (c) Two shall serve for terms ending three years after the date of appointment.

45 **SECTION 32.** (1) As used in this section, “forest practice” has the meaning given that

1 term in ORS 527.620.

2 (2) The State Fish and Wildlife Commission shall establish by rule a Private Forest Ac-  
 3 cord Grant Program for the purpose of funding projects that mitigate impacts of forest  
 4 practices by:

5 (a) Removing structures that block the passage of aquatic organisms or repairing the  
 6 structures to promote the passage of aquatic organisms.

7 (b) Placing logs or other wood-based material in streams to promote natural stream  
 8 functions.

9 (c) Conserving, recruiting or reintroducing beavers to restore aquatic landscapes.

10 (d) Developing or sustaining healthy riparian corridors or wet meadow complexes to re-  
 11 duce burn intensity during fires and protect streams from excess sediment after a fire.

12 (e) Applying restoration treatments to densely stocked, single-species stands of trees to  
 13 hasten the return of riparian function after tree harvesting.

14 (f) Applying restoration treatments to stands of trees to enhance historic species diver-  
 15 sity that benefits riparian function.

16 (g) Supporting establishment of conservation easements on land other than forestland,  
 17 as defined in ORS 527.620, to protect riparian areas.

18 (h) Supporting acquisition of an existing water right for conversion to an in-stream water  
 19 right, as described in ORS 537.348, to improve in-stream flow conditions.

20 (i) Installing fencing or otherwise excluding grazing in riparian areas or around seeps or  
 21 springs.

22 (j) Installing off-stream stockwater systems or hardened watering gaps to reduce the  
 23 effects of grazing on aquatic organisms.

24 (k) Undertaking other measures that effectively conserve or restore habitat for aquatic  
 25 organisms addressed by a habitat conservation plan that is consistent with the Private For-  
 26 est Accord Report dated \_\_\_\_ and published by the State Forestry Department on \_\_\_\_.

27 (3) In administering the program, the commission:

28 (a) Shall develop criteria for awarding a grant and a process for applying for a grant.

29 (b) Shall award grants to most effectively mitigate impacts of forest practices, consistent  
 30 with advice from the Private Forest Accord Mitigation Advisory Committee.

31 (c) May award a grant to another agency.

32 (d) May require the recipient of a grant to report to the commission on the use of grant  
 33 funds.

34  
 35 **ADAPTIVE MANAGEMENT**

36  
 37 **SECTION 33.** Sections 34, 36, 38 and 40 of this 2022 Act are added to and made a part of  
 38 ORS 527.610 to 527.770.

39 **SECTION 34.** (1) It is the policy of the State of Oregon that regulation of forest practices  
 40 for the protection of aquatic species shall, in addition to other statutory requirements, be  
 41 subject to a process of adaptive management, whereby goals and objectives are validated, and  
 42 modified if necessary, and forest practice rules are monitored for effectiveness relative to  
 43 the goals and objectives.

44 (2) The State Board of Forestry shall establish by rule an adaptive management program  
 45 to accomplish the policy described in subsection (1) of this section through which resource

1 objectives are identified and modified.

2 (3) The adaptive management program must:

3 (a) Ensure effective change as needed to meet resources objectives.

4 (b) Increase the predictability and stability of the process of changing regulation so  
5 landowners, regulators and interested members of the public can understand and anticipate  
6 change.

7 (c) Apply best available science to decision-making.

8 (d) Effectively meet resource objectives with less operationally expensive prescriptions  
9 when feasible.

10 (4) The State Board of Forestry shall adopt rules prescribing in detail the roles and ob-  
11 ligations of the Adaptive Management Program Committee and Independent Research and  
12 Science Team, consistent with sections 36 and 38 of this 2022 Act and the provisions of the  
13 Private Forest Accord Report dated \_\_\_ and published by the State Forestry Department  
14 on \_\_\_\_.

15 (5) The board shall consider reports submitted by the committee and team.

16 **SECTION 35.** On or before November 30, 2022, the State Board of Forestry shall adopt  
17 the rules described in section 34 of this section as part of the rule package described in  
18 section 2 of this 2022 Act.

19 **SECTION 36.** (1) The Adaptive Management Program Committee is established as an ad-  
20 visory committee to the State Board of Forestry.

21 (2) The committee shall consist of 10 voting members and up to three nonvoting mem-  
22 bers.

23 (3) The board shall select a voting member from among two candidates recommended by  
24 each of the following 10 entities:

25 (a) The Oregon Forest and Industries Council.

26 (b) The Coalition of Oregon Land Trusts.

27 (c) The Associated Oregon Loggers.

28 (d) A conservation organization collectively selected by Beyond Toxics, Cascadia  
29 Wildlands, Klamath Siskiyou Wildlands Center, Oregon League of Conservation Voters,  
30 Oregon Stream Protection Coalition, Oregon Wild, Portland Audubon and Umpqua  
31 Watersheds, which were parties to the Private Forest Accord Report dated \_\_\_ and pub-  
32 lished by the State Forestry Department on \_\_\_\_.

33 (e) The Oregon Small Woodlands Association.

34 (f) The Commission on Indian Services.

35 (g) A recreational or commercial angling organization collectively selected by Northwest  
36 Guides and Anglers Association, Pacific Coast Federation of Fishermen's Associations, Trout  
37 Unlimited and Wild Salmon Center, which were parties to the Private Forest Accord Report.

38 (h) The Association of Oregon Counties.

39 (i) The State Department of Fish and Wildlife.

40 (j) The Department of Environmental Quality.

41 (4) If an entity described in subsection (3) of this section ceases to exist, the board shall  
42 determine a successor entity that represents the same interests.

43 (5) The board shall:

44 (a) Select one representative of the State Forestry Department to serve as a nonvoting  
45 member.

1 (b) Invite one representative of the National Marine Fisheries Service and one represen-  
2 tative of the United States Fish and Wildlife Service to serve on the committee as nonvoting  
3 members.

4 (6) The voting members and the nonvoting member described in subsection (5)(a) of this  
5 section shall serve for terms of four years and may serve an unlimited number of terms.

6 (7) The committee shall:

7 (a) Guide the adaptive management process.

8 (b) Set the research agenda of the Independent Research and Science Team established  
9 in section 38 of this 2022 Act and recommend to the board the team's budget.

10 (c) Assess the scientific findings in a report prepared by the team and prepare a report  
11 that identifies alternative actions, including no action, to address resource issues identified  
12 in the team's report.

13 (d) Submit the committee's reports to the board.

14 (e) Assist the board in the ongoing process of identifying and modifying resource objec-  
15 tives.

16 (f) Review reports related to compliance monitoring and enforcement.

17 (g) Submit recommendations to the board concerning rule adjustment, guidance or  
18 training.

19 (h) Strive for full consensus in committee decision-making.

20 (8) Notwithstanding subsection (7)(h) of this section, the committee shall make substan-  
21 tial decisions by a vote of at least seven voting members.

22 (9) Committee members are not eligible for compensation or reimbursement for ex-  
23 penses. An organization that is represented by a committee member may receive a partic-  
24 ipation grant to compensate for the committee member's service, subject to the discretion  
25 of the board.

26 (10) The board shall adopt rules describing a process for awarding participation grants  
27 described in subsection (9) of this section.

28 **SECTION 37.** (1) The State Board of Forestry shall appoint the first voting members of  
29 the Adaptive Management Program Committee on or before November 30, 2022.

30 (2) Notwithstanding section 36 (6) of this 2022 Act, of the voting members of the com-  
31 mittee first appointed by the board:

32 (a) Two shall serve for terms ending one year after the date of appointment.

33 (b) Two shall serve for terms ending two years after the date of appointment.

34 (c) Three shall serve for terms ending three years after the date of appointment.

35 **SECTION 38.** (1) The Independent Research and Science Team is established as an advi-  
36 sory committee to the State Board of Forestry.

37 (2) The board shall appoint an odd number of at least five voting members to the team  
38 from a list of candidates provided by the Adaptive Management Program Committee.

39 (3) The voting members must:

40 (a) Have demonstrated subject matter expertise in a relevant field and a graduate-level  
41 degree in a relevant natural resources-related field such as forestry, silviculture, ecology,  
42 hydrology, wildlife, fisheries or geology.

43 (b) Represent, at all times, a public institution, the timber industry and a nongovern-  
44 mental organization that promotes conservation of freshwater aquatic habitat.

45 (4) Team members shall serve for initial terms of four years and may serve an unlimited

1 **number of terms.**

2 **(5) A team member may be removed by a two-thirds vote of the team or by a majority**  
3 **vote of the board.**

4 **(6) If there is a vacancy on the team, or if the team determines that a new scientific or**  
5 **technical discipline must be represented on the team in order for the team to perform its**  
6 **research duties:**

7 **(a) The team shall submit a list of candidates to the board.**

8 **(b) The board may appoint one or more of the candidates as voting members of the team.**

9 **(c) If the board does not select one or more voting members from the list of candidates,**  
10 **the team shall submit a new list of candidates to the board until such time as the board**  
11 **appoints one or more candidates as voting members of the team.**

12 **(7) The board shall adopt rules for administering subsection (6) of this section.**

13 **(8) The team shall:**

14 **(a) Conduct or oversee research requested by the Adaptive Management Program Com-**  
15 **mittee.**

16 **(b) Report to the board and the committee on the findings of the research, including**  
17 **findings concerning the magnitude of impacts on species of concern, the urgency of needed**  
18 **action and the degree of scientific confidence or uncertainty behind the findings.**

19 **(9) The team shall make substantial decisions by a vote of at least two-thirds of the team**  
20 **members.**

21 **(10) Team members are not eligible for compensation or reimbursement for expenses.**  
22 **An organization that is represented by a team member may receive a participation grant to**  
23 **compensate for the team member's service, subject to the discretion of the board.**

24 **(11) The board shall adopt rules describing a process for awarding participation grants**  
25 **described in subsection (10) of this section.**

26 **SECTION 39. The State Board of Forestry shall appoint the first voting members of the**  
27 **Independent Research and Science Team on or before November 30, 2022.**

28 **SECTION 40. (1) The State Board of Forestry may adopt, amend or repeal a rule de-**  
29 **scribed in ORS 527.714 (1)(c) that relates to aquatic resources only after soliciting and con-**  
30 **sidering reports from the Adaptive Management Program Committee and the Independent**  
31 **Research and Science Team described in sections 36 and 38 of this 2022 Act, unless legislation**  
32 **authorizing or requiring the adoption, amendment or repeal of the rule provides a specific**  
33 **exemption from this subsection.**

34 **(2) Subsection (1) of this section:**

35 **(a) Applies to a rule related to aquatic species that is described in ORS 527.765 (3)(e).**  
36 **Requirements in subsection (1) of this section are in addition to, and not in lieu of, require-**  
37 **ments established by ORS 527.765 (3)(e).**

38 **(b) Does not apply to rules other than those described in ORS 527.714 (1)(c) and 527.765**  
39 **(3)(e) that relate to aquatic species.**

40 **(c) Does not apply to rules adopted, amended or repealed by the Environmental Quality**  
41 **Commission.**

42 **(3) The board may decide to solicit and consider reports from the committee and team**  
43 **when adopting, amending or repealing any rule not described in subsection (1) or (2)(a) of this**  
44 **section.**

45 **(4) Notwithstanding subsections (1) and (2)(a) of this section and ORS 527.714 (7), the**

1 **board need not consider reports from the committee or team when adopting, amending or**  
 2 **repealing rules to comply with a court order.**

3  
 4 **AMENDMENTS TO OREGON FOREST PRACTICES ACT**

5  
 6 **SECTION 41.** ORS 527.620 is amended to read:

7 527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:

8 **(1) “Aquatic resource” means:**

9 **(a) A species addressed in the Private Forest Accord Report dated \_\_\_\_ and published by**  
 10 **the State Forestry Department on \_\_\_\_ and the resources on which the species relies; or**

11 **(b) If a habitat conservation plan consistent with the Private Forest Accord Report has**  
 12 **been approved, a species addressed in the habitat conservation plan and the resources on**  
 13 **which the species relies.**

14 [(1)] **(2) “Board” means the State Board of Forestry.**

15 [(2)] **(3) “Cumulative effects” means the impact on the environment which results from the in-**  
 16 **cremental impact of the forest practice when added to other past, present and reasonably foreseea-**  
 17 **ble future forest practices regardless of what governmental agency or person undertakes such other**  
 18 **actions.**

19 [(3)] **(4) “DBH” means the diameter at breast height which is measured as the width of a**  
 20 **standing tree at four and one-half feet above the ground, on the uphill side.**

21 [(4)] **(5) “Edge of the roadway” means:**

22 **(a) For interstate highways, the fence.**

23 **(b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the**  
 24 **shoulder.**

25 [(5)] **(6) “Forest practice” means any operation conducted on or pertaining to forestland, in-**  
 26 **cluding but not limited to:**

- 27 **(a) Reforestation of forestland;**
- 28 **(b) Road construction and maintenance;**
- 29 **(c) Harvesting of forest tree species;**
- 30 **(d) Application of chemicals;**
- 31 **(e) Disposal of slash; and**
- 32 **(f) Removal of woody biomass.**

33 [(6)] **(7) “Forest tree species” means any tree species capable of producing logs, fiber or other**  
 34 **wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial**  
 35 **forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used**  
 36 **solely for the production of Christmas trees.**

37 [(7)] **(8) “Forestland” means land that is used for the growing and harvesting of forest tree**  
 38 **species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances,**  
 39 **rules or regulations are applied.**

40 [(8)] **(9) “Harvest type 1” means an operation that requires reforestation but does not require**  
 41 **wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free**  
 42 **to grow seedlings, saplings, poles and larger trees that is less than the stocking level established**  
 43 **by rule of the board that represents adequate utilization of the productivity of the site.**

44 [(9)] **(10) “Harvest type 2” means an operation that requires wildlife leave trees but does not**  
 45 **require reforestation. A harvest type 2 does not require reforestation because it has an adequate**

1 combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:

2 (a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an  
3 equivalent basal area in larger trees, per acre;

4 (b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equiv-  
5 alent basal area in larger trees, per acre; or

6 (c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent  
7 basal area in larger trees, per acre.

8 [(10)] (11) "Harvest type 3" means an operation that requires reforestation and requires wildlife  
9 leave trees. This represents a level of stocking below which the size of operations is limited under  
10 ORS 527.740 and 527.750.

11 [(11)] (12) "Landowner" means any individual, combination of individuals, partnership, corpo-  
12 ration or association of whatever nature that holds an ownership interest in forestland, including  
13 the state and any political subdivision thereof.

14 [(12)] (13) "Operation" means any commercial activity relating to the establishment, manage-  
15 ment or harvest of forest tree species except as provided by the following:

16 (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on  
17 land used solely for the production of Christmas trees.

18 (b) The establishment, management or harvest of hardwood timber, including but not limited to  
19 hybrid cottonwood, that is:

20 (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared  
21 of competing vegetation for at least three years after tree planting;

22 (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper pro-  
23 ducts;

24 (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

25 (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect  
26 control and disease control.

27 (c) The establishment, management or harvest of trees actively farmed or cultured for the pro-  
28 duction of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

29 (d) The establishment, management or harvest of ornamental, street or park trees within an  
30 urbanized area, as that term is defined in ORS 221.010.

31 (e) The management or harvest of juniper species conducted in a unit of less than 120 contig-  
32 uous acres within a single ownership.

33 (f) The establishment or management of trees intended to mitigate the effects of agricultural  
34 practices on the environment or fish and wildlife resources, such as trees that are established or  
35 managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed  
36 lands.

37 (g) The development of an approved land use change after timber harvest activities have been  
38 completed and land use conversion activities have commenced.

39 [(13)] (14) "Operator" means any person, including a landowner or timber owner, who conducts  
40 an operation.

41 (15)(a) "Significant violation" means:

42 (A) Violation of ORS 527.670 (6) by engaging in an operation without filing the requisite  
43 notification; or

44 (B) A violation resulting in major damage to a resource described in ORS 527.710 (2) for  
45 which restoration is expected to take more than 10 years.

1       **(b) “Significant violation” does not include:**

2       **(A) Unintentional operation in an area outside an operating area of an operation for**  
 3 **which sufficient notification was filed pursuant to ORS 527.670 (6);**

4       **(B) Continued operation in contravention of an order issued by the State Forester under**  
 5 **ORS 527.680 (2)(a), (3) or (5), where an operator, timber owner or landowner demonstrates**  
 6 **that it did not receive the order; or**

7       **(C) Failure to timely notify the State Forester of an intent to continue an operation into**  
 8 **the next calendar year.**

9       [(14)] **(16)** “Single ownership” means ownership by an individual, partnership, corporation, lim-  
 10 ited liability company, trust, holding company or other business entity, including the state or any  
 11 political subdivision thereof. Single ownership includes ownership held under different names or ti-  
 12 tles where the same individual or individuals, or their heirs or assigns, are shareholders (other than  
 13 those of public corporations whose stock is traded on the open market), partners, business trustees  
 14 or officers, or otherwise have an interest in or are associated with each property.

15       [(15)] **(17)** “State Forester” means the State Forester or the duly authorized representative of  
 16 the State Forester.

17       [(16)] **(18)** “Suitable hardwood seedlings” means any hardwood seedling that will eventually yield  
 18 logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or  
 19 other forest products.

20       [(17)] **(19)** “Timber owner” means any individual, combination of individuals, partnership, cor-  
 21 poration or association of whatever nature, other than a landowner, that holds an ownership inter-  
 22 est in any forest tree species on forestland.

23       [(18)] **(20)** “Visually sensitive corridor” means forestland extending outward 150 feet, measured  
 24 on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS  
 25 527.755, along both sides for the full length of the highway.

26       [(19)] **(21)** “Wildlife leave trees” means trees or snags required to be retained as described in  
 27 ORS 527.676 (1).

28       [(20)] **(22)** “Written plan” means a document prepared by an operator, timber owner or land-  
 29 owner that describes how the operation is planned to be conducted.

30       **SECTION 42.** ORS 527.630 is amended to read:

31       527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base  
 32 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water  
 33 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the  
 34 public policy of the State of Oregon to encourage economically efficient forest practices that ensure  
 35 the continuous growing and harvesting of forest tree species and the maintenance of forestland for  
 36 such purposes as the leading use on privately owned land, consistent with sound management of soil,  
 37 air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as  
 38 provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-  
 39 ations of Oregonians.

40       (2) It is recognized that operations on forestland are already subject to other laws and to reg-  
 41 ulations of other agencies which deal primarily with consequences of such operations rather than  
 42 the manner in which operations are conducted. It is further recognized that it is essential to avoid  
 43 uncertainty and confusion in enforcement and implementation of such laws and regulations and in  
 44 planning and carrying out operations on forestlands.

45       (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, [and]

1 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry  
 2 exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and  
 3 to coordinate with other state agencies and local governments which are concerned with the forest  
 4 environment.

5 **(4) It is recognized that ensuring compliance with, and enforcing, ORS 527.610 to 527.770**  
 6 **and rules and orders adopted or issued thereunder is essential to protect Oregon's natural**  
 7 **resources. It is further recognized that onsite inspections are necessary to further the policy**  
 8 **of ORS 527.610 to 527.770, 527.990 and 527.992.**

9 **(5) It is recognized that enforcement of the policy of ORS 527.610 to 527.770, 527.990 and**  
 10 **527.992 is necessary to support the integrity of the policy and give the public confidence that**  
 11 **standards for forest practices are being followed. It is further recognized that an effective**  
 12 **enforcement program must include:**

13 **(a) Adequate training and education of enforcement officers, operators, timber owners**  
 14 **and landowners.**

15 **(b) Clear technical guidance.**

16 **(c) Implementation expectations that are transparent and easily understood by operators,**  
 17 **timber owners and landowners.**

18 **(6) It is declared to be the policy of the State of Oregon that the program for imple-**  
 19 **menting enforcement under ORS 527.680, 527.683, 527.685, 527.690 and 527.700 be adequately**  
 20 **funded, and that the board:**

21 **(a) Use inspections and enforcement as tools to deter future violations and to educate**  
 22 **and train operators, timber owners and landowners.**

23 **(b) In exercising enforcement discretion, including discretion to impose penalties, prior-**  
 24 **itize addressing significant violations, other consequential violations and the actions of re-**  
 25 **peat violators.**

26 [(4)] **(7) The board may adopt and enforce rules addressing scenic considerations only in ac-**  
 27 **cordance with ORS 527.755.**

28 [(5)] **(8) The board shall adopt and enforce forest practice rules to reduce the risk of serious**  
 29 **bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10).**  
 30 **As used in this subsection, "rapidly moving landslide" has the meaning given in ORS 195.250.**

31 [(6)] **(9) The State of Oregon should provide a stable regulatory environment to encourage in-**  
 32 **vestment in private forestlands.**

33 **SECTION 43. Sections 44 and 45 of this 2022 Act are added to and made a part of ORS**  
 34 **527.610 to 527.770.**

35 **SECTION 44. (1) The State Forester, or a representative of the State Forester, shall**  
 36 **conduct a program of inspections of forestland within the operating areas of operations for**  
 37 **which notifications are filed pursuant to ORS 527.670 (6), at regular intervals, to assess**  
 38 **compliance with ORS 527.610 to 527.770 and rules and orders adopted or issued thereunder.**

39 **(2) The inspection may occur:**

40 **(a) On or after the date on which notification is filed pursuant to ORS 527.670 (6), but**  
 41 **not more than three years after the date on which the State Forester learns that the oper-**  
 42 **ation has been completed.**

43 **(b) At a reasonable time, absent consent or a warrant.**

44 **(3) The person conducting the inspection shall:**

45 **(a) Advise the operator, timber owner or landowner that the inspection is being made**

1 pursuant to the law and is limited in scope to the operation subject to the relevant notifi-  
2 cation.

3 (b) Ensure that the inspection is tailored to assessing compliance with ORS 527.610 to  
4 527.770 and rules and orders adopted or issued thereunder.

5 (4) The State Forester may petition the circuit court of this state having jurisdiction over  
6 the forestland for a warrant authorizing the State Forester or a representative of the State  
7 Forester to inspect the forestland.

8 (5) The court may issue a warrant if:

9 (a) The State Forester or a representative of the State Forester has attempted inspection  
10 consistent with subsections (1) to (3) of this section and access to all or part of the  
11 forestland was actually or constructively denied; or

12 (b) The State Forester has reasonable cause to believe that a violation of ORS 527.610 to  
13 527.770 or a rule or order adopted or issued thereunder has occurred.

14 **SECTION 45.** (1) As used in this section, “photogrammetric mapping” has the meaning  
15 given that term in ORS 672.002.

16 (2) To aid in monitoring compliance with ORS 527.610 to 527.770 and rules adopted  
17 thereunder, the State Board of Forestry shall adopt rules that:

18 (a) Require persons that file notifications pursuant to ORS 527.670 (6) to inform the State  
19 Forester when the operations are complete, within a reasonable time after completion;

20 (b) Authorize the State Forester to use a program of photogrammetric mapping to de-  
21 termine whether operations for which notifications have been filed pursuant to ORS 527.670  
22 (6) have been completed; or

23 (c) Otherwise establish a program of monitoring compliance with ORS 527.610 to 527.770  
24 and rules adopted thereunder.

25 (3) Rules described in subsection (2)(b) or (c) of this section must limit the discretion of  
26 the person conducting the compliance monitoring.

27 **SECTION 46.** ORS 527.680 is amended to read:

28 527.680. (1) Whenever the State Forester determines that an operator has committed a violation  
29 under ORS 527.990 (1), the State Forester may issue and serve a citation upon the operator or au-  
30 thorized representative. The State Forester shall cause a copy of the citation to be mailed or de-  
31 livered to the timber owner and landowner. Whenever the State Forester determines that the  
32 landowner has failed to comply with the reforestation rules under ORS 527.710, the State Forester  
33 may issue and serve a citation upon the landowner or authorized representative. Each citation is-  
34 sued under this section shall specify the nature of the violation charged and any damage or unsat-  
35 isfactory condition that has occurred as the result of such violation.

36 (2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:

37 (a) Shall issue and serve upon the landowner or operator or authorized representative an order  
38 directing that the landowner or operator cease further violation. If the order is served upon an op-  
39 erator, the State Forester shall cause a copy of such order to be mailed or delivered to the timber  
40 owner and landowner; and

41 (b) May issue and serve an order upon the landowner or operator and shall cause a copy of such  
42 order to be mailed or delivered to the timber owner and landowner, directing the landowner or op-  
43 erator, where practical and economically feasible, to make reasonable efforts to repair the damage  
44 or correct the unsatisfactory condition specified in the citation within a period specified by the  
45 State Forester.

1 (3) In the event the order issued under subsection (2)(a) of this section has not been complied  
 2 with, and the violation specified in such order is resulting in continuing damage, the State Forester  
 3 by temporary order[,] may direct the landowner or operator to cease any further activity in that  
 4 portion of the operation that is resulting in such damage. Such temporary order shall be in effect  
 5 until the date of the expiration of the period as prescribed in subsection (4) of this section or until  
 6 the date that the violation ceases, whichever date occurs first.

7 (4) A temporary order issued under subsection (3) of this section shall be served upon the  
 8 landowner or operator or authorized representative, and the State Forester shall cause a copy of  
 9 such temporary order to be mailed or delivered to the operator, timber owner and landowner. If  
 10 requested by the operator, timber owner or landowner, the State Board of Forestry, following the  
 11 appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working  
 12 days after the receipt by the board of the request. A temporary order issued and served pursuant  
 13 to subsection (3) of this section shall remain in effect not more than five working days after such  
 14 hearing unless the order is sooner affirmed, modified or revoked by the board.

15 (5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b)  
 16 of this section within the time specified in the order, or if the landowner or operator fails to comply  
 17 with a final order imposing civil penalties for violation of any provision of the Oregon Forest  
 18 Practices Act, the State Forester may issue an order that prohibits the affected landowner or oper-  
 19 ator from conducting any new operations on any forestland in this state until the landowner or op-  
 20 erator has complied with the order to correct an unsatisfactory condition, make repair or pay the  
 21 civil penalty, as the case may be, to the satisfaction of the State Forester.

22 **(6) The State Forester may require an operator, timber owner or landowner to provide**  
 23 **financial assurance before conducting a new operation if the State Forester has concluded,**  
 24 **within the preceding three-year period, that the operator, timber owner or landowner com-**  
 25 **mitted a significant violation.**

26 **SECTION 47.** ORS 527.685 is amended to read:

27 527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that  
 28 may be imposed for a particular violation. Except as provided in [subsection (5)] **subsections (5) and**  
 29 **(6)** of this section, [no] a civil penalty [shall] **may not** exceed [\$5,000] **\$10,000** per violation.

30 (2) In imposing a penalty authorized by this section, the State Forester may consider the fol-  
 31 lowing factors:

32 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures  
 33 necessary or appropriate to correct any violation.

34 (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest  
 35 Practices Act.

36 (c) The gravity and magnitude of the violation.

37 (d) Whether the violation was repeated or continuous.

38 (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional  
 39 act.

40 (f) The size and type of ownership of the operation.

41 (g) Any relevant rule of the board.

42 (h) The [violator's] cooperativeness **of the person incurring the penalty and the person's ef-**  
 43 **forts, if any,** to correct the violation.

44 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and  
 45 conditions as the board determines to be proper and consistent with the public benefit. Upon the

1 request of the person incurring the penalty, the board shall consider evidence of the economic and  
2 financial condition of the person in determining whether a penalty shall be remitted or mitigated.

3 (4) The board, by rule, may delegate to the State Forester, upon such conditions as deemed  
4 necessary, all or part of the authority of the board provided in subsection (3) of this section to as-  
5 sess, remit or mitigate civil penalties.

6 (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745,  
7 the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforest-  
8 ing lands pursuant to ORS 527.690.

9 **(6) If the State Forester concludes that an operator, timber owner or landowner has a**  
10 **history of significant violations that shows a pattern of willful disregard for the requirements**  
11 **of ORS 527.610 to 527.770 or rules or orders adopted or issued thereunder, the State Forester**  
12 **may impose a civil penalty in an amount not to exceed \$50,000 per significant violation. In**  
13 **imposing the penalty, the State Forester shall consider, in addition to the factors described**  
14 **in subsection (2) of this section:**

15 (a) **The degree, if any, to which the operator, timber owner or landowner derived eco-**  
16 **nomical benefit from the significant violation.**

17 (b) **The proportion of total operations conducted by the operator, timber owner or land-**  
18 **owner related to which significant violations have occurred compared to the total number**  
19 **of operations conducted by the operator, timber owner or landowner, accounting for the or-**  
20 **ganizational structure of the operator, timber owner or landowner.**

21 **SECTION 48.** ORS 527.714 is amended to read:

22 527.714. (1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to  
23 527.770 consists generally of the following three types of rules:

24 (a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to  
25 527.770 that support but do not directly regulate standards of forest practices.

26 (b) Rules adopted to provide definitions or procedures for forest practices where the standards  
27 are set in statute.

28 (c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6), (8), (9) and (10) that  
29 grant broad discretion to the board and that set standards for forest practices not specifically ad-  
30 dressed in statute.

31 (2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS  
32 183.335, the board shall determine which type of rule described in subsection (1) of this section is  
33 being considered.

34 (3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or  
35 (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already  
36 adopted or to make minor adjustments to rules already adopted that are of the type described in  
37 subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410  
38 and is not subject to the provisions of this section.

39 (4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of  
40 this section, and the proposed rule would change the standards for forest practices, the board shall  
41 describe in its rule the purpose of the rule and the level of protection that is desired. **If the pro-**  
42 **posed rule would change the standards for forest practices that relate to the protection of**  
43 **aquatic resources, the level of protection that is desired must be consistent with:**

44 (a) **Requirements described in the Private Forest Accord Report dated \_\_\_ and published**  
45 **by the State Forestry Department on \_\_\_\_; or**

1       **(b) If a habitat conservation plan consistent with the Private Forest Accord Report has**  
 2 **been approved, the terms of the habitat conservation plan.**

3       (5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of  
 4 this section, including a proposed amendment to an existing rule not qualifying under subsection (3)  
 5 of this section, and the proposed rule would provide new or increased standards for forest practices,  
 6 the board may adopt such a rule only after determining that the following facts exist and standards  
 7 are met:

8       (a)(A) If forest practices continue to be conducted under existing regulations[,]:

9       (i) There is monitoring or research evidence that documents that degradation of resources  
 10 maintained under ORS 527.710 (2) or (3) is likely[.]; or

11       (ii) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of se-  
 12 rious bodily injury or death; **or**

13       **(B) A report produced by the Adaptive Management Program Committee or Independent**  
 14 **Research and Science Team described in section 36 or 38 of this 2022 Act recommends**  
 15 **adoption of the rule;**

16       (b) If the resource to be protected is a wildlife species, the scientific or biological status of a  
 17 species or resource site to be protected by the proposed rule has been documented using best  
 18 available information;

19       (c) The proposed rule reflects available scientific information[,] **and, as appropriate,** the results  
 20 of relevant monitoring and[, *as appropriate,*] adequate field evaluation at representative locations in  
 21 Oregon;

22       (d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest  
 23 practices as a result of adoption of the proposed rule:

24       (A)(i) Are to prevent harm or provide benefits to the resource or resource site for which pro-  
 25 tection is sought[.]; or

26       (ii) In the case of rules proposed under ORS 527.710 (10), **are** to reduce risk of serious bodily  
 27 injury or death; and

28       (B) Are directly related to the objective of the proposed rule and [*substantially*] **materially** ad-  
 29 vance its purpose; **and**

30       (e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including  
 31 nonregulatory alternatives, were considered, and the alternative chosen is the least burdensome to  
 32 landowners and timber owners, in the aggregate, while still achieving the desired level of  
 33 protection[; *and*].

34       [*(f) The benefits to the resource, or in the case of rules proposed under ORS 527.710 (10), the*  
 35 *benefits in reduction of risk of serious bodily injury or death, that would be achieved by adopting the*  
 36 *rule are in proportion to the degree that existing practices of the landowners and timber owners, in the*  
 37 *aggregate, are contributing to the overall resource concern that the proposed rule is intended to ad-*  
 38 *dress.*]

39       (6) Nothing in subsection (5) of this section:

40       (a) Requires the board to call witnesses;

41       (b) Requires the board to allow cross-examination of witnesses;

42       (c) Restricts ex parte communications with the board or requires the board to place statements  
 43 of such communications on the record;

44       (d) Requires verbatim transcripts of records of proceedings; or

45       (e) Requires depositions, discovery or subpoenas.

1       **(7) If the board determines that a proposed rule is of the type described in subsection**  
 2 **(1)(c) of this section, including a proposed amendment to an existing rule not qualifying un-**  
 3 **der subsection (3) of this section, and that the proposed rule relates to aquatic resources,**  
 4 **the board may adopt the rule only after considering reports from the Adaptive Management**  
 5 **Program Committee and the Independent Research and Science Team.**

6       [(7)] **(8)** If the board determines that a proposed rule is of the type described in subsection (1)(c)  
 7 of this section, and the proposed rule would require new or increased standards for forest practices,  
 8 as part of or in addition to the economic and fiscal impact statement required by ORS 183.335  
 9 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make avail-  
 10 able to the public a comprehensive analysis of the economic impact of the proposed rule. The anal-  
 11 ysis shall include, but is not limited to:

12       (a) An estimate of the potential change in timber harvest as a result of the rule;

13       (b) An estimate of the overall statewide economic impact, including a change in output, em-  
 14 ployment and income[;] **related to:**

15       **(A) The forest products industry;**

16       **(B) Other private sectors such as commercial fishing, recreational fishing and other**  
 17 **outdoor recreation; and**

18       **(C) Government sectors such as public water system providers, waste treatment and**  
 19 **built and natural infrastructure;**

20       (c) An estimate of the total economic impact on the forest products industry and common school  
 21 and county forest trust land revenues, both regionally and statewide; and

22       (d) [*Information derived from consultation with potentially affected landowners and timber owners*  
 23 *and*] An assessment of the economic impact of the proposed rule [*under a wide variety of circum-*  
 24 *stances, including varying ownership sizes and the geographic location and terrain of a diverse subset*  
 25 *of potentially affected forestland parcels*] **on various types of affected forestland parcels and on**  
 26 **various geographic locations that is derived from consulting stakeholders.**

27       [(8)] **(9)** The provisions of this section do not apply to temporary rules adopted by the board.

28       **SECTION 49.** ORS 527.990 is amended to read:

29       527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740, 527.750,  
 30 [or] 527.755, **527.788 or 527.797**, or any rule promulgated under ORS 527.710 **or section 2 or 45 of**  
 31 **this 2022 Act**, is a Class A misdemeanor. Each day of operation in violation of an order issued  
 32 under ORS 527.680 (3) shall be deemed to be a separate offense.

33       (2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a  
 34 Class C misdemeanor.

35       **SECTION 50.** ORS 527.992 is amended to read:

36       527.992. (1) In addition to any other penalty provided by law, any person who fails to comply  
 37 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

38       (a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750, [or] 527.755, **527.788 or**  
 39 **527.797.**

40       (b) The terms or conditions of any order of the State Forester issued in accordance with ORS  
 41 527.680.

42       (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS  
 43 527.710 **or section 2 or 45 of this 2022 Act.**

44       (d) Any term or condition of a written waiver, or prior approval granted by the State Forester  
 45 pursuant to the rules adopted under ORS 527.710.

1 (2) Imposition or payment of a civil penalty under this section shall not be a bar to actions al-  
 2 leging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover  
 3 an amount based on the gain resulting from individual or corporate criminal violations.

4  
 5 **RULEMAKING CONCERNING PESTICIDE APPLICATIONS**

6  
 7 **SECTION 51.** The State Forestry Department may adopt rules to implement the pro-  
 8 visions of ORS 527.786 to 527.793, 527.794, 527.795, 527.796, 527.797 and 527.798.

9  
 10 **REPORTS TO LEGISLATIVE ASSEMBLY**

11  
 12 **SECTION 52.** The State Board of Forestry shall report annually to a committee or in-  
 13 terim committee of the Legislative Assembly related to forestry, in the manner described in  
 14 ORS 192.245, on progress in implementing the requirements of the Private Forest Accord  
 15 Report dated \_\_\_ and published by the State Forestry Department on \_\_\_.

16  
 17 **APPROPRIATION**

18  
 19 **SECTION 53.** In addition to and not in lieu of any other appropriation, there is appro-  
 20 priated to the \_\_\_\_\_, for the biennium ending June 30, 2023, out of the General  
 21 Fund, the amount of \$\_\_\_\_\_, which may be expended for \_\_\_\_\_.

22  
 23 **CONTINGENT OPERATIVE DATES**

24  
 25 **SECTION 54.** (1) The Legislative Assembly intends that the policies described in sections  
 26 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act and the amendments to ORS  
 27 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and  
 28 610.105 by sections 9, 26 to 29, 41, 42 and 46 to 50 of this 2022 Act shall be in effect only if:

29 (a) An incidental take permit related to an approved habitat conservation plan consistent  
 30 with the Private Forest Accord Report dated \_\_\_ and published by the State Forestry De-  
 31 partment on \_\_\_ is issued on or before December 31, 2027;

32 (b) The State Board of Forestry finds that the habitat conservation plan does not impose  
 33 more than a \_\_\_ difference in economic or resource impacts, at the level of landscapes,  
 34 relative to rules adopted or amended as part of the rule package described in section 2 of this  
 35 2022 Act; and

36 (c) The incidental take permit remains in effect.

37 (2) The legislative intent described in subsection (1) of this section is established by  
 38 sections 55 to 63 of this 2022 Act.

39 **SECTION 55.** If an incidental take permit related to an approved habitat conservation  
 40 plan consistent with the Private Forest Accord Report dated \_\_\_ and published by the State  
 41 Forestry Department on \_\_\_ is issued on or before December 31, 2027:

42 (1) The State Board of Forestry shall make a finding concerning whether the habitat  
 43 conservation plan imposes more than a \_\_\_ difference in economic or resource impacts, at  
 44 the level of landscapes, relative to rules adopted or amended as part of the rule package de-  
 45 scribed in section 2 of this 2022 Act. If the board finds that the habitat conservation plan

1 imposes more than a \_\_\_\_ difference, on or before the 91st day after the board makes the  
 2 finding:

3 (a) The board shall:

4 (A) Repeal new rules adopted as part of the rule package described in section 2 of this  
 5 2022 Act.

6 (B) Amend rules in effect on or before the effective date of this 2022 Act as needed to  
 7 conform with repeals described in subparagraph (A) of this paragraph.

8 (C) Amend any other rules as needed to conform with repeals described in subparagraph  
 9 (A) of this paragraph.

10 (b) The State Fish and Wildlife Commission shall amend rules as needed to conform the  
 11 rules with actions taken by the board under paragraph (a) of this subsection.

12 (2) If the board does not make the finding described in subsection (1) of this section and  
 13 the incidental take permit is subsequently revoked or invalidated, on or before the 180th day  
 14 after the date of the revocation or invalidation:

15 (a) The board shall:

16 (A) Repeal new rules adopted as part of the rule package described in section 2 of this  
 17 2022 Act.

18 (B) Amend rules in effect on or before the effective date of this 2022 Act as needed to  
 19 conform with repeals described in subparagraph (A) of this paragraph.

20 (C) Amend any other rules as needed to conform with repeals described in subparagraph  
 21 (A) of this paragraph.

22 (b) The commission shall amend rules as needed to conform the rules with actions taken  
 23 by the board under paragraph (a) of this subsection.

24 **SECTION 56.** If an incidental take permit related to an approved habitat conservation  
 25 plan consistent with the Private Forest Accord Report dated \_\_\_\_ and published by the State  
 26 Forestry Department on \_\_\_\_ is not issued on or before December 31, 2027:

27 (1) On or before April 1, 2028, the State Board of Forestry shall:

28 (a) Repeal new rules adopted as part of the rule package described in section 2 of this  
 29 2022 Act.

30 (b) Amend rules in effect on or before the effective date of this 2022 Act as needed to  
 31 conform with repeals described in paragraph (a) of this subsection.

32 (c) Amend any other rules as needed to conform with repeals described in paragraph (a)  
 33 of this subsection.

34 (2) On or before April 1, 2028, the State Fish and Wildlife Commission shall amend rules  
 35 as needed to conform the rules with actions taken by the board under subsection (1) of this  
 36 section.

37 **SECTION 57.** On or before September 15, 2028, the State Board of Forestry shall report  
 38 to a committee or interim committee of the Legislative Assembly related to forestry, in the  
 39 manner described in ORS 192.245, on:

40 (1) Whether the incidental take permit described in section 55 of this 2022 Act was issued  
 41 on or before December 31, 2027.

42 (2) Whether the board made a finding described in section 55 (1) of this 2022 Act.

43 **SECTION 58.** If an incidental take permit related to an approved habitat conservation  
 44 plan consistent with the Private Forest Accord Report dated \_\_\_\_ and published by the State  
 45 Forestry Department on \_\_\_\_ is issued on or before December 31, 2027, but is subsequently

1 revoked or invalidated, the State Board of Forestry shall report the revocation or invali-  
 2 dation to a committee or interim committee of the Legislative Assembly related to forestry,  
 3 in the manner described in ORS 192.245.

4 **SECTION 59.** Sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act are  
 5 repealed.

6 **SECTION 60.** (1) Except as otherwise provided in sections 61 and 62 of this 2022 Act, the  
 7 repeal of sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act by section 59  
 8 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,  
 9 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 64 to 75 of this 2022 Act be-  
 10 come operative only if the State Board of Forestry makes the finding described in section  
 11 55 (1) of this 2022 Act.

12 (2) If the board makes the finding described in section 55 (1) of this 2022 Act, the repeal  
 13 of sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act by section 59 of this  
 14 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,  
 15 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 64 to 75 of this 2022 Act be-  
 16 come operative on the 120th day after the date the board makes the finding.

17 **SECTION 61.** (1) Except as otherwise provided in sections 60 and 62 of this 2022 Act, the  
 18 repeal of sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act by section 59  
 19 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,  
 20 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 64 to 75 of this 2022 Act be-  
 21 come operative only if the board has not made the finding described in section 55 (1) of this  
 22 2022 Act and the incidental take permit is revoked or invalidated as described in section 55  
 23 (2) of this 2022 Act.

24 (2) If the board has not made the finding described in section 55 (1) of this 2022 Act and  
 25 the incidental take permit is revoked or invalidated as described in section 55 (2) of this 2022  
 26 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act by  
 27 section 59 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620,  
 28 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 64 to 75 of this  
 29 2022 Act become operative on the 210th day after the date of the revocation or invalidation.

30 **SECTION 62.** (1) Except as otherwise provided in sections 60 and 61 of this 2022 Act, the  
 31 repeal of sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act by section 59  
 32 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,  
 33 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 64 to 75 of this 2022 Act be-  
 34 come operative only if an incidental take permit related to an approved habitat conservation  
 35 plan consistent with the Private Forest Accord Report dated \_\_\_\_ and published by the State  
 36 Forestry Department on \_\_\_\_ is not issued on or before December 31, 2027.

37 (2) If an incidental take permit related to an approved habitat conservation plan con-  
 38 sistent with the Private Forest Accord Report is not issued on or before December 31, 2027,  
 39 the repeal of sections 1 to 8, 10 to 25, 30 to 40, 43 to 45, 51 and 52 of this 2022 Act by section  
 40 59 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630,  
 41 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 64 to 75 of this 2022  
 42 Act become operative on May 1, 2028.

43 **SECTION 63.** Sections 58 and 61 of this 2022 Act are repealed on January 2, 2077.

44  
 45

#### CONTINGENT AMENDMENTS

1        **SECTION 64.** ORS 195.308, as amended by section 9 of this 2022 Act, is amended to read:

2        195.308. Notwithstanding the requirement to pay just compensation for certain land use regu-  
3 lations under ORS 195.305 (1), compensation is not due for[:]

4        [(1)] the enforcement or enactment of a land use regulation established in ORS 30.930 to 30.947,  
5 527.310 to 527.370, 561.995, 569.360 to 569.495, 570.010 to 570.050, 570.105 to 570.190, 570.305, 570.310,  
6 570.320 to 570.360, 570.405, 570.412, 570.420, 570.425, 570.450, 570.700 to 570.710, 570.755, 570.770,  
7 570.775, 570.780, 570.790, 570.800, 570.995, 596.095, 596.100, 596.105, 596.393, 596.990 or 596.995 or in  
8 administrative rules or statewide plans implementing these statutes.

9        [(2) *The enforcement, adoption or amendment of a rule adopted or amended by the State Board of*  
10 *Forestry:*]

11        [(a) *As part of the rule package described in section 2 of this 2022 Act.*]

12        [(b) *After the board has considered reports from the Adaptive Management Program Committee*  
13 *and the Independent Research and Science Team described in sections 36 and 38 of this 2022 Act.*]

14        **SECTION 65.** ORS 496.252, as amended by section 28 of this 2022 Act, is amended to read:

15        496.252. (1) The Oregon Conservation and Recreation Fund is established in the State Treasury,  
16 separate and distinct from the General Fund. Interest earned by the Oregon Conservation and Re-  
17 creation Fund shall be credited to the fund.

18        (2) Moneys in the fund are continuously appropriated to the State Department of Fish and  
19 Wildlife to carry out activities that serve to protect, maintain or enhance fish and wildlife resources  
20 in Oregon. The activities for which the department may expend fund moneys include, but are not  
21 limited to:

22        (a) Promoting the health of Oregon's ecosystems and fish and wildlife species by implementing  
23 conservation programs and strategies identified in the Oregon Conservation Strategy, as defined in  
24 ORS 541.890, including conservation programs and strategies for the nearshore identified in the  
25 marine component of the Oregon Conservation Strategy;

26        (b) Improving engagement of the public in hunting and fishing opportunities and in other outdoor  
27 recreation opportunities related to and in support of healthy fish, wildlife and habitats;

28        (c) Improving educational outreach and engagement of the public, including diverse and under-  
29 served communities, related to and in support of healthy fish, wildlife and habitats;

30        (d) Engaging in, and providing funding for, joint projects of the department and the State Parks  
31 and Recreation Department or other state agencies as recommended by the Oregon Conservation  
32 and Recreation Advisory Committee established under ORS 496.254; and

33        (e) Other conservation, management, research, habitat improvement, enforcement, outdoor re-  
34 creation or education activities.

35        (3) The fund shall consist of:

36        (a) Moneys appropriated to the State Department of Fish and Wildlife for deposit in the fund  
37 or otherwise transferred to the fund; **and**

38        (b) Gifts, grants, contributions or other donations for use as described in subsection (2) of this  
39 section, that are received by the department from any public or private source and caused to be  
40 deposited and credited to the fund[; *and*].

41        [(c) *Moneys in the subaccount described in subsection (4) of this section.*]

42        [(4) *The Private Forest Accord Mitigation Subaccount is established in the fund. The subaccount*  
43 *shall consist of moneys appropriated to the department for deposit in the subaccount or otherwise*  
44 *transferred to the subaccount and gifts, grants, contributions or other donations that are received by*  
45 *the department from any public or private source and caused to be deposited and credited to the sub-*

1 *account. Moneys in the subaccount may be used for:]*

2 *[(a) Purposes described in section 32 of this 2022 Act.]*

3 *[(b) Conducting outreach to persons that own or operate an artificial obstruction, as defined in*  
4 *ORS 509.580, to further the goal of fish passage.]*

5 *[(c) Conducting outreach to persons that may undertake projects described in section 32 of this 2022*  
6 *Act.]*

7 *[(5)] (4) The department and the Oregon Conservation and Recreation Advisory Committee shall*  
8 *jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640 regarding*  
9 *the expenditure of moneys deposited in the fund[ , other than moneys deposited in the Private Forest*  
10 *Accord Mitigation Subaccount,] and on the status of various activities funded by the moneys.*

11 *[(6) The department and the Private Forest Accord Mitigation Advisory Committee shall jointly*  
12 *submit a biennial report to the Legislative Assembly as provided in ORS 293.640 regarding the ex-*  
13 *penditure of moneys deposited in the Private Forest Accord Mitigation Subaccount and on the status*  
14 *of various activities funded by the moneys.]*

15 **SECTION 66.** ORS 496.254, as amended by section 29 of this 2022 Act, is amended to read:

16 496.254. (1) The Oregon Conservation and Recreation Advisory Committee is established as an  
17 advisory committee to the State Fish and Wildlife Commission and the State Department of Fish and  
18 Wildlife for the purpose of carrying out the duties described in subsection (2) of this section. The  
19 commission shall determine the number of members of the committee and the geographical repre-  
20 sentation by the members. The Governor shall appoint the members of the committee. The Associate  
21 Director of Outdoor Recreation, or the associate director's designee, shall serve as a nonvoting, ex  
22 officio member.

23 (2) The committee shall review department policies regarding the use of Oregon Conservation  
24 and Recreation Fund moneys[ , other than policies regarding the use of Private Forest Accord Miti-  
25 gation Subaccount moneys,] and make recommendations to the commission and the department re-  
26 garding the use of fund moneys for implementing and administering department activities.

27 (3) Members of the committee may not receive compensation for service as members. However,  
28 subject to any applicable law regulating travel and other expenses of state officers and employees,  
29 a member may be reimbursed for actual and necessary travel and other expenses incurred in the  
30 performance of official duties from moneys available to the department for the purpose of re-  
31 imbursement of committee members.

32 **SECTION 67.** ORS 527.620, as amended by section 41 of this 2022 Act, is amended to read:

33 527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:

34 *[(1) "Aquatic resource" means:]*

35 *[(a) A species addressed in the Private Forest Accord Report dated \_\_\_\_ and published by the*  
36 *State Forestry Department on \_\_\_\_ and the resources on which the species relies; or]*

37 *[(b) If a habitat conservation plan consistent with the Private Forest Accord Report has been ap-*  
38 *proved, a species addressed in the habitat conservation plan and the resources on which the species*  
39 *relies.]*

40 *[(2)] (1) "Board" means the State Board of Forestry.*

41 *[(3)] (2) "Cumulative effects" means the impact on the environment which results from the in-*  
42 *cremental impact of the forest practice when added to other past, present and reasonably foreseea-*  
43 *ble future forest practices regardless of what governmental agency or person undertakes such other*  
44 *actions.*

45 *[(4)] (3) "DBH" means the diameter at breast height which is measured as the width of a*

1 standing tree at four and one-half feet above the ground, on the uphill side.

2 [(5)] (4) "Edge of the roadway" means:

3 (a) For interstate highways, the fence.

4 (b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the  
5 shoulder.

6 [(6)] (5) "Forest practice" means any operation conducted on or pertaining to forestland, in-  
7 cluding but not limited to:

8 (a) Reforestation of forestland;

9 (b) Road construction and maintenance;

10 (c) Harvesting of forest tree species;

11 (d) Application of chemicals;

12 (e) Disposal of slash; and

13 (f) Removal of woody biomass.

14 [(7)] (6) "Forest tree species" means any tree species capable of producing logs, fiber or other  
15 wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial  
16 forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used  
17 solely for the production of Christmas trees.

18 [(8)] (7) "Forestland" means land that is used for the growing and harvesting of forest tree  
19 species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances,  
20 rules or regulations are applied.

21 [(9)] (8) "Harvest type 1" means an operation that requires reforestation but does not require  
22 wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free  
23 to grow seedlings, saplings, poles and larger trees that is less than the stocking level established  
24 by rule of the board that represents adequate utilization of the productivity of the site.

25 [(10)] (9) "Harvest type 2" means an operation that requires wildlife leave trees but does not  
26 require reforestation. A harvest type 2 does not require reforestation because it has an adequate  
27 combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:

28 (a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an  
29 equivalent basal area in larger trees, per acre;

30 (b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equiv-  
31 alent basal area in larger trees, per acre; or

32 (c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent  
33 basal area in larger trees, per acre.

34 [(11)] (10) "Harvest type 3" means an operation that requires reforestation and requires wildlife  
35 leave trees. This represents a level of stocking below which the size of operations is limited under  
36 ORS 527.740 and 527.750.

37 [(12)] (11) "Landowner" means any individual, combination of individuals, partnership, corpo-  
38 ration or association of whatever nature that holds an ownership interest in forestland, including  
39 the state and any political subdivision thereof.

40 [(13)] (12) "Operation" means any commercial activity relating to the establishment, manage-  
41 ment or harvest of forest tree species except as provided by the following:

42 (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on  
43 land used solely for the production of Christmas trees.

44 (b) The establishment, management or harvest of hardwood timber, including but not limited to  
45 hybrid cottonwood, that is:

1 (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared  
2 of competing vegetation for at least three years after tree planting;

3 (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper pro-  
4 ducts;

5 (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

6 (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect  
7 control and disease control.

8 (c) The establishment, management or harvest of trees actively farmed or cultured for the pro-  
9 duction of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

10 (d) The establishment, management or harvest of ornamental, street or park trees within an  
11 urbanized area, as that term is defined in ORS 221.010.

12 (e) The management or harvest of juniper species conducted in a unit of less than 120 contig-  
13 uous acres within a single ownership.

14 (f) The establishment or management of trees intended to mitigate the effects of agricultural  
15 practices on the environment or fish and wildlife resources, such as trees that are established or  
16 managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed  
17 lands.

18 (g) The development of an approved land use change after timber harvest activities have been  
19 completed and land use conversion activities have commenced.

20 [(14)] (13) "Operator" means any person, including a landowner or timber owner, who conducts  
21 an operation.

22 [(15)(a) "Significant violation" means:]

23 [(A) Violation of ORS 527.670 (6) by engaging in an operation without filing the requisite notifi-  
24 cation; or]

25 [(B) A violation resulting in major damage to a resource described in ORS 527.710 (2) for which  
26 restoration is expected to take more than 10 years.]

27 [(b) "Significant violation" does not include:]

28 [(A) Unintentional operation in an area outside an operating area of an operation for which suffi-  
29 cient notification was filed pursuant to ORS 527.670 (6);]

30 [(B) Continued operation in contravention of an order issued by the State Forester under ORS  
31 527.680 (2)(a), (3) or (5), where an operator, timber owner or landowner demonstrates that it did not  
32 receive the order; or]

33 [(C) Failure to timely notify the State Forester of an intent to continue an operation into the next  
34 calendar year.]

35 [(16)] (14) "Single ownership" means ownership by an individual, partnership, corporation, lim-  
36 ited liability company, trust, holding company or other business entity, including the state or any  
37 political subdivision thereof. Single ownership includes ownership held under different names or ti-  
38 tles where the same individual or individuals, or their heirs or assigns, are shareholders (other than  
39 those of public corporations whose stock is traded on the open market), partners, business trustees  
40 or officers, or otherwise have an interest in or are associated with each property.

41 [(17)] (15) "State Forester" means the State Forester or the duly authorized representative of  
42 the State Forester.

43 [(18)] (16) "Suitable hardwood seedlings" means any hardwood seedling that will eventually yield  
44 logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or  
45 other forest products.

1        [(19)] (17) “Timber owner” means any individual, combination of individuals, partnership, cor-  
 2        poration or association of whatever nature, other than a landowner, that holds an ownership inter-  
 3        est in any forest tree species on forestland.

4        [(20)] (18) “Visually sensitive corridor” means forestland extending outward 150 feet, measured  
 5        on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS  
 6        527.755, along both sides for the full length of the highway.

7        [(21)] (19) “Wildlife leave trees” means trees or snags required to be retained as described in  
 8        ORS 527.676 (1).

9        [(22)] (20) “Written plan” means a document prepared by an operator, timber owner or land-  
 10       owner that describes how the operation is planned to be conducted.

11       **SECTION 68.** ORS 527.630, as amended by section 42 of this 2022 Act, is amended to read:

12       527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base  
 13       and other social and economic benefits, by helping to maintain forest tree species, soil, air and water  
 14       resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the  
 15       public policy of the State of Oregon to encourage economically efficient forest practices that ensure  
 16       the continuous growing and harvesting of forest tree species and the maintenance of forestland for  
 17       such purposes as the leading use on privately owned land, consistent with sound management of soil,  
 18       air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as  
 19       provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-  
 20       ations of Oregonians.

21       (2) It is recognized that operations on forestland are already subject to other laws and to reg-  
 22       ulations of other agencies which deal primarily with consequences of such operations rather than  
 23       the manner in which operations are conducted. It is further recognized that it is essential to avoid  
 24       uncertainty and confusion in enforcement and implementation of such laws and regulations and in  
 25       planning and carrying out operations on forestlands.

26       (3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, 527.990 and  
 27       527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive  
 28       authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to co-  
 29       ordinate with other state agencies and local governments which are concerned with the forest en-  
 30       vironment.

31       [(4) *It is recognized that ensuring compliance with, and enforcing, ORS 527.610 to 527.770 and*  
 32       *rules and orders adopted or issued thereunder is essential to protect Oregon’s natural resources. It is*  
 33       *further recognized that onsite inspections are necessary to further the policy of ORS 527.610 to 527.770,*  
 34       *527.990 and 527.992.*]

35       [(5) *It is recognized that enforcement of the policy of ORS 527.610 to 527.770, 527.990 and 527.992*  
 36       *is necessary to support the integrity of the policy and give the public confidence that standards for*  
 37       *forest practices are being followed. It is further recognized that an effective enforcement program must*  
 38       *include:*]

39       [(a) *Adequate training and education of enforcement officers, operators, timber owners and land-*  
 40       *owners.*]

41       [(b) *Clear technical guidance.*]

42       [(c) *Implementation expectations that are transparent and easily understood by operators, timber*  
 43       *owners and landowners.*]

44       [(6) *It is declared to be the policy of the State of Oregon that the program for implementing*  
 45       *enforcement under ORS 527.680, 527.683, 527.685, 527.690 and 527.700 be adequately funded, and that*

1 *the board:]*

2 [(a) *Use inspections and enforcement as tools to deter future violations and to educate and train*  
3 *operators, timber owners and landowners.]*

4 [(b) *In exercising enforcement discretion, including discretion to impose penalties, prioritize ad-*  
5 *dresssing significant violations, other consequential violations and the actions of repeat violators.]*

6 [(7)] (4) The board may adopt and enforce rules addressing scenic considerations only in ac-  
7 cordance with ORS 527.755.

8 [(8)] (5) The board shall adopt and enforce forest practice rules to reduce the risk of serious  
9 bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10).  
10 As used in this subsection, “rapidly moving landslide” has the meaning given in ORS 195.250.

11 [(9)] (6) The State of Oregon should provide a stable regulatory environment to encourage in-  
12 vestment in private forestlands.

13 **SECTION 69.** ORS 527.680, as amended by section 46 of this 2022 Act, is amended to read:

14 527.680. (1) Whenever the State Forester determines that an operator has committed a violation  
15 under ORS 527.990 (1), the State Forester may issue and serve a citation upon the operator or au-  
16 thorized representative. The State Forester shall cause a copy of the citation to be mailed or de-  
17 livered to the timber owner and landowner. Whenever the State Forester determines that the  
18 landowner has failed to comply with the reforestation rules under ORS 527.710, the State Forester  
19 may issue and serve a citation upon the landowner or authorized representative. Each citation is-  
20 sued under this section shall specify the nature of the violation charged and any damage or unsat-  
21 isfactory condition that has occurred as the result of such violation.

22 (2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:

23 (a) Shall issue and serve upon the landowner or operator or authorized representative an order  
24 directing that the landowner or operator cease further violation. If the order is served upon an op-  
25 erator, the State Forester shall cause a copy of such order to be mailed or delivered to the timber  
26 owner and landowner; and

27 (b) May issue and serve an order upon the landowner or operator and shall cause a copy of such  
28 order to be mailed or delivered to the timber owner and landowner, directing the landowner or op-  
29 erator, where practical and economically feasible, to make reasonable efforts to repair the damage  
30 or correct the unsatisfactory condition specified in the citation within a period specified by the  
31 State Forester.

32 (3) In the event the order issued under subsection (2)(a) of this section has not been complied  
33 with, and the violation specified in such order is resulting in continuing damage, the State Forester  
34 by temporary order may direct the landowner or operator to cease any further activity in that  
35 portion of the operation that is resulting in such damage. Such temporary order shall be in effect  
36 until the date of the expiration of the period as prescribed in subsection (4) of this section or until  
37 the date that the violation ceases, whichever date occurs first.

38 (4) A temporary order issued under subsection (3) of this section shall be served upon the  
39 landowner or operator or authorized representative, and the State Forester shall cause a copy of  
40 such temporary order to be mailed or delivered to the operator, timber owner and landowner. If  
41 requested by the operator, timber owner or landowner, the State Board of Forestry, following the  
42 appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working  
43 days after the receipt by the board of the request. A temporary order issued and served pursuant  
44 to subsection (3) of this section shall remain in effect not more than five working days after such  
45 hearing unless the order is sooner affirmed, modified or revoked by the board.

1 (5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b)  
 2 of this section within the time specified in the order, or if the landowner or operator fails to comply  
 3 with a final order imposing civil penalties for violation of any provision of the Oregon Forest  
 4 Practices Act, the State Forester may issue an order that prohibits the affected landowner or oper-  
 5 ator from conducting any new operations on any forestland in this state until the landowner or op-  
 6 erator has complied with the order to correct an unsatisfactory condition, make repair or pay the  
 7 civil penalty, as the case may be, to the satisfaction of the State Forester.

8 *[(6) The State Forester may require an operator, timber owner or landowner to provide financial*  
 9 *assurance before conducting a new operation if the State Forester has concluded, within the preceding*  
 10 *three-year period, that the operator, timber owner or landowner committed a significant violation.]*

11 **SECTION 70.** ORS 527.685, as amended by section 47 of this 2022 Act, is amended to read:

12 527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that  
 13 may be imposed for a particular violation. Except as provided in [subsections (5) and (6)] **subsection**  
 14 **(5)** of this section, a civil penalty may not exceed [*\$10,000*] **\$5,000** per violation.

15 (2) In imposing a penalty authorized by this section, the State Forester may consider the fol-  
 16 lowing factors:

17 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures  
 18 necessary or appropriate to correct any violation.

19 (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest  
 20 Practices Act.

21 (c) The gravity and magnitude of the violation.

22 (d) Whether the violation was repeated or continuous.

23 (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional  
 24 act.

25 (f) The size and type of ownership of the operation.

26 (g) Any relevant rule of the board.

27 (h) The cooperativeness of the person incurring the penalty and the person's efforts, if any, to  
 28 correct the violation.

29 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and  
 30 conditions as the board determines to be proper and consistent with the public benefit. Upon the  
 31 request of the person incurring the penalty, the board shall consider evidence of the economic and  
 32 financial condition of the person in determining whether a penalty shall be remitted or mitigated.

33 (4) The board, by rule, may delegate to the State Forester, upon such conditions as deemed  
 34 necessary, all or part of the authority of the board provided in subsection (3) of this section to as-  
 35 sess, remit or mitigate civil penalties.

36 (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745,  
 37 the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforest-  
 38 ing lands pursuant to ORS 527.690.

39 *[(6) If the State Forester concludes that an operator, timber owner or landowner has a history of*  
 40 *significant violations that shows a pattern of willful disregard for the requirements of ORS 527.610 to*  
 41 *527.770 or rules or orders adopted or issued thereunder, the State Forester may impose a civil penalty*  
 42 *in an amount not to exceed \$50,000 per significant violation. In imposing the penalty, the State Forester*  
 43 *shall consider, in addition to the factors described in subsection (2) of this section:]*

44 *[(a) The degree, if any, to which the operator, timber owner or landowner derived economic benefit*  
 45 *from the significant violation.]*

1        *[(b) The proportion of total operations conducted by the operator, timber owner or landowner re-*  
 2 *lated to which significant violations have occurred compared to the total number of operations con-*  
 3 *ducted by the operator, timber owner or landowner, accounting for the organizational structure of the*  
 4 *operator, timber owner or landowner.]*

5        **SECTION 71.** ORS 527.714, as amended by section 48 of this 2022 Act, is amended to read:

6        527.714. (1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to  
 7 527.770 consists generally of the following three types of rules:

8        (a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to  
 9 527.770 that support but do not directly regulate standards of forest practices.

10        (b) Rules adopted to provide definitions or procedures for forest practices where the standards  
 11 are set in statute.

12        (c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6), (8), (9) and (10) that  
 13 grant broad discretion to the board and that set standards for forest practices not specifically ad-  
 14 dressed in statute.

15        (2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS  
 16 183.335, the board shall determine which type of rule described in subsection (1) of this section is  
 17 being considered.

18        (3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or  
 19 (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already  
 20 adopted or to make minor adjustments to rules already adopted that are of the type described in  
 21 subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410  
 22 and is not subject to the provisions of this section.

23        (4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of  
 24 this section, and the proposed rule would change the standards for forest practices, the board shall  
 25 describe in its rule the purpose of the rule and the level of protection that is desired. *[If the pro-*  
 26 *posed rule would change the standards for forest practices that relate to the protection of aquatic re-*  
 27 *sources, the level of protection that is desired must be consistent with:]*

28        *[(a) Requirements described in the Private Forest Accord Report dated \_\_\_\_ and published by the*  
 29 *State Forestry Department on \_\_\_\_; or]*

30        *[(b) If a habitat conservation plan consistent with the Private Forest Accord Report has been ap-*  
 31 *proved, the terms of the habitat conservation plan.]*

32        (5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of  
 33 this section, including a proposed amendment to an existing rule not qualifying under subsection (3)  
 34 of this section, and the proposed rule would provide new or increased standards for forest practices,  
 35 the board may adopt such a rule only after determining that the following facts exist and standards  
 36 are met:

37        *[(a)(A)]* (a) If forest practices continue to be conducted under existing regulations:

38        *[(i)]* (A) There is monitoring or research evidence that documents that degradation of resources  
 39 maintained under ORS 527.710 (2) or (3) is likely; or

40        *[(ii)]* (B) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk  
 41 of serious bodily injury or death; *[or]*

42        *[(B) A report produced by the Adaptive Management Program Committee or Independent Research*  
 43 *and Science Team described in section 36 or 38 of this 2022 Act recommends adoption of the rule;]*

44        (b) If the resource to be protected is a wildlife species, the scientific or biological status of a  
 45 species or resource site to be protected by the proposed rule has been documented using best

1 available information;

2 (c) The proposed rule reflects available scientific information, [*and, as appropriate,*] the results  
3 of relevant monitoring and, **as appropriate**, adequate field evaluation at representative locations in  
4 Oregon;

5 (d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest  
6 practices as a result of adoption of the proposed rule:

7 (A)(i) Are to prevent harm or provide benefits to the resource or resource site for which pro-  
8 tection is sought; or

9 (ii) In the case of rules proposed under ORS 527.710 (10), are to reduce risk of serious bodily  
10 injury or death; and

11 (B) Are directly related to the objective of the proposed rule and [*materially*] **substantially** ad-  
12 vance its purpose; [*and*]

13 (e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including  
14 nonregulatory alternatives, were considered, and the alternative chosen is the least burdensome to  
15 landowners and timber owners, in the aggregate, while still achieving the desired level of  
16 protection[.]; **and**

17 **(f) The benefits to the resource, or in the case of rules proposed under ORS 527.710 (10),**  
18 **the benefits in reduction of risk of serious bodily injury or death, that would be achieved by**  
19 **adopting the rule are in proportion to the degree that existing practices of the landowners**  
20 **and timber owners, in the aggregate, are contributing to the overall resources concern that**  
21 **the proposed rule is intended to address.**

22 (6) Nothing in subsection (5) of this section:

23 (a) Requires the board to call witnesses;

24 (b) Requires the board to allow cross-examination of witnesses;

25 (c) Restricts ex parte communications with the board or requires the board to place statements  
26 of such communications on the record;

27 (d) Requires verbatim transcripts of records of proceedings; or

28 (e) Requires depositions, discovery or subpoenas.

29 [*(7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this*  
30 *section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this*  
31 *section, and that the proposed rule relates to aquatic resources, the board may adopt the rule only after*  
32 *considering reports from the Adaptive Management Program Committee and the Independent Research*  
33 *and Science Team.*]

34 [(8)] **(7)** If the board determines that a proposed rule is of the type described in subsection (1)(c)  
35 of this section, and the proposed rule would require new or increased standards for forest practices,  
36 as part of or in addition to the economic and fiscal impact statement required by ORS 183.335  
37 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make avail-  
38 able to the public a comprehensive analysis of the economic impact of the proposed rule. The anal-  
39 ysis shall include, but is not limited to:

40 (a) An estimate of the potential change in timber harvest as a result of the rule;

41 (b) An estimate of the overall statewide economic impact, including a change in output, em-  
42 ployment and income related to:

43 (A) The forest products industry;

44 (B) Other private sectors such as commercial fishing, recreational fishing and other outdoor  
45 recreation; and

1 (C) Government sectors such as public water system providers, waste treatment and built and  
 2 natural infrastructure;

3 (c) An estimate of the total economic impact on the forest products industry and common school  
 4 and county forest trust land revenues, both regionally and statewide; and

5 (d) An assessment of the economic impact of the proposed rule on various types of affected  
 6 forestland parcels and on various geographic locations that is derived from consulting stakeholders.

7 [(9)] (8) The provisions of this section do not apply to temporary rules adopted by the board.

8 **SECTION 72.** ORS 527.990, as amended by section 49 of this 2022 Act, is amended to read:

9 527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740,  
 10 527.750[, or 527.755[, 527.788 or 527.797,] or any rule promulgated under ORS 527.710 [*or section 2*  
 11 *or 45 of this 2022 Act,*] is a Class A misdemeanor. Each day of operation in violation of an order  
 12 issued under ORS 527.680 (3) shall be deemed to be a separate offense.

13 (2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a  
 14 Class C misdemeanor.

15 **SECTION 73.** ORS 527.992, as amended by section 50 of this 2022 Act, is amended to read:

16 527.992. (1) In addition to any other penalty provided by law, any person who fails to comply  
 17 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

18 (a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750[, or 527.755[, 527.788 or  
 19 527.797].

20 (b) The terms or conditions of any order of the State Forester issued in accordance with ORS  
 21 527.680.

22 (c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS  
 23 527.710 [*or section 2 or 45 of this 2022 Act*].

24 (d) Any term or condition of a written waiver, or prior approval granted by the State Forester  
 25 pursuant to the rules adopted under ORS 527.710.

26 (2) Imposition or payment of a civil penalty under this section shall not be a bar to actions al-  
 27 leging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover  
 28 an amount based on the gain resulting from individual or corporate criminal violations.

29 **SECTION 74.** ORS 610.060, as amended by section 26 of this 2022 Act, is amended to read:

30 610.060. [*Except as provided in section 23 of this 2022 Act,*] Nothing in the wildlife laws is in-  
 31 tended to deny the right of any person to control predatory animals as provided in ORS 610.105.

32 **SECTION 75.** ORS 610.105, as amended by section 27 of this 2022 Act, is amended to read:

33 610.105. [*Except as provided in section 23 of this 2022 Act,*] Any person owning, leasing, occupy-  
 34 ing, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier  
 35 or dock which is infested with ground squirrels and other noxious rodents or predatory animals, as  
 36 soon as their presence comes to the knowledge of the person, may, or the agent of the person may,  
 37 proceed immediately and continue in good faith to control them by poisoning, trapping or other ap-  
 38 propriate and effective means.

39  
 40 **CONFORMING AMENDMENTS**

41  
 42 **SECTION 76.** ORS 105.810 is amended to read:

43 105.810. (1) Except as provided in ORS 477.089 and 477.092 and subsections (4) to (7) of this  
 44 section, whenever any person, without lawful authority, willfully injures or severs from the land of  
 45 another any produce thereof or cuts down, girdles or otherwise injures or carries off any tree, tim-

1 ber or shrub on the land of another person, or of the state, county, United States or any public  
2 corporation, or on the street or highway in front of any person's house, or in any village, town or  
3 city lot, or cultivated grounds, or on the common or public grounds of any village, town or city, or  
4 on the street or highway in front thereof, in an action by such person, village, town, city, the United  
5 States, state, county, or public corporation, against the person committing such trespasses if judg-  
6 ment is given for the plaintiff, it shall be given for treble the amount of damages claimed, or as-  
7 sessed for the trespass. In any such action, upon plaintiff's proof of ownership of the premises and  
8 the commission by the defendant of any of the acts mentioned in this section, it is prima facie evi-  
9 dence that the acts were committed by the defendant willfully, intentionally and without plaintiff's  
10 consent.

11 (2) A court may, in its discretion, award to a prevailing party under subsection (1) of this section  
12 reimbursement of reasonable costs of litigation including but not limited to investigation costs and  
13 attorney fees.

14 (3) A court may, in its discretion, award to a prevailing plaintiff under subsection (1) of this  
15 section reasonable costs of reforestation activities related to the injury sustained by the plaintiff.

16 (4) A contract logger is liable only for actual damages in an action under this section if:

17 (a) The contract logger conducts an operation under a signed, written contract with a person  
18 the contract logger reasonably believes to be the legal owner of the produce, trees, timber or shrubs  
19 in the operation area;

20 (b) The contract identifies the operation area by a metes and bounds description or other suffi-  
21 cient legal description;

22 (c) Before the contract logger begins harvesting in the operation area, the person who engages  
23 the contract logger under the contract:

24 (A) Locates, marks and protects from damage all survey monuments in the operation area;

25 (B) Flags, stakes or otherwise clearly marks the boundaries of the operation area; and

26 (C) Provides the contract logger with a copy of the deed, contract or other instrument that the  
27 person who engages the contract logger under the contract relies upon as proof of ownership of the  
28 produce, trees, timber or shrubs in the operation area;

29 (d) The contract logger verifies the deed, contract or instrument described in paragraph (c)(C)  
30 of this subsection against the metes and bounds description or other sufficient legal description in  
31 the contract;

32 (e) The contract logger retains a copy of the deed, contract or instrument described in para-  
33 graph (c)(C) of this subsection for at least three years; and

34 (f) The contract logger does not receive written notice that any person has a claim of title to  
35 the land or timber in the operation area that is adverse to the person who engages the contract  
36 logger under the contract.

37 (5) Subsection (4) of this section does not affect an action for double or treble damages against  
38 a contract logger for damages outside the operation area as described in subsection (4) of this sec-  
39 tion.

40 (6) If an action is brought under this section against a contract logger, and the contract logger  
41 was engaged to harvest the timber by a person who purported to own the timber or to have au-  
42 thority to harvest the timber, the person who engaged the contract logger must be joined in the  
43 action as a defendant unless jurisdiction over the person cannot be had. If a judgment is entered  
44 against the contract logger and against the person who engaged the contract logger, the contract  
45 logger shall not be required to pay any part of the judgment unless the plaintiff establishes that the

1 judgment cannot be enforced against the person who engaged the contract logger. The plaintiff may  
2 enforce the judgment against the contract logger only if:

3 (a) The plaintiff makes a good faith effort for at least six months after the judgment becomes  
4 final and subject to execution to enforce the judgment against the person who engaged the contract  
5 logger; and

6 (b) The court determines, upon motion of the plaintiff, that all or part of the judgment cannot  
7 be collected from the person who engaged the contract logger.

8 (7) Subsections (2) and (3) of this section apply in an action against a contract logger under  
9 subsection (4) of this section.

10 (8) For purposes of this section:

11 (a) "Contract logger" means a person engaged in a commercial timber harvesting operation.

12 (b) "Operation" has the meaning given **that term** in ORS 527.620 [(12)].

13  
14 **CAPTIONS**

15  
16 **SECTION 77. The unit captions used in this 2022 Act are provided only for the conven-**  
17 **ience of the reader and do not become part of the statutory law of this state or express any**  
18 **legislative intent in the enactment of this 2022 Act.**

19  
20 **EMERGENCY CLAUSE**

21  
22 **SECTION 78. This 2022 Act being necessary for the immediate preservation of the public**  
23 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**  
24 **on its passage.**

25  
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