

SENATE AMENDMENTS TO SENATE BILL 1501

By COMMITTEE ON NATURAL RESOURCES AND WILDFIRE RECOVERY

February 11

1 On page 1 of the printed bill, delete lines 6 through 18 and delete pages 2 through 40 and insert:

2
3 **“RULE PACKAGE**

4
5 **“SECTION 1. Section 2 of this 2022 Act is added to and made a part of ORS 527.610 to**
6 **527.770.**

7 **“SECTION 2. (1) The State Board of Forestry shall, as a single rule package following a**
8 **single, consolidated rulemaking process:**

9 **“(a) Adopt rules consistent with the requirements of the Private Forest Accord Report**
10 **dated ___ and published by the State Forestry Department on ___, to the extent that re-**
11 **quirements in the Private Forest Accord Report do not contravene statutory requirements.**

12 **“(b) As needed to conform with the rules described in paragraph (a) of this subsection,**
13 **and only as needed to conform with the rules described in paragraph (a) of this subsection,**
14 **amend or repeal the rules in effect on the effective date of this 2022 Act that implement ORS**
15 **527.610 to 527.770.**

16 **“(2) When adopting, amending or repealing rules as described in subsection (1) of this**
17 **section, the board shall resolve any gaps or ambiguities in the requirements of the Private**
18 **Forest Accord Report by:**

19 **“(a) Referring to the intent and structure of the rules implementing ORS 527.610 to**
20 **527.770 that are in effect on the effective date of this 2022 Act; and**

21 **“(b) Achieving the outcomes described in the Private Forest Accord Report.**

22 **“(3) The department shall:**

23 **“(a) Publish the Private Forest Accord Report.**

24 **“(b) Ensure that the Private Forest Accord Report remains publicly available on a de-**
25 **partment website.**

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

28 **“(2) In developing the rule package, the board shall:**

29 **“(a) Regularly and closely consult with representatives of the authors of the Private**
30 **Forest Accord Report dated ___ and published by the State Forestry Department on ___ to**
31 **ensure that the rule package is consistent with the intent of the report.**

32 **“(b) Prioritize development of the rule package over other obligations to the extent pos-**
33 **sible.**

34 **“(3) Adoption or amendment of rules included in the rule package is not subject to the**
35 **requirements of ORS 183.333, 183.335 or 527.714 or section 39 of this 2022 Act.**

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

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

6 “(6) The notice must include:

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

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

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

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

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

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

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

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

24 “(11) The board shall publish notice of the hearing in the bulletin at least 21 days before
25 the hearing.

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

29 “(13) After adopting the rule package, and on or before July 1, 2023, the board may amend
30 rules that implement ORS 527.610 to 527.770 to make minor changes as needed to conform
31 with the Private Forest Accord Report.

32 “(14) Amendments described in subsection (13) of this section are not subject to the re-
33 quirements of ORS 183.333, 183.335 or 527.714 or section 39 of this 2022 Act.

34 “**SECTION 4.** (1) The State Fish and Wildlife Commission may adopt, amend or repeal
35 rules as needed to conform with the rule package described in section 2 of this 2022 Act, but
36 may only adopt, amend or repeal rules under this section as needed to conform with the rule
37 package.

38 “(2) The provisions of ORS 183.333 and 183.335 do not apply to an adoption, amendment
39 or repeal of a rule under subsection (1) of this section that occurs on or before November
40 30, 2022.

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

42 “(a) ‘Common ownership’ has the meaning given that term in section 16 of this 2022 Act.

43 “(b) ‘Small forestland’ means forestland that has an owner that owns or holds common
44 ownership interest in less than 5,000 acres of forestland in this state.

45 “(2) Rules adopted or amended as part of the rule package described in section 2 of this

1 2022 Act apply only to an operation for which a notification is filed under ORS 527.670 (6):

2 “(a) On or after January 1, 2024.

3 “(b) Before January 1, 2024, if the operation is not completed on or before December 31,
4 2023.

5 “(3) Notwithstanding subsection (2) of this section, rules adopted or amended as part of
6 the rule package that relate to fish buffers apply to an operation, other than an operation
7 on small forestland, for which a notification is filed on or after July 1, 2023.

8 “(4) If the State Forester determines that a forest activity electronic reporting and no-
9 tice system operated by the State Forestry Department is not updated with the information
10 necessary to implement the requirements of the Private Forest Accord Report dated ___ and
11 published by the department on ___ in time for operations to reasonably comply with the
12 requirements by January 1, 2024, the deadlines described in subsection (2) of this section for
13 application of rules that do not relate to fish buffers:

14 “(a) May be extended by the State Forester for a period not to exceed one year; and

15 “(b) After an extension described in paragraph (a) of this subsection, may be extended
16 by the State Board of Forestry only if the board finds that the additional extension is nec-
17 essary.

18
19 “POST-DISTURBANCE HARVEST RULEMAKING

20
21 “SECTION 6. (1) Pursuant to the authority granted by ORS 527.710 and subject to the
22 procedures set forth in ORS 527.714 for rules described in ORS 527.714 (1)(c), the State Board
23 of Forestry shall initiate rulemaking concerning the post-disturbance harvest of trees that,
24 but for the disturbance, would not be harvested under ORS 527.610 to 527.770 or rules adopted
25 thereunder.

26 “(2) The rulemaking:

27 “(a) Must be completed on or before November 30, 2025.

28 “(b) Is not subject to the requirements of section 39 of this 2022 Act.

29
30 “TETHERED LOGGING RULEMAKING

31
32 “SECTION 7. (1) Pursuant to the authority granted by ORS 527.710 and subject to the
33 procedures set forth in ORS 527.714 for rules described in ORS 527.714 (1)(c), not more than
34 three years after the effective date of this 2022 Act, the State Board of Forestry shall initiate
35 rulemaking concerning tethered logging.

36 “(2) The board shall prioritize the rulemaking.

37 “(3) The rulemaking is not subject to the requirements of section 39 of this 2022 Act, but
38 as part of the rulemaking, the board may solicit and consider reports that pertain to
39 tethered logging from the Adaptive Management Program Committee and the Independent
40 Research and Science Team described in sections 36 and 38 of this 2022 Act.

41
42 “JUST COMPENSATION EXEMPTION

43
44 “SECTION 8. The Legislative Assembly intends that a person is not entitled to just
45 compensation under ORS 195.305 to 195.336 for any restriction placed on the use of real

1 **property by a rule adopted or amended by the State Board of Forestry:**

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

3 **“(2) After the board has considered reports that pertain to the rule from the Adaptive**
4 **Management Program Committee and the Independent Research and Science Team described**
5 **in sections 36 and 38 of this 2022 Act.**

6 **“SECTION 9.** ORS 195.308 is amended to read:

7 **“195.308.** Notwithstanding the requirement to pay just compensation for certain land use regu-
8 **lations under ORS 195.305 (1), compensation is not due for:**

9 **“(1) The enforcement or enactment of a land use regulation established in ORS 30.930 to 30.947,**
10 **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,**
11 **570.320 to 570.360, 570.405, 570.412, 570.420, 570.425, 570.450, 570.700 to 570.710, 570.755, 570.770,**
12 **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**
13 **administrative rules or statewide plans implementing these statutes.**

14 **“(2) The enforcement, adoption or amendment of a rule adopted or amended by the State**
15 **Board of Forestry:**

16 **“(a) As part of the rule package described in section 2 of this 2022 Act.**

17 **“(b) After the board has considered reports that pertain to the rule from the Adaptive**
18 **Management Program Committee and the Independent Research and Science Team described**
19 **in sections 36 and 38 of this 2022 Act.**

20
21 **“LANDSLIDE MODELING**

22
23 **“SECTION 10. (1) The Legislative Assembly finds that:**

24 **“(a) The requirements of the Private Forest Accord Report dated ___ and published by**
25 **the State Forestry Department on ___ are premised on specific landslide modeling developed**
26 **by a specific contractor.**

27 **“(b) Implementation of the requirements is contingent on the ability to use the specific**
28 **landslide modeling.**

29 **“(c) Implementation of the requirements is time sensitive and requires rapid development**
30 **of landslide modeling.**

31 **“(d) Procurement of services pursuant to this section:**

32 **“(A) Is unlikely to encourage favoritism in awarding public contracts or to substantially**
33 **diminish competition for public contracts.**

34 **“(B) Will substantially promote the public interest in a manner that could not otherwise**
35 **be practically realized through a procurement subject to the requirements of the Public**
36 **Contracting Code.**

37 **“(2) The State Forestry Department shall:**

38 **“(a) Procure services for development and application of the landslide modeling described**
39 **in chapter ___ of the Private Forest Accord Report.**

40 **“(b) Ensure that the modeling is developed and incorporated into a forest activity elec-**
41 **tronic reporting and notice system operated by the department:**

42 **“(A) In time to facilitate compliance with the deadlines described in section 5 (2) and (3)**
43 **of this 2022 Act.**

44 **“(B) Not later than May 1, 2023.**

45 **“(3) The procurement required by this section is not subject to the requirements of the**

1 **Public Contracting Code.**

2
3 **“SUBMISSION OF HABITAT CONSERVATION PLAN**

4
5 **“SECTION 11. The State Board of Forestry shall submit to the National Marine Fisheries**
6 **Service and the United States Fish and Wildlife Service:**

7 **“(1) A proposed habitat conservation plan consistent with the Private Forest Accord**
8 **Report dated ___ and published by the State Forestry Department on ___.**

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

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

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

16 **“(3) Pursuant to ORS 279A.050 (6)(m) and notwithstanding ORS 279B.050, 279B.055,**
17 **279B.060, 279B.065 and 279B.070, the board may award a contract for the services without**
18 **undertaking a process of competitive sealed bidding or competitive sealed proposals or so-**
19 **liciting competitive price quotes or competitive proposals.**

20 **“(4) The board shall ensure that representatives of the authors of the Private Forest**
21 **Accord Report dated ___ and published by the State Forestry Department on ___ are:**

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

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

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

29
30 **“PASS-THROUGH PROTECTION FOR ENDANGERED SPECIES ACT AGREEMENTS**

31
32 **“SECTION 13. Section 14 of this 2022 Act is added to and made a part of ORS 527.610 to**
33 **527.770.**

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

39
40 **“SMALL FORESTLAND OWNER PROVISIONS**

41
42 **“SECTION 15. Section 16 of this 2022 Act is added to and made a part of ORS 527.610 to**
43 **527.770.**

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

45 **“(a) ‘Common ownership’ means direct ownership by one or more individuals or owner-**

1 ship by a corporation, partnership, association or other entity in which an individual owns
2 a significant interest.

3 “(b) ‘Small forestland minimum option’ means any small forestland minimum option
4 available for small forestland owners pursuant to rules adopted by the State Board of
5 Forestry under section 2 of this 2022 Act.

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

10 “(3)(a) An operator, timber owner or landowner may not follow a small forestland mini-
11 mum option for an operation unless the department determines that, as of the date the de-
12 partment receives a notification related to the operation under ORS 527.670:

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

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

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

22 “(b) Notwithstanding paragraph (a)(B) and (C) of this subsection, the department may
23 allow a landowner to follow a small forestland minimum option if the landowner establishes
24 to the department’s reasonable satisfaction that any exceedance of the harvest limits set
25 forth in paragraph (a)(B) or (C) of this subsection was or will be necessary to raise funds to
26 pay estate taxes or for a compelling and unexpected obligation.

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

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

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

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

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

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

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

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

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

44 “(B) Submit documentation showing that no more than an average yearly volume of two
45 million board feet of merchantable forest products has been harvested from the landowner’s

1 forestland in this state, when averaged over the three years prior to the date the office re-
2 ceives the grant application.

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

7 “(D) Have on file with the State Forestry Department a road condition assessment that
8 includes assessment of all the roads, abandoned roads, culverts and fish passage barriers
9 located anywhere in the parcel of land on which the project for which grant funding is re-
10 quested will occur.

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

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

20 “(5) In administering and implementing the program, the office shall coordinate with the
21 State Department of Fish and Wildlife to prioritize awarding grants for projects on high
22 conservation value sites, as described in section ___ of chapter __ of the Private Forest Ac-
23 cord Report.

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

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

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

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

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

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

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

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

40 “(2) Moneys in the fund are continuously appropriated to the State Forestry Department
41 to be distributed by the Small Forestland Owner Assistance Office described in section 19 of
42 this 2022 Act as grants to small forestland owners under the Small Forestland 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-

1 ferred to the fund.

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

5 “SECTION 19. (1) The Small Forestland Owner Assistance Office is created within the
6 State Forestry Department.

7 “(2) The office shall:

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

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

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

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

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

18 “(C) The types and conditions of the forestland.

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

20 “(d) Serve as the lead coordination and support body within the department for pro-
21 grams, partnerships and educational opportunities not otherwise described in this section
22 that support forestland owners that own or hold common ownership interest in less than
23 5,000 acres of forestland in this state.

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

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

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

31 “SECTION 20. The State Board of Forestry shall adopt the rules described in sections 16,
32 17 and 19 of this 2022 Act as part of the rule package described in section 2 of this 2022 Act.

33
34 “BEAVER (CASTOR CANADENSIS) CONSERVATION
35

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

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

39 “(a) ‘Beaver’ means a member of the species *Castor canadensis*.

40 “(b) ‘Forestland’ has the meaning given that term in ORS 527.620.

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

44 “(3) The department shall:

45 “(a) Annually submit a summary of the takings of beaver reported under subsection (2)

1 of this section to the State Fish and Wildlife Commission to help the commission better un-
2 derstand the scale of trapping on privately owned forestland.

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

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

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

7 “(a) ‘Beaver’ means a member of the species *Castor canadensis*.

8 “(b) ‘Forest practices’ has the meaning given that term in ORS 527.620.

9 “(c) ‘Forestland’ has the meaning given that term in ORS 527.620.

10 “(d) ‘Small forestland’ means forestland whose owner owns or holds common ownership
11 interest in less than 5,000 acres of forestland in this state.

12 “(2) Notwithstanding ORS 498.012 (1), an owner of forestland, other than small forestland,
13 or a designee of the owner, may take a beaver on the owner’s forestland only if:

14 “(a) The beaver apparently poses a threat to infrastructure.

15 “(b) The owner or a designee of the owner first requests that the State Department of
16 Fish and Wildlife address the threat to infrastructure apparently posed by the beaver.

17 “(c) The owner or a designee of the owner waits 30 days after making the request de-
18 scribed in paragraph (b) of this subsection before taking the beaver.

19 “(3) If the department receives a request under subsection (2)(b) of this section, the de-
20 partment shall make a reasonable attempt to nonlethally relocate the beaver, as department
21 resources allow, or otherwise address the threat to infrastructure apparently posed by the
22 beaver, in consultation with the owner or a designee of the owner.

23 “(4) Notwithstanding subsection (2) of this section and ORS 498.012 (1), if a beaver on
24 privately owned forestland damages or imminently threatens infrastructure, an owner of
25 forestland, other than small forestland, or a designee of the owner, may take the beaver
26 without submitting a request to the department under subsection (2) of this section.

27 “(5) An owner, or a designee of an owner, that takes a beaver under subsection (2) or (4)
28 of this section must report the taking as described in section 22 of this 2022 Act.

29 “(6) In consultation with persons engaged in forest practices and other interested
30 stakeholders, the department shall:

31 “(a) Make reasonable attempts to nonlethally relocate beavers, as department resources
32 allow.

33 “(b) Develop a program for voluntarily relocating beavers.

34 “(7) Notwithstanding ORS 496.162 (3), the State Fish and Wildlife Commission shall adopt
35 rules to implement this section.

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

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

39 “(a) ‘Forestland’ has the meaning given that term in ORS 527.620.

40 “(b) ‘Small forestland’ has the meaning given that term in section 23 of this 2022 Act.

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

44 “(3) A person that traps a beaver on privately owned forestland other than small
45 forestland may not sell or exchange the pelt of the beaver, unless the trapping occurs pur-

1 **suant to section 23 (2) or (4) of this 2022 Act.**

2 **“SECTION 26.** ORS 610.060 is amended to read:

3 **“610.060. Except as provided in section 23 of this 2022 Act,** nothing in the wildlife laws is
4 intended to deny the right of any person to control predatory animals as provided in ORS 610.105.

5 **“SECTION 27.** ORS 610.105 is amended to read:

6 **“610.105. Except as provided in section 23 of this 2022 Act,** any person owning, leasing, oc-
7 cupping, possessing or having charge of or dominion over any land, place, building, structure, wharf,
8 pier or dock which is infested with ground squirrels and other noxious rodents or predatory animals,
9 as soon as their presence comes to the knowledge of the person, may, or the agent of the person
10 may, proceed immediately and continue in good faith to control them by poisoning, trapping or other
11 appropriate and effective means.

12
13 **“MITIGATING EFFECTS ON AQUATIC WILDLIFE**

14
15 **“SECTION 28.** ORS 496.252 is amended to read:

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

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

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

27 **“(b)** Improving engagement of the public in hunting and fishing opportunities and in other out-
28 door recreation opportunities related to and in support of healthy fish, wildlife and habitats;

29 **“(c)** Improving educational outreach and engagement of the public, including diverse and
30 underserved communities, related to and in support of healthy fish, wildlife and habitats;

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

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

36 **“(3)** The fund shall consist of:

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

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

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

43 **“(4)** The Private Forest Accord Mitigation Subaccount is established in the fund. The
44 subaccount shall consist of moneys appropriated to the department for deposit in the sub-
45 account or otherwise transferred to the subaccount and gifts, grants, contributions or other

1 donations that are received by the department from any public or private source and caused
2 to be deposited and credited to the subaccount. Moneys in the subaccount may be used for:

3 “(a) The purposes described in, and the administration of, section 32 of this 2022 Act.

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

6 “(c) Conducting outreach to persons that may undertake projects described in section 32
7 of this 2022 Act.

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

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

17 “**SECTION 29.** ORS 496.254 is amended to read:

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

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

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

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

38 “**SECTION 30.** (1) **The Private Forest Accord Mitigation Advisory Committee is estab-
39 lished as an advisory committee to the State Fish and Wildlife Commission and the State
40 Department of Fish and Wildlife for the purpose of carrying out the duties described in
41 subsection (11) of this section.**

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

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

1 “(A) Three members who represent the timber industry.

2 “(B) Three members who represent nongovernmental organizations that promote con-
3 servation of freshwater aquatic habitat.

4 “(b) In appointing members, the Governor shall solicit and consider recommendations
5 from the timber industry and nongovernmental organizations that promote conservation of
6 freshwater aquatic habitat.

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

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

11 “(a) The State Forestry Department.

12 “(b) The Oregon Watershed Enhancement Board.

13 “(c) The State Department of Fish and Wildlife.

14 “(d) The United States Fish and Wildlife Service.

15 “(e) The National Marine Fisheries Service.

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

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

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

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

22 “(7) In case of a vacancy, the appropriate appointing authority shall make an appoint-
23 ment to become effective immediately for the unexpired portion of the term.

24 “(8) The voting members shall biennially select from among themselves a chairperson
25 and vice chairperson.

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

27 “(10) A majority of the voting members constitutes a quorum for the transaction of
28 business.

29 “(11) The committee shall:

30 “(a) Review State Department of Fish and Wildlife policies regarding the use of moneys
31 deposited in the Private Forest Accord Mitigation Subaccount of the Oregon Conservation
32 and Recreation Fund and make recommendations to the commission and the department
33 regarding the use of moneys in the subaccount.

34 “(b) Solicit and review grant applications under the Private Forest Accord Grant Pro-
35 gram described in section 32 of this 2022 Act and advise the commission and department on
36 how to award grants in a manner that will most effectively mitigate the impacts of forest
37 practices, as defined in ORS 527.620.

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

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

43 “SECTION 31. (1) Notwithstanding section 30 (3) of this 2022 Act, the voting members
44 first appointed by the Governor to the Private Forest Accord Mitigation Advisory Committee
45 must be representatives of six authors of the Private Forest Accord Report dated ____ and

1 published by the State Forestry Department on ____.

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

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

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

6 “(c) Two shall serve for terms ending three years after the date of appointment.

7 “SECTION 32. (1) As used in this section, ‘forestland’ and ‘forest practice’ have the
8 meanings given those terms in ORS 527.620.

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

12 “(a) Removing structures that block the passage of aquatic organisms or repairing the
13 structures to promote the passage of aquatic organisms.

14 “(b) Placing logs or other wood-based material in streams to promote natural stream
15 functions.

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

17 “(d) Developing or sustaining healthy riparian corridors or wet meadow complexes to
18 reduce burn intensity during fires and protect streams from excess sediment after a fire.

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

21 “(f) Applying restoration treatments to stands of trees to enhance historic species di-
22 versity that benefits riparian function.

23 “(g) Supporting establishment of conservation easements on land other than forestland
24 to protect riparian areas.

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

27 “(i) Installing fencing or otherwise excluding grazing in riparian areas or around seeps
28 or springs.

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

31 “(k) Undertaking other measures that effectively conserve or restore habitat for aquatic
32 organisms addressed by a habitat conservation plan that is consistent with the Private For-
33 est Accord Report dated ____ and published by the State Forestry Department on ____.

34 “(3) In administering the program, the commission:

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

36 “(b) Shall award grants to most effectively mitigate impacts of forest practices, consist-
37 ent with advice from the Private Forest Accord Mitigation Advisory Committee.

38 “(c) May award a grant to another agency.

39 “(d) May require the recipient of a grant to report to the commission on the use of grant
40 funds.

41
42 “ADAPTIVE MANAGEMENT
43

44 “SECTION 33. Sections 34, 36, 38 and 39 of this 2022 Act are added to and made a part
45 of ORS 527.610 to 527.770.

1 **“SECTION 34. (1) It is the policy of the State of Oregon that regulation of forest prac-**
2 **tices for the protection of aquatic species shall, in addition to other statutory requirements,**
3 **be subject to a process of adaptive management, whereby goals and objectives are validated,**
4 **and modified if necessary, and forest practice rules are monitored for effectiveness relative**
5 **to the goals and objectives.**

6 **“(2) The State Board of Forestry shall establish by rule an adaptive management program**
7 **to accomplish the policy described in subsection (1) of this section, consistent with the**
8 **adaptive management framework set forth in the Private Forest Accord Report dated ____**
9 **and published by the State Forestry Department on ____.**

10 **“(3) The adaptive management program must:**

11 **“(a) Ensure effective change as needed to meet resource objectives.**

12 **“(b) Increase the predictability and stability of the process of changing regulation so**
13 **landowners, regulators and interested members of the public can understand and anticipate**
14 **change.**

15 **“(c) Apply best available science to decision-making.**

16 **“(d) Effectively meet resource objectives with less operationally expensive prescriptions**
17 **when feasible.**

18 **“(4) The State Board of Forestry shall adopt rules prescribing in detail the roles and ob-**
19 **ligations of the Adaptive Management Program Committee and Independent Research and**
20 **Science Team, consistent with sections 36 and 38 of this 2022 Act and the provisions of the**
21 **Private Forest Accord Report.**

22 **“(5) The board shall consider reports submitted by the committee and team.**

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

26 **“SECTION 36. (1) The Adaptive Management Program Committee is established as an**
27 **advisory committee to the State Board of Forestry.**

28 **“(2) The committee shall consist of 10 voting members and up to three nonvoting mem-**
29 **bers.**

30 **“(3) The board shall select a voting member from among two candidates recommended**
31 **by each of the following 10 entities:**

32 **“(a) The Oregon Forest and Industries Council.**

33 **“(b) The Coalition of Oregon Land Trusts.**

34 **“(c) The Associated Oregon Loggers.**

35 **“(d) A conservation organization collectively selected by Beyond Toxics, Cascadia**
36 **Wildlands, Klamath Siskiyou Wildlands Center, Oregon League of Conservation Voters,**
37 **Oregon Stream Protection Coalition, Oregon Wild, Portland Audubon and Umpqua**
38 **Watersheds, which were parties to the Private Forest Accord Report dated ____ and pub-**
39 **lished by the State Forestry Department on ____.**

40 **“(e) The Oregon Small Woodlands Association.**

41 **“(f) The Commission on Indian Services.**

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

45 **“(h) The Association of Oregon Counties.**

1 “(i) The State Department of Fish and Wildlife.
2 “(j) The Department of Environmental Quality.
3 “(4) If an entity described in subsection (3) of this section ceases to exist, the board shall
4 determine a successor entity that represents the same interests.
5 “(5) The board shall:
6 “(a) Select one representative of the State Forestry Department to serve as a nonvoting
7 member.
8 “(b) Invite one representative of the National Marine Fisheries Service and one repre-
9 sentative of the United States Fish and Wildlife Service to serve on the committee as non-
10 voting members.
11 “(6) The voting members and the nonvoting member described in subsection (5)(a) of this
12 section shall serve for terms of four years and may serve an unlimited number of terms.
13 “(7) The committee shall:
14 “(a) Guide the adaptive management process.
15 “(b) Set the research agenda of the Independent Research and Science Team established
16 in section 38 of this 2022 Act and recommend to the board the team’s budget.
17 “(c) Assess the scientific findings in a report prepared by the team and prepare a report
18 that identifies alternative actions, including no action, to address resource issues identified
19 in the team’s report.
20 “(d) Submit the committee’s reports to the board.
21 “(e) Assist the board in the ongoing process of identifying and modifying resource objec-
22 tives.
23 “(f) Review reports related to compliance monitoring and enforcement.
24 “(g) Submit recommendations to the board concerning rule adjustment, guidance or
25 training.
26 “(h) Strive for full consensus in committee decision-making.
27 “(8) Notwithstanding subsection (7)(h) of this section, the committee shall make sub-
28 stantial decisions by a vote of at least seven voting members.
29 “(9) Committee members are not eligible for compensation or reimbursement for ex-
30 penses. If an organization represented by a committee member requests a participation grant
31 to compensate for the organizational resources the organization dedicated to supporting the
32 committee member’s service on the committee, subject to available funding, the board shall
33 award the participation grant in an amount determined by the board.
34 “(10) The board shall adopt rules describing a process for awarding participation grants
35 described in subsection (9) of this section.
36 “SECTION 37. (1) The State Board of Forestry shall appoint the first voting members of
37 the Adaptive Management Program Committee on or before November 30, 2022.
38 “(2) Notwithstanding section 36 (6) of this 2022 Act, of the voting members of the com-
39 mittee first appointed by the board:
40 “(a) Two shall serve for terms ending one year after the date of appointment.
41 “(b) Two shall serve for terms ending two years after the date of appointment.
42 “(c) Three shall serve for terms ending three years after the date of appointment.
43 “(3) The board shall appoint the first five voting members of the Independent Research
44 and Science Team from a list of candidates provided by the committee.
45 “SECTION 38. (1) The Independent Research and Science Team is established as an ad-

1 visory committee to the State Board of Forestry.

2 “(2) The team shall consist of an odd number of at least five voting members. The voting
3 members must:

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

7 “(b) Include, at all times:

8 “(A) One voting member who represents a public institution.

9 “(B) One voting member who represents the timber industry.

10 “(C) One voting member who represents a nongovernmental organization that promotes
11 conservation of freshwater aquatic habitat.

12 “(4) Team members shall serve for initial terms of four years and may serve an unlimited
13 number of terms.

14 “(5) A team member may be removed by a two-thirds vote of the team or by a majority
15 vote of the board.

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

19 “(a) The team shall submit a list of candidates to the board.

20 “(b) The board may appoint one or more of the candidates as voting members of the
21 team.

22 “(c) If the board does not select one or more voting members from the list of candidates,
23 the team shall submit a new list of candidates to the board until such time as the board
24 appoints one or more candidates as voting members of the team.

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

26 “(8) The team shall:

27 “(a) Conduct or oversee research requested by the Adaptive Management Program
28 Committee.

29 “(b) Report to the board and the committee on the findings of the research, including
30 findings concerning the magnitude of impacts on species of concern, the urgency of needed
31 action and the degree of scientific confidence or uncertainty behind the findings.

32 “(9)(a) The team shall strive for full consensus in team decision-making.

33 “(b) Notwithstanding paragraph (a) of this subsection, the team shall make substantial
34 decisions by a vote of at least two-thirds of the team members.

35 “(10) Team members are not eligible for compensation or reimbursement for expenses.
36 If an organization represented by a team member requests a participation grant to compen-
37 sate for the organizational resources the organization dedicated to supporting the team
38 member’s service on the team, subject to available funding, the board shall award the par-
39 ticipation grant in an amount determined by the board.

40 “(11) The board shall adopt rules describing a process for awarding participation grants
41 described in subsection (10) of this section.

42 “SECTION 39. (1) Subject to subsection (2) of this section, the State Board of Forestry
43 may not adopt, amend or repeal a rule described in ORS 527.714 (1)(c) that relates to aquatic
44 resources until the board has first received and considered reports that pertain to the rule
45 from the Adaptive Management Program Committee and the Independent Research and Sci-

1 **ence Team described in sections 36 and 38 of this 2022 Act.**

2 **“(2) Notwithstanding ORS 527.714 (7), subsection (1) of this section does not apply:**

3 **“(a) To adoption, amendment or repeal of a rule as part of a rulemaking proceeding**
4 **commenced pursuant to ORS 527.765 (3)(e) in response to a petition for review of best man-**
5 **agement practices made by the Environmental Quality Commission;**

6 **“(b) To adoption, amendment or repeal of a rule by the commission;**

7 **“(c) If the legislation authorizing or requiring the adoption, amendment or repeal of the**
8 **rule provides a specific exemption from this section; or**

9 **“(d) If the adoption, amendment or repeal of the rule is necessary to comply with a court**
10 **order.**

11 **“(3) The board may solicit and consider a report from the committee or the team prior**
12 **to or as part of:**

13 **“(a) A rulemaking proceeding described in subsection (2)(a) of this section, if soliciting**
14 **and considering the report does not conflict with the requirements of ORS 527.765 (3)(e); or**

15 **“(b) Any other rulemaking described in ORS 527.714 (1)(c), subject to the funding avail-**
16 **able to, and the capacity of, the committee and the team, taking into consideration the re-**
17 **quirements of subsection (1) of this section.**

18
19 **“AMENDMENTS TO OREGON FOREST PRACTICES ACT**

20
21 **“SECTION 40.** ORS 527.620 is amended to read:

22 **“527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:**

23 **“(1) ‘Aquatic resource’ means:**

24 **“(a) A species addressed in the Private Forest Accord Report dated ____ and published**
25 **by the State Forestry Department on ____ and the resources on which the species relies;**
26 **or**

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

30 **“[(1)] (2) ‘Board’ means the State Board of Forestry.**

31 **“[(2)] (3) ‘Cumulative effects’ means the impact on the environment which results from the in-**
32 **cremental impact of the forest practice when added to other past, present and reasonably foreseea-**
33 **ble future forest practices regardless of what governmental agency or person undertakes such other**
34 **actions.**

35 **“[(3)] (4) ‘DBH’ means the diameter at breast height which is measured as the width of a**
36 **standing tree at four and one-half feet above the ground, on the uphill side.**

37 **“[(4)] (5) ‘Edge of the roadway’ means:**

38 **“(a) For interstate highways, the fence.**

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

41 **“[(5)] (6) ‘Forest practice’ means any operation conducted on or pertaining to forestland, in-**
42 **cluding but not limited to:**

43 **“(a) Reforestation of forestland;**

44 **“(b) Road construction and maintenance;**

45 **“(c) Harvesting of forest tree species;**

1 “(d) Application of chemicals;

2 “(e) Disposal of slash; and

3 “(f) Removal of woody biomass.

4 “[6] (7) ‘Forest tree species’ means any tree species capable of producing logs, fiber or other
5 wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial
6 forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used
7 solely for the production of Christmas trees.

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

11 “[8] (9) ‘Harvest type 1’ means an operation that requires reforestation but does not require
12 wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free
13 to grow seedlings, saplings, poles and larger trees that is less than the stocking level established
14 by rule of the board that represents adequate utilization of the productivity of the site.

15 “[9] (10) ‘Harvest type 2’ means an operation that requires wildlife leave trees but does not
16 require reforestation. A harvest type 2 does not require reforestation because it has an adequate
17 combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:

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

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

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

24 “[10] (11) ‘Harvest type 3’ means an operation that requires reforestation and requires wildlife
25 leave trees. This represents a level of stocking below which the size of operations is limited under
26 ORS 527.740 and 527.750.

27 “[11] (12) ‘Landowner’ means any individual, combination of individuals, partnership, corpo-
28 ration or association of whatever nature that holds an ownership interest in forestland, including
29 the state and any political subdivision thereof.

30 “[12] (13) ‘Operation’ means any commercial activity relating to the establishment, manage-
31 ment or harvest of forest tree species except as provided by the following:

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

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

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

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

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

41 “(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, in-
42 sect control and disease control.

43 “(c) The establishment, management or harvest of trees actively farmed or cultured for the
44 production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

45 “(d) The establishment, management or harvest of ornamental, street or park trees within an

1 urbanized area, as that term is defined in ORS 221.010.

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

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

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

10 “[13] (14) ‘Operator’ means any person, including a landowner or timber owner, who conducts
11 an operation.

12 “(15)(a) ‘Significant violation’ means:

13 “(A) Violation of ORS 527.670 (6) by engaging in an operation without filing the requisite
14 notification;

15 “(B) Continued operation in contravention of an order issued by the State Forester under
16 ORS 527.680 (2)(a), (3) or (5); or

17 “(C) A violation resulting in major damage to a resource described in ORS 527.710 (2) for
18 which restoration is expected to take more than 10 years.

19 “(b) ‘Significant violation’ does not include:

20 “(A) Unintentional operation in an area outside an operating area of an operation for
21 which sufficient notification was filed pursuant to ORS 527.670 (6);

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

25 “(C) Failure to timely notify the State Forester of an intent to continue an operation into
26 the next calendar year.

27 “[14] (16) ‘Single ownership’ means ownership by an individual, partnership, corporation, lim-
28 ited liability company, trust, holding company or other business entity, including the state or any
29 political subdivision thereof. Single ownership includes ownership held under different names or ti-
30 tles where the same individual or individuals, or their heirs or assigns, are shareholders (other than
31 those of public corporations whose stock is traded on the open market), partners, business trustees
32 or officers, or otherwise have an interest in or are associated with each property.

33 “[15] (17) ‘State Forester’ means the State Forester or the duly authorized representative of
34 the State Forester.

35 “[16] (18) ‘Suitable hardwood seedlings’ means any hardwood seedling that will eventually yield
36 logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or
37 other forest products.

38 “[17] (19) ‘Timber owner’ means any individual, combination of individuals, partnership, cor-
39 poration or association of whatever nature, other than a landowner, that holds an ownership inter-
40 est in any forest tree species on forestland.

41 “[18] (20) ‘Visually sensitive corridor’ means forestland extending outward 150 feet, measured
42 on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS
43 527.755, along both sides for the full length of the highway.

44 “[19] (21) ‘Wildlife leave trees’ means trees or snags required to be retained as described in
45 ORS 527.676 (1).

1 “[(20)] (22) ‘Written plan’ means a document prepared by an operator, timber owner or land-
2 owner that describes how the operation is planned to be conducted.

3 “**SECTION 41.** ORS 527.630 is amended to read:

4 “527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
5 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
6 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
7 public policy of the State of Oregon to encourage economically efficient forest practices that ensure
8 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
9 such purposes as the leading use on privately owned land, consistent with sound management of soil,
10 air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as
11 provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-
12 ations of Oregonians.

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

18 “(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, [and]
19 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry
20 exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and
21 to coordinate with other state agencies and local governments which are concerned with the forest
22 environment.

23 “**(4) It is recognized that ensuring compliance with, and enforcing, ORS 527.610 to 527.770**
24 **and rules and orders adopted or issued thereunder is essential to protect Oregon’s natural**
25 **resources. It is further recognized that onsite inspections are necessary to further the policy**
26 **of ORS 527.610 to 527.770, 527.990 and 527.992.**

27 “**(5) It is recognized that enforcement of the policy of ORS 527.610 to 527.770, 527.990 and**
28 **527.992 is necessary to support the integrity of the policy and give the public confidence that**
29 **standards for forest practices are being followed. It is further recognized that an effective**
30 **enforcement program must include:**

31 “**(a) Adequate training and education of enforcement officers, operators, timber owners**
32 **and landowners.**

33 “**(b) Clear technical guidance.**

34 “**(c) Implementation expectations that are transparent and easily understood by opera-**
35 **tors, timber owners and landowners.**

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

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

41 “**(b) In exercising enforcement discretion, including discretion to impose penalties, pri-**
42 **oritize addressing significant violations, other consequential violations and the actions of**
43 **repeat violators.**

44 “[(4)] (7) The board may adopt and enforce rules addressing scenic considerations only in ac-
45 cordance with ORS 527.755.

1 “[(5)] (8) The board shall adopt and enforce forest practice rules to reduce the risk of serious
2 bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10).
3 As used in this subsection, ‘rapidly moving landslide’ has the meaning given in ORS 195.250.

4 “[(6)] (9) The State of Oregon should provide a stable regulatory environment to encourage in-
5 vestment in private forestlands.

6 “**SECTION 42.** Sections 43 and 44 of this 2022 Act are added to and made a part of ORS
7 527.610 to 527.770.

8 “**SECTION 43.** (1) The State Forester, or a representative of the State Forester, shall
9 conduct a program of inspections of forestland within the operating areas of operations for
10 which notifications are filed pursuant to ORS 527.670 (6), at regular intervals, to assess
11 compliance with ORS 527.610 to 527.770 and rules and orders adopted or issued thereunder.

12 “(2) The inspection may occur:

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

16 “(b) Only at a reasonable time, absent consent or a warrant.

17 “(3) The person conducting the inspection shall:

18 “(a) Advise the operator, timber owner or landowner that the inspection is being made
19 pursuant to the law and is limited in scope to the operation subject to the relevant notifi-
20 cation.

21 “(b) Ensure that the inspection is tailored to assessing compliance with ORS 527.610 to
22 527.770 and rules and orders adopted or issued thereunder.

23 “(4) The State Forester may petition the circuit court of this state having jurisdiction
24 over the forestland for a warrant authorizing the State Forester or a representative of the
25 State Forester to inspect the forestland.

26 “(5) The court may issue a warrant if:

27 “(a) The State Forester or a representative of the State Forester has attempted in-
28 spection consistent with subsections (1) to (3) of this section and access to all or part of the
29 forestland was actually or constructively denied; or

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

32 “**SECTION 44.** (1) As used in this section, ‘photogrammetric mapping’ has the meaning
33 given that term in ORS 672.002.

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

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

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

41 “(c) Otherwise establish a program for determining when operations for which notifica-
42 tions have been filed pursuant to ORS 527.670 (6) have been completed.

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

45 “**SECTION 45.** ORS 527.680 is amended to read:

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

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

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

14 “(b) May issue and serve an order upon the landowner or operator and shall cause a copy of
15 such order to be mailed or delivered to the timber owner and landowner, directing the landowner
16 or operator, where practical and economically feasible, to make reasonable efforts to repair the
17 damage or correct the unsatisfactory condition specified in the citation within a period specified by
18 the State Forester.

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

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

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

40 “(6) **The State Forester may require an operator, timber owner or landowner to provide**
41 **financial assurance before conducting a new operation if the State Forester has, within the**
42 **preceding three-year period, made a finding under ORS 527.685 (6) applicable to the operator,**
43 **timber owner or landowner.**

44 “**SECTION 46.** ORS 527.685 is amended to read:

45 “527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that

1 may be imposed for a particular violation. Except as provided in [subsection (5)] **subsections (5) and**
2 **(6)** of this section, [no] a civil penalty [shall] **may not** exceed [\$5,000] **\$10,000** per violation.

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

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

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

9 “(c) The gravity and magnitude of the violation.

10 “(d) Whether the violation was repeated or continuous.

11 “(e) Whether the cause of the violation was an unavoidable accident, negligence or an inten-
12 tional act.

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

14 “(g) Any relevant rule of the board.

15 “(h) The [violator’s] cooperativeness **of the person incurring the penalty and the person’s**
16 **efforts, if any,** to correct the violation.

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

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

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

27 “(6) **If the State Forester makes a finding that an operator, timber owner or landowner**
28 **has a history of significant violations that shows a pattern of willful disregard for the re-**
29 **quirements of ORS 527.610 to 527.770 or rules or orders adopted or issued thereunder, the**
30 **State Forester may impose a civil penalty in an amount not to exceed \$50,000 per significant**
31 **violation. In imposing the penalty, the State Forester shall consider, in addition to the fac-**
32 **tors described in subsection (2) of this section:**

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

35 “(b) **The proportion of total operations conducted by the operator, timber owner or**
36 **landowner related to which significant violations have occurred compared to the total num-**
37 **ber of operations conducted by the operator, timber owner or landowner, while accounting**
38 **for the organizational structure of the operator, timber owner or landowner.**

39 “**SECTION 47.** ORS 527.714 is amended to read:

40 “527.714. (1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to
41 527.770 consists generally of the following three types of rules:

42 “(a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to
43 527.770 that support but do not directly regulate standards of forest practices.

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

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

4 “(2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS
5 183.335, the board shall determine which type of rule described in subsection (1) of this section is
6 being considered.

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

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

17 “(a) **Requirements described in the Private Forest Accord Report dated ___ and pub-**
18 **lished by the State Forestry Department on ____; or**

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

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

26 “(a)(A) If forest practices continue to be conducted under existing regulations[,];

27 “(i) There is monitoring or research evidence that documents that degradation of resources
28 maintained under ORS 527.710 (2) or (3) is likely[,]; or

29 “(ii) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of
30 serious bodily injury or death; **or**

31 “(B) **The board has received reports produced by the Adaptive Management Program**
32 **Committee and the Independent Research and Science Team described in sections 36 and 38**
33 **of this 2022 Act that review the new or increased standards the proposed rule would provide;**

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

37 “(c) The proposed rule reflects available scientific information[,] **and, as appropriate,** the re-
38 sults of relevant monitoring and[, *as appropriate,*] adequate field evaluation at representative lo-
39 cations in Oregon;

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

42 “(A)(i) Are to prevent harm or provide benefits to the resource or resource site for which pro-
43 tection is sought[,]; or

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

1 “(B) Are directly related to the objective of the proposed rule and [*substantially*] **materially**
2 advance its purpose; **and**

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

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

12 “(6) Nothing in subsection (5) of this section:

13 “(a) Requires the board to call witnesses;

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

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

17 “(d) Requires verbatim transcripts of records of proceedings; or

18 “(e) Requires depositions, discovery or subpoenas.

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

24 “[*7*] **(8)** If the board determines that a proposed rule is of the type described in subsection (1)(c)
25 of this section, and the proposed rule would require new or increased standards for forest practices,
26 as part of or in addition to the economic and fiscal impact statement required by ORS 183.335
27 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make avail-
28 able to the public a comprehensive analysis of the economic impact of the proposed rule. The anal-
29 ysis shall include, but is not limited to:

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

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

33 “**(A) The forest products industry;**

34 “**(B) Other private sectors such as commercial fishing, recreational fishing and other**
35 **outdoor recreation; and**

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

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

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

45 “[*8*] **(9)** The provisions of this section do not apply to temporary rules adopted by the board.

1 “**SECTION 48.** ORS 527.990 is amended to read:

2 “527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740,
3 527.750, [or] 527.755, **527.788 or 527.797**, or any rule promulgated under ORS 527.710 **or section 2**
4 **or 44 of this 2022 Act**, is a Class A misdemeanor. Each day of operation in violation of an order
5 issued under ORS 527.680 (3) shall be deemed to be a separate offense.

6 “(2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a
7 Class C misdemeanor.

8 “**SECTION 49.** ORS 527.992 is amended to read:

9 “527.992. (1) In addition to any other penalty provided by law, any person who fails to comply
10 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

11 “(a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750, [or] 527.755, **527.788 or**
12 **527.797**.

13 “(b) The terms or conditions of any order of the State Forester issued in accordance with ORS
14 527.680.

15 “(c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS
16 527.710 **or section 2 or 44 of this 2022 Act**.

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

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

22
23 **“EFFECT OF POLICIES ON INDIAN TRIBES**

24
25 “**SECTION 50.** (1) **Nothing in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44, 51 and 52 of this**
26 **2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,**
27 **527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to**
28 **49 of this 2022 Act affects:**

29 “(a) **The treaty or other rights of an Indian tribe.**

30 “(b) **The beneficial ownership interest of:**

31 “(A) **Land held in trust by the United States for an Indian tribe.**

32 “(B) **Land held by an Indian tribe.**

33 “(2) **The State Board of Forestry shall develop a process for an Indian tribe to elect to**
34 **join as an applicant for a habitat conservation plan described in section 11 of this 2022 Act,**
35 **consistent with the terms and requirements applicable to private forestland under the Pri-**
36 **ivate Forest Accord Report dated ___ and published by the State Forestry Department on ___.**

37
38 **“RULEMAKING CONCERNING PESTICIDE APPLICATIONS**

39
40 “**SECTION 51.** **The State Forestry Department may adopt rules to implement the pro-**
41 **visions of ORS 527.786 to 527.793, 527.794, 527.795, 527.796, 527.797 and 527.798.**

42
43 **“REPORTS TO LEGISLATIVE ASSEMBLY**

44
45 “**SECTION 52.** **The State Board of Forestry shall report annually to a committee or in-**

1 **terim committee of the Legislative Assembly related to forestry, in the manner described in**
2 **ORS 192.245, on progress in implementing the requirements of the Private Forest Accord**
3 **Report dated ____ and published by the State Forestry Department on ____.**
4

5 **“APPROPRIATION**
6

7 **“SECTION 53. In addition to and not in lieu of any other appropriation, there is appro-**
8 **priated to the _____, for the biennium ending June 30, 2023, out of the General**
9 **Fund, the amount of \$_____, which may be expended for _____.**
10

11 **“CONTINGENT OPERATIVE DATES**
12

13 **“SECTION 54. (1) The Legislative Assembly intends that the policies described in sections**
14 **1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act and the amendments to ORS**
15 **195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and**
16 **610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022 Act shall remain in effect only**
17 **if:**

18 **“(a) An incidental take permit related to an approved habitat conservation plan consist-**
19 **ent with the Private Forest Accord Report dated ____ and published by the State Forestry**
20 **Department on ____ is issued on or before December 31, 2027;**

21 **“(b) The State Board of Forestry has not made a finding that the habitat conservation**
22 **plan imposes more than a de minimis difference in economic or resource impacts, at the level**
23 **of landscapes, relative to rules adopted or amended as part of the rule package described in**
24 **section 2 of this 2022 Act; and**

25 **“(c) The incidental take permit remains in effect.**

26 **“(2) The legislative intent described in subsection (1) of this section is established by**
27 **sections 55 to 64 of this 2022 Act.**

28 **“SECTION 55. (1) If an incidental take permit related to an approved habitat conservation**
29 **plan responsive to the Private Forest Accord Report dated ____ and published by the State**
30 **Forestry Department on ____ is issued on or before December 31, 2027, an author of the**
31 **Private Forest Accord Report may, no later than 14 days after the date the incidental take**
32 **permit is issued, petition the State Board of Forestry to make a finding as to whether the**
33 **habitat conservation plan imposes more than a de minimis difference in economic or re-**
34 **source impacts, at the level of landscapes, relative to rules adopted or amended as part of**
35 **the rule package described in section 2 of this 2022 Act.**

36 **“(2) If the board receives a petition described in subsection (1) of this section, the board**
37 **shall issue a finding no later than 45 days after the date the petition is received.**

38 **“(3) If the board finds that the habitat conservation plan imposes more than a de minimis**
39 **difference:**

40 **“(a) On or before the 91st day after the date the board makes the finding, the board shall:**

41 **“(A) Repeal new rules adopted as part of the rule package described in section 2 of this**
42 **2022 Act.**

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

45 **“(C) Amend any other rules as needed to conform with repeals described in subparagraph**

1 (A) of this paragraph.

2 “(b) On or before the 120th day after the board makes the finding, the State Fish and
3 Wildlife Commission shall amend rules as needed to conform the rules with actions taken
4 by the board under paragraph (a) of this subsection.

5 “SECTION 56. If, pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of
6 Forestry does not make a finding or finds that the habitat conservation plan described in
7 section 55 (1) of this 2022 Act does not impose more than a de minimis difference, as de-
8 scribed in section 55 (1) of this 2022 Act, and the incidental take permit described in section
9 55 (1) of this 2022 Act is subsequently revoked or invalidated:

10 “(1) On or before the 180th day after the date that any appeals process related to the
11 revocation or invalidation has been exhausted or foregone, whichever occurs first, the board
12 shall:

13 “(a) Repeal new rules adopted as part of the rule package described in section 2 of this
14 2022 Act.

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

17 “(c) Amend any other rules as needed to conform with repeals described in paragraph (a)
18 of this paragraph.

19 “(2) On or before the 210th day after the date that any appeals process related to the
20 revocation or invalidation has been exhausted or foregone, whichever occurs first, the State
21 Fish and Wildlife Commission shall amend rules as needed to conform the rules with actions
22 taken by the board under subsection (1) of this section.

23 “SECTION 57. If an incidental take permit related to an approved habitat conservation
24 plan consistent with the Private Forest Accord Report dated ____ and published by the State
25 Forestry Department on ____ is not issued on or before December 31, 2027:

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

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

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

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

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

36 “SECTION 58. On or before February 1, 2028, the State Board of Forestry shall report
37 to a committee or interim committee of the Legislative Assembly related to forestry, in the
38 manner described in ORS 192.245, on:

39 “(1) Whether the incidental take permit described in section 11 of this 2022 Act was is-
40 sued on or before December 31, 2027.

41 “(2) Whether the board has received a petition to make a finding described in section 55
42 (1) and (2) of this 2022 Act.

43 “SECTION 59. 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, after the date that any appeals process related to the revocation or
2 invalidation has been exhausted or forgone, whichever occurs first, the State Board of
3 Forestry shall:

4 “(1) Promptly report the revocation or invalidation to a committee or interim committee
5 of the Legislative Assembly related to forestry, in the manner described in ORS 192.245.

6 “(2) Notify the Office of the Legislative Counsel of the revocation or invalidation as soon
7 as practicable.

8 “SECTION 60. Sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act are
9 repealed.

10 “SECTION 61. (1) Except as otherwise provided in sections 62 and 63 of this 2022 Act, the
11 repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section
12 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630,
13 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022
14 Act become operative only if the State Board of Forestry finds, pursuant to section 55 (1)
15 and (2) of this 2022 Act, that the habitat conservation plan described in section 55 (1) of this
16 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022
17 Act.

18 “(2) If the board finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat
19 conservation plan described in section 55 (1) of this 2022 Act imposes more than a de minimis
20 difference, as described in section 55 (1) of this 2022 Act, the repeal of sections 1 to 8, 10 to
21 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the
22 amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990,
23 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 150th
24 day after the date the board makes the finding.

25 “SECTION 62. (1) Except as otherwise provided in sections 61 and 63 of this 2022 Act, the
26 repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section
27 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630,
28 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022
29 Act become operative only if:

30 “(a) Pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of Forestry does
31 not make a finding or finds that the habitat conservation plan described in section 55 (1) of
32 this 2022 Act does not impose more than a de minimis difference, as described in section 55
33 (1) of this 2022 Act; and

34 “(b) The incidental take permit is subsequently revoked or invalidated.

35 “(2) If the events described in subsection (1)(a) and (b) of this section occur, the repeal
36 of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this
37 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,
38 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act be-
39 come operative on the 240th day after the date that any appeals process related to the re-
40 vocation or invalidation has been exhausted or foregone, whichever occurs first.

41 “SECTION 63. (1) Except as otherwise provided in sections 61 and 62 of this 2022 Act, the
42 repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section
43 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630,
44 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022
45 Act become operative only if an incidental take permit related to an approved habitat con-

1 servation plan consistent with the Private Forest Accord Report dated ____ and published
2 by the State Forestry Department on ____ is not issued on or before December 31, 2027.

3 “(2) If an incidental take permit related to an approved habitat conservation plan con-
4 sistent with the Private Forest Accord Report is not issued on or before December 31, 2027,
5 the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section
6 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630,
7 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022
8 Act become operative on June 1, 2028.

9 “SECTION 64. Sections 59 and 62 of this 2022 Act are repealed on January 2, 2077.

10
11 “CONTINGENT AMENDMENTS
12

13 “SECTION 65. ORS 195.308, as amended by section 9 of this 2022 Act, is amended to read:

14 “195.308. Notwithstanding the requirement to pay just compensation for certain land use regu-
15 lations under ORS 195.305 (1), compensation is not due for[.]

16 “[1] the enforcement or enactment of a land use regulation established in ORS 30.930 to 30.947,
17 527.310 to 527.370, 561.995, 569.360 to 569.495, 570.010 to 570.050, 570.105 to 570.190, 570.305, 570.310,
18 570.320 to 570.360, 570.405, 570.412, 570.420, 570.425, 570.450, 570.700 to 570.710, 570.755, 570.770,
19 570.775, 570.780, 570.790, 570.800, 570.995, 596.095, 596.100, 596.105, 596.393, 596.990 or 596.995 or in
20 administrative rules or statewide plans implementing these statutes.

21 “[2] *The enforcement, adoption or amendment of a rule adopted or amended by the State Board*
22 *of Forestry.*]

23 “[a] *As part of the rule package described in section 2 of this 2022 Act.*]

24 “[b] *After the board has considered reports that pertain to the rule from the Adaptive Management*
25 *Program Committee and the Independent Research and Science Team described in sections 36 and 38*
26 *of this 2022 Act.*]

27 “SECTION 66. ORS 496.252, as amended by section 28 of this 2022 Act, is amended to read:

28 “496.252. (1) The Oregon Conservation and Recreation Fund is established in the State Treasury,
29 separate and distinct from the General Fund. Interest earned by the Oregon Conservation and Re-
30 creation Fund shall be credited to the fund.

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

35 “(a) Promoting the health of Oregon’s ecosystems and fish and wildlife species by implementing
36 conservation programs and strategies identified in the Oregon Conservation Strategy, as defined in
37 ORS 541.890, including conservation programs and strategies for the nearshore identified in the
38 marine component of the Oregon Conservation Strategy;

39 “(b) Improving engagement of the public in hunting and fishing opportunities and in other out-
40 door recreation opportunities related to and in support of healthy fish, wildlife and habitats;

41 “(c) Improving educational outreach and engagement of the public, including diverse and
42 underserved communities, related to and in support of healthy fish, wildlife and habitats;

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

1 “(e) Other conservation, management, research, habitat improvement, enforcement, outdoor re-
2 creation or education activities.

3 “(3) The fund shall consist of:

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

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

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

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

15 “[*(a) The purposes described in, and the administration of, section 32 of this 2022 Act.*]

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

18 “[*(c) Conducting outreach to persons that may undertake projects described in section 32 of this*
19 *2022 Act.*]

20 “[*(5)* (4) The department and the Oregon Conservation and Recreation Advisory Committee
21 shall jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640 re-
22 garding the expenditure of moneys deposited in the fund[*other than moneys deposited in the Private*
23 *Forest Accord Mitigation Subaccount,*] and on the status of various activities funded by the moneys.

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

28 “**SECTION 67.** ORS 496.254, as amended by section 29 of this 2022 Act, is amended to read:

29 “496.254. (1) The Oregon Conservation and Recreation Advisory Committee is established as an
30 advisory committee to the State Fish and Wildlife Commission and the State Department of Fish and
31 Wildlife for the purpose of carrying out the duties described in subsection (2) of this section. The
32 commission shall determine the number of members of the committee and the geographical repre-
33 sentation by the members. The Governor shall appoint the members of the committee. The Associate
34 Director of Outdoor Recreation, or the associate director’s designee, shall serve as a nonvoting, ex
35 officio member.

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

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

45 “**SECTION 68.** ORS 527.620, as amended by section 40 of this 2022 Act, is amended to read:

1 “527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:
2 “[1] ‘Aquatic resource’ means:
3 “(a) A species addressed in the Private Forest Accord Report dated ____ and published by the
4 State Forestry Department on ____ and the resources on which the species relies; or]
5 “(b) If a habitat conservation plan consistent with the Private Forest Accord Report has been
6 approved, a species addressed in the habitat conservation plan and the resources on which the species
7 relies.]
8 “[2] (1) ‘Board’ means the State Board of Forestry.
9 “[3] (2) ‘Cumulative effects’ means the impact on the environment which results from the in-
10 cremental impact of the forest practice when added to other past, present and reasonably foreseea-
11 ble future forest practices regardless of what governmental agency or person undertakes such other
12 actions.
13 “[4] (3) ‘DBH’ means the diameter at breast height which is measured as the width of a
14 standing tree at four and one-half feet above the ground, on the uphill side.
15 “[5] (4) ‘Edge of the roadway’ means:
16 “(a) For interstate highways, the fence.
17 “(b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of
18 the shoulder.
19 “[6] (5) ‘Forest practice’ means any operation conducted on or pertaining to forestland, in-
20 cluding but not limited to:
21 “(a) Reforestation of forestland;
22 “(b) Road construction and maintenance;
23 “(c) Harvesting of forest tree species;
24 “(d) Application of chemicals;
25 “(e) Disposal of slash; and
26 “(f) Removal of woody biomass.
27 “[7] (6) ‘Forest tree species’ means any tree species capable of producing logs, fiber or other
28 wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial
29 forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used
30 solely for the production of Christmas trees.
31 “[8] (7) ‘Forestland’ means land that is used for the growing and harvesting of forest tree
32 species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances,
33 rules or regulations are applied.
34 “[9] (8) ‘Harvest type 1’ means an operation that requires reforestation but does not require
35 wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free
36 to grow seedlings, saplings, poles and larger trees that is less than the stocking level established
37 by rule of the board that represents adequate utilization of the productivity of the site.
38 “[10] (9) ‘Harvest type 2’ means an operation that requires wildlife leave trees but does not
39 require reforestation. A harvest type 2 does not require reforestation because it has an adequate
40 combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:
41 “(a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an
42 equivalent basal area in larger trees, per acre;
43 “(b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equiv-
44 alent basal area in larger trees, per acre; or
45 “(c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent

1 basal area in larger trees, per acre.

2 “[11] (10) ‘Harvest type 3’ means an operation that requires reforestation and requires wildlife
3 leave trees. This represents a level of stocking below which the size of operations is limited under
4 ORS 527.740 and 527.750.

5 “[12] (11) ‘Landowner’ means any individual, combination of individuals, partnership, corpo-
6 ration or association of whatever nature that holds an ownership interest in forestland, including
7 the state and any political subdivision thereof.

8 “[13] (12) ‘Operation’ means any commercial activity relating to the establishment, manage-
9 ment or harvest of forest tree species except as provided by the following:

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

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

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

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

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

19 “(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, in-
20 sect control and disease control.

21 “(c) The establishment, management or harvest of trees actively farmed or cultured for the
22 production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

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

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

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

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

33 “[14] (13) ‘Operator’ means any person, including a landowner or timber owner, who conducts
34 an operation.

35 “[15(a) ‘Significant violation’ means:]

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

38 “[B] Continued operation in contravention of an order issued by the State Forester under ORS
39 527.680 (2)(a), (3) or (5); or]

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

42 “[b] ‘Significant violation’ does not include:]

43 “[A] Unintentional operation in an area outside an operating area of an operation for which suf-
44 ficient notification was filed pursuant to ORS 527.670 (6);]

45 “[B] Continued operation in contravention of an order issued by the State Forester under ORS

1 527.680 (2)(a), (3) or (5), where an operator, timber owner or landowner demonstrates that it did not
2 receive the order; or]

3 “[C) Failure to timely notify the State Forester of an intent to continue an operation into the next
4 calendar year.]

5 “[16] (14) ‘Single ownership’ means ownership by an individual, partnership, corporation, lim-
6 ited liability company, trust, holding company or other business entity, including the state or any
7 political subdivision thereof. Single ownership includes ownership held under different names or ti-
8 tles where the same individual or individuals, or their heirs or assigns, are shareholders (other than
9 those of public corporations whose stock is traded on the open market), partners, business trustees
10 or officers, or otherwise have an interest in or are associated with each property.

11 “[17] (15) ‘State Forester’ means the State Forester or the duly authorized representative of
12 the State Forester.

13 “[18] (16) ‘Suitable hardwood seedlings’ means any hardwood seedling that will eventually yield
14 logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or
15 other forest products.

16 “[19] (17) ‘Timber owner’ means any individual, combination of individuals, partnership, cor-
17 poration or association of whatever nature, other than a landowner, that holds an ownership inter-
18 est in any forest tree species on forestland.

19 “[20] (18) ‘Visually sensitive corridor’ means forestland extending outward 150 feet, measured
20 on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS
21 527.755, along both sides for the full length of the highway.

22 “[21] (19) ‘Wildlife leave trees’ means trees or snags required to be retained as described in
23 ORS 527.676 (1).

24 “[22] (20) ‘Written plan’ means a document prepared by an operator, timber owner or land-
25 owner that describes how the operation is planned to be conducted.

26 “**SECTION 69.** ORS 527.630, as amended by section 41 of this 2022 Act, is amended to read:

27 “527.630. (1) Forests make a vital contribution to Oregon by providing jobs, products, tax base
28 and other social and economic benefits, by helping to maintain forest tree species, soil, air and water
29 resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the
30 public policy of the State of Oregon to encourage economically efficient forest practices that ensure
31 the continuous growing and harvesting of forest tree species and the maintenance of forestland for
32 such purposes as the leading use on privately owned land, consistent with sound management of soil,
33 air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as
34 provided in ORS 527.755 and to ensure the continuous benefits of those resources for future gener-
35 ations of Oregonians.

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

41 “(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, 527.990
42 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclu-
43 sive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to
44 coordinate with other state agencies and local governments which are concerned with the forest
45 environment.

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

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

9 *“(a) Adequate training and education of enforcement officers, operators, timber owners and land-*
10 *owners.]*

11 *“(b) Clear technical guidance.]*

12 *“(c) Implementation expectations that are transparent and easily understood by operators, timber*
13 *owners and landowners.]*

14 *“(6) It is declared to be the policy of the State of Oregon that the program for implementing*
15 *enforcement under ORS 527.680, 527.683, 527.685, 527.690 and 527.700 be adequately funded, and that*
16 *the board:]*

17 *“(a) Use inspections and enforcement as tools to deter future violations and to educate and train*
18 *operators, timber owners and landowners.]*

19 *“(b) In exercising enforcement discretion, including discretion to impose penalties, prioritize ad-*
20 *dressing significant violations, other consequential violations and the actions of repeat violators.]*

21 *“(7) (4) The board may adopt and enforce rules addressing scenic considerations only in ac-*
22 *cordance with ORS 527.755.*

23 *“(8) (5) The board shall adopt and enforce forest practice rules to reduce the risk of serious*
24 *bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10).*
25 *As used in this subsection, ‘rapidly moving landslide’ has the meaning given in ORS 195.250.*

26 *“(9) (6) The State of Oregon should provide a stable regulatory environment to encourage in-*
27 *vestment in private forestlands.*

28 **“SECTION 70.** ORS 527.680, as amended by section 45 of this 2022 Act, is amended to read:

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

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

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

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

1 the State Forester.

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

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

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

23 “[6] *The State Forester may require an operator, timber owner or landowner to provide financial*
24 *assurance before conducting a new operation if the State Forester has, within the preceding three-year*
25 *period, made a finding under ORS 527.685 (6) applicable to the operator, timber owner or*
26 *landowner.]*

27 “**SECTION 71.** ORS 527.685, as amended by section 46 of this 2022 Act, is amended to read:

28 “527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that
29 may be imposed for a particular violation. Except as provided in [subsections (5) and (6)] **subsection**
30 **(5)** of this section, a civil penalty may not exceed [*\$10,000*] **\$5,000** per violation.

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

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

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

37 “(c) The gravity and magnitude of the violation.

38 “(d) Whether the violation was repeated or continuous.

39 “(e) Whether the cause of the violation was an unavoidable accident, negligence or an inten-
40 tional act.

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

42 “(g) Any relevant rule of the board.

43 “(h) The cooperativeness of the person incurring the penalty and the person’s efforts, if any, to
44 correct the violation.

45 “(3) The penalty imposed under this section may be remitted or mitigated upon such terms and

1 conditions as the board determines to be proper and consistent with the public benefit. Upon the
2 request of the person incurring the penalty, the board shall consider evidence of the economic and
3 financial condition of the person in determining whether a penalty shall be remitted or mitigated.

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

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

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

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

17 “[*(b) The proportion of total operations conducted by the operator, timber owner or landowner re-*
18 *lated to which significant violations have occurred compared to the total number of operations con-*
19 *ducted by the operator, timber owner or landowner, while accounting for the organizational structure*
20 *of the operator, timber owner or landowner.*]

21 “**SECTION 72.** ORS 527.714, as amended by section 47 of this 2022 Act, 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 aquatic re-*
43 *sources, the level of protection that is desired must be consistent with:*]

44 “[*(a) Requirements described in the Private Forest Accord Report dated ____ and published by the*
45 *State Forestry Department on _____; or*]

1 “(b) If a habitat conservation plan consistent with the Private Forest Accord Report has been
2 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)] (a) If forest practices continue to be conducted under existing regulations:

9 “[(i)] (A) 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)] (B) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk
12 of serious bodily injury or death; [or]

13 “[(B) The board has received reports produced by the Adaptive Management Program Committee
14 and the Independent Research and Science Team described in sections 36 and 38 of this 2022 Act that
15 review the new or increased standards the proposed rule would provide;]

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 [materially] **substantially**
29 advance 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),**
35 **the benefits in reduction of risk of serious bodily injury or death, that would be achieved by**
36 **adopting the rule are in proportion to the degree that existing practices of the landowners**
37 **and timber owners, in the aggregate, are contributing to the overall resources concern that**
38 **the proposed rule is intended to address.**

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 (1)(c) of this
2 section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this
3 section, and that the proposed rule relates to aquatic resources, the board may adopt the rule only after
4 considering reports from the Adaptive Management Program Committee and the Independent Research
5 and Science Team.]

6 “[8] (7) 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 outdoor
17 recreation; and

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

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

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

24 “[9] (8) The provisions of this section do not apply to temporary rules adopted by the board.

25 “**SECTION 73.** ORS 527.990, as amended by section 48 of this 2022 Act, is amended to read:

26 “527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740,
27 527.750[,] **or** 527.755[, 527.788 or 527.797,] or any rule promulgated under ORS 527.710 [*or section 2*
28 *or 44 of this 2022 Act,*] is a Class A misdemeanor. Each day of operation in violation of an order
29 issued under ORS 527.680 (3) shall be deemed to be a separate offense.

30 “(2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a
31 Class C misdemeanor.

32 “**SECTION 74.** ORS 527.992, as amended by section 49 of this 2022 Act, is amended to read:

33 “527.992. (1) In addition to any other penalty provided by law, any person who fails to comply
34 with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

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

37 “(b) The terms or conditions of any order of the State Forester issued in accordance with ORS
38 527.680.

39 “(c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS
40 527.710 [*or section 2 or 44 of this 2022 Act*].

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

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

1 “**SECTION 75.** ORS 610.060, as amended by section 26 of this 2022 Act, is amended to read:

2 “610.060. [*Except as provided in section 23 of this 2022 Act,*] Nothing in the wildlife laws is in-
3 tended to deny the right of any person to control predatory animals as provided in ORS 610.105.

4 “**SECTION 76.** ORS 610.105, as amended by section 27 of this 2022 Act, is amended to read:

5 “610.105. [*Except as provided in section 23 of this 2022 Act,*] Any person owning, leasing, occu-
6 pying, possessing or having charge of or dominion over any land, place, building, structure, wharf,
7 pier or dock which is infested with ground squirrels and other noxious rodents or predatory animals,
8 as soon as their presence comes to the knowledge of the person, may, or the agent of the person
9 may, proceed immediately and continue in good faith to control them by poisoning, trapping or other
10 appropriate and effective means.

11
12 “**CONFORMING AMENDMENTS**

13
14 “**SECTION 77.** ORS 105.810 is amended to read:

15 “105.810. (1) Except as provided in ORS 477.089 and 477.092 and subsections (4) to (7) of this
16 section, whenever any person, without lawful authority, willfully injures or severs from the land of
17 another any produce thereof or cuts down, girdles or otherwise injures or carries off any tree, tim-
18 ber or shrub on the land of another person, or of the state, county, United States or any public
19 corporation, or on the street or highway in front of any person’s house, or in any village, town or
20 city lot, or cultivated grounds, or on the common or public grounds of any village, town or city, or
21 on the street or highway in front thereof, in an action by such person, village, town, city, the United
22 States, state, county, or public corporation, against the person committing such trespasses if judg-
23 ment is given for the plaintiff, it shall be given for treble the amount of damages claimed, or as-
24 sessed for the trespass. In any such action, upon plaintiff’s proof of ownership of the premises and
25 the commission by the defendant of any of the acts mentioned in this section, it is prima facie evi-
26 dence that the acts were committed by the defendant willfully, intentionally and without plaintiff’s
27 consent.

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

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

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

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

37 “(b) The contract identifies the operation area by a metes and bounds description or other suf-
38 ficient legal description;

39 “(c) Before the contract logger begins harvesting in the operation area, the person who engages
40 the contract logger under the contract:

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

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

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

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

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

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

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

12 “(6) If an action is brought under this section against a contract logger, and the contract logger
13 was engaged to harvest the timber by a person who purported to own the timber or to have au-
14 thority to harvest the timber, the person who engaged the contract logger must be joined in the
15 action as a defendant unless jurisdiction over the person cannot be had. If a judgment is entered
16 against the contract logger and against the person who engaged the contract logger, the contract
17 logger shall not be required to pay any part of the judgment unless the plaintiff establishes that the
18 judgment cannot be enforced against the person who engaged the contract logger. The plaintiff may
19 enforce the judgment against the contract logger only if:

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

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

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

27 “(8) For purposes of this section:

28 “(a) ‘Contract logger’ means a person engaged in a commercial timber harvesting operation.

29 “(b) ‘Operation’ has the meaning given **that term** in ORS 527.620 [(12)].

30
31 **“CAPTIONS**

32
33 **“SECTION 78. The unit captions used in this 2022 Act are provided only for the conven-**
34 **ience of the reader and do not become part of the statutory law of this state or express any**
35 **legislative intent in the enactment of this 2022 Act.**

36
37 **“EMERGENCY CLAUSE**

38
39 **“SECTION 79. This 2022 Act being necessary for the immediate preservation of the public**
40 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**
41 **on its passage.”.**