

Requested by Senator COURTNEY

**PROPOSED AMENDMENTS TO
SENATE BILL 1501**

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

3

4

“RULE PACKAGE

5

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

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

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

14 **“(b) As needed to conform with the rules described in paragraph (a)**
15 **of this subsection, and only as needed to conform with the rules de-**
16 **scribed in paragraph (a) of this subsection, amend or repeal the rules**
17 **in effect on the effective date of this 2022 Act that implement ORS**
18 **527.610 to 527.770.**

19 **“(2) When adopting, amending or repealing rules as described in**
20 **subsection (1) of this section, the board shall resolve any gaps or am-**
21 **biguities in the requirements of the Private Forest Accord Report by:**

1 “(a) Referring to the intent and structure of the rules implementing
2 ORS 527.610 to 527.770 that are in effect on the effective date of this
3 2022 Act; and

4 “(b) Achieving the outcomes described in the Private Forest Accord
5 Report.

6 “(3) The department shall:

7 “(a) Publish the Private Forest Accord Report.

8 “(b) Ensure that the Private Forest Accord Report remains publicly
9 available on a department website.

10 “SECTION 3. (1) On or before November 30, 2022, the State Board
11 of Forestry shall adopt the rule package described in section 2 of this
12 2022 Act.

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

14 “(a) Regularly and closely consult with representatives of the au-
15 thors of the Private Forest Accord Report dated ____ and published by
16 the State Forestry Department on ____ to ensure that the rule package
17 is consistent with the intent of the report.

18 “(b) Prioritize development of the rule package over other obli-
19 gations to the extent possible.

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

23 “(4) When adopting the rule package, the board is subject to the
24 requirements of subsections (5) to (11) of this section.

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

28 “(6) The notice must include:

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

1 **“(b) An objective, simple and understandable statement summariz-**
2 **ing the subject matter and purpose of the rule package in sufficient**
3 **detail to inform a person that the person’s interests may be affected,**
4 **and the time, place and manner in which interested persons may**
5 **present their views on the proposed rule package.**

6 **“(c) A citation of the law the rule package is intended to imple-**
7 **ment.**

8 **“(d) A full or abbreviated list of the principal documents, reports**
9 **or studies, if any, prepared by or relied upon by the board in preparing**
10 **the rule package and a statement of the location at which those doc-**
11 **uments are available for public inspection.**

12 **“(7) The Secretary of State may omit the information described in**
13 **subsection (6)(c) and (d) of this section from publication in the bulle-**
14 **tin.**

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

17 **“(9) After receiving public comments, the board may amend the**
18 **draft rules in the proposed rule package without providing notice or**
19 **accepting public comments.**

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

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

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

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

1 **Accord Report.**

2 “(14) Amendments described in subsection (13) of this section are
3 not subject to the requirements of ORS 183.333, 183.335 or 527.714 or
4 section 39 of this 2022 Act.

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

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

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

14 “(a) ‘Common ownership’ has the meaning given that term in sec-
15 tion 16 of this 2022 Act.

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

19 “(2) Rules adopted or amended as part of the rule package described
20 in section 2 of this 2022 Act apply only to an operation for which a
21 notification is filed under ORS 527.670 (6):

22 “(a) On or after January 1, 2024.

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

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

29 “(4) If the State Forester determines that a forest activity elec-
30 tronic reporting and notice system operated by the State Forestry

1 Department is not updated with the information necessary to imple-
2 ment the requirements of the Private Forest Accord Report dated ____
3 and published by the department on ____ in time for operations to
4 reasonably comply with the requirements by January 1, 2024, the
5 deadlines described in subsection (2) of this section for application of
6 rules that do not relate to fish buffers:

7 “(a) May be extended by the State Forester for a period not to ex-
8 ceed one year; and

9 “(b) After an extension described in paragraph (a) of this sub-
10 section, may be extended by the State Board of Forestry only if the
11 board finds that the additional extension is necessary.

12

13 **“POST-DISTURBANCE HARVEST RULEMAKING**

14

15 **“SECTION 6. (1) Pursuant to the authority granted by ORS 527.710**
16 **and subject to the procedures set forth in ORS 527.714 for rules de-**
17 **scribed in ORS 527.714 (1)(c), the State Board of Forestry shall initiate**
18 **rulemaking concerning the post-disturbance harvest of trees that, but**
19 **for the disturbance, would not be harvested under ORS 527.610 to**
20 **527.770 or rules adopted thereunder.**

21 **“(2) The rulemaking:**

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

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

24

25 **“TETHERED LOGGING RULEMAKING**

26

27 **“SECTION 7. (1) Pursuant to the authority granted by ORS 527.710**
28 **and subject to the procedures set forth in ORS 527.714 for rules de-**
29 **scribed in ORS 527.714 (1)(c), not more than three years after the ef-**
30 **fective date of this 2022 Act, the State Board of Forestry shall initiate**

1 **rulemaking concerning tethered logging.**

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

3 **“(3) The rulemaking is not subject to the requirements of section**
4 **39 of this 2022 Act, but as part of the rulemaking, the board may solicit**
5 **and consider reports that pertain to tethered logging from the Adap-**
6 **tive Management Program Committee and the Independent Research**
7 **and Science Team described in sections 36 and 38 of this 2022 Act.**

8
9 **“JUST COMPENSATION EXEMPTION**

10
11 **“SECTION 8. The Legislative Assembly intends that a person is not**
12 **entitled to just compensation under ORS 195.305 to 195.336 for any re-**
13 **striction placed on the use of real property by a rule adopted or**
14 **amended by the State Board of Forestry:**

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

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

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

22 **“195.308. Notwithstanding the requirement to pay just compensation for**
23 **certain land use regulations under ORS 195.305 (1), compensation is not due**
24 **for:**

25 **“(1) The enforcement or enactment of a land use regulation established**
26 **in ORS 30.930 to 30.947, 527.310 to 527.370, 561.995, 569.360 to 569.495, 570.010**
27 **to 570.050, 570.105 to 570.190, 570.305, 570.310, 570.320 to 570.360, 570.405,**
28 **570.412, 570.420, 570.425, 570.450, 570.700 to 570.710, 570.755, 570.770, 570.775,**
29 **570.780, 570.790, 570.800, 570.995, 596.095, 596.100, 596.105, 596.393, 596.990 or**
30 **596.995 or in administrative rules or statewide plans implementing these**

1 statutes.

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

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

6 **“(b) After the board has considered reports that pertain to the rule**
7 **from the Adaptive Management Program Committee and the Inde-**
8 **pendent Research and Science Team described in sections 36 and 38 of**
9 **this 2022 Act.**

10

11

“LANDSLIDE MODELING

12

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

14 **“(a) The requirements of the Private Forest Accord Report dated**
15 **___ and published by the State Forestry Department on ___ are**
16 **premised on specific landslide modeling developed by a specific con-**
17 **tractor.**

18 **“(b) Implementation of the requirements is contingent on the abil-**
19 **ity to use the specific landslide modeling.**

20 **“(c) Implementation of the requirements is time sensitive and re-**
21 **quires rapid development of landslide modeling.**

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

23 **“(A) Is unlikely to encourage favoritism in awarding public con-**
24 **tracts or to substantially diminish competition for public contracts.**

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

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

29 **“(a) Procure services for development and application of the land-**
30 **slide modeling described in chapter ___ of the Private Forest Accord**

1 **Report.**

2 “(b) Ensure that the modeling is developed and incorporated into a
3 forest activity electronic reporting and notice system operated by the
4 department:

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

7 “(B) Not later than May 1, 2023.

8 “(3) The procurement required by this section is not subject to the
9 requirements of the Public Contracting Code.

10

11 **“SUBMISSION OF HABITAT CONSERVATION PLAN**

12

13 **“SECTION 11. The State Board of Forestry shall submit to the Na-**
14 **tional Marine Fisheries Service and the United States Fish and**
15 **Wildlife Service:**

16 “(1) A proposed habitat conservation plan consistent with the Pri-
17 vate Forest Accord Report dated ___ and published by the State
18 Forestry Department on ____.

19 “(2) An application for an incidental take permit, supported by the
20 habitat conservation plan, for the incidental taking of species ad-
21 dressed in the Private Forest Accord Report.

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

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

28 “(3) Pursuant to ORS 279A.050 (6)(m) and notwithstanding ORS
29 279B.050, 279B.055, 279B.060, 279B.065 and 279B.070, the board may award
30 a contract for the services without undertaking a process of compet-

1 **itive sealed bidding or competitive sealed proposals or soliciting com-**
2 **petitive price quotes or competitive proposals.**

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

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

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

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

13

14 **“PASS-THROUGH PROTECTION FOR ENDANGERED SPECIES ACT**
15 **AGREEMENTS**

16

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

19 **“SECTION 14. If a person is party to an agreement with the Na-**
20 **tional Marine Fisheries Service or the United States Fish and Wildlife**
21 **Service under the federal Endangered Species Act of 1973 (16 U.S.C.**
22 **1531 to 1544) and is engaging in a forest practice in compliance with**
23 **the agreement, the forest practice is not subject to provisions of ORS**
24 **527.610 to 527.770 or rules adopted thereunder that relate to protection**
25 **of a species addressed in the agreement.**

26

27 **“SMALL FORESTLAND OWNER PROVISIONS**

28

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

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

2 **“(a) ‘Common ownership’ means direct ownership by one or more**
3 **individuals or ownership by a corporation, partnership, association or**
4 **other entity in which an individual owns a significant interest.**

5 **“(b) ‘Small forestland minimum option’ means any small forestland**
6 **minimum option available for small forestland owners pursuant to**
7 **rules adopted by the State Board of Forestry under section 2 of this**
8 **2022 Act.**

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

14 **“(3)(a) An operator, timber owner or landowner may not follow a**
15 **small forestland minimum option for an operation unless the depart-**
16 **ment determines that, as of the date the department receives a no-**
17 **tification related to the operation under ORS 527.670:**

18 **“(A) The landowner of the forestland where the operation will occur**
19 **owns or holds common ownership interest in less than 5,000 acres of**
20 **forestland in this state;**

21 **“(B) No more than an average yearly volume of two million board**
22 **feet of merchantable forest products has been harvested from the**
23 **landowner’s forestland in this state, when averaged over the three**
24 **years prior to the date the department receives the notification; and**

25 **“(C) The landowner has submitted an affirmation to the department**
26 **that it does not expect to exceed an average yearly volume of two**
27 **million board feet of merchantable forest products to be harvested**
28 **from the landowner’s forestland in this state during the 10 years fol-**
29 **lowing the date the department receives the notification.**

30 **“(b) Notwithstanding paragraph (a)(B) and (C) of this subsection,**

1 the department may allow a landowner to follow a small forestland
2 minimum option if the landowner establishes to the department's
3 reasonable satisfaction that any exceedance of the harvest limits set
4 forth in paragraph (a)(B) or (C) of this subsection was or will be nec-
5 essary to raise funds to pay estate taxes or for a compelling and un-
6 expected obligation.

7 “(4) The department may require a landowner to submit, as part
8 of the notification required under ORS 527.670, any additional infor-
9 mation or statements necessary to determine whether a landowner
10 meets the requirements of subsection (3) of this section.

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

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

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

17 “(a) Result in environmental benefits to fish species addressed in
18 the Private Forest Accord Report dated ___ and published by the State
19 Forestry Department on ___; or

20 “(b) Mitigate risks to natural resources arising from the con-
21 struction, operation or maintenance of forest roads or related activ-
22 ities.

23 “(3) The Small Forestland Owner Assistance Office established by
24 section 19 of this 2022 Act shall implement and administer the pro-
25 gram.

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

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

30 “(B) Submit documentation showing that no more than an average

1 **yearly volume of two million board feet of merchantable forest pro-**
2 **ducts has been harvested from the landowner’s forestland in this state,**
3 **when averaged over the three years prior to the date the office re-**
4 **ceives the grant application.**

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

10 **“(D) Have on file with the State Forestry Department a road con-**
11 **dition assessment that includes assessment of all the roads, abandoned**
12 **roads, culverts and fish passage barriers located anywhere in the par-**
13 **cel of land on which the project for which grant funding is requested**
14 **will occur.**

15 **“(b) For purposes of this subsection, a landowner must be consid-**
16 **ered to hold common ownership interest in forestland if the forestland**
17 **is owned by the landowner directly or by a corporation, partnership,**
18 **association or other entity in which the landowner owns a significant**
19 **interest.**

20 **“(c) Notwithstanding paragraph (a)(B) and (C) of this subsection, a**
21 **landowner may be eligible for a grant if the landowner establishes to**
22 **the department’s reasonable satisfaction that any exceedance of the**
23 **harvest limits set forth in paragraph (a)(B) or (C) of this subsection**
24 **was or will be necessary to raise funds to pay estate taxes or for a**
25 **compelling and unexpected obligation.**

26 **“(5) In administering and implementing the program, the office**
27 **shall coordinate with the State Department of Fish and Wildlife to**
28 **prioritize awarding grants for projects on high conservation value**
29 **sites, as described in section ___ of chapter __ of the Private Forest**
30 **Accord Report.**

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

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

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

8 **“(7) The office shall annually publish, and make publicly available**
9 **on a website of the State Forestry Department, a report for the pre-**
10 **vious calendar year that addresses:**

11 **“(a) Each funded project that was completed during the calendar**
12 **year.**

13 **“(b) The costs of each completed project and the mileage of streams**
14 **improved as a result of the completed project.**

15 **“(8) The department shall submit a copy of the report to an appro-**
16 **priate committee or interim committee of the Legislative Assembly,**
17 **in the manner described in ORS 192.245, no later than September 15**
18 **of each year.**

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

23 **“(2) Moneys in the fund are continuously appropriated to the State**
24 **Forestry Department to be distributed by the Small Forestland Owner**
25 **Assistance Office described in section 19 of this 2022 Act as grants to**
26 **small forestland owners under the Small Forestland Investment in**
27 **Stream Habitat Program established under section 17 of this 2022 Act.**

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

29 **“(a) Moneys appropriated to the department for deposit in the fund**
30 **or otherwise transferred to the fund.**

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

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

7 **“(2) The office shall:**

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

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

14 **“(c) To support compliance with a habitat conservation plan that**
15 **is consistent with the requirements of the Private Forest Accord Re-**
16 **port, develop and maintain a database of:**

17 **“(A) Landowners that the department has determined meet the re-**
18 **quirements set forth in section 16 (3) of this 2022 Act.**

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

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

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

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

27 **“(e) Identify and implement opportunities to leverage the programs,**
28 **partnerships and educational opportunities to support activities con-**
29 **sistent with the habitat conservation plan, including activities that**
30 **provide for adequate fish passage, remove fish passage barriers,**

1 maintain roads or collect data related to the habitat conservation
2 plan.

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

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

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

10

11 **“BEAVER (CASTOR CANADENSIS) CONSERVATION**

12

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

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

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

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

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

22 **“(3) The department shall:**

23 **“(a) Annually submit a summary of the takings of beaver reported**
24 **under subsection (2) of this section to the State Fish and Wildlife**
25 **Commission to help the commission better understand the scale of**
26 **trapping on privately owned forestland.**

27 **“(b) Make the summary described in paragraph (a) of this sub-**
28 **section available to the public on a department website.**

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

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

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

2 “(b) ‘Forest practices’ has the meaning given that term in ORS
3 527.620.

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

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

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

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

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

15 “(c) The owner or a designee of the owner waits 30 days after
16 making the request described in paragraph (b) of this subsection be-
17 fore taking the beaver.

18 “(3) If the department receives a request under subsection (2)(b) of
19 this section, the department shall make a reasonable attempt to
20 nonlethally relocate the beaver, as department resources allow, or
21 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
24 (1), if a beaver on privately owned forestland damages or imminently
25 threatens infrastructure, an owner of forestland, other than small
26 forestland, or a designee of the owner, may take the beaver without
27 submitting a request to the department under subsection (2) of this
28 section.

29 “(5) An owner, or a designee of an owner, that takes a beaver under
30 subsection (2) or (4) of this section must report the taking as described

1 in section 22 of this 2022 Act.

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

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

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

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

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

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

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

14 “(b) ‘Small forestland’ has the meaning given that term in section
15 23 of this 2022 Act.

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

19 “(3) A person that traps a beaver on privately owned forestland
20 other than small forestland may not sell or exchange the pelt of the
21 beaver, unless the trapping occurs pursuant to section 23 (2) or (4) of
22 this 2022 Act.

23 “SECTION 26. ORS 610.060 is amended to read:

24 “610.060. Except as provided in section 23 of this 2022 Act, nothing in
25 the wildlife laws is intended to deny the right of any person to control
26 predatory animals as provided in ORS 610.105.

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

28 “610.105. Except as provided in section 23 of this 2022 Act, any person
29 owning, leasing, occupying, possessing or having charge of or dominion over
30 any land, place, building, structure, wharf, pier or dock which is infested

1 with ground squirrels and other noxious rodents or predatory animals, as
2 soon as their presence comes to the knowledge of the person, may, or the
3 agent of the person may, proceed immediately and continue in good faith to
4 control them by poisoning, trapping or other appropriate and effective means.

5

6 **“MITIGATING EFFECTS ON AQUATIC WILDLIFE**

7

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

9 “496.252. (1) The Oregon Conservation and Recreation Fund is established
10 in the State Treasury, separate and distinct from the General Fund. Interest
11 earned by the Oregon Conservation and Recreation Fund shall be credited
12 to the fund.

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

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

23 “(b) Improving engagement of the public in hunting and fishing opportu-
24 nities and in other outdoor recreation opportunities related to and in support
25 of healthy fish, wildlife and habitats;

26 “(c) Improving educational outreach and engagement of the public, in-
27 cluding diverse and underserved communities, related to and in support of
28 healthy fish, wildlife and habitats;

29 “(d) Engaging in, and providing funding for, joint projects of the depart-
30 ment and the State Parks and Recreation Department or other state agencies

1 as recommended by the Oregon Conservation and Recreation Advisory Com-
2 mittee established under ORS 496.254; and

3 “(e) Other conservation, management, research, habitat improvement,
4 enforcement, outdoor recreation or education activities.

5 “(3) The fund shall consist of:

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

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

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

14 **“(4) The Private Forest Accord Mitigation Subaccount is established**
15 **in the fund. The subaccount shall consist of moneys appropriated to**
16 **the department for deposit in the subaccount or otherwise transferred**
17 **to the subaccount and gifts, grants, contributions or other donations**
18 **that are received by the department from any public or private source**
19 **and caused to be deposited and credited to the subaccount. Moneys in**
20 **the subaccount may be used for:**

21 **“(a) The purposes described in, and the administration of, section**
22 **32 of this 2022 Act.**

23 **“(b) Conducting outreach to persons that own or operate an artifi-**
24 **cial obstruction, as defined in ORS 509.580, to further the goal of fish**
25 **passage.**

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

28 **“(5) The department and the Oregon Conservation and Recreation**
29 **Advisory Committee shall jointly submit a biennial report to the Leg-**
30 **islative Assembly as provided in ORS 293.640 regarding the expenditure**

1 of moneys deposited in the fund, other than moneys deposited in the
2 Private Forest Accord Mitigation Subaccount, and on the status of
3 various activities funded by the moneys.

4 “(6) The department and the Private Forest Accord Mitigation Ad-
5 visory Committee shall jointly submit a biennial report to the Legis-
6 lative Assembly as provided in ORS 293.640 regarding the expenditure
7 of moneys deposited in the Private Forest Accord Mitigation Subac-
8 count and on the status of various activities funded by the moneys.

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

10 “496.254. (1) The Oregon Conservation and Recreation Advisory Commit-
11 tee is established as an advisory committee to the State Fish and Wildlife
12 Commission and the State Department of Fish and Wildlife for the purpose
13 of carrying out the duties described in subsection (2) of this section. The
14 commission shall determine the number of members of the committee and the
15 geographical representation by the members. The Governor shall appoint the
16 members of the committee. The Associate Director of Outdoor Recreation,
17 or the associate director’s designee, shall serve as a nonvoting, ex officio
18 member.

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

25 “(3) Members of the committee may not receive compensation for service
26 as members. However, subject to any applicable law regulating travel and
27 other expenses of state officers and employees, a member may be reimbursed
28 for actual and necessary travel and other expenses incurred in the perform-
29 ance of official duties from moneys available to the department for the pur-
30 pose of reimbursement of committee members.

1 “[4] *The department and the committee jointly shall submit a biennial re-*
2 *port to the Legislative Assembly as provided in ORS 293.640 regarding the*
3 *expenditure of moneys deposited in the Oregon Conservation and Recreation*
4 *Fund established under ORS 496.252 and on the status of various activities*
5 *funded by the moneys.]*

6 **“SECTION 30. (1) The Private Forest Accord Mitigation Advisory**
7 **Committee is established as an advisory committee to the State Fish**
8 **and Wildlife Commission and the State Department of Fish and**
9 **Wildlife for the purpose of carrying out the duties described in sub-**
10 **section (11) of this section.**

11 **“(2) The committee shall consist of up to 12 members, including**
12 **seven voting members appointed pursuant to subsections (3) and (4)**
13 **of this section and up to five nonvoting members as provided for in**
14 **subsection (5) of this section.**

15 **“(3)(a) The Governor shall appoint the following six voting mem-**
16 **bers:**

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

18 **“(B) Three members who represent nongovernmental organizations**
19 **that promote conservation of freshwater aquatic habitat.**

20 **“(b) In appointing members, the Governor shall solicit and consider**
21 **recommendations from the timber industry and nongovernmental or-**
22 **ganizations that promote conservation of freshwater aquatic habitat.**

23 **“(4) The members of the Oregon Conservation and Recreation Ad-**
24 **visory Committee shall select and appoint from among themselves one**
25 **person to serve as a voting member of the Private Forest Accord**
26 **Mitigation Advisory Committee.**

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

29 **“(a) The State Forestry Department.**

30 **“(b) The Oregon Watershed Enhancement Board.**

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

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

3 **“(e) The National Marine Fisheries Service.**

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

5 **“(b) Before the expiration of the term of a voting member, the ap-**
6 **propriate appointing authority shall appoint a successor whose term**
7 **begins on the following January 31.**

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

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

12 **“(7) In case of a vacancy, the appropriate appointing authority shall**
13 **make an appointment to become effective immediately for the unex-**
14 **pired portion of the term.**

15 **“(8) The voting members shall biennially select from among them-**
16 **selves a chairperson and vice chairperson.**

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

18 **“(10) A majority of the voting members constitutes a quorum for**
19 **the transaction of business.**

20 **“(11) The committee shall:**

21 **“(a) Review State Department of Fish and Wildlife policies regard-**
22 **ing the use of moneys deposited in the Private Forest Accord Miti-**
23 **gation Subaccount of the Oregon Conservation and Recreation Fund**
24 **and make recommendations to the commission and the department**
25 **regarding the use of moneys in the subaccount.**

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

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

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

8 “SECTION 31. (1) Notwithstanding section 30 (3) of this 2022 Act, the
9 voting members first appointed by the Governor to the Private Forest
10 Accord Mitigation Advisory Committee must be representatives of six
11 authors of the Private Forest Accord Report dated ____ and published
12 by the State Forestry Department on ____.

13 “(2) Notwithstanding section 30 (6)(a) of this 2022 Act, of the voting
14 members first appointed by the Governor:

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

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

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

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

23 “(2) The State Fish and Wildlife Commission shall establish by rule
24 a Private Forest Accord Grant Program for the purpose of funding
25 projects that mitigate impacts of forest practices by:

26 “(a) Removing structures that block the passage of aquatic
27 organisms or repairing the structures to promote the passage of
28 aquatic organisms.

29 “(b) Placing logs or other wood-based material in streams to pro-
30 mote natural stream functions.

1 **“(c) Conserving, recruiting or reintroducing beavers to restore**
2 **aquatic landscapes.**

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

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

9 **“(f) Applying restoration treatments to stands of trees to enhance**
10 **historic species diversity that benefits riparian function.**

11 **“(g) Supporting establishment of conservation easements on land**
12 **other than forestland to protect riparian areas.**

13 **“(h) Supporting acquisition of an existing water right for conver-**
14 **sion to an in-stream water right, as described in ORS 537.348, to im-**
15 **prove in-stream flow conditions.**

16 **“(i) Installing fencing or otherwise excluding grazing in riparian**
17 **areas or around seeps or springs.**

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

20 **“(k) Undertaking other measures that effectively conserve or re-**
21 **store habitat for aquatic organisms addressed by a habitat conserva-**
22 **tion plan that is consistent with the Private Forest Accord Report**
23 **dated _____ and published by the State Forestry Department on _____.**

24 **“(3) In administering the program, the commission:**

25 **“(a) Shall develop criteria for awarding a grant and a process for**
26 **applying for a grant.**

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

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

1 “(d) May require the recipient of a grant to report to the commis-
2 sion on the use of grant funds.

3
4 **“ADAPTIVE MANAGEMENT**

5
6 **“SECTION 33.** Sections 34, 36, 38 and 39 of this 2022 Act are added
7 to and made a part of ORS 527.610 to 527.770.

8 **“SECTION 34. (1)** It is the policy of the State of Oregon that regu-
9 lation of forest practices for the protection of aquatic species shall, in
10 addition to other statutory requirements, be subject to a process of
11 adaptive management, whereby goals and objectives are validated, and
12 modified if necessary, and forest practice rules are monitored for ef-
13 fectiveness relative to the goals and objectives.

14 **“(2)** The State Board of Forestry shall establish by rule an adaptive
15 management program to accomplish the policy described in subsection
16 (1) of this section, consistent with the adaptive management frame-
17 work set forth in the Private Forest Accord Report dated ___ and
18 published by the State Forestry Department on ____.

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

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

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

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

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

27 **“(4)** The State Board of Forestry shall adopt rules prescribing in
28 detail the roles and obligations of the Adaptive Management Program
29 Committee and Independent Research and Science Team, consistent
30 with sections 36 and 38 of this 2022 Act and the provisions of the Pri-

1 vate Forest Accord Report.

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

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

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

9 “(2) The committee shall consist of 10 voting members and up to
10 three nonvoting members.

11 “(3) The board shall select a voting member from among two can-
12 didates recommended by each of the following 10 entities:

13 “(a) The Oregon Forest and Industries Council.

14 “(b) The Coalition of Oregon Land Trusts.

15 “(c) The Associated Oregon Loggers.

16 “(d) A conservation organization collectively selected by Beyond
17 Toxics, Cascadia Wildlands, Klamath Siskiyou Wildlands Center,
18 Oregon League of Conservation Voters, Oregon Stream Protection
19 Coalition, Oregon Wild, Portland Audubon and Umpqua Watersheds,
20 which were parties to the Private Forest Accord Report dated ___ and
21 published by the State Forestry Department on ___.

22 “(e) The Oregon Small Woodlands Association.

23 “(f) The Commission on Indian Services.

24 “(g) A recreational or commercial angling organization collectively
25 selected by Northwest Guides and Anglers Association, Pacific Coast
26 Federation of Fishermen’s Associations, Trout Unlimited and Wild
27 Salmon Center, which were parties to the Private Forest Accord Re-
28 port.

29 “(h) The Association of Oregon Counties.

30 “(i) The State Department of Fish and Wildlife.

1 **“(j) The Department of Environmental Quality.**

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

5 **“(5) The board shall:**

6 **“(a) Select one representative of the State Forestry Department to**
7 **serve as a nonvoting member.**

8 **“(b) Invite one representative of the National Marine Fisheries**
9 **Service and one representative of the United States Fish and Wildlife**
10 **Service to serve on the committee as nonvoting members.**

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

14 **“(7) The committee shall:**

15 **“(a) Guide the adaptive management process.**

16 **“(b) Set the research agenda of the Independent Research and Sci-**
17 **ence Team established in section 38 of this 2022 Act and recommend**
18 **to the board the team’s budget.**

19 **“(c) Assess the scientific findings in a report prepared by the team**
20 **and prepare a report that identifies alternative actions, including no**
21 **action, to address resource issues identified in the team’s report.**

22 **“(d) Submit the committee’s reports to the board.**

23 **“(e) Assist the board in the ongoing process of identifying and**
24 **modifying resource objectives.**

25 **“(f) Review reports related to compliance monitoring and enforce-**
26 **ment.**

27 **“(g) Submit recommendations to the board concerning rule adjust-**
28 **ment, guidance or training.**

29 **“(h) Strive for full consensus in committee decision-making.**

30 **“(8) Notwithstanding subsection (7)(h) of this section, the commit-**

1 tee shall make substantial decisions by a vote of at least seven voting
2 members.

3 “(9) Committee members are not eligible for compensation or re-
4 imbursement for expenses. If an organization represented by a com-
5 mittee member requests a participation grant to compensate for the
6 organizational resources the organization dedicated to supporting the
7 committee member’s service on the committee, subject to available
8 funding, the board shall award the participation grant in an amount
9 determined by the board.

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

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

15 “(2) Notwithstanding section 36 (6) of this 2022 Act, of the voting
16 members of the committee first appointed by the board:

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

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

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

23 “(3) The board shall appoint the first five voting members of the
24 Independent Research and Science Team from a list of candidates
25 provided by the committee.

26 “SECTION 38. (1) The Independent Research and Science Team is
27 established as an advisory committee to the State Board of Forestry.

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

30 “(a) Have demonstrated subject matter expertise in a relevant field

1 and a graduate-level degree in a relevant natural resources-related
2 field such as forestry, silviculture, ecology, hydrology, wildlife,
3 fisheries or geology.

4 “(b) Include, at all times:

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

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

7 “(C) One voting member who represents a nongovernmental or-
8 ganization that promotes conservation of freshwater aquatic habitat.

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

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

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

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

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

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

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

25 “(8) The team shall:

26 “(a) Conduct or oversee research requested by the Adaptive Man-
27 agement Program Committee.

28 “(b) Report to the board and the committee on the findings of the
29 research, including findings concerning the magnitude of impacts on
30 species of concern, the urgency of needed action and the degree of

1 scientific confidence or uncertainty behind the findings.

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

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

7 “(10) Team members are not eligible for compensation or re-
8 imbursement for expenses. If an organization represented by a team
9 member requests a participation grant to compensate for the organ-
10 izational resources the organization dedicated to supporting the team
11 member’s service on the team, subject to available funding, the board
12 shall award the participation grant in an amount determined by the
13 board.

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

16 **“SECTION 39. (1) Subject to subsection (2) of this section, the State**
17 **Board of Forestry may not adopt, amend or repeal a rule described in**
18 **ORS 527.714 (1)(c) that relates to aquatic resources until the board has**
19 **first received and considered reports that pertain to the rule from the**
20 **Adaptive Management Program Committee and the Independent Re-**
21 **search and Science Team described in sections 36 and 38 of this 2022**
22 **Act.**

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

25 “(a) To adoption, amendment or repeal of a rule as part of a
26 rulemaking proceeding commenced pursuant to ORS 527.765 (3)(e) in
27 response to a petition for review of best management practices made
28 by the Environmental Quality Commission;

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

30 “(c) If the legislation authorizing or requiring the adoption,

1 amendment or repeal of the rule provides a specific exemption from
2 this section; or

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

5 “(3) The board may solicit and consider a report from the commit-
6 tee or the team prior to or as part of:

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

10 “(b) Any other rulemaking described in ORS 527.714 (1)(c), subject
11 to the funding available to, and the capacity of, the committee and the
12 team, taking into consideration the requirements of subsection (1) of
13 this section.

14

15 **“AMENDMENTS TO OREGON FOREST PRACTICES ACT**

16

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

18 “527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:

19 “(1) ‘Aquatic resource’ means:

20 “(a) A species addressed in the Private Forest Accord Report dated
21 ___ and published by the State Forestry Department on ___ and the
22 resources on which the species relies; or

23 “(b) If a habitat conservation plan consistent with the Private
24 Forest Accord Report has been approved, a species addressed in the
25 habitat conservation plan and the resources on which the species re-
26 lies.

27 “[1] (2) ‘Board’ means the State Board of Forestry.

28 “[2] (3) ‘Cumulative effects’ means the impact on the environment which
29 results from the incremental impact of the forest practice when added to
30 other past, present and reasonably foreseeable future forest practices re-

1 regardless of what governmental agency or person undertakes such other
2 actions.

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

6 “[4] (5) ‘Edge of the roadway’ means:

7 “(a) For interstate highways, the fence.

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

10 “[5] (6) ‘Forest practice’ means any operation conducted on or pertaining
11 to forestland, including but not limited to:

12 “(a) Reforestation of forestland;

13 “(b) Road construction and maintenance;

14 “(c) Harvesting of forest tree species;

15 “(d) Application of chemicals;

16 “(e) Disposal of slash; and

17 “(f) Removal of woody biomass.

18 “[6] (7) ‘Forest tree species’ means any tree species capable of producing
19 logs, fiber or other wood materials suitable for the production of lumber,
20 sheeting, pulp, firewood or other commercial forest products except trees
21 grown to be Christmas trees as defined in ORS 571.505 on land used solely
22 for the production of Christmas trees.

23 “[7] (8) ‘Forestland’ means land that is used for the growing and har-
24 vesting of forest tree species, regardless of how the land is zoned or taxed
25 or how any state or local statutes, ordinances, rules or regulations are ap-
26 plied.

27 “[8] (9) ‘Harvest type 1’ means an operation that requires reforestation
28 but does not require wildlife leave trees. A harvest type 1 is an operation
29 that leaves a combined stocking level of free to grow seedlings, saplings,
30 poles and larger trees that is less than the stocking level established by rule

1 of the board that represents adequate utilization of the productivity of the
2 site.

3 “[9] (10) ‘Harvest type 2’ means an operation that requires wildlife leave
4 trees but does not require reforestation. A harvest type 2 does not require
5 reforestation because it has an adequate combined stocking of free to grow
6 seedlings, saplings, poles and larger trees, but leaves:

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

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

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

13 “[10] (11) ‘Harvest type 3’ means an operation that requires reforestation
14 and requires wildlife leave trees. This represents a level of stocking below
15 which the size of operations is limited under ORS 527.740 and 527.750.

16 “[11] (12) ‘Landowner’ means any individual, combination of individuals,
17 partnership, corporation or association of whatever nature that holds an
18 ownership interest in forestland, including the state and any political sub-
19 division thereof.

20 “[12] (13) ‘Operation’ means any commercial activity relating to the es-
21 tablishment, management or harvest of forest tree species except as provided
22 by the following:

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

26 “(b) The establishment, management or harvest of hardwood timber, in-
27 cluding but not limited to hybrid cottonwood, that is:

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

1 “(B) Of a species marketable as fiber for inclusion in the furnish for
2 manufacturing paper products;

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

5 “(D) Subject to intensive agricultural practices such as fertilization, cul-
6 tivation, irrigation, insect control and disease control.

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

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

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

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

18 “(g) The development of an approved land use change after timber harvest
19 activities have been completed and land use conversion activities have com-
20 menced.

21 “[~~(13)~~] (14) ‘Operator’ means any person, including a landowner or timber
22 owner, who conducts an operation.

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

24 “(A) Violation of ORS 527.670 (6) by engaging in an operation with-
25 out filing the requisite notification;

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

28 “(C) A violation resulting in major damage to a resource described
29 in ORS 527.710 (2) for which restoration is expected to take more than
30 10 years.

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

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

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

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

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

19 **“[(15)] (17) ‘State Forester’** means the State Forester or the duly author-
20 ized representative of the State Forester.

21 **“[(16)] (18) ‘Suitable hardwood seedlings’** means any hardwood seedling
22 that will eventually yield logs or fiber, or both, sufficient in size and quality
23 for the production of lumber, plywood, pulp or other forest products.

24 **“[(17)] (19) ‘Timber owner’** means any individual, combination of individ-
25 uals, partnership, corporation or association of whatever nature, other than
26 a landowner, that holds an ownership interest in any forest tree species on
27 forestland.

28 **“[(18)] (20) ‘Visually sensitive corridor’** means forestland extending out-
29 ward 150 feet, measured on the slope, from the outermost edge of the
30 roadway of a scenic highway referred to in ORS 527.755, along both sides for

1 the full length of the highway.

2 “[~~(19)~~] (21) ‘Wildlife leave trees’ means trees or snags required to be re-
3 tained as described in ORS 527.676 (1).

4 “[~~(20)~~] (22) ‘Written plan’ means a document prepared by an operator,
5 timber owner or landowner that describes how the operation is planned to
6 be conducted.

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

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

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

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

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

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

11 “(a) Adequate training and education of enforcement officers, op-
12 erators, timber owners and landowners.

13 “(b) Clear technical guidance.

14 “(c) Implementation expectations that are transparent and easily
15 understood by operators, timber owners and landowners.

16 “(6) It is declared to be the policy of the State of Oregon that the
17 program for implementing enforcement under ORS 527.680, 527.683,
18 527.685, 527.690 and 527.700 be adequately funded, and that the board:

19 “(a) Use inspections and enforcement as tools to deter future vio-
20 lations and to educate and train operators, timber owners and land-
21 owners.

22 “(b) In exercising enforcement discretion, including discretion to
23 impose penalties, prioritize addressing significant violations, other
24 consequential violations and the actions of repeat violators.

25 “[(4)] (7) The board may adopt and enforce rules addressing scenic con-
26 siderations only in accordance with ORS 527.755.

27 “[(5)] (8) The board shall adopt and enforce forest practice rules to reduce
28 the risk of serious bodily injury or death from a rapidly moving landslide
29 only in accordance with ORS 527.710 (10). As used in this subsection, ‘rap-
30 idly moving landslide’ has the meaning given in ORS 195.250.

1 “[(6)] (9) The State of Oregon should provide a stable regulatory envi-
2 ronment to encourage investment in private forestlands.

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

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

11 “(2) The inspection may occur:

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

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

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

17 “(a) Advise the operator, timber owner or landowner that the in-
18 **spection is being made pursuant to the law and is limited in scope to**
19 **the operation subject to the relevant notification.**

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

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

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

28 “(a) The State Forester or a representative of the State Forester
29 **has attempted inspection consistent with subsections (1) to (3) of this**
30 **section and access to all or part of the forestland was actually or**

1 **constructively denied; or**

2 **“(b) The State Forester has reasonable cause to believe that a vio-**
3 **lation of ORS 527.610 to 527.770 or a rule or order adopted or issued**
4 **thereunder has occurred.**

5 **“SECTION 44. (1) As used in this section, ‘photogrammetric map-**
6 **ping’ has the meaning given that term in ORS 672.002.**

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

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

13 **“(b) Authorize the State Forester to use a program of photogram-**
14 **metric mapping to determine whether operations for which notifica-**
15 **tions have been filed pursuant to ORS 527.670 (6) have been completed;**
16 **or**

17 **“(c) Otherwise establish a program for determining when operations**
18 **for which notifications have been filed pursuant to ORS 527.670 (6)**
19 **haven been completed.**

20 **“(3) Rules described in subsection (2)(b) or (c) of this section must**
21 **limit the discretion of the person conducting the compliance moni-**
22 **toring.**

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

24 **“527.680. (1) Whenever the State Forester determines that an operator has**
25 **committed a violation under ORS 527.990 (1), the State Forester may issue**
26 **and serve a citation upon the operator or authorized representative. The**
27 **State Forester shall cause a copy of the citation to be mailed or delivered**
28 **to the timber owner and landowner. Whenever the State Forester determines**
29 **that the landowner has failed to comply with the reforestation rules under**
30 **ORS 527.710, the State Forester may issue and serve a citation upon the**

1 landowner or authorized representative. Each citation issued under this sec-
2 tion shall specify the nature of the violation charged and any damage or
3 unsatisfactory condition that has occurred as the result of such violation.

4 “(2) Whenever a citation is served pursuant to subsection (1) of this sec-
5 tion, the State Forester:

6 “(a) Shall issue and serve upon the landowner or operator or authorized
7 representative an order directing that the landowner or operator cease fur-
8 ther violation. If the order is served upon an operator, the State Forester
9 shall cause a copy of such order to be mailed or delivered to the timber
10 owner and landowner; and

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

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

25 “(4) A temporary order issued under subsection (3) of this section shall
26 be served upon the landowner or operator or authorized representative, and
27 the State Forester shall cause a copy of such temporary order to be mailed
28 or delivered to the operator, timber owner and landowner. If requested by the
29 operator, timber owner or landowner, the State Board of Forestry, following
30 the appeal procedures of ORS 527.700, must hold a hearing on the temporary

1 order within five working days after the receipt by the board of the request.
2 A temporary order issued and served pursuant to subsection (3) of this sec-
3 tion shall remain in effect not more than five working days after such
4 hearing unless the order is sooner affirmed, modified or revoked by the
5 board.

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

15 “(6) **The State Forester may require an operator, timber owner or**
16 **landowner to provide financial assurance before conducting a new op-**
17 **eration if the State Forester has, within the preceding three-year pe-**
18 **riod, made a finding under ORS 527.685 (6) applicable to the operator,**
19 **timber owner or landowner.**

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

21 “527.685. (1) The State Board of Forestry shall by rule establish the
22 amount of civil penalty that may be imposed for a particular violation. Ex-
23 cept as provided in [*subsection (5)*] **subsections (5) and (6)** of this section,
24 [*no*] a civil penalty [*shall*] **may not** exceed [*\$5,000*] **\$10,000** per violation.

25 “(2) In imposing a penalty authorized by this section, the State Forester
26 may consider the following factors:

27 “(a) The past history of the person incurring a penalty in taking all fea-
28 sible steps or procedures necessary or appropriate to correct any violation.

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

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

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

3 “(e) Whether the cause of the violation was an unavoidable accident,
4 negligence or an intentional act.

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

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

7 “(h) The [*violator’s*] cooperativeness **of the person incurring the pen-**
8 **alty and the person’s efforts, if any,** to correct the violation.

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

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

19 “(5) For a violation of ORS 527.745, or rules for reforestation adopted
20 pursuant to ORS 527.745, the State Forester may impose a civil penalty in
21 an amount equal to the estimated cost of reforesting lands pursuant to ORS
22 527.690.

23 “(6) **If the State Forester makes a finding that an operator, timber**
24 **owner or landowner has a history of significant violations that shows**
25 **a pattern of willful disregard for the requirements of ORS 527.610 to**
26 **527.770 or rules or orders adopted or issued thereunder, the State**
27 **Forester may impose a civil penalty in an amount not to exceed \$50,000**
28 **per significant violation. In imposing the penalty, the State Forester**
29 **shall consider, in addition to the factors described in subsection (2) of**
30 **this section:**

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

3 **“(b) The proportion of total operations conducted by the operator,**
4 **timber owner or landowner related to which significant violations have**
5 **occurred compared to the total number of operations conducted by the**
6 **operator, timber owner or landowner, while accounting for the or-**
7 **ganizational structure of the operator, timber owner or landowner.**

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

9 “527.714. (1) The rulemaking authority of the State Board of Forestry
10 under ORS 527.610 to 527.770 consists generally of the following three types
11 of rules:

12 “(a) Rules adopted to implement administration, procedures or enforce-
13 ment of ORS 527.610 to 527.770 that support but do not directly regulate
14 standards of forest practices.

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

17 “(c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6),
18 (8), (9) and (10) that grant broad discretion to the board and that set stan-
19 dards for forest practices not specifically addressed in statute.

20 “(2) When considering the adoption of a rule, and prior to the notice re-
21 quired pursuant to ORS 183.335, the board shall determine which type of rule
22 described in subsection (1) of this section is being considered.

23 “(3) If the board determines that a proposed rule is of the type described
24 in subsection (1)(a) or (b) of this section, or if the proposed rule is designed
25 only to clarify the meaning of rules already adopted or to make minor ad-
26 justments to rules already adopted that are of the type described in sub-
27 section (1)(c) of this section, rulemaking may proceed in accordance with
28 ORS 183.325 to 183.410 and is not subject to the provisions of this section.

29 “(4) If the board determines that a proposed rule is of the type described
30 in subsection (1)(c) of this section, and the proposed rule would change the

1 standards for forest practices, the board shall describe in its rule the purpose
2 of the rule and the level of protection that is desired. **If the proposed rule**
3 **would change the standards for forest practices that relate to the**
4 **protection of aquatic resources, the level of protection that is desired**
5 **must be consistent with:**

6 **“(a) Requirements described in the Private Forest Accord Report**
7 **dated ____ and published by the State Forestry Department on ____;**
8 **or**

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

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

18 **“(a)(A) If forest practices continue to be conducted under existing**
19 **regulations[,]:**

20 **“(i) There is monitoring or research evidence that documents that degra-**
21 **dation of resources maintained under ORS 527.710 (2) or (3) is likely[,]; or**

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

24 **“(B) The board has received reports produced by the Adaptive**
25 **Management Program Committee and the Independent Research and**
26 **Science Team described in sections 36 and 38 of this 2022 Act that re-**
27 **view the new or increased standards the proposed rule would provide;**

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

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

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

7 “(A)(i) Are to prevent harm or provide benefits to the resource or re-
8 source site for which protection is sought[,] or

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

11 “(B) Are directly related to the objective of the proposed rule and [*sub-*
12 *stantially*] **materially** advance its purpose; **and**

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

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

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

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

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

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

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

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

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

8 “[(7)] (8) If the board determines that a proposed rule is of the type de-
9 scribed in subsection (1)(c) of this section, and the proposed rule would re-
10 quire new or increased standards for forest practices, as part of or in
11 addition to the economic and fiscal impact statement required by ORS
12 183.335 (2)(b)(E), the board shall, prior to the close of the public comment
13 period, prepare and make available to the public a comprehensive analysis
14 of the economic impact of the proposed rule. The analysis shall include, but
15 is not limited to:

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

18 “(b) An estimate of the overall statewide economic impact, including a
19 change in output, employment and income[;] **related to:**

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

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

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

25 “(c) An estimate of the total economic impact on the forest products in-
26 dustry and common school and county forest trust land revenues, both re-
27 gionally and statewide; and

28 “(d) [*Information derived from consultation with potentially affected land-*
29 *owners and timber owners and*] An assessment of the economic impact of the
30 proposed rule [*under a wide variety of circumstances, including varying own-*

1 *ership sizes and the geographic location and terrain of a diverse subset of po-*
2 *tentially affected forestland parcels] on various types of affected forestland*
3 **parcels and on various geographic locations that is derived from con-**
4 **sulting stakeholders.**

5 “[8] (9) The provisions of this section do not apply to temporary rules
6 adopted by the board.

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

8 “527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672,
9 527.676, 527.740, 527.750, [or] 527.755, **527.788 or 527.797**, or any rule
10 promulgated under ORS 527.710 **or section 2 or 44 of this 2022 Act**, is a
11 Class A misdemeanor. Each day of operation in violation of an order issued
12 under ORS 527.680 (3) shall be deemed to be a separate offense.

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

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

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

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

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

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

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

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

1 **“EFFECT OF POLICIES ON INDIAN TRIBES**

2
3 **“SECTION 50. (1) Nothing in sections 1 to 8, 10 to 25, 30 to 39, 42 to**
4 **44, 51 and 52 of this 2022 Act and the amendments to ORS 195.308,**
5 **496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992,**
6 **610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022**
7 **Act affects:**

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

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

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

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

12 **“(2) The State Board of Forestry shall develop a process for an In-**
13 **dian tribe to elect to join as an applicant for a habitat conservation**
14 **plan described in section 11 of this 2022 Act, consistent with the terms**
15 **and requirements applicable to private forestland under the Private**
16 **Forest Accord Report dated ___ and published by the State Forestry**
17 **Department on ___.**

18
19 **“RULEMAKING CONCERNING PESTICIDE APPLICATIONS**

20
21 **“SECTION 51. The State Forestry Department may adopt rules to**
22 **implement the provisions of ORS 527.786 to 527.793, 527.794, 527.795,**
23 **527.796, 527.797 and 527.798.**

24
25 **“REPORTS TO LEGISLATIVE ASSEMBLY**

26
27 **“SECTION 52. The State Board of Forestry shall report annually to**
28 **a committee or interim committee of the Legislative Assembly related**
29 **to forestry, in the manner described in ORS 192.245, on progress in**
30 **implementing the requirements of the Private Forest Accord Report**

1 dated ____ and published by the State Forestry Department on ____.

2
3 **“APPROPRIATION**

4
5 **“SECTION 53. In addition to and not in lieu of any other appropri-**
6 **ation, there is appropriated to the _____, for the biennium**
7 **ending June 30, 2023, out of the General Fund, the amount of \$_____,**
8 **which may be expended for _____.**

9
10 **“CONTINGENT OPERATIVE DATES**

11
12 **“SECTION 54. (1) The Legislative Assembly intends that the policies**
13 **described in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of**
14 **this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254,**
15 **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**
17 **remain in effect only if:**

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

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

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

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

30 **“SECTION 55. (1) If an incidental take permit related to an ap-**

1 proved habitat conservation plan responsive to the Private Forest Ac-
2 cord Report dated ____ and published by the State Forestry
3 Department on ____ is issued on or before December 31, 2027, an au-
4 thor of the Private Forest Accord Report may, no later than 14 days
5 after the date the incidental take permit is issued, petition the State
6 Board of Forestry to make a finding as to whether the habitat con-
7 servation plan imposes more than a de minimis difference in economic
8 or resource impacts, at the level of landscapes, relative to rules
9 adopted or amended as part of the rule package described in section 2
10 of this 2022 Act.

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

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

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

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

20 “(B) Amend rules in effect on or before the effective date of this
21 2022 Act as needed to conform with repeals described in subparagraph
22 (A) of this paragraph.

23 “(C) Amend any other rules as needed to conform with repeals de-
24 scribed in subparagraph (A) of this paragraph.

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

29 **“SECTION 56.** If, pursuant to section 55 (1) and (2) of this 2022 Act,
30 the State Board of Forestry does not make a finding or finds that the

1 habitat conservation plan described in section 55 (1) of this 2022 Act
2 does not impose more than a de minimis difference, as described in
3 section 55 (1) of this 2022 Act, and the incidental take permit described
4 in section 55 (1) of this 2022 Act is subsequently revoked or invalidated:

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

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

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

13 “(c) Amend any other rules as needed to conform with repeals de-
14 scribed in paragraph (a) of this paragraph.

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

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

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

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

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

30 “(c) Amend any other rules as needed to conform with repeals de-

1 scribed in paragraph (a) of this subsection.

2 “(2) On or before May 1, 2028, the State Fish and Wildlife Commis-
3 sion shall amend rules as needed to conform the rules with actions
4 taken by the board under subsection (1) of this section.

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

9 “(1) Whether the incidental take permit described in section 11 of
10 this 2022 Act was issued on or before December 31, 2027.

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

13 **“SECTION 59.** If an incidental take permit related to an approved
14 habitat conservation plan consistent with the Private Forest Accord
15 Report dated ____ and published by the State Forestry Department
16 on ____ is issued on or before December 31, 2027, but is subsequently
17 revoked or invalidated, after the date that any appeals process related
18 to the revocation or invalidation has been exhausted or forgone,
19 whichever occurs first, the State Board of Forestry shall:

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

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

25 **“SECTION 60.** Sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to
26 52 of this 2022 Act are repealed.

27 **“SECTION 61.** (1) Except as otherwise provided in sections 62 and
28 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42
29 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the
30 amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,

1 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76
2 of this 2022 Act become operative only if the State Board of Forestry
3 finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the
4 habitat conservation plan described in section 55 (1) of this 2022 Act
5 imposes more than a de minimis difference, as described in section 55
6 (1) of this 2022 Act.

7 “(2) If the board finds, pursuant to section 55 (1) and (2) of this 2022
8 Act, that the habitat conservation plan described in section 55 (1) of
9 this 2022 Act imposes more than a de minimis difference, as described
10 in section 55 (1) of this 2022 Act, the repeal of sections 1 to 8, 10 to 25,
11 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022
12 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620,
13 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by
14 sections 65 to 76 of this 2022 Act become operative on the 150th day
15 after the date the board makes the finding.

16 **“SECTION 62.** (1) Except as otherwise provided in sections 61 and
17 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42
18 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the
19 amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,
20 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76
21 of this 2022 Act become operative only if:

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

27 “(b) The incidental take permit is subsequently revoked or invali-
28 dated.

29 “(2) If the events described in subsection (1)(a) and (b) of this sec-
30 tion occur, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and

1 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amend-
2 ments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685,
3 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this
4 2022 Act become operative on the 240th day after the date that any
5 appeals process related to the revocation or invalidation has been ex-
6 hausted or foregone, whichever occurs first.

7 **“SECTION 63.** (1) Except as otherwise provided in sections 61 and
8 62 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42
9 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the
10 amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680,
11 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76
12 of this 2022 Act become operative only if an incidental take permit
13 related to an approved habitat conservation plan consistent with the
14 Private Forest Accord Report dated ____ and published by the State
15 Forestry Department on ____ is not issued on or before December 31,
16 2027.

17 **“(2)** If an incidental take permit related to an approved habitat
18 conservation plan consistent with the Private Forest Accord Report is
19 not issued on or before December 31, 2027, the repeal of sections 1 to
20 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60
21 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254,
22 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and
23 610.105 by sections 65 to 76 of this 2022 Act become operative on June
24 1, 2028.

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

27

28

“CONTINGENT AMENDMENTS

29

30 **“SECTION 65.** ORS 195.308, as amended by section 9 of this 2022 Act, is

1 amended to read:

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

5 “[*1*] the enforcement or enactment of a land use regulation established
6 in ORS 30.930 to 30.947, 527.310 to 527.370, 561.995, 569.360 to 569.495, 570.010
7 to 570.050, 570.105 to 570.190, 570.305, 570.310, 570.320 to 570.360, 570.405,
8 570.412, 570.420, 570.425, 570.450, 570.700 to 570.710, 570.755, 570.770, 570.775,
9 570.780, 570.790, 570.800, 570.995, 596.095, 596.100, 596.105, 596.393, 596.990 or
10 596.995 or in administrative rules or statewide plans implementing these
11 statutes.

12 “[*2*] *The enforcement, adoption or amendment of a rule adopted or amended*
13 *by the State Board of Forestry.*]

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

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

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

20 “496.252. (1) The Oregon Conservation and Recreation Fund is established
21 in the State Treasury, separate and distinct from the General Fund. Interest
22 earned by the Oregon Conservation and Recreation Fund shall be credited
23 to the fund.

24 “(2) Moneys in the fund are continuously appropriated to the State De-
25 partment of Fish and Wildlife to carry out activities that serve to protect,
26 maintain or enhance fish and wildlife resources in Oregon. The activities for
27 which the department may expend fund moneys include, but are not limited
28 to:

29 “(a) Promoting the health of Oregon’s ecosystems and fish and wildlife
30 species by implementing conservation programs and strategies identified in

1 the Oregon Conservation Strategy, as defined in ORS 541.890, including
2 conservation programs and strategies for the nearshore identified in the
3 marine component of the Oregon Conservation Strategy;

4 “(b) Improving engagement of the public in hunting and fishing opportu-
5 nities and in other outdoor recreation opportunities related to and in support
6 of healthy fish, wildlife and habitats;

7 “(c) Improving educational outreach and engagement of the public, in-
8 cluding diverse and underserved communities, related to and in support of
9 healthy fish, wildlife and habitats;

10 “(d) Engaging in, and providing funding for, joint projects of the depart-
11 ment and the State Parks and Recreation Department or other state agencies
12 as recommended by the Oregon Conservation and Recreation Advisory Com-
13 mittee established under ORS 496.254; and

14 “(e) Other conservation, management, research, habitat improvement,
15 enforcement, outdoor recreation or education activities.

16 “(3) The fund shall consist of:

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

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

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

24 “[*(4) The Private Forest Accord Mitigation Subaccount is established in the*
25 *fund. The subaccount shall consist of moneys appropriated to the department*
26 *for deposit in the subaccount or otherwise transferred to the subaccount and*
27 *gifts, grants, contributions or other donations that are received by the depart-*
28 *ment from any public or private source and caused to be deposited and credited*
29 *to the subaccount. Moneys in the subaccount may be used for:*]

30 “[*(a) The purposes described in, and the administration of, section 32 of*

1 *this 2022 Act.]*

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

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

6 *“[(5)] (4) The department and the Oregon Conservation and Recreation*
7 *Advisory Committee shall jointly submit a biennial report to the Legislative*
8 *Assembly as provided in ORS 293.640 regarding the expenditure of moneys*
9 *deposited in the fund[, other than moneys deposited in the Private Forest Ac-*
10 *cord Mitigation Subaccount,] and on the status of various activities funded*
11 *by the moneys.*

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

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

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

28 **“(2)** The committee shall review department policies regarding the use of
29 Oregon Conservation and Recreation Fund moneys[, *other than policies re-*
30 *garding the use of Private Forest Accord Mitigation Subaccount moneys,]* and

1 make recommendations to the commission and the department regarding the
2 use of fund moneys for implementing and administering department activ-
3 ities.

4 “(3) Members of the committee may not receive compensation for service
5 as members. However, subject to any applicable law regulating travel and
6 other expenses of state officers and employees, a member may be reimbursed
7 for actual and necessary travel and other expenses incurred in the perform-
8 ance of official duties from moneys available to the department for the pur-
9 pose of reimbursement of committee members.

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

12 “527.620. As used in ORS 527.610 to 527.770, 527.990 and 527.992:

13 “[*(1) ‘Aquatic resource’ means:*]

14 “[*(a) A species addressed in the Private Forest Accord Report dated ____*
15 *and published by the State Forestry Department on ____ and the resources*
16 *on which the species relies; or]*

17 “[*(b) If a habitat conservation plan consistent with the Private Forest Ac-*
18 *cord Report has been approved, a species addressed in the habitat conservation*
19 *plan and the resources on which the species relies.]*

20 “[*(2)*] (1) ‘Board’ means the State Board of Forestry.

21 “[*(3)*] (2) ‘Cumulative effects’ means the impact on the environment which
22 results from the incremental impact of the forest practice when added to
23 other past, present and reasonably foreseeable future forest practices re-
24 gardless of what governmental agency or person undertakes such other
25 actions.

26 “[*(4)*] (3) ‘DBH’ means the diameter at breast height which is measured
27 as the width of a standing tree at four and one-half feet above the ground,
28 on the uphill side.

29 “[*(5)*] (4) ‘Edge of the roadway’ means:

30 “(a) For interstate highways, the fence.

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

3 “[6] (5) ‘Forest practice’ means any operation conducted on or pertaining
4 to forestland, including but not limited to:

5 “(a) Reforestation of forestland;

6 “(b) Road construction and maintenance;

7 “(c) Harvesting of forest tree species;

8 “(d) Application of chemicals;

9 “(e) Disposal of slash; and

10 “(f) Removal of woody biomass.

11 “[7] (6) ‘Forest tree species’ means any tree species capable of producing
12 logs, fiber or other wood materials suitable for the production of lumber,
13 sheeting, pulp, firewood or other commercial forest products except trees
14 grown to be Christmas trees as defined in ORS 571.505 on land used solely
15 for the production of Christmas trees.

16 “[8] (7) ‘Forestland’ means land that is used for the growing and har-
17 vesting of forest tree species, regardless of how the land is zoned or taxed
18 or how any state or local statutes, ordinances, rules or regulations are ap-
19 plied.

20 “[9] (8) ‘Harvest type 1’ means an operation that requires reforestation
21 but does not require wildlife leave trees. A harvest type 1 is an operation
22 that leaves a combined stocking level of free to grow seedlings, saplings,
23 poles and larger trees that is less than the stocking level established by rule
24 of the board that represents adequate utilization of the productivity of the
25 site.

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

30 “(a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees

1 or less than an equivalent basal area in larger trees, per acre;

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

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

6 “[~~(11)~~] (10) ‘Harvest type 3’ means an operation that requires reforestation
7 and requires wildlife leave trees. This represents a level of stocking below
8 which the size of operations is limited under ORS 527.740 and 527.750.

9 “[~~(12)~~] (11) ‘Landowner’ means any individual, combination of individuals,
10 partnership, corporation or association of whatever nature that holds an
11 ownership interest in forestland, including the state and any political sub-
12 division thereof.

13 “[~~(13)~~] (12) ‘Operation’ means any commercial activity relating to the es-
14 tablishment, management or harvest of forest tree species except as provided
15 by the following:

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

19 “(b) The establishment, management or harvest of hardwood timber, in-
20 cluding but not limited to hybrid cottonwood, that is:

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

24 “(B) Of a species marketable as fiber for inclusion in the furnish for
25 manufacturing paper products;

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

28 “(D) Subject to intensive agricultural practices such as fertilization, cul-
29 tivation, irrigation, insect control and disease control.

30 “(c) The establishment, management or harvest of trees actively farmed

1 or cultured for the production of agricultural tree crops, including nuts,
2 fruits, seeds and nursery stock.

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

5 “(e) The management or harvest of juniper species conducted in a unit
6 of less than 120 contiguous acres within a single ownership.

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

11 “(g) The development of an approved land use change after timber harvest
12 activities have been completed and land use conversion activities have com-
13 menced.

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

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

17 “[~~(A)~~] *Violation of ORS 527.670 (6) by engaging in an operation without*
18 *filing the requisite notification; or]*

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

21 “[~~(C)~~] *A violation resulting in major damage to a resource described in ORS*
22 *527.710 (2) for which restoration is expected to take more than 10 years.]*

23 “[~~(b)~~] ‘Significant violation’ does not include:]

24 “[~~(A)~~] *Unintentional operation in an area outside an operating area of an*
25 *operation for which sufficient notification was filed pursuant to ORS 527.670*
26 *(6);]*

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

30 “[~~(C)~~] *Failure to timely notify the State Forester of an intent to continue an*

1 *operation into the next calendar year.]*

2 “[~~(16)~~] (14) ‘Single ownership’ means ownership by an individual, part-
3 nership, corporation, limited liability company, trust, holding company or
4 other business entity, including the state or any political subdivision thereof.
5 Single ownership includes ownership held under different names or titles
6 where the same individual or individuals, or their heirs or assigns, are
7 shareholders (other than those of public corporations whose stock is traded
8 on the open market), partners, business trustees or officers, or otherwise
9 have an interest in or are associated with each property.

10 “[~~(17)~~] (15) ‘State Forester’ means the State Forester or the duly author-
11 ized representative of the State Forester.

12 “[~~(18)~~] (16) ‘Suitable hardwood seedlings’ means any hardwood seedling
13 that will eventually yield logs or fiber, or both, sufficient in size and quality
14 for the production of lumber, plywood, pulp or other forest products.

15 “[~~(19)~~] (17) ‘Timber owner’ means any individual, combination of individ-
16 uals, partnership, corporation or association of whatever nature, other than
17 a landowner, that holds an ownership interest in any forest tree species on
18 forestland.

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

23 “[~~(21)~~] (19) ‘Wildlife leave trees’ means trees or snags required to be re-
24 tained as described in ORS 527.676 (1).

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

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

30 “527.630. (1) Forests make a vital contribution to Oregon by providing

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

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

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

23 “[4] *It is recognized that ensuring compliance with, and enforcing, ORS*
24 *527.610 to 527.770 and rules and orders adopted or issued thereunder is es-*
25 *sential to protect Oregon’s natural resources. It is further recognized that*
26 *onsite inspections are necessary to further the policy of ORS 527.610 to 527.770,*
27 *527.990 and 527.992.]*

28 “[5] *It is recognized that enforcement of the policy of ORS 527.610 to*
29 *527.770, 527.990 and 527.992 is necessary to support the integrity of the policy*
30 *and give the public confidence that standards for forest practices are being*

1 followed. It is further recognized that an effective enforcement program must
2 include:]

3 “[a] Adequate training and education of enforcement officers, operators,
4 timber owners and landowners.]

5 “[b] Clear technical guidance.]

6 “[c] Implementation expectations that are transparent and easily under-
7 stood by operators, timber owners and landowners.]

8 “[6] It is declared to be the policy of the State of Oregon that the program
9 for implementing enforcement under ORS 527.680, 527.683, 527.685, 527.690 and
10 527.700 be adequately funded, and that the board:]

11 “[a] Use inspections and enforcement as tools to deter future violations and
12 to educate and train operators, timber owners and landowners.]

13 “[b] In exercising enforcement discretion, including discretion to impose
14 penalties, prioritize addressing significant violations, other consequential vio-
15 lations and the actions of repeat violators.]

16 “[7] (4) The board may adopt and enforce rules addressing scenic con-
17 siderations only in accordance with ORS 527.755.

18 “[8] (5) The board shall adopt and enforce forest practice rules to reduce
19 the risk of serious bodily injury or death from a rapidly moving landslide
20 only in accordance with ORS 527.710 (10). As used in this subsection, ‘rap-
21 idly moving landslide’ has the meaning given in ORS 195.250.

22 “[9] (6) The State of Oregon should provide a stable regulatory envi-
23 ronment to encourage investment in private forestlands.

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

26 “527.680. (1) Whenever the State Forester determines that an operator has
27 committed a violation under ORS 527.990 (1), the State Forester may issue
28 and serve a citation upon the operator or authorized representative. The
29 State Forester shall cause a copy of the citation to be mailed or delivered
30 to the timber owner and landowner. Whenever the State Forester determines

1 that the landowner has failed to comply with the reforestation rules under
2 ORS 527.710, the State Forester may issue and serve a citation upon the
3 landowner or authorized representative. Each citation issued under this sec-
4 tion shall specify the nature of the violation charged and any damage or
5 unsatisfactory condition that has occurred as the result of such violation.

6 “(2) Whenever a citation is served pursuant to subsection (1) of this sec-
7 tion, the State Forester:

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

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

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

27 “(4) A temporary order issued under subsection (3) of this section shall
28 be served upon the landowner or operator or authorized representative, and
29 the State Forester shall cause a copy of such temporary order to be mailed
30 or delivered to the operator, timber owner and landowner. If requested by the

1 operator, timber owner or landowner, the State Board of Forestry, following
2 the appeal procedures of ORS 527.700, must hold a hearing on the temporary
3 order within five working days after the receipt by the board of the request.
4 A temporary order issued and served pursuant to subsection (3) of this sec-
5 tion shall remain in effect not more than five working days after such
6 hearing unless the order is sooner affirmed, modified or revoked by the
7 board.

8 “(5) If a landowner or operator fails to comply with a final order issued
9 under subsection (2)(b) of this section within the time specified in the order,
10 or if the landowner or operator fails to comply with a final order imposing
11 civil penalties for violation of any provision of the Oregon Forest Practices
12 Act, the State Forester may issue an order that prohibits the affected land-
13 owner or operator from conducting any new operations on any forestland in
14 this state until the landowner or operator has complied with the order to
15 correct an unsatisfactory condition, make repair or pay the civil penalty, as
16 the case may be, to the satisfaction of the State Forester.

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

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

24 “527.685. (1) The State Board of Forestry shall by rule establish the
25 amount of civil penalty that may be imposed for a particular violation. Ex-
26 cept as provided in [*subsections (5) and (6)*] **subsection (5)** of this section,
27 a civil penalty may not exceed [*\$10,000*] **\$5,000** per violation.

28 “(2) In imposing a penalty authorized by this section, the State Forester
29 may consider the following factors:

30 “(a) The past history of the person incurring a penalty in taking all fea-

1 sible steps or procedures necessary or appropriate to correct any violation.

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

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

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

6 “(e) Whether the cause of the violation was an unavoidable accident,
7 negligence or an intentional act.

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

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

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

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

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

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

26 “[6] *If the State Forester makes a finding that an operator, timber owner*
27 *or landowner has a history of significant violations that shows a pattern of*
28 *willful disregard for the requirements of ORS 527.610 to 527.770 or rules or*
29 *orders adopted or issued thereunder, the State Forester may impose a civil*
30 *penalty in an amount not to exceed \$50,000 per significant violation. In im-*

1 *posing the penalty, the State Forester shall consider, in addition to the factors*
2 *described in subsection (2) of this section.】*

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

5 *“[(b) The proportion of total operations conducted by the operator, timber*
6 *owner or landowner related to which significant violations have occurred*
7 *compared to the total number of operations conducted by the operator, timber*
8 *owner or landowner, while accounting for the organizational structure of the*
9 *operator, timber owner or landowner.]*

10 **“SECTION 72.** ORS 527.714, as amended by section 47 of this 2022 Act,
11 is amended to read:

12 “527.714. (1) The rulemaking authority of the State Board of Forestry
13 under ORS 527.610 to 527.770 consists generally of the following three types
14 of rules:

15 “(a) Rules adopted to implement administration, procedures or enforce-
16 ment of ORS 527.610 to 527.770 that support but do not directly regulate
17 standards of forest practices.

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

20 “(c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6),
21 (8), (9) and (10) that grant broad discretion to the board and that set stan-
22 dards for forest practices not specifically addressed in statute.

23 “(2) When considering the adoption of a rule, and prior to the notice re-
24 quired pursuant to ORS 183.335, the board shall determine which type of rule
25 described in subsection (1) of this section is being considered.

26 “(3) If the board determines that a proposed rule is of the type described
27 in subsection (1)(a) or (b) of this section, or if the proposed rule is designed
28 only to clarify the meaning of rules already adopted or to make minor ad-
29 justments to rules already adopted that are of the type described in sub-
30 section (1)(c) of this section, rulemaking may proceed in accordance with

1 ORS 183.325 to 183.410 and is not subject to the provisions of this section.

2 “(4) If the board determines that a proposed rule is of the type described
3 in subsection (1)(c) of this section, and the proposed rule would change the
4 standards for forest practices, the board shall describe in its rule the purpose
5 of the rule and the level of protection that is desired. *[If the proposed rule
6 would change the standards for forest practices that relate to the protection
7 of aquatic resources, the level of protection that is desired must be consistent
8 with:]*

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

11 “*[(b) If a habitat conservation plan consistent with the Private Forest Ac-
12 cord Report has been approved, the terms of the habitat conservation plan.]*

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

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

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

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

26 “*[(B) The board has received reports produced by the Adaptive Management
27 Program Committee and the Independent Research and Science Team de-
28 scribed in sections 36 and 38 of this 2022 Act that review the new or increased
29 standards the proposed rule would provide;]*

30 “(b) If the resource to be protected is a wildlife species, the scientific or

1 biological status of a species or resource site to be protected by the proposed
2 rule has been documented using best available information;

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

6 “(d) The objectives of the proposed rule are clearly defined, and the re-
7 strictions placed on forest practices as a result of adoption of the proposed
8 rule:

9 “(A)(i) Are to prevent harm or provide benefits to the resource or re-
10 source site for which protection is sought; or

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

13 “(B) Are directly related to the objective of the proposed rule and [*mate-*
14 *rially*] **substantially** advance its purpose; [*and*]

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

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

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

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

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

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

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

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

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

8 “[~~(8)~~] (7) If the board determines that a proposed rule is of the type de-
9 scribed in subsection (1)(c) of this section, and the proposed rule would re-
10 quire new or increased standards for forest practices, as part of or in
11 addition to the economic and fiscal impact statement required by ORS
12 183.335 (2)(b)(E), the board shall, prior to the close of the public comment
13 period, prepare and make available to the public a comprehensive analysis
14 of the economic impact of the proposed rule. The analysis shall include, but
15 is not limited to:

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

18 “(b) An estimate of the overall statewide economic impact, including a
19 change in output, employment and income related to:

20 “(A) The forest products industry;

21 “(B) Other private sectors such as commercial fishing, recreational fish-
22 ing and other outdoor recreation; and

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

25 “(c) An estimate of the total economic impact on the forest products in-
26 dustry and common school and county forest trust land revenues, both re-
27 gionally and statewide; and

28 “(d) An assessment of the economic impact of the proposed rule on vari-
29 ous types of affected forestland parcels and on various geographic locations
30 that is derived from consulting stakeholders.

1 “[9] (8) The provisions of this section do not apply to temporary rules
2 adopted by the board.

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

5 “527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.672,
6 527.676, 527.740, 527.750[,] **or** 527.755[, 527.788 or 527.797,] or any rule
7 promulgated under ORS 527.710 [*or section 2 or 44 of this 2022 Act,*] is a Class
8 A misdemeanor. Each day of operation in violation of an order issued under
9 ORS 527.680 (3) shall be deemed to be a separate offense.

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

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

14 “527.992. (1) In addition to any other penalty provided by law, any person
15 who fails to comply with any of the following may incur a civil penalty in
16 the amount adopted under ORS 527.685:

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

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

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

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

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

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

1 “610.060. [*Except as provided in section 23 of this 2022 Act,*] Nothing in the
2 wildlife laws is intended to deny the right of any person to control predatory
3 animals as provided in ORS 610.105.

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

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

13

14

“CONFORMING AMENDMENTS

15

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

17 “105.810. (1) Except as provided in ORS 477.089 and 477.092 and sub-
18 sections (4) to (7) of this section, whenever any person, without lawful au-
19 thority, willfully injures or severs from the land of another any produce
20 thereof or cuts down, girdles or otherwise injures or carries off any tree,
21 timber or shrub on the land of another person, or of the state, county, United
22 States or any public corporation, or on the street or highway in front of any
23 person’s house, or in any village, town or city lot, or cultivated grounds, or
24 on the common or public grounds of any village, town or city, or on the
25 street or highway in front thereof, in an action by such person, village, town,
26 city, the United States, state, county, or public corporation, against the
27 person committing such trespasses if judgment is given for the plaintiff, it
28 shall be given for treble the amount of damages claimed, or assessed for the
29 trespass. In any such action, upon plaintiff’s proof of ownership of the
30 premises and the commission by the defendant of any of the acts mentioned

1 in this section, it is prima facie evidence that the acts were committed by
2 the defendant willfully, intentionally and without plaintiff's consent.

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

6 “(3) A court may, in its discretion, award to a prevailing plaintiff under
7 subsection (1) of this section reasonable costs of reforestation activities re-
8 lated to the injury sustained by the plaintiff.

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

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

14 “(b) The contract identifies the operation area by a metes and bounds
15 description or other sufficient legal description;

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

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

20 “(B) Flags, stakes or otherwise clearly marks the boundaries of the oper-
21 ation area; and

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

26 “(d) The contract logger verifies the deed, contract or instrument de-
27 scribed in paragraph (c)(C) of this subsection against the metes and bounds
28 description or other sufficient legal description in the contract;

29 “(e) The contract logger retains a copy of the deed, contract or instrument
30 described in paragraph (c)(C) of this subsection for at least three years; and

1 “(f) The contract logger does not receive written notice that any person
2 has a claim of title to the land or timber in the operation area that is ad-
3 verse to the person who engages the contract logger under the contract.

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

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

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

20 “(b) The court determines, upon motion of the plaintiff, that all or part
21 of the judgment cannot be collected from the person who engaged the con-
22 tract logger.

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

25 “(8) For purposes of this section:

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

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

29

30

“CAPTIONS

1 **“SECTION 78. The unit captions used in this 2022 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2022 Act.**

5

6

“EMERGENCY CLAUSE

7

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

11
