

Senate Bill 627

Sponsored by Senator GIROD

SUMMARY

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

Transfers duties, functions and powers of State Department of Fish and Wildlife relating to tax exemption for riparian land, special assessment for qualified wildlife habitat, identification or designation of threatened or endangered species, exception of nongame wildlife and forest health policies to Oregon Watershed Enhancement Board.

Transfers duties, functions and powers of State Department of Fish and Wildlife relating to determining wolf depredation on livestock for tax credit or compensation payment purposes to State Department of Agriculture.

Changes description of State Department of Fish and Wildlife duties, functions and powers.

Renames State Department of Fish and Wildlife to Oregon Fish and Game. Renames Wildlife Division of department to Game Division. Changes title of State Fish and Wildlife Director to State Fish and Game Director.

A BILL FOR AN ACT

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Relating to natural resource administration; creating new provisions; and amending ORS 137.138, 166.220, 166.291, 166.660, 181A.265, 181A.275, 182.535, 183.700, 184.668, 196.408, 196.438, 196.540, 196.542, 196.545, 196.550, 196.555, 196.572, 196.573, 196.635, 196.810, 196.820, 196.850, 196.905, 196.910, 197.770, 244.050, 270.100, 274.755, 274.780, 274.860, 279A.050, 284.752, 308A.350, 308A.356, 308A.359, 308A.360, 308A.362, 308A.365, 308A.368, 308A.374, 308A.383, 308A.406, 308A.409, 308A.412, 308A.424, 308A.430, 308A.743, 315.138, 315.174, 352.829, 390.565, 390.725, 390.835, 390.855, 390.930, 401.054, 466.135, 466.280, 468B.060, 468B.090, 468B.365, 468B.400, 468B.450, 469.350, 469.373, 469.840, 477.747, 496.004, 496.080, 496.085, 496.112, 496.116, 496.118, 496.121, 496.124, 496.138, 496.141, 496.146, 496.164, 496.167, 496.168, 496.169, 496.172, 496.176, 496.182, 496.201, 496.206, 496.211, 496.228, 496.232, 496.236, 496.242, 496.246, 496.270, 496.275, 496.286, 496.289, 496.291, 496.300, 496.303, 496.306, 496.350, 496.375, 496.390, 496.445, 496.460, 496.470, 496.480, 496.490, 496.605, 496.731, 496.815, 496.820, 496.825, 496.830, 496.835, 497.022, 497.136, 497.139, 497.141, 497.228, 497.248, 497.249, 497.252, 497.258, 497.400, 497.655, 497.660, 498.012, 498.014, 498.022, 498.126, 498.128, 498.166, 498.182, 498.257, 498.279, 498.306, 498.321, 498.326, 498.341, 498.500, 498.502, 498.825, 498.827, 498.833, 506.006, 506.154, 506.214, 506.226, 506.231, 506.462, 506.465, 506.521, 506.526, 506.620, 506.720, 506.995, 507.050, 508.030, 508.035, 508.111, 508.116, 508.316, 508.406, 508.410, 508.415, 508.445, 508.450, 508.470, 508.485, 508.490, 508.495, 508.500, 508.502, 508.505, 508.515, 508.520, 508.535, 508.540, 508.715, 508.718, 508.730, 508.755, 508.762, 508.765, 508.781, 508.784, 508.790, 508.792, 508.793, 508.796, 508.807, 508.808, 508.810, 508.816, 508.819, 508.822, 508.825, 508.828, 508.852, 508.861, 508.867, 508.883, 508.892, 508.895, 508.901, 508.904, 508.910, 508.915, 508.936, 508.943, 508.947, 508.949, 508.951, 508.953, 508.960, 509.015, 509.110, 509.120, 509.160, 509.245, 509.580, 509.585, 509.590, 509.592, 509.595, 509.610, 509.620, 509.625, 509.630, 509.645, 517.750, 517.956, 517.988, 522.125, 526.271, 526.274, 526.280, 526.710, 526.786, 526.905, 527.678, 527.710, 536.015, 536.017, 536.050, 536.220, 537.132, 537.135, 537.141, 537.142, 537.147, 537.211, 537.230, 537.336, 537.409, 537.630, 538.170, 538.220, 538.251,

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

538.430, 540.510, 540.520, 540.525, 540.530, 540.532, 541.386, 541.669, 541.686, 541.689, 541.898, 541.972, 541.973, 543.085, 543.265, 543.280, 543.765, 543A.035, 543A.075, 564.105, 570.770, 570.780, 571.620, 610.003, 610.150, 619.095, 619.105, 624.165, 634.550, 634.660, 686.040, 811.560, 830.185, 830.589, 830.594, 830.998 and 830.999 and section 2, chapter 460, Oregon Laws 1995, section 6, chapter 1059, Oregon Laws 1999, section 3, chapter 499, Oregon Laws 2001, section 9, chapter 636, Oregon Laws 2009, section 11, chapter 913, Oregon Laws 2009, section 2, chapter 686, Oregon Laws 2011, section 3, chapter 363, Oregon Laws 2013, sections 1 and 7, chapter 734, Oregon Laws 2015, sections 2 and 3, chapter 330, Oregon Laws 2017, sections 1 and 2, chapter 331, Oregon Laws 2017, section 1, chapter 96, Oregon Laws 2018, section 2, chapter 100, Oregon Laws 2018, and section 2, chapter 104, Oregon Laws 2018.

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

TRANSFER TO OREGON WATERSHED ENHANCEMENT BOARD

SECTION 1. The duties, functions and powers of the State Department of Fish and Wildlife relating to tax exemption for riparian land, special assessment for qualified wildlife habitat, the identification or designation of threatened or endangered species, the exception of nongame wildlife and forest health policies are imposed upon, transferred to and vested in the Oregon Watershed Enhancement Board. This section does not transfer any State Fish and Wildlife Commission duties, functions or powers regarding the conservation and management plan described in ORS 498.014.

RECORDS, PROPERTY, EMPLOYEES

SECTION 2. (1) The State Fish and Wildlife Director shall:

(a) Deliver to the Oregon Watershed Enhancement Board all records and property within the jurisdiction of the director that relate to the duties, functions and powers transferred by section 1 of this 2019 Act; and

(b) Transfer to the board those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 1 of this 2019 Act.

(2) The executive director of the Oregon Watershed Enhancement Board shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred by section 1 of this 2019 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The Governor shall resolve any dispute between the State Department of Fish and Wildlife and the board relating to transfers of records, property and employees under this section, and the Governor’s decision is final.

UNEXPENDED REVENUES

SECTION 3. (1) The unexpended balances of amounts authorized to be expended by the State Department of Fish and Wildlife for the biennium beginning July 1, 2019, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section

1 1 of this 2019 Act are transferred to and are available for expenditure by the Oregon
 2 Watershed Enhancement Board for the biennium beginning July 1, 2019, for the purpose of
 3 administering and enforcing the duties, functions and powers transferred by section 1 of this
 4 2019 Act.

5 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
 6 expenditures by the department remain applicable to expenditures by the board under this
 7 section.

8 9 ACTION, PROCEEDING, PROSECUTION

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11 SECTION 4. The transfer of duties, functions and powers to the Oregon Watershed En-
 12 hancement Board by section 1 of this 2019 Act does not affect any action, proceeding or
 13 prosecution involving or with respect to the duties, functions and powers begun before and
 14 pending at the time of the transfer, except that the board is substituted for the State De-
 15 partment of Fish and Wildlife in the action, proceeding or prosecution.

16 17 LIABILITY, DUTY, OBLIGATION

18
19 SECTION 5. (1) Nothing in sections 1 to 7 of this 2019 Act relieves a person of a liability,
 20 duty or obligation accruing under or with respect to the duties, functions and powers
 21 transferred by section 1 of this 2019 Act. The Oregon Watershed Enhancement Board may
 22 undertake the collection or enforcement of any such liability, duty or obligation.

23 (2) The rights and obligations of the State Department of Fish and Wildlife legally in-
 24 curred under contracts, leases and business transactions executed, entered into or begun
 25 before the operative date of section 1 of this 2019 Act accruing under or with respect to the
 26 duties, functions and powers transferred by section 1 of this 2019 Act are transferred to the
 27 board. For the purpose of succession to these rights and obligations, the board is a contin-
 28 uation of the department and not a new authority.

29 30 RULES

31
32 SECTION 6. Notwithstanding the transfer of duties, functions and powers by section 1
 33 of this 2019 Act, the rules of the State Department of Fish and Wildlife with respect to such
 34 duties, functions or powers that are in effect on the operative date of section 1 of this 2019
 35 Act continue in effect until superseded or repealed by rules of the Oregon Watershed En-
 36 hancement Board. References in the rules of the department to the department or an officer
 37 or employee of the department are considered to be references to the board or an officer or
 38 employee of the board.

39 SECTION 7. Whenever, in any uncodified law or resolution of the Legislative Assembly
 40 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 41 the context of the duties, functions and powers transferred by section 1 of this 2019 Act,
 42 reference is made to the State Department of Fish and Wildlife, or an officer or employee
 43 of the department, whose duties, functions or powers are transferred by section 1 of this 2019
 44 Act, the reference is considered to be a reference to the Oregon Watershed Enhancement
 45 Board or an officer or employee of the board who by this 2019 Act is charged with carrying

1 out the duties, functions and powers.

2 **SECTION 8. The Oregon Watershed Enhancement Board:**

3 (1) Shall conduct investigations of wildlife species native to this state and shall determine
4 whether any such species is a threatened species or an endangered species.

5 (2) By rule, shall establish and publish, and from time to time may revise, a list of wildlife
6 species that are threatened species or endangered species. Listed threatened species or en-
7 dangered species shall be protected as provided in ORS 496.182.

8 (3) Shall work cooperatively with state agencies that have land management authority
9 or regulatory authority to determine their roles within their statutory obligations in the
10 conservation of endangered species, as described in ORS 496.182 (8).

11 (4) Shall adopt administrative rules to carry out the provisions of ORS 496.171 to 496.182
12 and 498.026.

13
14 **TRANSFER TO STATE DEPARTMENT OF AGRICULTURE**

15
16 **SECTION 9. The duties, functions and powers of the State Department of Fish and**
17 **Wildlife relating to determining wolf depredation on livestock for tax credit or compensation**
18 **payment purposes are imposed upon, transferred to and vested in the State Department of**
19 **Agriculture.**

20
21 **RECORDS, PROPERTY, EMPLOYEES**

22
23 **SECTION 10. (1) The State Fish and Wildlife Director shall:**

24 (a) Deliver to the State Department of Agriculture all records and property within the
25 jurisdiction of the director that relate to the duties, functions and powers transferred by
26 section 9 of this 2019 Act; and

27 (b) Transfer to the department those employees engaged primarily in the exercise of the
28 duties, functions and powers transferred by section 9 of this 2019 Act.

29 (2) The Director of Agriculture shall take possession of the records and property, and
30 shall take charge of the employees and employ them in the exercise of the duties, functions
31 and powers transferred by section 9 of this 2019 Act, without reduction of compensation but
32 subject to change or termination of employment or compensation as provided by law.

33 (3) The Governor shall resolve any dispute between the State Department of Fish and
34 Wildlife and the State Department of Agriculture relating to transfers of records, property
35 and employees under this section, and the Governor's decision is final.

36
37 **UNEXPENDED REVENUES**

38
39 **SECTION 11. (1) The unexpended balances of amounts authorized to be expended by the**
40 **State Department of Fish and Wildlife for the biennium beginning July 1, 2019, from revenues**
41 **dedicated, continuously appropriated, appropriated or otherwise made available for the pur-**
42 **pose of administering and enforcing the duties, functions and powers transferred by section**
43 **9 of this 2019 Act are transferred to and are available for expenditure by the State Depart-**
44 **ment of Agriculture for the biennium beginning July 1, 2019, for the purpose of administering**
45 **and enforcing the duties, functions and powers transferred by section 9 of this 2019 Act.**

1 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
2 expenditures by the State Department of Fish and Wildlife remain applicable to expenditures
3 by the State Department of Agriculture under this section.
4

5 ACTION, PROCEEDING, PROSECUTION
6

7 SECTION 12. The transfer of duties, functions and powers to the State Department of
8 Agriculture by section 9 of this 2019 Act does not affect any action, proceeding or prose-
9 cution involving or with respect to the duties, functions and powers begun before and pend-
10 ing at the time of the transfer, except that the department is substituted for the State
11 Department of Fish and Wildlife in the action, proceeding or prosecution.
12

13 LIABILITY, DUTY, OBLIGATION
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15 SECTION 13. (1) Nothing in sections 9 to 15 of this 2019 Act relieves a person of a li-
16 ability, duty or obligation accruing under or with respect to the duties, functions and powers
17 transferred by section 9 of this 2019 Act. The State Department of Agriculture may under-
18 take the collection or enforcement of any such liability, duty or obligation.

19 (2) The rights and obligations of the State Department of Fish and Wildlife legally in-
20 curred under contracts, leases and business transactions executed, entered into or begun
21 before the operative date of section 9 of this 2019 Act accruing under or with respect to the
22 duties, functions and powers transferred by section 9 of this 2019 Act are transferred to the
23 State Department of Agriculture. For the purpose of succession to these rights and obli-
24 gations, the State Department of Agriculture is a continuation of the State Department of
25 Fish and Wildlife and not a new authority.
26

27 RULES
28

29 SECTION 14. Notwithstanding the transfer of duties, functions and powers by section 9
30 of this 2019 Act, the rules of the State Department of Fish and Wildlife with respect to such
31 duties, functions or powers that are in effect on the operative date of section 9 of this 2019
32 Act continue in effect until superseded or repealed by rules of the State Department of Ag-
33 riculture. References in the rules of the State Department of Fish and Wildlife to the de-
34 partment or an officer or employee of the department are considered to be references to the
35 State Department of Agriculture or an officer or employee of the department.

36 SECTION 15. Whenever, in any uncodified law or resolution of the Legislative Assembly
37 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
38 the context of the duties, functions and powers transferred by section 9 of this 2019 Act,
39 reference is made to the State Department of Fish and Wildlife, or an officer or employee
40 of the department, whose duties, functions or powers are transferred by section 9 of this 2019
41 Act, the reference is considered to be a reference to the State Department of Agriculture
42 or an officer or employee of the department who by this 2019 Act is charged with carrying
43 out the duties, functions and powers.
44

45 CONFORMING AMENDMENTS

SECTION 16. ORS 137.138 is amended to read:

137.138. (1) In addition to and not in lieu of any other sentence it may impose, a court shall require a defendant convicted under ORS 164.365, 166.663, 167.315, 498.056 or 498.146 or other state, county or municipal laws, for an act involving or connected with injuring, damaging, mistreating or killing a livestock animal, to forfeit any rights in weapons used in connection with the act underlying the conviction.

(2) In addition to and not in lieu of any other sentence it may impose, a court shall revoke any hunting license possessed by a defendant convicted as described in subsection (1) of this section.

(3) The State Fish and [*Wildlife*] **Game** Director shall refuse to issue a hunting license to a defendant convicted as described under subsection (1) of this section for a period of two years following the conviction.

(4) As used in this section, "livestock animal" has the meaning given in ORS 164.055.

SECTION 17. ORS 166.220 is amended to read:

166.220. (1) A person commits the crime of unlawful use of a weapon if the person:

(a) Attempts to use unlawfully against another, or carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon as defined in ORS 161.015; or

(b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge.

(2) This section does not apply to:

(a) Police officers or military personnel in the lawful performance of their official duties;

(b) Persons lawfully defending life or property as provided in ORS 161.219;

(c) Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices upon public or private shooting ranges, shooting galleries or other areas designated and built for the purpose of target shooting;

(d) Persons lawfully engaged in hunting in compliance with rules and regulations adopted by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**; or

(e) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife.

(3) Unlawful use of a weapon is a Class C felony.

SECTION 18. ORS 166.291 is amended to read:

166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person:

(a)(A) Is a citizen of the United States; or

(B) Is a legal resident alien who can document continuous residency in the county for at least six months and has declared in writing to the United States Citizenship and Immigration Services the intent to acquire citizenship status and can present proof of the written declaration to the sheriff at the time of application for the license;

(b) Is at least 21 years of age;

(c) Is a resident of the county;

(d) Has no outstanding warrants for arrest;

(e) Is not free on any form of pretrial release;

(f) Demonstrates competence with a handgun by any one of the following:

1 (A) Completion of any hunter education or hunter safety course approved by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** or a similar agency of another state if handgun safety was a component of the course;

4 (B) Completion of any National Rifle Association firearms safety or training course if handgun safety was a component of the course;

6 (C) Completion of any firearms safety or training course or class available to the general public offered by law enforcement, community college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or a law enforcement agency if handgun safety was a component of the course;

10 (D) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, reserve law enforcement officers or any other law enforcement officers if handgun safety was a component of the course;

13 (E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;

15 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been revoked; or

17 (G) Completion of any firearms training or safety course or class conducted by a firearms instructor certified by a law enforcement agency or the National Rifle Association if handgun safety was a component of the course;

20 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

22 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor conviction for the possession of marijuana as described in paragraph (L) of this subsection;

25 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

26 (j) Has not been found to be a person with mental illness and is not subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

29 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, the person was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470;

33 (L) Has not been convicted of an offense involving controlled substances or participated in a court-supervised drug diversion program, except this disability does not operate to exclude a person if:

36 (A) The person can demonstrate that the person has been convicted only once of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

40 (B) The person can demonstrate that the person has only once completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

44 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738;

1 (n) Has not received a dishonorable discharge from the Armed Forces of the United States;

2 (o) Is not required to register as a sex offender in any state; and

3 (p) Is not presently subject to an order under ORS 426.133 prohibiting the person from pur-
4 chasing or possessing a firearm.

5 (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.
6 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of
7 other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

8 (3) Before the sheriff may issue a license:

9 (a) The application must state the applicant's legal name, current address and telephone number,
10 date and place of birth, hair and eye color and height and weight. The application must also list the
11 applicant's residence address or addresses for the previous three years. The application must contain
12 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
13 section. The application may include the Social Security number of the applicant if the applicant
14 voluntarily provides this number. The application must be signed by the applicant.

15 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
16 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
17 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
18 records check is necessary, the sheriff shall request the Department of State Police to conduct the
19 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
20 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
21 check and may not keep any record of the fingerprints. The Department of State Police shall report
22 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
23 Police shall also furnish the sheriff with any information about the applicant that the Department
24 of State Police may have in its possession including, but not limited to, manual or computerized
25 criminal offender information.

26 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
27 quest. The forms shall be uniform throughout this state in substantially the following form:

28
29
30 APPLICATION FOR LICENSE TO CARRY
31 CONCEALED HANDGUN

32 Date _____

33 I hereby declare as follows:

34 I am a citizen of the United States or a legal resident alien who can document continuous res-
35 idency in the county for at least six months and have declared in writing to the United States Cit-
36 izenship and Immigration Services my intention to become a citizen and can present proof of the
37 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
38 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
39 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
40 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
41 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
42 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
43 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
44 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
45 volving controlled substances or completed a court-supervised drug diversion program. There are

1 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
2 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a
3 person with mental illness and presently subject to an order prohibiting me from purchasing or
4 possessing a firearm because of mental illness. I am not under a court order to participate in as-
5 sisted outpatient treatment that includes an order prohibiting me from purchasing or possessing a
6 firearm. If any of the previous conditions do apply to me, I have been granted relief or wish to pe-
7 tition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or have
8 had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order is-
9 sued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge
10 from the Armed Forces of the United States. I am not required to register as a sex offender in any
11 state. I understand I will be fingerprinted and photographed.

12
13 Legal name _____
14 Age _____ Date of birth _____
15 Place of birth _____
16 Social Security number _____

17 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
18 thorized under ORS 166.291. It will be used only as a means of identification.)

19
20 Proof of identification (Two pieces of current identification are required, one of which must bear a
21 photograph of the applicant. The type of identification and the number on the identification are to
22 be filled in by the sheriff.):

- 23 1. _____
24 2. _____

25
26 Height _____ Weight _____
27 Hair color _____ Eye color _____

28
29 Current address _____

(List residence addresses for the
past three years on the back.)

30
31
32
33 City _____ County _____ Zip _____
34 Phone _____

35
36 I have read the entire text of this application, and the statements therein are correct and true.
37 (Making false statements on this application is a misdemeanor.)

38 _____
39 (Signature of Applicant)

40
41 Character references.

42 _____
43 Name: Address
44 _____
45 Name: Address

1 Approved _____ Disapproved _____ by _____

2

3 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

4 Date _____ Fee Paid _____

5 License No. _____

6

7

8 (5)(a) Fees for concealed handgun licenses are:

9 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

10 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

11 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

12 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
13 the concealed handgun license.

14 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
15 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
16 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
17 performance of duties under those sections.

18 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
19 shall enter the applicant’s name into the Law Enforcement Data System indicating that the person
20 is an applicant for a concealed handgun license or is a license holder.

21 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
22 for a resident of a contiguous state who has a compelling business interest or other legitimate
23 demonstrated need.

24 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
25 person:

26 (a) Has a current Oregon driver license issued to the person showing a residence address in the
27 county;

28 (b) Is registered to vote in the county and has a voter notification card issued to the person
29 under ORS 247.181 showing a residence address in the county;

30 (c) Has documentation showing that the person currently leases or owns real property in the
31 county; or

32 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
33 tax year showing a residence address in the county.

34 (10) As used in this section, “drug diversion program” means a program in which a defendant
35 charged with a marijuana possession offense completes a program under court supervision and in
36 which the marijuana possession offense is dismissed upon successful completion of the diversion
37 program.

38 **SECTION 19.** ORS 166.660 is amended to read:

39 166.660. (1) A person commits the crime of unlawful paramilitary activity if the person:

40 (a) Exhibits, displays or demonstrates to another person the use, application or making of any
41 firearm, explosive or incendiary device or any technique capable of causing injury or death to per-
42 sons and intends or knows that such firearm, explosive or incendiary device or technique will be
43 unlawfully employed for use in a civil disorder; or

44 (b) Assembles with one or more other persons for the purpose of training with, practicing with
45 or being instructed in the use of any firearm, explosive or incendiary device or technique capable

1 of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive
2 or incendiary device or technique in a civil disorder.

3 (2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed
4 in the otherwise lawful performance of the officer's official duties.

5 (b) Nothing in this section makes unlawful any activity of [*the State Department of Fish and*
6 *Wildlife*] **Oregon Fish and Game**, or any activity intended to teach or practice self-defense or
7 self-defense techniques, such as karate clubs or self-defense clinics, and similar lawful activity, or
8 any facility, program or lawful activity related to firearms instruction and training intended to teach
9 the safe handling and use of firearms, or any other lawful sports or activities related to the indi-
10 vidual recreational use or possession of firearms, including but not limited to hunting activities,
11 target shooting, self-defense, firearms collection or any organized activity including, but not limited
12 to any hunting club, rifle club, rifle range or shooting range which does not include a conspiracy
13 as defined in ORS 161.450 or the knowledge of or the intent to cause or further a civil disorder.

14 (3) Unlawful paramilitary activity is a Class C felony.

15 (4) As used in this section:

16 (a) "Civil disorder" means acts of physical violence by assemblages of three or more persons
17 which cause damage or injury, or immediate danger thereof, to the person or property of any other
18 individual.

19 (b) "Firearm" has the meaning given that term in ORS 166.210.

20 (c) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
21 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
22 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
23 blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder,
24 smokeless powder, small arms ammunition and small arms ammunition primers.

25 (d) "Law enforcement officer" means any duly constituted police officer of the United States,
26 any state, any political subdivision of a state or the District of Columbia, and also includes members
27 of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the or-
28 ganized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or
29 the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C.
30 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS
31 161.015 (4) when in the performance of official duties.

32 **SECTION 20.** ORS 181A.265 is amended to read:

33 181A.265. (1) The Department of State Police or another criminal justice agency that the State
34 Chief Information Officer designates shall operate a Criminal Justice Information Standards program
35 that coordinates information among state criminal justice agencies. The program must:

36 (a) Ensure that in developing new information systems, data can be retrieved to support evalu-
37 ating criminal justice planning and programs, including, but not limited to, evaluating the ability
38 of the programs to reduce future criminal conduct;

39 (b) Ensure that maximum effort is made for the safety of public safety officers;

40 (c) Establish methods and standards for data interchange and information access between crim-
41 inal justice information systems, in compliance with information technology rules, policies and
42 standards that the State Chief Information Officer adopts;

43 (d) Design and implement improved applications for exchange of agency information; and

44 (e) Implement the capability to exchange images between criminal justice agencies.

45 (2) The program shall develop a plan to accelerate data sharing and information integration

1 among criminal justice agencies. The plan must include, but is not limited to including, priorities,
 2 timelines, development costs, resources needed, the projected ongoing cost of support, critical suc-
 3 cess factors and any known barriers to accomplishing the plan. The plan must align with and sup-
 4 port the Enterprise Information Resources Management Strategy described in ORS 276A.203.
 5 Representatives of criminal justice agencies and public safety agencies, including but not limited to
 6 local law enforcement agencies, courts of criminal jurisdiction, district attorneys, city attorneys
 7 with criminal prosecutive functions, public defender organizations established under ORS chapter
 8 151, community corrections directors, jail managers and county juvenile departments, shall be in-
 9 vited to participate in the planning process. The program shall present the plan to the State Chief
 10 Information Officer no later than May 30 of each even-numbered year for development of the
 11 Governor's budget. The program shall submit the plan to the Joint Legislative Committee on Infor-
 12 mation Management and Technology no later than December 31 of each even-numbered year.

13 (3) Notwithstanding the meaning given "criminal justice agency" in ORS 181A.010, as used in
 14 this section and ORS 181A.270, "criminal justice agency" includes, but is not limited to:

- 15 (a) The Judicial Department;
- 16 (b) The Attorney General;
- 17 (c) The Department of Corrections;
- 18 (d) The Department of State Police;
- 19 (e) Any other state agency with law enforcement authority designated by order of the Governor;
- 20 (f) The Department of Transportation;
- 21 (g) The State Board of Parole and Post-Prison Supervision;
- 22 (h) The Department of Public Safety Standards and Training;
- 23 (i) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game**;
- 24 (j) The Oregon Liquor Control Commission;
- 25 (k) The Oregon Youth Authority;
- 26 (L) The Youth Development Division; and
- 27 (m) A university that has established a police department under ORS 352.121 or 353.125.

28 **SECTION 21.** ORS 181A.275 is amended to read:

29 181A.275. (1) There is established a Criminal Justice Information Standards Advisory Board to
 30 advise the Department of State Police or the criminal justice agency that the State Chief Informa-
 31 tion Officer designates under ORS 181A.265 (1) about the department's or the agency's duties under
 32 ORS 181A.265. The board consists of the following members:

- 33 (a) The State Court Administrator or the administrator's designee;
- 34 (b) The Director of the Department of Corrections or the director's designee;
- 35 (c) The Superintendent of State Police or the superintendent's designee;
- 36 (d) The executive director of the Oregon Criminal Justice Commission or the executive
 37 director's designee;
- 38 (e) The Director of Transportation or the director's designee;
- 39 (f) The chairperson of the State Board of Parole and Post-Prison Supervision or the
 40 chairperson's designee;
- 41 (g) The Director of the Department of Public Safety Standards and Training or the director's
 42 designee;
- 43 (h) A chief of police designated by the Oregon Association Chiefs of Police;
- 44 (i) A sheriff designated by the Oregon State Sheriffs' Association;
- 45 (j) A jail manager designated by the Oregon Sheriff's Jail Command Council;

1 (k) A county juvenile department director designated by the Oregon Juvenile Department
2 Directors' Association;

3 (L) A community corrections agency director designated by the Oregon Association of Commu-
4 nity Corrections Directors;

5 (m) A district attorney designated by the Oregon District Attorneys Association;

6 (n) The State Chief Information Officer or the State Chief Information Officer's designee;

7 (o) The Director of the Oregon Youth Authority or the director's designee;

8 [(p) *The State Fish and Wildlife Director or the director's designee;*]

9 [(q)] (p) The administrator of the Oregon Liquor Control Commission or the administrator's
10 designee; and

11 [(r)] (q) The Youth Development Director or the director's designee.

12 (2) The board shall meet at such times and places as the board deems necessary.

13 (3) The members of the board are not entitled to compensation but are entitled to expenses as
14 provided in ORS 292.495.

15 **SECTION 22.** ORS 182.535 is amended to read:

16 182.535. For purposes of ORS 182.535 to 182.550, "natural resource agency" means the Depart-
17 ment of Environmental Quality, the State Department of Agriculture, the Water Resources Depart-
18 ment, [*the State Department of Fish and Wildlife,*] the State Forestry Department, the Department
19 of State Lands, the Department of Education, the State Department of Geology and Mineral Indus-
20 tries, the Department of Land Conservation and Development, the State Marine Board, the Public
21 Utility Commission, the Department of Transportation, the State Fire Marshal and the Oregon
22 Health Authority.

23 **SECTION 23.** ORS 183.700 is amended to read:

24 183.700. (1) As used in this section and ORS 183.702, "permit" means an individual and
25 particularized license, permit, certificate, approval, registration or similar form of permission re-
26 quired by law to pursue any activity specified in this section, for which an agency must weigh in-
27 formation, make specific findings and make determinations on a case-by-case basis for each
28 applicant.

29 (2) The requirements of this section and ORS 183.702 apply to the following permits granted by:

30 (a) The Department of Environmental Quality under ORS 448.415, 454.655, 454.695, 454.790,
31 454.800, 459.205, 465.315, 465.325, 466.140, 466.145, 466.706 to 466.882, 468A.040, 468A.310, 468B.035,
32 468B.040, 468B.045, 468B.050 and 468B.095.

33 (b) The Department of State Lands under ORS 196.800 to 196.900 and 390.805 to 390.925.

34 (c) The Water Resources Department under ORS chapters 537 and 540, except those permits is-
35 sued under ORS 537.747 to 537.765.

36 (d) The State Department of Agriculture pursuant to ORS 468B.200 to 468B.230 and 622.250.

37 (e) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** pursuant to ORS
38 497.142, 497.218, 497.228, 497.238, 497.248, 497.252, 497.298, 497.308, 498.019, 498.279, 508.106, 508.300,
39 508.760, 508.775, 508.801, 508.840, 508.880, 508.926 and 509.140.

40 (f) The Department of Transportation pursuant to ORS 374.312.

41 **SECTION 24.** ORS 184.668 is amended to read:

42 184.668. (1) Each state agency that issues a permit or other governmental authorization neces-
43 sary for the construction or siting of a transportation project undertaken by the Department of
44 Transportation shall:

45 (a) Upon request from the department, provide a list of applicable standards and criteria for the

1 permit or other governmental authorization;

2 (b) Upon request from the department, provide technical assistance concerning how to complete
3 the permitting or other governmental authorization process in the most cost-effective and timely
4 manner consistent with legal requirements administered by the agency; and

5 (c) Within the authority and discretion otherwise afforded the agency by law, expedite review
6 of, and the final decision on, the permit or other governmental authorization.

7 (2) When a local land use decision concerning a transportation project undertaken by the de-
8 partment involves the application of statutes or rules that are administered by a state agency, upon
9 request from the department the state agency shall provide technical assistance to the department
10 concerning the application of the statute or rule to the transportation project. If a state agency
11 provides technical assistance to the department under this subsection, upon request from the de-
12 partment the state agency shall participate in the local land use decision in order to place the
13 substance of its assistance to the department on the record of the local proceeding. If the local land
14 use decision is appealed, the department may request that the state agency participate in the appeal.

15 (3) As used in this section:

16 (a) "State agency" or "agency" means:

17 (A) The Department of Environmental Quality;

18 (B) The Department of Land Conservation and Development;

19 (C) The Department of State Lands;

20 (D) The State Department of Agriculture;

21 [(E) *The State Department of Fish and Wildlife*];

22 [(F)] (E) The State Department of Geology and Mineral Industries;

23 [(G)] (F) The State Forestry Department; and

24 [(H)] (G) The State Parks and Recreation Department.

25 (b) "Transportation project" has the meaning given that term in ORS 367.010.

26 **SECTION 25.** ORS 196.408 is amended to read:

27 196.408. (1) State agencies shall, to the maximum extent practicable, coordinate development of
28 coastal and ocean information systems with those in adjacent states.

29 (2) State agencies with responsibility for oil spill and hazardous material response, damage as-
30 sessment and compensation in the marine environment shall, to the maximum extent practicable,
31 coordinate Oregon's plans, programs, policies and techniques with those of adjacent states.

32 (3) State agencies which have jurisdiction over water areas, the seabed and resources adjacent
33 to offshore rocks and islands may coordinate with adjacent states and federal agencies to develop
34 programs and regulations to manage uses and activities of ocean areas adjacent to coastal cliffs and
35 offshore rocks and islands managed within the National Wildlife Refuge System.

36 (4) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may coordinate with
37 fishery managers in adjacent states to develop a uniform fish catch and monitoring system.

38 **SECTION 26.** ORS 196.438 is amended to read:

39 196.438. (1) The Governor shall establish an Ocean Policy Advisory Council that is staffed by
40 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department of Land Con-
41 servation and Development and other departments as the Governor deems necessary. The council
42 shall be composed of:

43 (a) The Governor or the Governor's designee, as a nonvoting member;

44 (b) The director or the director's designee of the following agencies, as nonvoting members:

45 (A) Department of Environmental Quality;

- 1 (B) [*State Department of Fish and Wildlife*] **Oregon Fish and Game**;
 2 (C) State Department of Geology and Mineral Industries;
 3 (D) Department of Land Conservation and Development;
 4 (E) Department of State Lands;
 5 (F) Parks and Recreation Department;
 6 (G) State Department of Agriculture; and
 7 (H) The director or director's designee of Oregon State University, Sea Grant College;
 8 (c) A member of the governing body of Coos, Curry, Douglas or Lane County to be appointed
 9 by the Governor, chosen in consultation with and with the approval of a majority of the members
 10 of the governing bodies of Coos, Curry, Douglas and Lane Counties;
 11 (d) A member of the governing body of Clatsop, Lincoln or Tillamook County to be appointed
 12 by the Governor, chosen in consultation with and with the approval of a majority of the members
 13 of the governing bodies of Clatsop, Lincoln and Tillamook Counties;
 14 (e) An elected city official from a coastal city bordering the territorial sea to be appointed by
 15 the Governor with advice from an Oregon coastal zone management association;
 16 (f) A representative of each of the following ocean interests, to be appointed by the Governor,
 17 and subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution:
 18 (A) Commercial ocean fisheries of the North Coast from Newport north;
 19 (B) Commercial ocean fisheries of the South Coast south of Newport;
 20 (C) Charter, sport or recreation ocean fisheries of the North Coast from Newport north;
 21 (D) Charter, sport or recreation ocean fisheries of the South Coast south of Newport;
 22 (E) Ports marine navigation or transportation;
 23 (F) Coastal nonfishing recreation interests of surfing, diving, kayaking or windsurfing;
 24 (G) A coastal conservation or environmental organization;
 25 (H) Oregon Indian tribes appointed after consultation with the Commission on Indian Services;
 26 (I) A coastwide organization representing a majority of small ports and local governments, as
 27 a nonvoting member; and
 28 (J) A statewide conservation or environmental organization; and
 29 (g) Two representatives of the public, at least one of whom shall be a resident of a county bor-
 30 dering the territorial sea, to be appointed by the Governor.
 31 (2) The term of office of each member appointed by the Governor is four years, but a member
 32 serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor
 33 shall appoint a successor whose term begins on July 1 next following. A member is eligible for re-
 34 appointment. If there is a vacancy for any cause, the Governor shall make an appointment to become
 35 immediately effective for the unexpired term.
 36 (3) A majority of the voting members of the council constitutes a quorum for the transaction
 37 of business.
 38 (4) The voting members of the council shall elect a person from among the membership to chair
 39 the council.
 40 **SECTION 27.** ORS 196.540 is amended to read:
 41 196.540. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game**, **the** State Fish and
 42 Wildlife Commission, **the** State Land Board and relevant state agencies shall, consistent with exist-
 43 ing statutory authority, implement:
 44 (1) The November 29, 2008, recommendations from the Ocean Policy Advisory Council on marine
 45 reserves by adopting rules to establish, study, monitor, evaluate and enforce a pilot marine reserve

1 at Otter Rock and a pilot marine reserve and a marine protected area at Redfish Rocks.

2 (2) The January 25, 2011, recommendations, limited to those related to boundaries and allow-
3 ances, from [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** on marine reserves
4 by adopting rules to establish, study, monitor, evaluate and enforce:

5 (a) A marine reserve and two marine protected areas at Cape Falcon;

6 (b) A marine reserve and three marine protected areas at Cascade Head; and

7 (c) A marine reserve, two marine protected areas and a seabird protection area at Cape
8 Perpetua.

9 **SECTION 28.** ORS 196.542 is amended to read:

10 196.542. (1) The State Fish and Wildlife Commission may not impose prohibitions on fishing by
11 rule pursuant to ORS 196.540 until the baseline data specified in ORS 196.545 (2)(f) have been col-
12 lected consistent with scientifically based monitoring plans.

13 (2) In implementing the activities described in ORS 196.540 pursuant to ORS 196.545, [*the State*
14 *Department of Fish and Wildlife*] **Oregon Fish and Game** shall use local resources where feasible
15 and practical.

16 **SECTION 29.** ORS 196.545 is amended to read:

17 196.545. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game**, in consultation
18 with members from the scientific and technical advisory committee established under ORS 196.451,
19 other relevant marine and fishery scientists, relevant state agencies, ocean users and coastal com-
20 munities shall implement the activities described in ORS 196.540 by developing a work plan.

21 (2) The work plan shall contain the following elements regarding the marine reserves described
22 in ORS 196.540:

23 (a) A biological assessment, including information on habitat characterization, biological re-
24 sources, local knowledge and, for the established pilot marine reserves, monitoring plans.

25 (b) A socioeconomic assessment, including a description of human uses, net effects on sport and
26 commercial fisheries and communities and, for the established pilot marine reserves, monitoring
27 plans.

28 (c) Formation of community teams, with diverse and balanced stakeholder representation that
29 includes local government, recreational fishing industry, commercial fishing industry, nonfishing in-
30 dustry, recreationalists, conservation, coastal watershed councils, relevant marine and avian scien-
31 tists, to collaborate and develop recommendations for potential marine reserves, considering the
32 biological and socioeconomic information developed under this section. Collaboration may be facili-
33 tated by a neutral outside party hired through a competitive bidding process.

34 (d) Provision of information on the process and data gathered to interested parties and made
35 available to the public.

36 (e) Development of scientifically based goals specific to each of the marine reserve sites, incor-
37 porating continuity and cumulative outcomes, benefits and impacts.

38 (f) Provision of baseline data on Oregon's territorial sea, as defined in ORS 196.405.

39 (g) Development of an enforcement plan in consultation with the Oregon State Police and rep-
40 resentatives from affected user groups.

41 (h) Use of communities and volunteers to assist in implementing the work plan where feasible
42 and practical.

43 (3) The data and recommendations produced from the work plan and other available nearshore
44 data shall be used by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, in con-
45 sultation with the Ocean Policy Advisory Council, to recommend the number, size, location and re-

1 striction limits of the potential sites for marine reserve designation, consistent with Executive Order
 2 08-07. If, through this process, it is determined that other appropriate sites need to be considered
 3 or that potential sites are not consistent with Executive Order 08-07, then the data and recommen-
 4 dations produced shall be provided to the public, [*the State Department of Fish and Wildlife*] **Oregon**
 5 **Fish and Game** and other relevant state agencies for future purposes relevant to nearshore man-
 6 agement.

7 **SECTION 30.** ORS 196.550 is amended to read:

8 196.550. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may accept only
 9 gifts, grants or contributions from any source for deposit in the State Wildlife Fund established in
 10 ORS 496.300 that are consistent with the [*department's*] **Oregon Fish and Game** work plan specified
 11 in ORS 196.545.

12 (2) Any designation of marine reserves in Oregon's territorial sea must include commitments by
 13 relevant state agencies to pursue long-term funding necessary to enforce prohibitions, support nec-
 14 essary research and monitoring and provide for public education.

15 (3) If funding cannot be secured to meet the enforcement and research-based monitoring needs
 16 associated with the goals specified in ORS 196.545 (2)(e), agencies responsible for managing the
 17 marine reserves shall make recommendations to the State Fish and Wildlife Commission and the
 18 Legislative Assembly and initiate actions to scale down or suspend fisheries prohibitions in the
 19 marine reserves.

20 **SECTION 31.** ORS 196.555 is amended to read:

21 196.555. Designation of marine reserves requires periodic reporting by [*the State Department of*
 22 *Fish and Wildlife*] **Oregon Fish and Game** in consultation with other relevant state agencies on the
 23 accomplishment of the goals described in ORS 196.545 (2)(e). [*The State Department of Fish and*
 24 *Wildlife*] **Oregon Fish and Game** and the State Land Board shall, based on review of the periodic
 25 reporting, initiate appropriate rulemaking adjustments that may include size, location and re-
 26 strictions on marine reserves.

27 **SECTION 32.** ORS 196.572 is amended to read:

28 196.572. (1) The Oregon Coordinating Council on Ocean Acidification and Hypoxia is established,
 29 consisting of 13 members as follows:

30 (a) The Governor or the Governor's designee;

31 (b) The director of an initiative for integrative marine studies at Oregon State University or the
 32 director's designee;

33 (c) The State Fish and [*Wildlife*] **Game** Director or the director's designee;

34 (d) The Director of Agriculture or the director's designee;

35 (e) The Director of the Department of Environmental Quality or the director's designee;

36 (f) The Director of the Department of Land Conservation and Development or the director's
 37 designee; and

38 (g) Seven members appointed in consultation with the Governor's office as follows:

39 (A) One member representing the Oregon Ocean Science Trust, appointed by the executive di-
 40 rector of the Oregon Ocean Science Trust;

41 (B) One member representing the Sea Grant College of Oregon State University, appointed by
 42 the director of the Sea Grant College;

43 (C) One member representing a conservation organization, appointed by the Ocean Policy Ad-
 44 visory Council;

45 (D) One member representing fishing interests, appointed by the State Fish and Wildlife Com-

1 mission;

2 (E) One member representing the shellfish mariculture industry, appointed by the State Board
3 of Agriculture;

4 (F) One member representing the academic research community with relevant expertise, ap-
5 pointed by the scientific and technical advisory committee to the Ocean Policy Advisory Council;
6 and

7 (G) One member representing the interests of federally recognized Oregon Indian tribes, ap-
8 pointed by the State Fish and Wildlife Commission in consultation with the Commission on Indian
9 Services.

10 (2)(a) The term of office of each member of the coordinating council appointed under subsection
11 (1)(g) of this section is four years, but a member serves at the pleasure of the appointing authority.
12 The terms must be staggered so that no more than two terms end each year.

13 (b) Before the expiration of the term of a member, the appointing authority, in consultation with
14 the Governor, shall appoint a successor to take office upon the date of that expiration. A member
15 is eligible for reappointment. If there is a vacancy for any cause, the appointing authority, in con-
16 sultation with the Governor, shall make an appointment to become immediately effective for the
17 unexpired term.

18 (3) The State Fish and [*Wildlife*] **Game** Director or the director's designee and the director of
19 an initiative for integrative marine studies at Oregon State University or the director's designee
20 shall serve as cochairpersons of the coordinating council.

21 (4) A majority of the members of the coordinating council constitutes a quorum for the trans-
22 action of business.

23 (5) The coordinating council shall meet at times and places specified by the call of the chair-
24 persons or of a majority of the members of the coordinating council.

25 (6) The coordinating council may adopt rules as necessary for the operation of the coordinating
26 council.

27 (7) The members of the coordinating council are not entitled to compensation but are entitled
28 to expenses as provided in ORS 292.495. Claims for expenses incurred in performing functions of the
29 coordinating council shall be paid out of funds appropriated to [*the State Department of Fish and*
30 *Wildlife*] **Oregon Fish and Game** for purposes of the coordinating council.

31 (8) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall provide staff sup-
32 port to the coordinating council.

33 **SECTION 33.** ORS 196.573 is amended to read:

34 196.573. (1) The Oregon Coordinating Council on Ocean Acidification and Hypoxia shall:

35 (a) Review and utilize relevant, scientifically supported information, including the recommen-
36 dations of the West Coast Ocean Acidification and Hypoxia Science Panel and other available in-
37 formation, reports and studies, to:

38 (A) Identify research and monitoring activities necessary to better understand the changing
39 ocean chemistry and the potential impacts of ocean acidification and hypoxia; and

40 (B) Recommend prioritized state actions to address ocean acidification and hypoxia;

41 (b) Identify actions and initiatives to address Oregon's vulnerabilities to ocean acidification and
42 hypoxia that may include, but need not be limited to:

43 (A) Developing optimal strategies for mitigating the effects of ocean acidification and hypoxia;

44 (B) Taking steps to strengthen existing scientific monitoring, research and analysis regarding
45 the effects and trends in ocean acidification and hypoxia;

1 (C) Identifying habitats that are particularly vulnerable to corrosive sea water, including areas
2 experiencing multiple stressors such as hypoxia, sedimentation and harmful algae blooms;

3 (D) Identifying the socioeconomic and ecosystem impacts of intensifying ocean acidification;

4 (E) Taking steps to increase public awareness of the science and impacts of ocean acidification
5 and hypoxia;

6 (F) Developing a long-term ocean acidification and hypoxia coordination strategy among state
7 agencies, academia, the federal government and industry; or

8 (G) Leveraging opportunities for research partnerships with academia, tribes and the commer-
9 cial fishing industry, in order to advance the understanding of ocean acidification and hypoxia in
10 Oregon; and

11 (c) Advise and assist [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and
12 all other represented public agencies in coordinating and carrying out, as directed by the agencies'
13 governing bodies, the actions and initiatives identified under paragraph (b) of this subsection.

14 (2) The coordinating council may develop a Socioeconomic Vulnerability to Ocean Acidification
15 Report. A report developed under this subsection may include, but need not be limited to, informa-
16 tion identifying:

17 (a) Coastal communities in this state that may be impacted by ocean acidification;

18 (b) The impacts of ocean acidification and hypoxia on the communities identified under para-
19 graph (a) of this subsection; or

20 (c) The gaps in understanding that exist regarding the impacts of ocean acidification and
21 hypoxia on economically or commercially important species, particularly species that support com-
22 mercial, recreational and tribal fisheries and shellfish aquaculture in this state.

23 (3) The coordinating council may develop recommendations for the Oregon Ocean Science Trust,
24 state agencies, academia or other organizations on high-priority, strategic research that may be
25 done to address gaps that exist in the understanding of ocean acidification and hypoxia. Strategic
26 research recommendations developed by the coordinating council may include, but need not be lim-
27 ited to, research related to:

28 (a) The impacts of ocean acidification and hypoxia on marine organisms and the marine
29 ecosystem;

30 (b) The economic impacts of ocean acidification and hypoxia on communities in this state; or

31 (c) Developing adaptation and mitigation strategies for conserving and enhancing the resilience
32 of marine organisms and ecosystems for future use and enjoyment by Oregonians and visitors to this
33 state.

34 (4) The coordinating council shall submit a biennial report to the Legislative Assembly and to
35 the Ocean Policy Advisory Council by September 15 of each even-numbered year on the coordinating
36 council's activities and recommendations.

37 (5) All agencies of state government, as defined in ORS 174.111, are requested to assist the co-
38 ordinating council in the performance of its duties and, to the extent permitted by laws relating to
39 confidentiality, to furnish such information and advice as the members of the coordinating council
40 consider necessary to perform their duties.

41 **SECTION 34.** ORS 196.635 is amended to read:

42 196.635. (1) The provisions of ORS 196.600 to 196.655 shall be carried out by the Director of the
43 Department of State Lands. The Department of State Lands shall solicit, but not be bound by,
44 comments from [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department
45 of Transportation, Department of Land Conservation and Development, Department of Environ-

1 mental Quality, Oregon Business Development Department, federal natural resources and regulatory
2 agencies, affected local governments and special districts, conservation organizations and other in-
3 terested parties. All comments shall be in writing and provided to the Department of State Lands
4 and mitigation bank sponsor within 30 days of solicitation by the Department of State Lands. If
5 comments are not received by the Department of State Lands from a state agency or from an af-
6 fected local government or special district within 30 days of solicitation, the director shall assume
7 that the state agency, local government or special district does not desire to provide comments.

8 (2) In cooperation with the parties in subsection (1) of this section, the director, in consultation
9 with the State Land Board, shall:

10 (a) Review opportunities for inclusion of appropriate wetlands in the Statewide Comprehensive
11 Outdoor Recreation Plan.

12 (b) Develop and recommend a wetlands priority plan for inclusion in the Statewide Comprehen-
13 sive Outdoor Recreation Plan. The wetlands priority plan shall be complementary to the purposes
14 and programs under ORS 196.600 to 196.655.

15 (3) The director shall confer with the Oregon Watershed Enhancement Board to develop criteria
16 to certify watershed enhancement projects as mitigation banks.

17 **SECTION 35.** ORS 196.810 is amended to read:

18 196.810. (1)(a) Except as otherwise specifically permitted under ORS 196.600 to 196.905, a person
19 may not remove any material from the beds or banks of any waters of this state or fill any waters
20 of this state without a permit issued under authority of the Director of the Department of State
21 Lands, or in a manner contrary to the conditions set out in the permit, or in a manner contrary to
22 the conditions set out in an order approving a wetland conservation plan.

23 (b) Notwithstanding the permit requirements of this section and notwithstanding the provisions
24 of ORS 196.800 (3) and (13), if any removal or fill activity is proposed in essential indigenous
25 anadromous salmonid habitat, except for those activities customarily associated with agriculture, a
26 permit is required. "Essential indigenous anadromous salmonid habitat" as defined under this sec-
27 tion shall be further defined and designated by rule by the Department of State Lands in consulta-
28 tion with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and in consultation
29 with other affected parties.

30 (c) A person is not required to obtain a permit under paragraph (b) of this subsection for pros-
31 pecting or other nonmotorized activities resulting in the removal from or fill of less than one cubic
32 yard of material at any one individual site and, cumulatively, not more than five cubic yards of
33 material within a designated essential indigenous anadromous salmonid habitat segment in a single
34 year. Prospecting or other nonmotorized activities may be conducted only within the bed or wet
35 perimeter of the waterway and may not occur at any site where fish eggs are present. Removal or
36 filling activities customarily associated with mining require a permit under paragraph (b) of this
37 subsection.

38 (d) A permit is not required under paragraph (b) of this subsection for construction or mainte-
39 nance of fish passage and fish screening structures that are constructed, operated or maintained
40 under ORS 498.306, 498.316, 498.326 or 509.600 to 509.645.

41 (e)(A) Notwithstanding the permit requirements of this section and notwithstanding the provi-
42 sions of ORS 196.800 (3) and (13), if any removal or fill activity is proposed in Oregon's territorial
43 sea that is related to an ocean renewable energy facility as defined in ORS 274.870, a permit is re-
44 quired.

45 (B) An application for a permit related to an ocean renewable energy facility in the territorial

1 sea must include all of the information required by that part of the Territorial Sea Plan that ad-
2 dresses the development of ocean renewable energy facilities in the territorial sea.

3 (C) The Department of State Lands may not issue a removal or fill permit for an ocean
4 renewable energy facility that does not comply with the criteria described in that part of the Ter-
5 ritorial Sea Plan that addresses the development of ocean renewable energy facilities in the terri-
6 torial sea.

7 (f) Nothing in this section limits or otherwise changes the exemptions under ORS 196.905.

8 (g) As used in paragraphs (b) and (c) of this subsection:

9 (A) "Bed" means the land within the wet perimeter and any adjacent nonvegetated dry gravel
10 bar.

11 (B) "Essential indigenous anadromous salmonid habitat" means the habitat that is necessary to
12 prevent the depletion of indigenous anadromous salmonid species during their life history stages of
13 spawning and rearing.

14 (C) "Indigenous anadromous salmonid" means chum, sockeye, Chinook and Coho salmon, and
15 steelhead and cutthroat trout, that are members of the family Salmonidae and are listed as sensitive,
16 threatened or endangered by a state or federal authority.

17 (D) "Prospecting" means searching or exploring for samples of gold, silver or other precious
18 minerals, using nonmotorized methods, from among small quantities of aggregate.

19 (E) "Wet perimeter" means the area of the stream that is under water or is exposed as a non-
20 vegetated dry gravel bar island surrounded on all sides by actively moving water at the time the
21 activity occurs.

22 (2) A public body, as defined in ORS 174.109, may not issue a lease or permit contrary or in
23 opposition to the conditions set out in the permit issued under ORS 196.600 to 196.905.

24 (3) Subsection (1) of this section does not apply to removal of material under a contract, permit
25 or lease with any public body, as defined in ORS 174.109, entered into before September 13, 1967.
26 However, no such contract, permit or lease may be renewed or extended on or after September 13,
27 1967, unless the person removing the material has obtained a permit under ORS 196.600 to 196.905.

28 (4) Notwithstanding subsection (1) of this section, the Department of State Lands may issue,
29 orally or in writing, an emergency authorization to a person for the removal of material from the
30 beds or banks or filling of any waters of this state in an emergency, for the purpose of making re-
31 pairs or for the purpose of preventing irreparable harm, injury or damage to persons or property.
32 The emergency authorization issued under this subsection:

33 (a) Shall contain conditions of operation that the department determines are necessary to mini-
34 mize impacts to water resources or adjoining properties.

35 (b) Shall be based, whenever practicable, on the recommendations contained in an on-site eval-
36 uation by an employee or representative of the department.

37 (c) If issued orally, shall be confirmed in writing by the department within five days.

38 (d) Does not relieve the person from payment of a fee calculated in the manner provided in ORS
39 196.815.

40 **SECTION 36.** ORS 196.820 is amended to read:

41 196.820. (1) Notwithstanding any provision of ORS 196.600 to 196.905 to the contrary, except as
42 provided in subsection (2) of this section, the Director of the Department of State Lands shall not
43 issue any permit to fill Smith Lake or Bybee Lake, located in Multnomah County, below the contour
44 line which lies 11 feet above mean sea level as determined by the 1947 adjusted United States
45 Coastal Geodetic Survey Datum.

1 (2) The Director of the Department of State Lands may issue a permit to fill Smith Lake or
 2 Bybee Lake, located in Multnomah County, if such fill is to enhance or maintain fish and wildlife
 3 habitat or support recreational use or public access at or near Smith Lake or Bybee Lake. A fill
 4 shall be considered to be for the purpose of enhancing or maintaining fish and wildlife habitat if the
 5 proposed fill is approved by *[the State Department of Fish and Wildlife]* **Oregon Fish and Game**.

6 **SECTION 37.** ORS 196.850, as amended by section 4, chapter 516, Oregon Laws 2001, section
 7 12, chapter 253, Oregon Laws 2003, and section 7, chapter 849, Oregon Laws 2007, is amended to
 8 read:

9 196.850. (1) Notwithstanding ORS 196.810, the Department of State Lands may, by rule, grant
 10 general authorization for removal of material from the bed or banks of any waters of this state or
 11 the filling of any waters of this state without a permit from the department if the department finds
 12 that the activities subject to the general authorization:

- 13 (a) Are substantially similar in nature;
- 14 (b) Would cause only minimal individual and cumulative environmental impacts; and
- 15 (c) Would not result in long-term harm to water resources of the state.

16 (2) A general authorization may be granted on a statewide or other geographic basis.

17 (3) The department shall condition any general authorization upon actions necessary to minimize
 18 environmental impacts.

19 (4) The department shall provide notice of any proposed general authorization to affected federal
 20 and state agencies, local governments, tribal governments and the public. The notice shall include:

- 21 (a) A clear description of the proposal; and
- 22 (b) Draft findings and any proposed conditions pursuant to this section.

23 (5) Any person proposing to conduct an action under a general authorization shall:

24 (a) Notify the department in writing prior to conducting the action. The person may not com-
 25 mence the action until the person receives a letter of authorization from the department.

26 (b) Pay the applicable fee to the department as determined under subsection (10) of this section.

27 (6) The Director of the Department of State Lands shall waive the requirements of subsection
 28 (5) of this section if the director issues a general authorization and the authorized activity:

- 29 (a) Involves less than 50 cubic yards of material;
- 30 (b) Will be conducted during periods that minimize adverse effects to fish and wildlife in ac-
 31 cordance with guidance provided by *[the State Department of Fish and Wildlife]* **Oregon Fish and**
 32 **Game;**
- 33 (c) Will not dam or divert a waterway in a manner that obstructs fish passage or vessel navi-
 34 gation; and
- 35 (d) Will not violate water quality standards as established by the Department of Environmental
 36 Quality.

37 (7) The Department of State Lands shall amend or rescind any general authorization upon a
 38 determination that the activities conducted under the authorization have resulted in or would result
 39 in more than minimal environmental impacts or long-term harm to the water resources of this state.

40 (8) The department shall review each general authorization adopted pursuant to this section
 41 every five years. The review shall include public notice and opportunity for public hearing. After
 42 the review, the department may either modify, reissue or rescind the general authorization.

43 (9) In addition to the grounds for review set forth in ORS 183.400 (4), on judicial review of the
 44 validity of a rule adopted under this section, the rule shall be reviewable for substantial evidence
 45 in the rulemaking record. The record shall include copies of all documents before the agency rele-

1 vant to the findings required by subsection (1) of this section.

2 (10) If the rule adopting a general authorization under this section is:

3 (a) For actions that result in moving less than 50 cubic yards of material, the department may
4 not charge a fee for the general authorization.

5 (b) For actions that result in moving 50 or more cubic yards of material, the department may
6 establish a fee for the general authorization. The fee may not exceed \$250 and shall be based on the
7 cost of processing the general authorization.

8 (11) The department shall credit any fee collected under this section to the Common School
9 Fund for use by the department in administration of ORS 196.600 to 196.905.

10 **SECTION 38.** ORS 196.905, as amended by section 6, chapter 516, Oregon Laws 2001, section
11 13, chapter 253, Oregon Laws 2003, section 4, chapter 342, Oregon Laws 2009, section 2, chapter 16,
12 Oregon Laws 2011, section 4, chapter 406, Oregon Laws 2011, and section 2, chapter 428, Oregon
13 Laws 2017, is amended to read:

14 196.905. (1) Notwithstanding the exemptions in subsections (3) to (8) of this section, a permit
15 under ORS 196.600 to 196.905 is required for any fill or removal of material in or from the waters
16 of this state when:

17 (a) The fill or removal is a part of an activity whose purpose is to bring an area of state waters
18 into a use to which it was not previously subject; and

19 (b)(A) The flow or circulation of the waters of this state may be impaired; or

20 (B) The reach of the waters may be reduced.

21 (2) Nothing in ORS 196.600 to 196.905 applies to removal of materials from the beds or banks
22 or filling of the waters of a nonnavigable natural waterway, or any portion thereof, in this state, if:

23 (a) Such waterway or portion is situated within forestland; and

24 (b) Such removal or filling is directly connected with a forest management practice conducted
25 in accordance with ORS 527.610 to 527.770, 527.990 and 527.992.

26 (3) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, on converted
27 wetlands for normal farming and ranching activities such as plowing, grazing, seeding, planting,
28 cultivating, conventional crop rotation or harvesting.

29 (4) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, on lands zoned for
30 exclusive farm use as described in ORS 215.203 for the following activities:

31 (a) Drainage or maintenance of farm or stock ponds; or

32 (b) Maintenance of farm roads, provided that:

33 (A) The farm roads are constructed and maintained in accordance with construction practices
34 designed to minimize any adverse effects to the aquatic environment;

35 (B) Borrow material for farm road maintenance does not come from waters of this state unless
36 authorized by the Department of State Lands; and

37 (C) Maintenance activities are confined to the scope of construction for the original project.

38 (5) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for any activity
39 defined as a farm use in ORS 215.203, on lands zoned for exclusive farm use pursuant to ORS
40 215.203, if the lands are converted wetlands that are also certified as prior converted cropland by
41 the Natural Resources Conservation Service of the United States Department of Agriculture, or its
42 successor agency, so long as commercial agricultural production on the land has not been aban-
43 doned for five or more years.

44 (6) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for the reestablish-
45 ment of crops under federal conservation reserve program provisions set forth in 16 U.S.C. 3831 as

1 in effect on January 1, 2010.

2 (7) The exemptions in subsections (3) to (6) of this section do not apply to any fill or removal
3 that involves changing an area of wetlands or converted wetlands to a nonfarm use.

4 (8) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for the maintenance
5 or reconstruction of structures such as dikes, dams, levees, groins, riprap, tidegates, drainage
6 ditches, irrigation ditches and tile drain systems, provided that:

7 (a) The structure was serviceable within the past five years; and

8 (b) Such maintenance or reconstruction would not significantly adversely affect wetlands or
9 other waters of this state to a greater extent than the wetlands or waters of this state were affected
10 as a result of the original construction of those structures.

11 (9) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for temporary dams
12 constructed for crop or pasture irrigation purposes that are less than 50 cubic yards, provided the
13 following conditions are satisfied:

14 (a) The removal or filling is conducted during periods that minimize adverse effects to fish and
15 wildlife in accordance with guidance provided by [*the State Department of Fish and Wildlife*] **Oregon**
16 **Fish and Game**;

17 (b) The removal or filling does not jeopardize a threatened or endangered species or adversely
18 modify or destroy the habitat of a threatened or endangered species listed under federal or state
19 law; and

20 (c) Temporary fills are removed in their entirety and the area is restored to its approximate
21 original elevation.

22 (10) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for maintenance,
23 including emergency reconstruction of recently damaged parts, of currently serviceable roads or
24 transportation structures such as groins and riprap protecting roads, causeways and bridge abut-
25 ments or approaches.

26 (11) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for the maintenance
27 of access roads constructed to move mining equipment, subject to the following conditions:

28 (a) The access roads are constructed and maintained in accordance with construction practices
29 that minimize adverse effects to the aquatic environment;

30 (b) Borrow material for access road maintenance does not come from waters of this state unless
31 authorized by the Department of State Lands; and

32 (c) Maintenance activities are confined to the scope of construction for the original project.

33 (12) Nothing in ORS 196.600 to 196.905 applies to removal or filling, or both, within the beds or
34 banks of any waters of this state conducted as part of a surface mining operation that is the subject
35 of a memorandum of agreement between the Department of State Lands and the State Department
36 of Geology and Mineral Industries in which the State Department of Geology and Mineral Industries
37 is assigned sole responsibility for permitting as described in ORS 517.797.

38 (13) The department may adopt a rule that exempts from the requirement to obtain a permit
39 under ORS 196.800 to 196.900 voluntary habitat restoration projects that have only minimal adverse
40 impact on waters of this state.

41 (14) Nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, for a change in the
42 point of diversion to withdraw surface water for beneficial use if the change in the point of diversion
43 is necessitated by a change in the location of the surface water and authorized by the Water Re-
44 sources Department.

45 (15) Unless otherwise provided in a proposed order or in a final order issued in a contested case,

1 nothing in ORS 196.800 to 196.900 applies to removal or filling, or both, originally intended or sub-
 2 sequently used for the establishment, repair, restoration, resumption or replacement of the following
 3 uses, if the use was established on or before January 1, 2017, on lands zoned for exclusive farm use,
 4 forest use or mixed farm and forest use:

5 (a) A dwelling:

6 (A) Described in ORS 215.213 (1) or (3) or 215.283 (1);

7 (B) Established subject to county approval under ORS 215.402 to 215.438; or

8 (C) Lawfully established on or before December 31, 1973;

9 (b) An agricultural building as defined in ORS 455.315; or

10 (c) Activities that:

11 (A) Are associated with a dwelling or agricultural building described in this subsection;

12 (B) Have received county approval, if necessary, under ORS 215.402 to 215.438; and

13 (C) Are located on the same lot or parcel as the dwelling or agricultural building.

14 (16) As used in this section:

15 (a)(A) "Converted wetlands" means agriculturally managed wetlands that, on or before June 30,
 16 1989, were brought into commercial agricultural production by diking, draining, leveling, filling or
 17 any similar hydrologic manipulation and by removal or manipulation of natural vegetation, and that
 18 are managed for commercial agricultural purposes.

19 (B) "Converted wetlands" does not include any stream, slough, ditched creek, spring, lake or any
 20 other waters of this state that are located within or adjacent to a converted wetland area.

21 (b) "Harvesting" means physically removing crops or other agricultural products.

22 (c) "Plowing" includes all forms of primary tillage, including moldboard, chisel or wide-blade
 23 plowing, discing, harrowing or similar means of breaking up, cutting, turning over or stirring soil
 24 to prepare it for planting crops or other agricultural products. "Plowing" does not include:

25 (A) The redistribution of soil, rock, sand or other surface materials in a manner that changes
 26 areas of waters of this state into dry land; or

27 (B) Rock crushing activities that result in the loss of natural drainage characteristics, the re-
 28 duction of water storage and recharge capability, or the overburdening of natural water filtration
 29 capacity.

30 (d) "Replacement" means the construction of a new structure that is substantially similar in
 31 size, sited in a substantially similar location and constructed in place of a previously existing
 32 structure.

33 (e) "Seeding" means the sowing of seed or placement of seedlings to produce crops or other
 34 agricultural products.

35 **SECTION 39.** ORS 196.910 is amended to read:

36 196.910. The Department of State Lands shall:

37 (1) Monitor removal and fill activities, including but not limited to prospecting and placer min-
 38 ing, within designated essential indigenous anadromous salmonid habitat areas to determine the ef-
 39 fects of such activities on salmonid spawning and rearing habitat and compile the results in an
 40 annual report.

41 (2) Cooperate with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and
 42 other interested parties to develop and distribute public education and information materials de-
 43 signed to increase understanding and awareness of permit requirements and acceptable removal and
 44 fill practices related to prospecting and placer mining.

45 (3) Report periodically to the appropriate legislative committee on the progress of the Depart-

1 ment of State Lands in implementing ORS 196.810.

2 **SECTION 40.** ORS 197.770 is amended to read:

3 197.770. (1) Any firearms training facility in existence on September 9, 1995, shall be allowed to
4 continue operating until such time as the facility is no longer used as a firearms training facility.

5 (2) For purposes of this section, a “firearms training facility” is an indoor or outdoor facility
6 that provides training courses and issues certifications required:

7 (a) For law enforcement personnel;

8 (b) By [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**; or

9 (c) By nationally recognized programs that promote shooting matches, target shooting and
10 safety.

11 **SECTION 41.** ORS 244.050 is amended to read:

12 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
13 Government Ethics Commission a verified statement of economic interest as required under this
14 chapter:

15 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
16 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

17 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
18 judicial officer who does not otherwise serve as a judicial officer.

19 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

20 (d) The Deputy Attorney General.

21 (e) The Deputy Secretary of State.

22 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
23 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the
24 House of Representatives.

25 (g) The president and vice presidents, or their administrative equivalents, in each public uni-
26 versity listed in ORS 352.002.

27 (h) The following state officers:

28 (A) Adjutant General.

29 (B) Director of Agriculture.

30 (C) Manager of State Accident Insurance Fund Corporation.

31 (D) Water Resources Director.

32 (E) Director of Department of Environmental Quality.

33 (F) Director of Oregon Department of Administrative Services.

34 (G) State Fish and [*Wildlife*] **Game** Director.

35 (H) State Forester.

36 (I) State Geologist.

37 (J) Director of Human Services.

38 (K) Director of the Department of Consumer and Business Services.

39 (L) Director of the Department of State Lands.

40 (M) State Librarian.

41 (N) Administrator of Oregon Liquor Control Commission.

42 (O) Superintendent of State Police.

43 (P) Director of the Public Employees Retirement System.

44 (Q) Director of Department of Revenue.

45 (R) Director of Transportation.

- 1 (S) Public Utility Commissioner.
- 2 (T) Director of Veterans' Affairs.
- 3 (U) Executive director of Oregon Government Ethics Commission.
- 4 (V) Director of the State Department of Energy.
- 5 (W) Director and each assistant director of the Oregon State Lottery.
- 6 (X) Director of the Department of Corrections.
- 7 (Y) Director of the Oregon Department of Aviation.
- 8 (Z) Executive director of the Oregon Criminal Justice Commission.
- 9 (AA) Director of the Oregon Business Development Department.
- 10 (BB) Director of the Office of Emergency Management.
- 11 (CC) Director of the Employment Department.
- 12 (DD) Chief of staff for the Governor.
- 13 (EE) Director of the Housing and Community Services Department.
- 14 (FF) State Court Administrator.
- 15 (GG) Director of the Department of Land Conservation and Development.
- 16 (HH) Board chairperson of the Land Use Board of Appeals.
- 17 (II) State Marine Director.
- 18 (JJ) Executive director of the Oregon Racing Commission.
- 19 (KK) State Parks and Recreation Director.
- 20 (LL) Public defense services executive director.
- 21 (MM) Chairperson of the Public Employees' Benefit Board.
- 22 (NN) Director of the Department of Public Safety Standards and Training.
- 23 (OO) Executive director of the Higher Education Coordinating Commission.
- 24 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 25 (QQ) Director of the Oregon Youth Authority.
- 26 (RR) Director of the Oregon Health Authority.
- 27 (SS) Deputy Superintendent of Public Instruction.
- 28 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 29 the Governor's office.
- 30 (j) Every elected city or county official.
- 31 (k) Every member of a city or county planning, zoning or development commission.
- 32 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 33 cipal administrator of the city or county.
- 34 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 35 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 36 executive officer thereof.
- 37 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 38 (p) The chief administrative officer and the financial officer of each common and union high
- 39 school district, education service district and community college district.
- 40 (q) Every member of the following state boards and commissions:
- 41 (A) Governing board of the State Department of Geology and Mineral Industries.
- 42 (B) Oregon Business Development Commission.
- 43 (C) State Board of Education.
- 44 (D) Environmental Quality Commission.
- 45 (E) Fish and Wildlife Commission of the State of Oregon.

- 1 (F) State Board of Forestry.
- 2 (G) Oregon Government Ethics Commission.
- 3 (H) Oregon Health Policy Board.
- 4 (I) Oregon Investment Council.
- 5 (J) Land Conservation and Development Commission.
- 6 (K) Oregon Liquor Control Commission.
- 7 (L) Oregon Short Term Fund Board.
- 8 (M) State Marine Board.
- 9 (N) Mass transit district boards.
- 10 (O) Energy Facility Siting Council.
- 11 (P) Board of Commissioners of the Port of Portland.
- 12 (Q) Employment Relations Board.
- 13 (R) Public Employees Retirement Board.
- 14 (S) Oregon Racing Commission.
- 15 (T) Oregon Transportation Commission.
- 16 (U) Water Resources Commission.
- 17 (V) Workers' Compensation Board.
- 18 (W) Oregon Facilities Authority.
- 19 (X) Oregon State Lottery Commission.
- 20 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 21 (Z) Columbia River Gorge Commission.
- 22 (AA) Oregon Health and Science University Board of Directors.
- 23 (BB) Capitol Planning Commission.
- 24 (CC) Higher Education Coordinating Commission.
- 25 (DD) Oregon Growth Board.
- 26 (EE) Early Learning Council.
- 27 (r) The following officers of the State Treasurer:
- 28 (A) Deputy State Treasurer.
- 29 (B) Chief of staff for the office of the State Treasurer.
- 30 (C) Director of the Investment Division.
- 31 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 32 or 777.915 to 777.953.
- 33 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- 34 (u) Every member of a governing board of a public university listed in ORS 352.002.
- 35 (v) Every member of the board of directors of an authority created under ORS 465.600 to
- 36 465.621.
- 37 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 38 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
- 39 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
- 40 and 244.090.
- 41 (3) By April 15 next after the filing deadline for the primary election, each candidate described
- 42 in subsection (1) of this section shall file with the commission a statement of economic interest as
- 43 required under ORS 244.060, 244.070 and 244.090.
- 44 (4) Not later than the 40th day before the date of the statewide general election, each candidate
- 45 described in subsection (1) of this section who will appear on the statewide general election ballot

1 and who was not required to file a statement of economic interest under subsections (1) to (3) of this
2 section shall file with the commission a statement of economic interest as required under ORS
3 244.060, 244.070 and 244.090.

4 (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or
5 appointed public officials as of April 15 and to persons who are candidates on April 15.

6 (6) If a statement required to be filed under this section has not been received by the commis-
7 sion within five days after the date the statement is due, the commission shall notify the public of-
8 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
9 requirements of this section. If the public official or candidate fails to comply by the date set by the
10 commission, the commission may impose a civil penalty as provided in ORS 244.350.

11 **SECTION 42.** ORS 270.100 is amended to read:

12 270.100. (1)(a) Before offering for sale any real property or equitable interest in real property
13 that the state owns, the state agency acting for the state in the sales transaction shall report to the
14 Oregon Department of Administrative Services that the state agency intends to sell or transfer the
15 real property or the equitable interest. The department, or an agency the department specifically
16 designates, shall notify other state agencies authorized to own real property of the intended sale or
17 transfer to determine whether acquiring the real property or interest in the real property would be
18 advantageous to another state agency.

19 (b)(A) The department shall give the first opportunity after other state agencies to acquire,
20 purchase, exchange or lease real property or an interest in real property that the State of Oregon
21 disposes of or sells to:

22 (i) The following entities, on the condition that the entities will develop housing on the real
23 property that will be occupied by families and individuals with an income no greater than 80 percent
24 of the median family income for the county in which the real property is located:

25 (I) Nonprofit organizations; and

26 (II) Indian tribes, as defined in ORS 97.740; and

27 (ii) Political subdivisions, as defined in ORS 271.005.

28 (B) The state agency responsible for selling or transferring the property or the equitable interest
29 may require at the time of the sale or transfer that a political subdivision must use state real
30 property or an equitable interest in real property sold or transferred to the political subdivision for
31 a public purpose or benefit, and that the political subdivision may not resell the real property or the
32 equitable interest to a private purchaser.

33 (c) If a state agency that intends to sell or transfer real property or an equitable interest in real
34 property has not disposed of the real property or the equitable interest under paragraph (a) or (b)
35 of this subsection, the state agency shall cause the real property to be appraised by one or more
36 competent and experienced appraisers in accordance with rules the department adopts. Except as
37 provided in ORS 273.825, if the property has an appraised value exceeding \$5,000, the property or
38 an equitable interest in the property may not be sold to any private person except after notice
39 calling for such proposals as set forth in ORS 270.130.

40 (d) The department shall adopt rules to carry out the provisions of this section.

41 (2) Before a state agency acquires any real property or interest in real property, except for
42 highway right of way that the Department of Transportation acquires, park properties that the State
43 Parks and Recreation Department acquires and property within the approved projected campus
44 boundaries for public universities listed in ORS 352.002, the state agency shall report to the Oregon
45 Department of Administrative Services that the state agency intends to acquire the real property

1 or the interest in real property. The department shall notify other state agencies that own land that
 2 the state agency intends to acquire real property or an interest in real property to determine
 3 whether another state agency desires to sell or transfer property that would meet the needs of the
 4 acquiring agency. In accordance with rules the Oregon Department of Administrative Services
 5 adopts, if no other state agency desires to sell or transfer property that would meet the needs of the
 6 agency that intends to acquire real property or an interest in real property, the agency may acquire
 7 the real property or interest in real property, consistent with applicable provisions of law.

8 (3) Before any terminal disposition of real property or an interest in real property, the state
 9 agency acting for the state in the transaction must secure approval of the transaction from the
 10 Oregon Department of Administrative Services.

11 (4) Subsection (3) of this section does not apply to terminal disposition of the following real
 12 property:

- 13 (a) Property that [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** controls;
- 14 (b) State forestlands that the State Forestry Department controls;
- 15 (c) Property that the Department of Transportation controls;
- 16 (d) Property that the Department of State Lands controls;
- 17 (e) Property that public universities listed in ORS 352.002 control;
- 18 (f) Property that the legislative branch of state government controls;
- 19 (g) Property that the judicial branch of state government controls; and
- 20 (h) Property that the State Parks and Recreation Department controls.

21 (5) Notwithstanding the provisions of subsection (4) of this section, prior approval by the Oregon
 22 Department of Administrative Services is required for the terminal disposition of public land for less
 23 than the fair market value of the public land.

24 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to
 25 273.436, 273.551 and 308A.709 (1)(a) to (d) do not apply to:

- 26 (a) A home or farm that the Department of Veterans' Affairs acquires or sells under ORS 88.720,
 27 406.050, 407.135, 407.145, 407.375 or 407.377.
- 28 (b) Real property that the Housing and Community Services Department acquires or sells under
 29 the provisions of ORS 456.515 to 456.725 or 458.480 to 458.490 or ORS chapter 458.
- 30 (c) Real property that the Oregon Health Authority or the Department of Human Services ac-
 31 quires or sells under ORS 410.075 or 416.340.

32 **SECTION 43.** ORS 274.780 is amended to read:

33 274.780. (1) The form of lease shall contain, in addition to other provisions deemed necessary
 34 and desirable by the Department of State Lands, after consultation with the State Department of
 35 Geology and Mineral Industries[, *the State Fish and Wildlife Commission*] and other interested
 36 agencies, boards and commissions, the provisions of ORS 274.780 to 274.860.

37 (2) The form of a permit shall contain, in addition to other provisions deemed necessary and
 38 desirable by the Department of State Lands, after consultation with the State Department of
 39 Geology and Mineral Industries[, *the State Fish and Wildlife Commission*] and other interested
 40 agencies, boards and commissions, the provisions of ORS 274.785 (3).

41 (3) All leases and other instruments required in carrying out ORS 274.705 to 274.860 shall be
 42 executed by the Department of State Lands. All bonds, contracts and other instruments required by
 43 ORS 274.705 to 274.860 for the protection of the interests of this state and political subdivisions,
 44 persons and property therein shall be executed and delivered to the department.

45 **SECTION 44.** ORS 274.755 is amended to read:

1 274.755. (1) Before granting any easement under ORS 274.705 to 274.860, and before offering
 2 lands for leasing under ORS 274.705 to 274.860, or whenever any person files a written application
 3 with the Department of State Lands requesting that an easement be granted for such lands or that
 4 such lands be offered for leasing under ORS 274.705 to 274.860, accompanying the same with the
 5 required fee, the department shall hold a public hearing as provided in this section.

6 (2) Before granting an easement or inviting bids on any lands subject to ORS 274.705 to 274.860,
 7 the department shall cause written notice describing the area under consideration and other perti-
 8 nent information to be transmitted to:

9 (a) State Geologist;

10 (b) Director of Transportation;

11 (c) Director of the Department of Environmental Quality;

12 (d) State Fish and [Wildlife] **Game** Director;

13 (e) The applicant, if any, requesting the lease;

14 (f) Prospective applicants or bidders, by publication thereof in two or more publications of gen-
 15 eral circulation in the oil and gas industry; and

16 (g) The public, by publication thereof once each week for not less than four weeks in a news-
 17 paper of general circulation throughout the State of Oregon, and in addition in a newspaper of
 18 general circulation in the county in which the lands lie or the county or counties contiguous to the
 19 area under consideration for bidding.

20 (3) The notice shall set forth the place of hearing and shall set its time at not earlier than the
 21 20th day after date of the last newspaper publication.

22 (4) Notwithstanding ORS 183.635, hearings under this section may be conducted by an adminis-
 23 trative law judge assigned from the Office of Administrative Hearings established under ORS 183.605
 24 or may be conducted by a hearing officer designated by the State Land Board. An officer or em-
 25 ployee of each interested state agency, board or commission named in subsection (2) of this section
 26 may question any witnesses appearing in the hearing, and any interested person may offer evidence
 27 and otherwise be heard.

28 **SECTION 45.** ORS 274.860 is amended to read:

29 274.860. Under a lease entered into by the Department of State Lands pursuant to ORS 274.705
 30 to 274.860, the fill constituting filled lands may be retained in place or protected by bulkheads,
 31 seawalls, revetments or similar enclosures and may be placed at any location approved by the De-
 32 partment of State Lands, in consultation with the Department of Geology and Mineral Industries[,
 33 *the State Fish and Wildlife Commission*] and other interested agencies, boards and commissions.

34 **SECTION 46.** ORS 279A.050 is amended to read:

35 279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting
 36 agency shall exercise all of the contracting agency's procurement authority in accordance with the
 37 provisions of the Public Contracting Code.

38 (b) If a contracting agency has authority under this section to carry out functions described in
 39 this section, or has authority to make procurements under a provision of law other than the Public
 40 Contracting Code, the contracting agency need not exercise the contracting agency's authority in
 41 accordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the
 42 contract or contracting agency.

43 (2)(a) Except as otherwise provided in paragraph (b) of this subsection and the Public Con-
 44 tracting Code, for state agencies the Director of the Oregon Department of Administrative Services
 45 has all the authority available to carry out the provisions of the Public Contracting Code.

1 (b) Except as otherwise provided in the Public Contracting Code, for state agencies the director
2 may delegate to the State Chief Information Officer the authority to procure or supervise the pro-
3 curement of all goods, services and personal services related to information technology and tele-
4 communications for state contracting agencies. This paragraph does not apply to contracts under
5 which the contractor delivers to the state agency information technology products or services inci-
6 dentally in performing a personal services contract described in ORS chapter 279C or a construction
7 contract described in ORS chapter 279C.

8 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation
9 has all the authority available to:

10 (a) Procure or supervise the procurement of all services and personal services to construct, ac-
11 quire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking
12 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

13 (b) Procure or supervise the procurement of all goods, services, public improvements and per-
14 sonal services that relate to operating, maintaining or constructing highways, bridges and other
15 transportation facilities that are subject to the authority of the Department of Transportation; and

16 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
17 bidders on public improvement contracts that relate to operating, maintaining or constructing
18 highways, bridges and other transportation facilities that are subject to the authority of the De-
19 partment of Transportation.

20 (4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all
21 the authority to procure or supervise the procurement of goods, services and personal services re-
22 lated to programs under the authority of the Secretary of State.

23 (5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the
24 authority to procure or supervise the procurement of goods, services and personal services related
25 to programs under the authority of the State Treasurer.

26 (6) The state agencies listed in this subsection have all the authority to do the following in ac-
27 cordance with the Public Contracting Code:

28 (a) The Department of Human Services to procure or supervise the procurement of goods, ser-
29 vices and personal services under ORS 179.040 for the department's institutions and the procurement
30 of goods, services and personal services for constructing, demolishing, exchanging, maintaining, op-
31 erating and equipping housing for the purpose of providing care to individuals with intellectual
32 disabilities or other developmental disabilities, subject to applicable provisions of ORS 427.335;

33 (b) The Oregon Health Authority to procure or supervise the procurement of goods, services and
34 personal services under ORS 179.040 and construction materials, equipment and supplies for the
35 authority's institutions and the procurement of goods, services, personal services, construction ma-
36 terials, equipment and supplies for constructing, demolishing, exchanging, maintaining, operating
37 and equipping housing for individuals with chronic mental illness, subject to applicable provisions
38 of ORS 426.504;

39 (c) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** to procure or supervise
40 the procurement of construction materials, equipment, supplies, services and personal services for
41 public improvements, public works or ordinary construction described in ORS 279C.320 that is sub-
42 ject to the authority of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**;

43 (d) The State Parks and Recreation Department to procure or supervise the procurement of all
44 goods, services, public improvements and personal services related to state parks;

45 (e) The Oregon Department of Aviation to procure or supervise the procurement of construction

1 materials, equipment, supplies, services and personal services for public improvements, public works
2 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
3 Department of Aviation;

4 (f) The Oregon Business Development Department to procure or supervise the procurement of
5 all goods, services, personal services and public improvements related to its foreign trade offices
6 operating outside the state;

7 (g) The Housing and Community Services Department to procure or supervise the procurement
8 of goods, services and personal services as provided in ORS 279A.025 (2)(o);

9 (h) The Department of Corrections to procure or supervise the procurement of construction
10 materials, equipment, supplies, services and personal services for public improvements, public works
11 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-
12 ment of Corrections;

13 (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
14 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-
15 vices and personal services under ORS 179.040 for its institutions;

16 (j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate
17 broker and principal real estate broker services related to programs under the department's au-
18 thority;

19 (k) The Oregon Military Department to procure or supervise the procurement of construction
20 materials, equipment, supplies, services and personal services for public improvements, public works
21 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
22 Military Department;

23 (L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085
24 and 329.485 and the federal Every Student Succeeds Act (P.L. 114-95, 129 Stat. 1802), to procure or
25 supervise the procurement of goods, services, personal services and information technology related
26 to student assessment; and

27 (m) Any state agency to conduct a procurement when the agency is specifically authorized by
28 any provision of law other than the Public Contracting Code to enter into a contract.

29 (7)(a) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Depart-
30 ment of Administrative Services has exclusive authority, unless the director delegates the authority,
31 to procure or supervise the procurement of all price agreements on behalf of the state agencies
32 identified in subsection (6) of this section under which more than one state agency may order goods,
33 services or personal services.

34 (b) The director may delegate to the State Chief Information Officer the exclusive authority to
35 procure or supervise the procurement of all price agreements related to information technology and
36 telecommunications on behalf of the state agencies identified in subsection (6) of this section.
37 Notwithstanding any authority that a state agency may have under subsection (3) or (6) of this
38 section, the state agency may not establish a price agreement or enter into a contract for goods,
39 services or personal services without the approval of the director or the State Chief Information
40 Officer if the director or the State Chief Information Officer has established a price agreement for
41 the goods, services or personal services.

42 (c) The State Chief Information Officer may review any solicitation document for procuring in-
43 formation technology or telecommunications that a state agency intends to issue before the state
44 agency issues the solicitation document and may require the state agency to name the State Chief
45 Information Officer as a third-party beneficiary with full authority to enforce the terms and condi-

tions of any public contract for information technology or telecommunications. The State Chief Information Officer must approve a state agency's procurement for information technology or telecommunications if the procurement has an anticipated contract price of \$1 million or more. The State Chief Information Officer may require the state agency to name the State Chief Information Officer as the contracting party on behalf of the State of Oregon in a procurement for information technology or telecommunications that has an anticipated contract price of \$1 million or more.

SECTION 47. ORS 284.752 is amended to read:

284.752. As used in ORS 284.752 to 284.754:

(1) "Community and economic development" means development that:

(a) Relates to, supports and promotes the policies and objectives of the Regional Solutions Program established under ORS 284.754;

(b) Promotes, expands or prevents the decline of local, regional and statewide industries and businesses located or to be located in Oregon;

(c) Creates jobs or prevents the loss of jobs in Oregon; and

(d) Improves the economy in Oregon.

(2) "Grant, loan or incentive program" means any program or other type of undertaking that a state agency has been authorized by the Legislative Assembly to establish, implement and fund and that has as one or more of its purposes community and economic development in a region, or that will affect community and economic development in a region of this state.

(3) "Local government" means a city, county, authority or entity organized under state statute or city or county charter, and includes any council of governments created under ORS chapter 190.

(4) "Natural resource agency" means the State Department of Agriculture, the Water Resources Department, [*the State Department of Fish and Wildlife,*] the State Forestry Department, the Department of State Lands, the State Department of Geology and Mineral Industries and the State Marine Board.

(5) "Region" means an economic development district in Oregon, created by the Economic Development Administration of the United States Department of Commerce, for which a regional solutions center has been established under ORS 284.754.

(6) "State agency" means an officer, board, commission, department, division, institution, branch or agency in the executive or administrative branch of state government.

SECTION 48. ORS 308A.350 is amended to read:

308A.350. As used in ORS 308A.350 to 308A.383:

[(1) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" means the contract vendee under a recorded contract.]

[(2) "Department" means the State Department of Fish and Wildlife.]

(1) "Board" means the Oregon Watershed Enhancement Board.

[(3)] **(2) "Designated riparian land" means the beds of streams, the adjacent vegetation communities, and the land thereunder, which are predominantly influenced by their association with water, not to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately owned and which qualify for exemption under ORS 308A.350 to 308A.383.**

(3) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" means the contract vendee under a recorded contract.

(4) "Urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Com-

1 mission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metro-
2 politan service district council under ORS 268.390 (3).

3 **SECTION 49.** ORS 308A.356 is amended to read:

4 308A.356. An owner of land desiring designation and exemption of that land from ad valorem
5 taxation as riparian land under ORS 308A.350 to 308A.383 shall make application to the county
6 assessor upon forms prescribed by the Department of Revenue and supplied by the county assessor.
7 The owner shall describe the land for which designation as riparian lands is requested and the
8 current use of the land. The application shall include any other information as is reasonably nec-
9 essary to properly designate an area of land as riparian land under ORS 308A.350 to 308A.383 with
10 a verification of the truth thereof. Applications to the county assessor shall be made on or before
11 December 31 of the calendar year preceding the first tax year for which such designation is re-
12 quested. The county assessor shall notify the [*State Department of Fish and Wildlife*] **Oregon**
13 **Watershed Enhancement Board** if a recorded sale or transfer of the land granted exemption under
14 ORS 308A.350 to 308A.383 occurs for the purpose of determining continued eligibility of the land for
15 the exemption. The [*State Department of Fish and Wildlife*] **board** shall notify the county assessor
16 in writing of the finding within 120 days after the date the county assessor's notice is mailed or
17 delivered. Failure of the assessor to notify the [*State Department of Fish and Wildlife*] **board** shall
18 not prevent the imposition of the additional tax prescribed by ORS 308A.368 (2).

19 **SECTION 50.** ORS 308A.359 is amended to read:

20 308A.359. (1) The [*State Department of Fish and Wildlife*] **Oregon Watershed Enhancement**
21 **Board** shall develop standards and criteria for the designation of land as riparian. Upon the receipt
22 of an application referred to it by the county assessor, the [*department*] **board** shall determine if the
23 land described in the application is qualified for designation as riparian.

24 (2) The [*department*] **board** shall review riparian management plans submitted by applicants to
25 assure compliance with the intent of ORS 308A.353. Standards and criteria to be used to determine
26 consistency with the intent of ORS 308A.350 to 308A.383 shall be developed by the [*department*]
27 **board** and shall be reviewed by the [*department*] **board** annually. These criteria shall be in addition
28 to the following provisions limiting participation under ORS 308A.350 to 308A.383:

29 (a)(A) Subject to subparagraph (B) of this paragraph, and except as provided in subparagraph (C)
30 of this paragraph, only lands planned and zoned as forest or agricultural lands, including rangeland,
31 in compliance with the statewide planning goals adopted under ORS 197.240 and outside adopted
32 urban growth boundaries shall qualify.

33 (B) Lands that, as of July 1, 1997, are outside adopted urban growth boundaries and also as of
34 that date are planned and zoned as forest or agricultural lands, including rangeland, in compliance
35 with the statewide planning goals adopted under ORS 197.240 qualify, for tax years beginning on or
36 after July 1, 1998, for riparian designation if they are managed in the manner provided for desig-
37 nated riparian lands and are otherwise eligible for riparian designation under ORS 308A.350 to
38 308A.383 even though the lands are no longer outside adopted urban growth boundaries or planned
39 or zoned as forest or agriculture.

40 (C) Lands within the boundaries of a city and an urban growth boundary, if the city and county
41 governing bodies have authorized the exemption under ORS 308A.360, may qualify if the lands are
42 managed in the manner provided for riparian designation under ORS 308A.350 to 308A.383.

43 (b) Land management activities permitted within designated riparian lands shall be consistent
44 with the intent of ORS 308A.350 to 308A.383.

45 (3) Land that the [*State Department of Fish and Wildlife*] **board** determines may qualify for des-

1 designation as riparian shall be approved by the [*department*] **board** for designation and exemption un-
 2 der ORS 308A.350 to 308A.383 only if the owner of the land has developed and implemented, in
 3 accordance with the standards adopted under subsections (1) and (2) of this section, adequate
 4 measures for:

5 (a) The continued protection of the land; or

6 (b) Techniques for rehabilitation of the riparian land and those measures or techniques are ap-
 7 proved by the [*department*] **board**.

8 (4) The [*department*] **board** may approve the application for designation of land as riparian with
 9 respect to only part of the land that is the subject of the application, but if any part of the appli-
 10 cation is denied, the applicant may withdraw the entire application.

11 **SECTION 51.** ORS 308A.360 is amended to read:

12 308A.360. (1) Land located within the boundaries of a city and an urban growth boundary is
 13 exempt from the ad valorem property taxes of the city and county in which the land is located if:

14 (a) The governing bodies of the city and the county in which the land is located have both
 15 adopted ordinances or resolutions:

16 (A) Permitting the designation of land as riparian land; and

17 (B) If possible, describing how the city or county will provide technical assistance to landowners
 18 preparing riparian management plans pursuant to ORS 308A.359 and will monitor landowner com-
 19 pliance with approved plans; and

20 (b) The land qualifies for designation and exemption as riparian land under ORS 308A.350 to
 21 308A.383.

22 (2) Copies of the authorizing ordinances or resolutions must be given to the county assessor and
 23 to the [*State Department of Fish and Wildlife*] **Oregon Watershed Enhancement Board**.

24 **SECTION 52.** ORS 308A.362 is amended to read:

25 308A.362. (1) As soon as possible, but not later than April 1 of the year following the year of
 26 receipt of the application, the [*State Department of Fish and Wildlife*] **Oregon Watershed En-
 27 hancement Board** shall notify the county assessor and the applicant of the [*department's*] **board's**
 28 approval or disapproval of an application. Subject to subsection (2) of this section, an application
 29 not denied by April 1 is deemed approved, and the land that is the subject of the application is
 30 considered to be land that qualifies under ORS 308A.359.

31 (2) An application for land described in ORS 308A.359 (2)(a)(B) may be approved only if the ap-
 32 plication is filed on or before five years after the date the land became land no longer outside
 33 adopted urban growth boundaries or planned or zoned as forest or agricultural land.

34 (3) An application for land described in ORS 308A.360 (1) may be approved only if ordinances
 35 or resolutions authorizing the exemption have been adopted by the city and county in which the
 36 land is located and these ordinances or resolutions are in effect on the date of application.

37 (4) The [*department*] **board** may not approve more than 50 applications for land described in ORS
 38 308A.360 (1) for any tax year. The [*department*] **board** shall hold an application that is not approved
 39 because of the limitation imposed by this subsection for consideration for the next tax year.

40 (5)(a) When the [*department*] **board** approves land for designation as riparian under ORS
 41 308A.359, it shall enter an order of approval and file a copy of the order with the county assessor
 42 within 10 days. Upon receipt of the order, the county assessor shall enter a notation on the assess-
 43 ment roll that the land described in the order is exempt from ad valorem taxation.

44 (b) If the land is as described in ORS 308A.360 (1), the exemption applies only to the ad valorem
 45 property taxes of the city and county that have authorized the exemption.

1 (6) On approval of an application filed under ORS 308A.356, for each year of designation the
 2 assessor shall indicate on the assessment and tax roll that the property is exempt from taxation as
 3 riparian land or, in the case of land described in ORS 308A.360 (1), partially exempt from taxation.
 4 The assessor shall also indicate on the tax roll that the land is subject to potential additional taxes
 5 as provided by ORS 308A.368, by adding the notation “designated riparian land (potential add'l
 6 tax).”

7 (7) Any owner whose application for designation has been denied may appeal to the
 8 [department] **board** under the provisions of ORS chapter 183 governing contested cases.

9 **SECTION 53.** ORS 308A.365 is amended to read:

10 308A.365. (1) When land has once been designated as riparian under ORS 308A.350 to 308A.383,
 11 it shall remain under that designation and it shall not be applied to any use other than those spe-
 12 cifically included in the management plan or consistent with the intent of ORS 308A.350 to 308A.383
 13 unless withdrawn from designation as provided in subsection (2) of this section.

14 (2) During any year after designation, notice of request for withdrawal may be given by the
 15 owner to the county assessor or assessors of the county or counties in which the land is situated.
 16 The county assessor or assessors, as the case may be, shall withdraw such land from designation
 17 as riparian and shall immediately give written notice of the withdrawal to the [State Department of
 18 Fish and Wildlife] **Oregon Watershed Enhancement Board**.

19 **SECTION 54.** ORS 308A.368 is amended to read:

20 308A.368. (1) When land that has been designated as exempt from taxation under ORS 308A.350
 21 to 308A.383 as riparian is applied to some use other than that compatible with riparian use, as de-
 22 fined in the management plan, except through compliance with ORS 308A.365 (2), or except as a
 23 result of the exercise of the power of eminent domain, the owner shall within 60 days after the
 24 change in use notify the county assessor of the change in use. The assessor or assessors shall
 25 withdraw the land from designation and immediately give written notice of the withdrawal to the
 26 [State Department of Fish and Wildlife] **Oregon Watershed Enhancement Board**. Thereafter, the
 27 land shall be assessed and taxed as other property similarly situated is assessed and taxed.

28 (2) The assessor, upon discovery of the change in use to a use other than that compatible with
 29 riparian or upon withdrawal by the owner of the land from designation, shall compute an additional
 30 tax equal to the difference between the taxes assessed against the land and the taxes that otherwise
 31 would have been assessed against the land had the land not received exemption for each of the last
 32 five years (or such lesser number of years, corresponding to the number of years of exemption under
 33 ORS 308A.350 to 308A.383 applicable to the property after its most recent change of ownership)
 34 preceding the tax year in which the land was withdrawn from designation.

35 **SECTION 55.** ORS 308A.374 is amended to read:

36 308A.374. (1) The assessor shall at all times be authorized to demand in writing, by first class
 37 mail, and to receive reports from owners of land designated as riparian under ORS 308A.350 to
 38 308A.383 as to the use of the land. If the owner fails to comply within 90 days after receipt of the
 39 demand, the assessor shall give written notice to the [State Department of Fish and Wildlife] **Oregon**
 40 **Watershed Enhancement Board** and to the landowner of the assessor’s intention to withdraw the
 41 land from designation and apply the payments and penalties provided in ORS 308A.368 not less than
 42 30 days prior to automatic withdrawal of the riparian land from designation. If, prior to the expi-
 43 ration of the 30-day period, the landowner fails to file the requested report, the assessor immediately
 44 shall withdraw the land from designation and apply the payments and penalties provided in ORS
 45 308A.368.

1 (2) If the assessor has reason to believe that land designated as riparian land no longer qualifies
 2 for designation and special assessment, the assessor shall request the [*State Department of Fish and*
 3 *Wildlife*] **Oregon Watershed Enhancement Board** to determine if the land continues to qualify.
 4 The request shall be in writing. Upon receipt of the request, the [*State Department of Fish and*
 5 *Wildlife*] **board** shall inspect the property and may take whatever steps are necessary to determine
 6 if the land continues to qualify for special assessment. The [*State Department of Fish and Wildlife*]
 7 **board** shall notify the assessor of the determination made pursuant to the request of the assessor
 8 within 120 days after the request is received. A determination by the [*State Department of Fish and*
 9 *Wildlife*] **board** that the property no longer qualifies shall constitute a discovery described in ORS
 10 308A.368 (2).

11 **SECTION 56.** ORS 308A.383 is amended to read:

12 308A.383. The Department of Revenue and the [*State Department of Fish and Wildlife*] **Oregon**
 13 **Watershed Enhancement Board** shall make such rules consistent with ORS 308A.350 to 308A.383
 14 as may be necessary or desirable to permit its effective administration.

15 **SECTION 57.** ORS 308A.406 is amended to read:

16 308A.406. As used in ORS 308A.403 to 308A.430:

17 (1) **“Board” means the Oregon Watershed Enhancement Board.**

18 [(1)] (2) **“Cooperating agency”** means the [*State Department of Fish and Wildlife*] **Oregon**
 19 **Watershed Enhancement Board**, the United States Fish and Wildlife Service, the Natural Re-
 20 sources Conservation Service of the United States Department of Agriculture, the Oregon State
 21 University Extension Service or other persons with wildlife habitat conservation and management
 22 training considered appropriate for the preparation of a wildlife habitat conservation and manage-
 23 ment plan, as established by rules adopted by the [*State Fish and Wildlife Commission*] **board** under
 24 ORS 308A.409.

25 [(2) *“Department” means the State Department of Fish and Wildlife.*]

26 (3) **“Lot”** has the meaning given that term in ORS 92.010.

27 (4) **“Parcel”** has the meaning given that term in ORS 215.010.

28 (5) **“Wildlife habitat conservation and management plan”** or **“plan”** means a plan developed by
 29 a cooperating agency and landowner that specifies the conservation and management practices, in-
 30 cluding farm and forest uses consistent with the overall intent of the plan, that will be conducted
 31 to preserve and improve wildlife habitat on an affected lot or parcel.

32 **SECTION 58.** ORS 308A.409 is amended to read:

33 308A.409. (1)(a) The [*State Fish and Wildlife Commission*] **Oregon Watershed Enhancement**
 34 **Board** shall adopt rules specifying the form and content of a wildlife habitat conservation and
 35 management plan that is sufficient for land that is subject to the plan to be specially assessed under
 36 ORS 308A.403 to 308A.430.

37 (b) The rules adopted pursuant to this section shall:

38 (A) Specify the conservation and management practices that are appropriate to preserve and
 39 enhance wildlife common to the diverse regions of this state; and

40 (B) Specify that wildlife habitat conservation and management plans may include those efforts
 41 that improve water quality, protect and restore fish and wildlife habitats, recover threatened or
 42 endangered species, enhance streamflows and maintain or restore long-term ecological health, di-
 43 versity and productivity on a broad geographic scale.

44 (2) Under rules adopted pursuant to this section, the [*commission*] **board** shall allow:

45 (a) Accepted agricultural and forestry practices as an integral part of the wildlife habitat con-

1 servation and management practices specified in an approved plan; and

2 (b) The lease or sale of in-stream water rights as an integral part of the wildlife habitat con-
3 servation and management practices specified in an approved plan.

4 (3) The rules shall be reviewed periodically by the [*commission*] **board** and revised when con-
5 sidered necessary or appropriate by the [*commission*] **board**.

6 **SECTION 59.** ORS 308A.412 is amended to read:

7 308A.412. (1) An owner of land described in ORS 308A.415 who seeks special assessment under
8 ORS 308A.403 to 308A.430 shall first submit a proposed wildlife habitat conservation and manage-
9 ment plan to the [*State Department of Fish and Wildlife*] **Oregon Watershed Enhancement Board**
10 for review.

11 (2) The [*department*] **board** shall review each submitted plan for compliance with the standards
12 set forth in the rules adopted under ORS 308A.409 and shall determine if the plan is being imple-
13 mented.

14 (3) Upon completing a review of a proposed plan and determining that the plan is in compliance
15 with the standards set forth in the rules adopted under ORS 308A.409 and is being implemented, the
16 [*department*] **board** shall issue to the landowner a written declaration that the land is subject to a
17 wildlife habitat conservation and management plan approved by the [*department*] **board** and that the
18 landowner has begun implementing the plan.

19 (4) The [*State Fish and Wildlife Commission*] **board** may establish by rule a limit on the number
20 of plans that may be approved in each calendar year. An application that is not approved because
21 the maximum number of plans for a year has already been approved shall be held for consideration
22 for approval for the next year.

23 **SECTION 60.** ORS 308A.424 is amended to read:

24 308A.424. (1) When a wildlife habitat conservation and management plan is approved by the
25 [*State Department of Fish and Wildlife*] **Oregon Watershed Enhancement Board** and is being im-
26 plemented, the owner of the land subject to the plan may apply to the county assessor to receive
27 wildlife habitat special assessment.

28 (2) Application shall be made to the county assessor on forms prepared by the Department of
29 Revenue and supplied by the county assessor.

30 (3) Applications for wildlife habitat special assessment shall be made to the county assessor on
31 or before April 1 of the first assessment year for which the assessment is desired. The application
32 shall include:

33 (a) A copy of the wildlife habitat conservation and management plan.

34 (b) A certified copy of the declaration described in ORS 308A.412 (3).

35 (c) A description of the land that is the subject of the application that is sufficient for the
36 county assessor to determine whether the land for which wildlife habitat special assessment is
37 sought is within an area eligible for wildlife habitat special assessment.

38 (d) A statement that the applicant is aware of the potential tax liability that arises under ORS
39 308A.703 upon disqualification from wildlife habitat special assessment.

40 (e) An affirmation that the statements contained in the application are true.

41 (4) An application to the county assessor shall be deemed approved unless, before August 15 of
42 the year in which the application was filed, the assessor notifies the applicant in writing that the
43 application has been wholly or partially denied.

44 (5) Whether land that is subject to a wildlife habitat conservation and management plan quali-
45 fies for special assessment under this section shall be determined as of January 1 of the assessment

1 year. If land so qualified becomes disqualified prior to July 1 of the same assessment year, the land
 2 shall be valued under ORS 308.232 at its real market value as defined by law without regard to this
 3 section and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by
 4 law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special
 5 assessment as provided in this section for the current tax year.

6 **SECTION 61.** ORS 308A.430 is amended to read:

7 308A.430. (1) Land subject to a wildlife habitat conservation and management plan shall be in-
 8 spected by the [*State Department of Fish and Wildlife*] **Oregon Watershed Enhancement Board**
 9 periodically to ensure that the land is managed in accordance with the plan. If the plan is not being
 10 implemented as approved, the [*department*] **board** shall notify the landowner and require compliance
 11 measures to be taken within six months. If the plan is still not being implemented as required by the
 12 [*department*] **board** at the end of the six-month period, the [*department*] **board** shall notify the county
 13 assessor that the plan is not being implemented as approved.

14 (2) The county assessor shall disqualify the land from wildlife habitat special assessment upon:

15 (a) Notice from the [*department*] **board** as described in subsection (1) of this section;

16 (b) Notice of request by the landowner for withdrawal of the land from wildlife habitat special
 17 assessment;

18 (c) Sale or transfer to an ownership making the land exempt from ad valorem property taxation;

19 (d) The land qualifying for another special assessment listed in ORS 308A.703 (1); or

20 (e) The act of recording a subdivision plat under ORS chapter 92.

21 (3) If, pursuant to subsection (2)(e) of this section, the county assessor disqualifies land for
 22 wildlife habitat special assessment upon the act of recording a subdivision plat, the land may re-
 23 qualify for wildlife habitat special assessment upon:

24 (a) Payment of all additional tax and interest that remains due and owing as a result of the
 25 disqualification;

26 (b) Compliance with ORS 308A.403 to 308A.430; and

27 (c) Submission of an application for wildlife habitat special assessment under ORS 308A.424 and
 28 approval of the application by the county assessor.

29 (4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to
 30 308A.733.

31 **SECTION 62.** ORS 308A.743 is amended to read:

32 308A.743. (1) Land that is specially assessed under ORS 308A.050 to 308A.128, 308A.300 to
 33 308A.330, 308A.403 to 308A.430, 308A.450 to 308A.465, 321.257 to 321.390, 321.700 to 321.754 or
 34 321.805 to 321.855, or land that is exempt from property tax under ORS 308A.350 to 308A.383, may
 35 not be disqualified from the special assessment or exemption, and may not be subject to additional
 36 taxes under ORS 308A.700 to 308A.733 or other law, if the property owner has:

37 (a) Entered into a wildlife habitat conservation and management plan, as described in ORS
 38 308A.403 to 308A.430, approved by the [*State Department of Fish and Wildlife*] **Oregon Watershed**
 39 **Enhancement Board**; or

40 (b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the
 41 land:

42 (A) Is managed in compliance with the conservation easement or deed restriction; and

43 (B) Continues to meet the requirements for special assessment or exemption. The existence of
 44 the conservation easement or deed restriction may not cause the disqualification of the land from
 45 special assessment or exemption or preclude the disqualification of the land from special assessment

1 or exemption for some other reason.

2 (2) A property owner who executes a conservation easement may convey the easement to a land
3 trust or other qualified entity without a loss of benefits under this section.

4 (3) In order for land to be subject to this section:

5 (a) The conservation easement, deed restriction or wildlife habitat conservation and management
6 plan must be recorded in the records of the clerk of the county in which the land is located; and

7 (b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and
8 management plan, along with the property tax account number for the land, must be sent to the
9 county assessor.

10 **SECTION 63.** ORS 315.138 is amended to read:

11 315.138. (1) There shall be allowed a credit against tax due under ORS chapter 316, or if the
12 taxpayer is a corporation, under ORS chapter 317, for taxpayers that install screening devices, by-
13 pass devices or fishways, pursuant to ORS 498.306 or 509.585, and the diversion is not part of a
14 hydroelectric project required to be licensed under the Federal Energy Regulatory Commission.
15 Except as allowed in subsection (4) of this section, the credit shall be taken in the tax year in which
16 the final certification is issued under subsection (10) of this section.

17 (2) The credit shall be equal to 50 percent of the taxpayer's net certified costs of installing a
18 screening device, by-pass device or fishway. The total credit allowed shall not exceed \$5,000 per
19 device installed.

20 (3) The credit allowed in any one year shall not exceed the tax liability of the taxpayer.

21 (4) Any tax credit otherwise allowable under this section which is not used by the taxpayer in
22 a particular tax year may be carried forward and offset against the taxpayer's tax liability for the
23 next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be
24 carried forward and used in the second succeeding tax year. Any credit remaining unused in such
25 second succeeding tax year may be carried forward and used in the third succeeding tax year. Any
26 credit remaining unused in such third succeeding tax year may be carried forward and used in the
27 fourth succeeding tax year. Any credit remaining unused in such fourth succeeding tax year may
28 be carried forward and used in the fifth succeeding tax year, but may not be used in any tax year
29 thereafter.

30 (5) The credit provided by this section shall be in addition to and not in lieu of any depreciation
31 or amortization deduction to which the taxpayer otherwise may be entitled with respect to the in-
32 stallation of a screening device, by-pass device or fishway. The taxpayer's adjusted basis for de-
33 termining gain or loss shall not be further decreased by any tax credits allowed under this section.

34 (6) In the case of a credit allowed under this section for purposes of ORS chapter 316:

35 (a) A nonresident shall be allowed the credit in the same manner and subject to the same limi-
36 tations as a resident. However, the credit shall be prorated using the proportion provided in ORS
37 316.117.

38 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
39 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
40 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

41 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
42 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
43 ORS 316.117.

44 (7) To qualify for the credit the taxpayer must be issued a certificate by [*the State Department*
45 *of Fish and Wildlife*] **Oregon Fish and Game**.

1 (8) To obtain credit under subsection (1) of this section, any person proposing to apply for cer-
2 tification of a screening device, by-pass device or fishway, before installing the screening device,
3 by-pass device or fishway, shall file a request for preliminary certification with [*the State Department*
4 *of Fish and Wildlife*] **Oregon Fish and Game**. The request shall be in a form prescribed by [*the*
5 *State Department of Fish and Wildlife*] **Oregon Fish and Game**. The following conditions shall ap-
6 ply:

7 (a) Within 30 days of the receipt of a request for preliminary certification, [*the State Department*
8 *of Fish and Wildlife*] **Oregon Fish and Game** may require, as a condition precedent to issuance of
9 a preliminary certificate of approval, the submission of plans and specifications. After examination
10 thereof, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** may request corrections
11 and revisions to the plans and specifications. [*The State Department of Fish and Wildlife*] **Oregon**
12 **Fish and Game** may also require any pertinent information necessary to determine whether the
13 proposed screening device, by-pass device or fishway is in accordance with [*State Department of Fish*
14 *and Wildlife*] **Oregon Fish and Game** requirements.

15 (b) If [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** determines that the
16 proposed screening device, by-pass device or fishway is in accordance with [*State Department of Fish*
17 *and Wildlife*] **Oregon Fish and Game** requirements, it shall issue a preliminary certificate approv-
18 ing the screening device, by-pass device or fishway. If [*the State Department of Fish and Wildlife*]
19 **Oregon Fish and Game** determines that the screening device, by-pass device or fishway does not
20 comply with [*State Department of Fish and Wildlife*] **Oregon Fish and Game** requirements, [*the State*
21 *Department of Fish and Wildlife*] **Oregon Fish and Game** shall issue an order denying certification.

22 (c) If within 90 days of the receipt of plans, specifications or any subsequently requested re-
23 visions or corrections to the plans and specifications or any other information required pursuant to
24 this section, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** fails to issue a
25 preliminary certificate of approval and [*the State Department of Fish and Wildlife*] **Oregon Fish and**
26 **Game** fails to issue an order denying certification, the preliminary certificate shall be considered
27 to have been issued. The capital investment must comply with the plans, specifications and any
28 corrections or revisions thereto, if any, previously submitted.

29 (d) Within 30 days from the date of mailing of the order, any person against whom an order is
30 directed pursuant to paragraph (b) of this subsection may demand a hearing. The demand shall be
31 in writing, shall state the grounds for hearing and shall be mailed to the State Fish and [*Wildlife*]
32 **Game** Director. The hearing shall be conducted in accordance with the applicable provisions of ORS
33 chapter 183.

34 (9) A screening device, by-pass device or fishway that is installed by [*the State Department of*
35 *Fish and Wildlife*] **Oregon Fish and Game** pursuant to ORS 498.306 (8) in response to noncompli-
36 ance by the person responsible for the water diversion is not eligible for the credit provided in
37 subsection (1) of this section.

38 (10) Upon completion and pursuant to application for final certification, final certification shall
39 be issued by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** if the screening
40 device, by-pass device or fishway was constructed and installed in accordance with [*State Depart-*
41 *ment of Fish and Wildlife*] **Oregon Fish and Game** requirements. Final certification shall include
42 a statement of the costs of installation as verified by [*the State Department of Fish and Wildlife*]
43 **Oregon Fish and Game**. The credit allowed under this section shall be claimed first for the tax
44 year of the taxpayer in which final certification is issued.

45 (11) Pursuant to the procedures for a contested case under ORS chapter 183, [*the State Depart-*

1 *ment of Fish and Wildlife*] **Oregon Fish and Game** may order the revocation of the certificate is-
2 sued under this section of any taxpayer, if it finds that:

3 (a) The certificate was obtained by fraud or misrepresentation; or

4 (b) The holder of the certificate fails to meet [*State Department of Fish and Wildlife*] **Oregon**
5 **Fish and Game** requirements.

6 (12) As soon as the order of revocation under this section has become final [*the State Department*
7 *of Fish and Wildlife*] **Oregon Fish and Game** shall notify the Department of Revenue of such order.

8 (13) If the certificate of a screening device, by-pass device or fishway is ordered revoked pur-
9 suant to subsection (11) of this section, all prior tax relief provided to the holder of the certificate
10 by virtue of the certificate shall be forfeited and the Department of Revenue shall proceed to collect
11 those taxes not paid by the certificate holder as a result of the tax relief provided to the holder.

12 (14) If the certificate of a screening device, by-pass device or fishway is ordered revoked pur-
13 suant to subsection (11) of this section, the certificate holder shall be denied any further relief
14 provided under this section in connection with the screening device, by-pass device or fishway, as
15 the case may be, from and after the date that the order of revocation becomes final.

16 (15) In the event that the screening device, by-pass device or fishway is destroyed by flood, na-
17 tural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless
18 claim the credit as if no destruction had taken place.

19 (16) Screening devices, by-pass devices or fishways that are financed by funds obtained from the
20 Water Development Fund, pursuant to ORS 541.700 to 541.855, shall not be eligible for the credit
21 under any circumstances.

22 (17) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall adopt rules for
23 carrying out the provisions of this section and report to the interim committee created under ORS
24 171.605 to 171.640 to make studies of and inquiries into state revenue matters.

25 **SECTION 64.** ORS 315.174 is amended to read:

26 315.174. (1) As used in this section, "livestock" has the meaning given that term in ORS 610.150.

27 (2) A credit against taxes imposed under ORS chapter 316 (or, if the taxpayer is a corporation,
28 under ORS chapter 317 or 318) shall be allowed for the current market value of any livestock that
29 belongs to the taxpayer and that is killed during the tax year by a wolf.

30 (3) In order to qualify for the credit allowed under this section, the taxpayer must obtain written
31 certification from the State Department of [*Fish and Wildlife*] **Agriculture** as provided in subsection
32 (4) of this section.

33 (4)(a) The State Department of [*Fish and Wildlife*] **Agriculture** shall issue written certification
34 to taxpayers that are eligible to claim the credit allowed under this section. Before issuing a cer-
35 tification under this subsection, the department must possess evidence that the loss to a taxpayer's
36 livestock is due to wolf depredation. The evidence must include a finding by the department or by
37 a peace officer, as defined in ORS 161.015, that wolf depredation was the probable cause of the loss.

38 (b) The department may not issue certifications for more than \$37,500 in tax credits for any tax
39 year. The department shall issue certifications to taxpayers in the order in which completed appli-
40 cations for certification are received by the department.

41 (5) A credit allowed under this section shall be reduced by any amount that a taxpayer has al-
42 ready received as compensation for the killed livestock, including compensation pursuant to ORS
43 610.150.

44 (6) A taxpayer may not claim a credit under this section for:

45 (a) Any tax year that ends after the date on which the [*State Fish and Wildlife Commission*]

1 **Oregon Watershed Enhancement Board** has, by rule, removed the wolf from the list of endan-
2 gered species established pursuant to ORS [496.172 (2)] **496.172 (1)(b)**; or

3 (b) A loss to livestock killed after June 30, 2018.

4 (7) If the amount allowable as a credit under this section, when added to the sum of the amounts
5 allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax
6 prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chap-
7 ters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of
8 ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as
9 provided in ORS 316.502.

10 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains
11 the information required by the department.

12 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
13 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
14 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
15 forward and used in the second succeeding tax year, and likewise any credit not used in that second
16 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
17 be carried forward for any tax year thereafter.

18 (10) In the case of a credit allowed under this section:

19 (a) A nonresident shall be allowed the credit in the proportion provided in ORS 316.117.

20 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident
21 to resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

22 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the
23 department terminates the taxpayer's taxable year under ORS 314.440, the credit shall be prorated
24 or computed in a manner consistent with ORS 314.085.

25 **SECTION 65.** ORS 352.829 is amended to read:

26 352.829. (1) The Oceangoing Research Vessel Program is established at Oregon State University
27 in order to assist in the research and study of the waters of the Pacific Coast. Potential areas of
28 research include, but are not limited to:

29 (a) Mapping the seabed in Oregon's territorial sea, as defined in ORS 196.405;

30 (b) Analyzing marine ecosystems, including but not limited to existing marine reserves, existing
31 marine protected areas, proposed marine reserves and proposed marine protected areas;

32 (c) Analyzing the potential effects of climate change, including but not limited to ocean
33 acidification;

34 (d) Compiling comprehensive assessments of overall ocean health;

35 (e) Understanding ocean dynamics, including but not limited to natural hazards such as
36 tsunamis; and

37 (f) Installing instruments to effectively monitor the impact of wave energy systems, marine re-
38 serves and marine protected areas on marine ecosystems and fish populations.

39 (2) The Oceangoing Research Vessel Program shall solicit from state agencies and from students
40 and faculty of public universities listed in ORS 352.002 proposals for the use of a research vessel
41 operated under the program.

42 (3) In order to effectively allocate the use of research vessels operated under the Oceangoing
43 Research Vessel Program, there is established a Research Vessel Council, consisting of seven mem-
44 bers appointed by the President of Oregon State University. The president shall appoint to the
45 council:

1 (a) At least one member who is a trained scientist with at least five years of marine research
2 experience;

3 (b) Upon request from the agency, at least one member from each of the following agencies:

4 [(A) *State Department of Fish and Wildlife*];

5 [(B)] (A) State Department of Geology and Mineral Industries;

6 [(C)] (B) Department of Land Conservation and Development; and

7 [(D)] (C) Department of Environmental Quality; and

8 (c) At least one member who has expertise in marine operations or marine education.

9 (4) The Research Vessel Council shall evaluate proposals submitted under subsection (2) of this
10 section on the basis of the:

11 (a) Proposal's geographical area of study;

12 (b) Quality of the submitted management, research or educational rationale; and

13 (c) Feasibility of accommodating the proposed work within the schedule of federally funded
14 projects for the research vessel.

15 (5) The Research Vessel Council shall schedule the use of a research vessel for selected pro-
16 posals as part of the University-National Oceanographic Laboratory System ship scheduling process.

17 **SECTION 66.** ORS 390.565 is amended to read:

18 390.565. (1) The All-Terrain Vehicle Advisory Committee is established. The committee shall
19 consist of 16 voting members and one nonvoting member appointed by the State Parks and Recre-
20 ation Commission for a term of four years. Members are eligible for reappointment and vacancies
21 may be filled by the commission. A majority of members constitutes a quorum for the transaction
22 of business.

23 (2) Of the voting members of the committee:

24 (a) One shall be a representative of a Class I all-terrain vehicle user organization.

25 (b) One shall be a representative of a Class II all-terrain vehicle user organization.

26 (c) One shall be a representative of a Class III all-terrain vehicle user organization.

27 (d) One shall be a representative of a Class IV all-terrain vehicle user organization.

28 (e) One shall be an all-terrain vehicle dealer.

29 (f) One shall be an at-large all-terrain vehicle user.

30 (g) One shall be a representative of the United States Forest Service who is knowledgeable
31 about all-terrain vehicle recreation areas on federal lands.

32 (h) One shall be a representative of the Bureau of Land Management who is knowledgeable
33 about all-terrain vehicle recreation areas on federal lands.

34 (i) One shall be a representative of the Department of Transportation who is knowledgeable
35 about transportation safety.

36 (j) One shall be a representative of the State Forestry Department who is knowledgeable about
37 all-terrain vehicle recreation areas on state lands.

38 (k) One shall be a representative of the Department of Human Services who is knowledgeable
39 about public health and safety.

40 (L) One shall be a representative of a law enforcement agency who is knowledgeable about and
41 active in enforcement of all-terrain vehicle laws.

42 (m) One shall be a representative of [*the State Department of Fish and Wildlife*] **Oregon Fish**
43 **and Game** who is knowledgeable about all-terrain vehicle activities and the use of all-terrain vehi-
44 cles in hunting and fishing.

45 (n) One shall be a person who represents persons with disabilities.

- 1 (o) One shall be a representative of a rural fire protection district.
- 2 (p) One shall be a representative of emergency medical services providers.
- 3 (3) One representative from the State Parks and Recreation Department shall be a nonvoting
4 member of the committee.
- 5 (4) The committee shall:
- 6 (a) Review accidents and fatalities resulting from all-terrain vehicle recreation and make rec-
7 ommendations to the State Parks and Recreation Commission.
- 8 (b) Review changes to statutory vehicle classifications as necessary for safety considerations
9 and make recommendations to the commission.
- 10 (c) Review safety features of all classes of off-highway vehicles and make recommendations to
11 the commission.
- 12 (d) Recommend appropriate safety requirements to protect child operators and riders of off-
13 highway vehicles to the commission.
- 14 (5)(a) A subcommittee of the All-Terrain Vehicle Advisory Committee, titled the All-Terrain
15 Vehicle Grant Subcommittee, is established.
- 16 (b) The All-Terrain Vehicle Grant Subcommittee shall consist of the following members:
- 17 (A) The representative of a Class I all-terrain vehicle user organization.
- 18 (B) The representative of a Class II all-terrain vehicle user organization.
- 19 (C) The representative of a Class III all-terrain vehicle user organization.
- 20 (D) The representative of a Class IV all-terrain vehicle user organization.
- 21 (E) The at-large all-terrain vehicle user.
- 22 (F) The representative of a law enforcement agency.
- 23 (G) The representative of persons with disabilities.
- 24 (c) The All-Terrain Vehicle Grant Subcommittee shall:
- 25 (A) Advise the State Parks and Recreation Department on the allocation of moneys in the All-
26 Terrain Vehicle Account established by ORS 390.555; and
- 27 (B) Review grant proposals and make recommendations to the commission as to which projects
28 should receive grant funding.
- 29 (d) Recommendations on grant proposals under this subsection must receive an affirmative vote
30 from at least four of the members of the grant subcommittee.
- 31 (6) The State Parks and Recreation Department shall establish and operate an outreach program
32 to inform law enforcement agencies, rural fire protection districts and emergency medical services
33 providers about the grant process and the grant opportunities available under this section and to
34 provide clarification and answer questions about the grant application process.
- 35 (7) The State Parks and Recreation Department shall provide staff support for the committee
36 and shall provide for expansion of programs for all-terrain vehicle users.
- 37 **SECTION 67.** ORS 390.725 is amended to read:
- 38 390.725. (1) Removal of natural products such as fish or wildlife, agates or small amounts of
39 driftwood from a state recreation area as defined in ORS 390.605 for personal, noncommercial use
40 is not subject to the provisions of ORS 390.650.
- 41 (2) The collection of natural products for the purpose of trade, sale or resale shall be subject
42 to the permit provisions and standards of ORS 390.650 and 390.655. Permits shall provide for the
43 payment of just compensation by the permittee as provided by rule adopted under subsection (4) of
44 this section.
- 45 (3) No archaeological object associated with an archaeological site, as those terms are defined

1 in ORS 358.905, shall be removed from the ocean shore except as provided in ORS 358.920 and
2 390.235.

3 (4) Rules or permits shall be made or granted by the State Parks and Recreation Department
4 only after consultation with [*the State Fish and Wildlife Commission,*] the State Department of
5 Geology and Mineral Industries and the Department of State Lands. Rules and permits shall contain
6 provisions necessary to protect the areas from any use, activity or practice inimicable to the con-
7 servation of natural resources or public recreation.

8 (5) The terms, royalty and duration of a permit under this section are at the discretion of the
9 State Parks and Recreation Department. A permit is revocable at any time in the discretion of the
10 department without liability to the permittee.

11 (6) Whenever the issuance of a permit under this section will affect lands owned privately, the
12 State Parks and Recreation Department shall withhold the issuance of such permit until such time
13 as the permittee shall have obtained an easement, license or other written authorization from the
14 private owner, which easement, license or other written authority must meet the approval of the
15 department, except as to the compensation to be paid to the private owner.

16 **SECTION 68.** ORS 390.835 is amended to read:

17 390.835. (1) It is declared that the highest and best uses of the waters within scenic waterways
18 are recreation, fish and wildlife uses. The free-flowing character of these waters shall be maintained
19 in quantities necessary for recreation, fish and wildlife uses. No dam, or reservoir, or other water
20 impoundment facility shall be constructed on waters within scenic waterways. No water diversion
21 facility shall be constructed or used except by right previously established or as permitted by the
22 Water Resources Commission, upon a finding that such diversion is necessary to uses designated in
23 ORS 536.310 (12), and in a manner consistent with the policies set forth under ORS 390.805 to
24 390.925. The Water Resources Commission shall administer and enforce the provisions of this sub-
25 section.

26 (2) Filling of the beds or removal of material from or other alteration of the beds or banks of
27 scenic waterways for purposes other than recreational prospecting not requiring a permit shall be
28 prohibited, except as permitted by the Director of the Department of State Lands upon a finding that
29 such activity would be consistent with the policies set forth under ORS 390.805 to 390.925 for scenic
30 waterways and in a manner consistent with the policies set forth under ORS 196.800 to 196.825 and
31 196.845 to 196.870 for removal of material from the beds and banks and filling of any waters of this
32 state. The Director of the Department of State Lands shall administer and enforce the provisions
33 of this subsection.

34 (3)(a) Upon a finding of emergency circumstances, the Director of the Department of State Lands
35 may issue a temporary permit for the removal, filling or alteration of the beds or banks within a
36 scenic waterway. The temporary permit shall include conditions developed after consultation with
37 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the State Parks and Re-
38 creation Department.

39 (b) As used in this subsection, "emergency circumstances" exist if prompt action is necessary
40 to prevent irreparable harm, injury or damage to persons or property.

41 (4) Any person adversely affected or aggrieved by the grant or denial of a permit under sub-
42 section (2) or (3) of this section may appeal in accordance with the procedure set forth in ORS
43 196.835.

44 (5) Nothing in ORS 390.805 to 390.925 affects the authority of the State Fish and Wildlife Com-
45 mission to construct facilities or make improvements to facilitate the passage or propagation of fish

1 or to exercise other responsibilities in managing fish and wildlife resources. Nothing in ORS 390.805
2 to 390.925 affects the authority of the Water Resources Commission to construct and maintain
3 stream gauge stations and other facilities related to the commission's duties in administration of the
4 water laws.

5 (6) Upon a finding of necessity under subsection (1) of this section, the Water Resources Com-
6 mission may issue a water right for human consumption not to exceed 0.005 cubic feet per second
7 per household, or livestock consumption uses not to exceed one-tenth of one cubic foot per second
8 per 1,000 head of livestock, as designated in ORS 536.310 (12) within or above a scenic waterway if
9 the Water Resources Commission makes the following findings:

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

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

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

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

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

18 (B) Denial of the water right would result in loss of reasonable expectations for use of the
19 property; and

20 (C) The system installed to divert water shall include monitoring equipment to permit water use
21 measurement and reporting.

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

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

24 (B) The applicant cannot reasonably obtain water from any other source; and

25 (C) The applicant has excluded livestock from the stream and its adjacent riparian zone.

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

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

31 (a) The Water Resources Commission, the State Parks and Recreation Department, [*the State*
32 *Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department of Environmental Quality
33 and the Department of State Lands unanimously agree to exceed that amount; and

34 (b) Exceeding that amount will not significantly impair the free-flowing character of these wa-
35 ters in quantities necessary for recreation, fish and wildlife.

36 (9)(a) The provisions of this section shall not apply to a water right application for the use of
37 ground water as defined in ORS 537.515, except upon a finding by the Water Resources Director
38 based on a preponderance of evidence that the use of ground water will measurably reduce the
39 surface water flows necessary to maintain the free-flowing character of a scenic waterway in quan-
40 tities necessary for recreation, fish and wildlife.

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

45 (c) In making the determination required by paragraph (a) of this subsection, the Water Re-

1 sources Department shall consider the timing of projected impacts of the proposed use in relation
2 to other factors, including but not limited to: Changing climate, recharge, incidental precipitation,
3 out-of-stream appropriations and return flows.

4 (d) If the Water Resources Director makes the finding specified in paragraph (a) of this sub-
5 section, the Water Resources Director shall issue an order denying the application unless:

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

7 (B) The applicant submits evidence to overcome the finding under paragraph (a) of this sub-
8 section.

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

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

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

22 (h) Nothing in this subsection shall limit the use of ground water for a use exempted under ORS
23 537.545.

24 (10) The Water Resources Commission or Water Resources Director shall consider mitigation
25 measures and may include mitigation measures as conditions in any water right permit or certificate
26 to ensure the maintenance of the free-flowing character of the scenic waterway in quantities nec-
27 essary for recreation, fish and wildlife.

28 (11) The Water Resources Commission and the Water Resources Director shall carry out their
29 responsibilities under ORS 536.220 to 536.590 with respect to the waters within scenic waterways
30 in conformity with the provisions of this section.

31 (12) As used in this section, "measurably reduce" means that the use authorized under sub-
32 section (9) of this section will individually or cumulatively reduce surface water flows within the
33 scenic waterway in excess of a combined cumulative total of one percent of the average daily flow
34 or one cubic foot per second, whichever is less, unless:

35 (a) The Water Resources Department, the State Parks and Recreation Department, [*the State*
36 *Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department of Environmental Quality
37 and the Department of State Lands unanimously agree to exceed that amount; and

38 (b) Exceeding that amount will not significantly impair the free-flowing character of these wa-
39 ters in quantities necessary for recreation, fish and wildlife.

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

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

45 (b) That the appropriation is consistent with provisions pertaining to water appropriations and

1 water rights under ORS chapters 536 and 537 and the rules adopted thereunder.

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

4 (14) No placer mining shall be permitted on waters within scenic waterways other than recre-
5 ational placer mining.

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

11 (16) No provision of this section shall be construed to exempt recreational placer mining on a
12 scenic waterway, other than recreational prospecting not requiring a permit, from compliance with
13 the provisions of ORS 196.800 to 196.825 and 196.845 to 196.870 or rules adopted pursuant to ORS
14 196.800 to 196.825 and 196.845 to 196.870.

15 (17) Recreational placer mining, other than recreational prospecting not requiring a permit,
16 shall not:

17 (a) Dam or divert a waterway or obstruct fish passage;

18 (b) Include nozzling, sluicing or digging outside the wet perimeter of the stream, nor extend the
19 wet perimeter;

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

22 (d) Involve the disturbance of rooted or embedded woody plants, including trees and shrubs, re-
23 gardless of their location;

24 (e) Include excavation from the streambank;

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

27 (g) Include operation of a suction dredge without a suction dredge waste discharge permit from
28 the Department of Environmental Quality including, but not limited to, a prohibition against dredg-
29 ing during periods when fish eggs could be in the dredging site gravel;

30 (h) Be conducted on federal lands except as allowed by agencies of the federal government;

31 (i) Impede boating;

32 (j) Include operation of a dredge between the hours of 6 p.m. and 8 a.m. within 500 feet of a
33 residence or within 500 feet of a campground except within a federally designated recreational
34 mining site; or

35 (k) Include operation of a dredge within the marked or posted swimming area of a designated
36 campground or day use area except within a federally designated recreational mining site.

37 (18) As used in this section:

38 (a) "Bed" means the land within the wet perimeter and any adjacent nonvegetated dry gravel
39 bar.

40 (b) "Prospecting" means to search or explore for samples of gold, silver or other precious min-
41 erals, using nonmotorized methods, from among small quantities of aggregate.

42 (c) "Recreational placer mining" includes, but is not limited to, the use of nonmotorized equip-
43 ment and motorized surface dredges having an intake nozzle with an inside diameter not exceeding
44 four inches, a motor no larger than 16 horsepower and a muffler meeting or exceeding factory-
45 installed noise reduction standards. "Recreational placer mining" does not include recreational

1 prospecting that does not require a permit.

2 (d) "Wet perimeter" means the area of the stream that is underwater, or is exposed as a non-
3 vegetated dry gravel bar island surrounded on all sides by actively moving water at the time the
4 activity occurs.

5 **SECTION 69.** ORS 390.835, as amended by section 8, chapter 516, Oregon Laws 2001, is
6 amended to read:

7 390.835. (1) It is declared that the highest and best uses of the waters within scenic waterways
8 are recreation, fish and wildlife uses. The free-flowing character of these waters shall be maintained
9 in quantities necessary for recreation, fish and wildlife uses. A dam, reservoir or other water
10 impoundment facility may not be constructed on waters within scenic waterways. A water diversion
11 facility may not be constructed or used except by right previously established or as permitted by the
12 Water Resources Commission, upon a finding that such diversion is necessary to uses designated in
13 ORS 536.310 (12), and in a manner consistent with the policies set forth under ORS 390.805 to
14 390.925. The Water Resources Commission shall administer and enforce the provisions of this sub-
15 section.

16 (2) Filling of the beds or removal of material from or other alteration of the beds or banks of
17 scenic waterways for purposes other than recreational prospecting not requiring a permit shall be
18 prohibited, except as permitted by the Director of the Department of State Lands upon a finding that
19 such activity would be consistent with the policies set forth under ORS 390.805 to 390.925 for scenic
20 waterways and in a manner consistent with the policies set forth under ORS 196.800 to 196.825 and
21 196.845 to 196.870 for removal of material from the beds and banks and filling of any waters of this
22 state. The Director of the Department of State Lands shall administer and enforce the provisions
23 of this subsection.

24 (3)(a) Upon a finding of emergency circumstances, the Director of the Department of State Lands
25 may issue a temporary permit for the removal, filling or alteration of the beds or banks within a
26 scenic waterway. The temporary permit shall include conditions developed after consultation with
27 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the State Parks and Re-
28 creation Department.

29 (b) As used in this subsection, "emergency circumstances" exist if prompt action is necessary
30 to prevent irreparable harm, injury or damage to persons or property.

31 (4) Any person adversely affected or aggrieved by the grant or denial of a permit under sub-
32 section (2) or (3) of this section may appeal in accordance with the procedure set forth in ORS
33 196.835.

34 (5) Nothing in ORS 390.805 to 390.925 affects the authority of the State Fish and Wildlife Com-
35 mission to construct facilities or make improvements to facilitate the passage or propagation of fish
36 or to exercise other responsibilities in managing fish and wildlife resources. Nothing in ORS 390.805
37 to 390.925 affects the authority of the Water Resources Commission to construct and maintain
38 stream gauge stations and other facilities related to the commission's duties in administration of the
39 water laws.

40 (6) Upon a finding of necessity under subsection (1) of this section, the Water Resources Com-
41 mission may issue a water right for human consumption not to exceed 0.005 cubic feet per second
42 per household, or livestock consumption uses not to exceed one-tenth of one cubic foot per second
43 per 1,000 head of livestock, as designated in ORS 536.310 (12) within or above a scenic waterway if
44 the Water Resources Commission makes the following findings:

45 (a) That issuing the water right does not significantly impair the free-flowing character of these

1 waters in quantities necessary for recreation, fish and wildlife.

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

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

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

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

8 (B) Denial of the water right would result in loss of reasonable expectations for use of the
9 property; and

10 (C) The system installed to divert water shall include monitoring equipment to permit water use
11 measurement and reporting.

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

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

14 (B) The applicant cannot reasonably obtain water from any other source; and

15 (C) The applicant has excluded livestock from the stream and its adjacent riparian zone.

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

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

21 (a) The Water Resources Commission, the State Parks and Recreation Department, [*the State*
22 *Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department of Environmental Quality
23 and the Department of State Lands unanimously agree to exceed that amount; and

24 (b) Exceeding that amount will not significantly impair the free-flowing character of these wa-
25 ters in quantities necessary for recreation, fish and wildlife.

26 (9)(a) The provisions of this section do not apply to a water right application for the use of
27 ground water as defined in ORS 537.515, except upon a finding by the Water Resources Director
28 based on a preponderance of evidence that the use of ground water will measurably reduce the
29 surface water flows necessary to maintain the free-flowing character of a scenic waterway in quan-
30 tities necessary for recreation, fish and wildlife.

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

35 (c) In making the determination required by paragraph (a) of this subsection, the Water Re-
36 sources Department shall consider the timing of projected impacts of the proposed use in relation
37 to other factors, including but not limited to: Changing climate, recharge, incidental precipitation,
38 out-of-stream appropriations and return flows.

39 (d) If the Water Resources Director makes the finding specified in paragraph (a) of this sub-
40 section, the Water Resources Director shall issue an order denying the application unless:

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

42 (B) The applicant submits evidence to overcome the finding under paragraph (a) of this sub-
43 section.

44 (e) Except as provided under subsection (13) of this section, if the Water Resources Director
45 does not make the finding specified in paragraph (a) of this subsection, the Water Resources Direc-

1 tor shall issue an order approving the application if the application otherwise meets the require-
2 ments of ORS 537.505 to 537.795.

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

5 (g) Each water right permit and certificate for appropriation of ground water issued after July
6 19, 1995, for which a source of appropriation is within or above a scenic waterway shall be condi-
7 tioned to allow the regulation of the use if analysis of data available after the permit or certificate
8 is issued discloses that the appropriation will measurably reduce the surface water flows necessary
9 to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation,
10 fish and wildlife in effect as of the priority date of the right or as those quantities may be subse-
11 quently reduced.

12 (h) This subsection does not limit the use of ground water for a use exempted under ORS
13 537.545.

14 (10) The Water Resources Commission or Water Resources Director shall consider mitigation
15 measures and may include mitigation measures as conditions in any water right permit or certificate
16 to ensure the maintenance of the free-flowing character of the scenic waterway in quantities nec-
17 essary for recreation, fish and wildlife.

18 (11) The Water Resources Commission and the Water Resources Director shall carry out their
19 responsibilities under ORS 536.220 to 536.590 with respect to the waters within scenic waterways
20 in conformity with the provisions of this section.

21 (12) As used in this section, "measurably reduce" means that the use authorized under sub-
22 section (9) of this section will individually or cumulatively reduce surface water flows within the
23 scenic waterway in excess of a combined cumulative total of one percent of the average daily flow
24 or one cubic foot per second, whichever is less, unless:

25 (a) The Water Resources Department, the State Parks and Recreation Department, [*the State*
26 *Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department of Environmental Quality
27 and the Department of State Lands unanimously agree to exceed that amount; and

28 (b) Exceeding that amount will not significantly impair the free-flowing character of these wa-
29 ters in quantities necessary for recreation, fish and wildlife.

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

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

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

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

39 (14) Placer mining is not permitted on waters within scenic waterways, other than recreational
40 placer mining.

41 (15) A person may not be required to obtain a permit for recreational prospecting or other
42 nonmotorized recreational activity resulting in the fill, removal or other alteration of less than one
43 cubic yard of material at any one individual site and, cumulatively, not more than five cubic yards
44 of material from within the bed or wet perimeter of any single scenic waterway in a single year.
45 Recreational prospecting shall not occur at any site where fish eggs are present.

1 (16) This section does not exempt recreational placer mining on a scenic waterway, other than
2 recreational prospecting not requiring a permit, from compliance with the provisions of ORS 196.800
3 to 196.825 and 196.845 to 196.870 or rules adopted pursuant to ORS 196.800 to 196.825 and 196.845
4 to 196.870.

5 (17) Recreational placer mining may not:

6 (a) Dam or divert a waterway or obstruct fish passage;

7 (b) Include nozzling, sluicing or digging outside the wet perimeter of the stream, nor extend the
8 wet perimeter;

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

11 (d) Involve the disturbance of rooted or embedded woody plants, including trees and shrubs, re-
12 gardless of their location;

13 (e) Include excavation from the streambank;

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

16 (g) Include operation of a suction dredge without a suction dredge waste discharge permit from
17 the Department of Environmental Quality including, but not limited to, a prohibition against dredg-
18 ing during periods when fish eggs could be in the dredging site gravel;

19 (h) Be conducted on federal lands except as allowed by agencies of the federal government;

20 (i) Impede boating;

21 (j) Include operation of a dredge between the hours of 6 p.m. and 8 a.m. within 500 feet of a
22 residence or within 500 feet of a campground except within a federally designated recreational
23 mining site; or

24 (k) Include operation of a dredge within the marked or posted swimming area of a designated
25 campground or day use area except within a federally designated recreational mining site.

26 (18) As used in this section:

27 (a) "Bed" means the land within the wet perimeter and any adjacent nonvegetated dry gravel
28 bar.

29 (b) "Prospecting" means to search or explore for samples of gold, silver or other precious min-
30 erals, using nonmotorized methods, from among small quantities of aggregate.

31 (c) "Recreational placer mining" includes, but is not limited to, the use of nonmotorized equip-
32 ment and motorized surface dredges having an intake nozzle with an inside diameter not exceeding
33 four inches, a motor no larger than 16 horsepower and a muffler meeting or exceeding factory-
34 installed noise reduction standards. "Recreational placer mining" does not include recreational
35 prospecting that does not require a permit.

36 (d) "Wet perimeter" means the area of the stream that is underwater, or is exposed as a non-
37 vegetated dry gravel bar island surrounded on all sides by actively moving water at the time the
38 activity occurs.

39 **SECTION 70.** ORS 390.855 is amended to read:

40 390.855. The State Parks and Recreation Department shall undertake a continuing study and
41 submit periodic reports to the Governor, with the concurrence of the Water Resources Commission,
42 recommending the designation of additional rivers or segments of rivers and related adjacent land
43 by the Governor as scenic waterways subject to the provisions of ORS 390.805 to 390.925. Consist-
44 ent with such recommendation, the Governor may designate any river or segment of a river and
45 related adjacent land as a scenic waterway subject to the provisions of ORS 390.805 to 390.925. The

1 department shall consult with [*the State Fish and Wildlife Commission*] **Oregon Fish and Game**, the
 2 State Department of Agriculture, the Environmental Quality Commission, the Department of State
 3 Lands, and such other persons or agencies as it considers appropriate. The State Parks and Recre-
 4 ation Department shall conduct hearings in the counties in which the proposed additional rivers or
 5 segments of rivers are located. The following criteria shall be considered in making such report:

6 (1) The river or segment of river is relatively free-flowing and the scene as viewed from the
 7 river and related adjacent land is pleasing, whether primitive or rural-pastoral, or these conditions
 8 are restorable.

9 (2) The river or segment of river and its setting possess natural and recreation values of out-
 10 standing quality.

11 (3) The river or segment of river and its setting are large enough to sustain substantial recre-
 12 ation use and to accommodate existing uses without undue impairment of the natural values of the
 13 resource or quality of the recreation experience.

14 **SECTION 71.** ORS 390.930 is amended to read:

15 390.930. As used in ORS 390.930 to 390.940:

16 (1) "Managing agencies" includes:

17 (a) State Parks and Recreation Department;

18 [(b) *State Department of Fish and Wildlife*];

19 [(c)] (b) Confederated Tribes of the Warm Springs Indian Reservation;

20 [(d)] (c) State Marine Board;

21 [(e)] (d) Sherman, Wasco and Jefferson Counties;

22 [(f)] (e) Oregon State Police;

23 [(g)] (f) United States Bureau of Land Management;

24 [(h)] (g) United States Bureau of Indian Affairs; and

25 [(i)] (h) The City of Maupin.

26 (2) "Recreation area" means the Deschutes River Scenic Waterway Recreation Area created
 27 under ORS 390.932.

28 **SECTION 72.** ORS 401.054 is amended to read:

29 401.054. (1) Each of the following agencies, entities and officials shall designate an individual to
 30 act as a liaison with the Office of Emergency Management:

31 (a) The Department of Consumer and Business Services;

32 (b) The Department of Corrections;

33 (c) The Department of Education;

34 (d) The Department of Environmental Quality;

35 (e) The Department of Human Services;

36 (f) The Department of Justice;

37 (g) The Department of Land Conservation and Development;

38 (h) The Department of Public Safety Standards and Training;

39 (i) The Department of State Lands;

40 (j) The Department of State Police;

41 (k) The Department of Transportation;

42 (L) The Department of Veterans' Affairs;

43 (m) The Employment Department;

44 (n) The Housing and Community Services Department;

45 (o) The Judicial Department;

- 1 (p) The Oregon Business Development Department;
- 2 (q) The Oregon Department of Administrative Services;
- 3 (r) The Oregon Department of Aviation;
- 4 (s) The Oregon Health Authority;
- 5 (t) The Oregon Military Department;
- 6 (u) The Oregon Tourism Commission;
- 7 (v) The Public Utility Commission of Oregon;
- 8 (w) The Secretary of State;
- 9 (x) The State Department of Agriculture;
- 10 (y) The State Department of Energy;
- 11 [(z) *The State Department of Fish and Wildlife*];
- 12 [(aa)] (z) The State Department of Geology and Mineral Industries;
- 13 [(bb)] (aa) The State Fire Marshal;
- 14 [(cc)] (bb) The State Forestry Department;
- 15 [(dd)] (cc) The State Marine Board;
- 16 [(ee)] (dd) The State Parks and Recreation Department;
- 17 [(ff)] (ee) The Travel Information Council; and
- 18 [(gg)] (ff) The Water Resources Department.

19 (2) Each agency, entity and official required to designate a liaison under this section shall des-
 20 ignate an individual who has authority during an emergency to allocate resources and assets of the
 21 agency, entity or official.

22 (3) Each individual designated as a liaison under subsection (1) of this section shall assist in the
 23 coordination of the functions of the agency, entity or official that designated the individual that
 24 relate to emergency preparedness and response with similar functions of the Office of Emergency
 25 Management.

26 **SECTION 73.** ORS 466.135 is amended to read:

27 466.135. Upon receipt of an application for a hazardous waste disposal site permit, the Depart-
 28 ment of Environmental Quality shall cause copies of the application to be sent to affected state
 29 agencies, including the Oregon Health Authority, the Public Utility Commission[, *the State Fish and*
 30 *Wildlife Commission*] and the Water Resources Director. Each agency shall respond by making a
 31 recommendation as to whether the permit application should be granted. If the Oregon Health Au-
 32 thority recommends against granting the permit, the Environmental Quality Commission must refuse
 33 to issue the permit. Recommendation from other agencies shall be considered as evidence in deter-
 34 mining whether to grant the permit.

35 **SECTION 74.** ORS 466.280 is amended to read:

36 466.280. Upon receipt of an application for a PCB disposal facility permit, the Department of
 37 Environmental Quality shall cause copies of the application to be sent to affected state agencies,
 38 including the Oregon Health Authority, the Public Utility Commission[, *the State Fish and Wildlife*
 39 *Commission*] and the Water Resources Director. Each agency shall respond within the period speci-
 40 fied by the Department of Environmental Quality by making a written recommendation as to
 41 whether the permit application should be granted. Recommendation from other agencies shall be
 42 considered in determining whether to grant the permit.

43 **SECTION 75.** ORS 468B.090 is amended to read:

44 468B.090. (1) The Department of Environmental Quality may issue a permit to discharge shrimp
 45 and crab processing by-products into the waters of an Oregon estuary under ORS 468B.050 or

1 468B.053 for the purpose of enhancing aquatic life production. The permit shall impose the following
2 conditions:

- 3 (a) No toxic substances shall be present in the by-products discharged.
- 4 (b) The oxygen content of the estuarine waters shall not be reduced.
- 5 (c) The discharge shall not create a public nuisance.
- 6 (d) Other beneficial uses of the estuary shall not be adversely affected.

7 (2) The department shall consult [*the State Department of Fish and Wildlife*] **Oregon Fish and**
8 **Game** and obtain its approval before issuing a permit under this section.

9 **SECTION 76.** ORS 468B.060 is amended to read:

10 468B.060. (1) Where the injury, death, contamination or destruction of fish or other wildlife or
11 injury or destruction of fish or wildlife habitat results from pollution or from any violation of the
12 conditions set forth in any permit or of the orders or rules of the Environmental Quality Commis-
13 sion, the person responsible for the injury, death, contamination or destruction shall be strictly lia-
14 ble to the state for the value of the fish or wildlife so injured or destroyed and for all costs of
15 restoring fish and wildlife production in the affected areas, including habitat restoration.

16 (2) In addition to the penalties provided for by law, the state may seek recovery of such damages
17 in any court of competent jurisdiction in this state if the person responsible under subsection (1)
18 of this section fails or refuses to pay for the value of the fish or wildlife so destroyed and for all
19 costs of restoring fish and wildlife production in the affected areas, including habitat restoration,
20 within a period of 60 days from the date of mailing by registered or certified mail of written demand
21 therefor.

22 (3) Any action or suit for the recovery of damages described in subsection (1) of this section
23 shall be brought in the name of the State of Oregon upon relation of the Department of Environ-
24 mental Quality or [*State Department of Fish and Wildlife*] **Oregon Fish and Game** or the Attorney
25 General. Amounts recovered under this section shall be paid to the state agency having jurisdiction
26 over the fish or wildlife or fish or wildlife production for which damages were recovered.

27 **SECTION 77.** ORS 468B.365 is amended to read:

28 468B.365. (1) The Department of Environmental Quality shall approve a contingency plan only
29 if it determines that the plan meets the requirements of ORS 468B.345 to 468B.360 and:

- 30 (a) The covered vessel or facility demonstrates evidence of compliance with ORS 468B.390; and
- 31 (b) If implemented, the plan is capable, to the maximum extent practicable in terms of personnel,
32 materials and equipment, of removing oil promptly and properly and minimizing any damage to the
33 environment.

34 (2) An owner or operator of a covered vessel or facility shall notify the department in writing
35 immediately of any significant change affecting the contingency plan, including changes in any fac-
36 tor set forth in this section or in rules adopted by the Environmental Quality Commission. The de-
37 partment may require the owner or operator to update a contingency plan as a result of these
38 changes.

39 (3) A holder of an approved contingency plan does not violate the terms of the contingency plan
40 by furnishing to another plan holder, after notifying the department, equipment, materials or per-
41 sonnel to assist the other plan holder in a response to an oil discharge. The plan holder shall re-
42 place or return the transferred equipment, materials and personnel as soon as feasible.

43 (4) The department may attach any reasonable term or condition to its approval or modification
44 of a contingency plan that the department determines is necessary to insure that the applicant:

- 45 (a) Has access to sufficient resources to protect environmentally sensitive areas and to prevent,

1 contain, clean up and mitigate potential oil discharges from the facility or tank vessel;

2 (b) Maintains personnel levels sufficient to carry out emergency operations; and

3 (c) Complies with the contingency plan.

4 (5) The contingency plan must provide for the use by the applicant of the best technology
5 available at the time the contingency plan was submitted or renewed.

6 (6) The department may require an applicant or a holder of an approved contingency plan to
7 take steps necessary to demonstrate its ability to carry out the contingency plan, including:

8 (a) Periodic training;

9 (b) Response team exercises; and

10 (c) Verification of access to inventories of equipment, supplies and personnel identified as
11 available in the approved contingency plan.

12 (7) The department may consider evidence that oil discharge prevention measures such as dou-
13 ble hulls or double bottoms on vessels or barges, secondary containment systems, hydrostatic test-
14 ing, enhanced vessel traffic systems or enhanced crew or staffing levels have been implemented and
15 in its discretion, may make exceptions to the requirements of this section to reflect the reduced risk
16 of oil discharges from the facility or tank vessel for which the plan is submitted or being modified.

17 (8) Before the department approves or modifies a contingency plan required under ORS 468B.345,
18 the department shall provide a copy of the contingency plan to [*the State Department of Fish and*
19 *Wildlife,*] the office of the State Fire Marshal and the Department of Land Conservation and De-
20 velopment for review. The agencies shall review the plan according to procedures and time limits
21 established by rule of the Environmental Quality Commission.

22 (9) Upon approval of a contingency plan, the department shall issue to the plan holder a certif-
23 icate stating that the plan has been approved. The certificate shall include the name of the facility
24 or tank vessel for which the certificate is issued, the effective date of the plan and the date by
25 which the plan must be submitted for renewal.

26 (10) The approval of a contingency plan by the department does not constitute an express as-
27 surance regarding the adequacy of the plan or constitute a defense to liability imposed under ORS
28 chapters 468, 468A and 468B or any other state law.

29 **SECTION 78.** ORS 468B.400 is amended to read:

30 468B.400. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall develop and
31 implement a program to provide wildlife rescue training for volunteers. In developing the program,
32 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** shall:

33 (1) Work with agencies responsible for wildlife protection in other west coast states;

34 (2) Rely upon the oil wildlife rehabilitation plan developed under ORS 468B.495; and

35 (3) Take such action as is required for reimbursement in accordance with the provisions of the
36 federal Oil Pollution Act of 1990 (P.L. 101-380).

37 **SECTION 79.** ORS 468B.450 is amended to read:

38 468B.450. (1) Any person who willfully or negligently causes or permits the discharge of oil into
39 the waters of the state shall incur, in addition to any other penalty provided by law, a civil penalty
40 commensurate with the amount of damage incurred. The amount of the penalty shall be determined
41 by the Director of the Department of Environmental Quality [*with the advice of the State Fish and*
42 *Wildlife Director*] after taking into consideration the gravity of the violation, the previous record
43 of the violator in complying, or failing to comply, with the provisions of ORS 468B.450 to 468B.460,
44 and such other considerations as the director considers appropriate. The penalty provided for in this
45 subsection shall be imposed and enforced in accordance with ORS 468.135.

1 (2) The director may, upon written application therefor received within 15 days after receipt of
 2 notice under ORS 468.135, and when considered in the best interest of this state in carrying out the
 3 purposes of ORS chapters 468, 468A and 468B, remit or mitigate any penalty provided for in sub-
 4 section (1) of this section or discontinue any prosecution to recover the same upon such terms as
 5 the director in the director's discretion considers proper.

6 **SECTION 80.** ORS 469.350 is amended to read:

7 469.350. (1) Applications for site certificates shall be made to the Energy Facility Siting Council
 8 in a form prescribed by the council and accompanied by the fee required by ORS 469.421.

9 (2) Copies of the notice of intent and of the application shall be sent for comment and recom-
 10 mendation within specified deadlines established by the council to the Department of Environmental
 11 Quality, the Water Resources Commission, [*the State Fish and Wildlife Commission,*] the Water Re-
 12 sources Director, the State Geologist, the State Forestry Department, the Public Utility Commission
 13 of Oregon, the State Department of Agriculture, the Department of Land Conservation and Devel-
 14 opment, the Oregon Department of Aviation, any other state agency that has regulatory or advisory
 15 responsibility with respect to the facility and any city or county affected by the application.

16 (3) Any state agency, city or county that is requested by the council to comment and make
 17 recommendations under this section shall respond to the council by the specified deadline. If a state
 18 agency, city or county determines that it cannot respond to the council by the specified deadline
 19 because the state agency, city or county lacks sufficient resources to review and comment on the
 20 application, the state agency, city or county shall contract with another entity to assist in preparing
 21 a response. A state agency, city or county that enters into a contract to assist in preparing a re-
 22 sponse may request funding to pay for that contract from the council pursuant to ORS 469.360.

23 (4) The State Department of Energy shall notify the applicant whether the application is com-
 24 plete. When the department determines an application is complete, the department shall notify the
 25 applicant and provide notice to the public.

26 **SECTION 81.** ORS 469.373 is amended to read:

27 469.373. (1) Notwithstanding the expedited review process established pursuant to ORS 469.370,
 28 an applicant may apply under the provisions of this section for expedited review of an application
 29 for a site certificate for an energy facility if the energy facility:

30 (a) Is a combustion turbine energy facility fueled by natural gas or is a reciprocating engine
 31 fueled by natural gas, including an energy facility that uses petroleum distillate fuels for backup
 32 power generation;

33 (b) Is a permitted or conditional use allowed under an applicable local acknowledged compre-
 34 hensive plan, land use regulation or federal land use plan, and is located:

35 (A) At or adjacent to an existing energy facility; or

36 (B)(i) At, adjacent to or in close proximity to an existing industrial use; and

37 (ii) In an area currently zoned or designated for industrial use;

38 (c)(A) Requires no more than three miles of associated transmission lines or three miles of new
 39 natural gas pipelines outside of existing rights of way for transmission lines or natural gas pipelines;
 40 or

41 (B) Imposes, in the determination of the Energy Facility Siting Council, no significant impact in
 42 the locating of associated transmission lines or new natural gas pipelines outside of existing rights
 43 of way;

44 (d) Requires no new water right or water right transfer;

45 (e) Provides funds to a qualified organization in an amount determined by the council to be

1 sufficient to produce any required reduction in emissions as specified in ORS 469.503 (2)(c)(C) and
2 in rules adopted under ORS 469.503 for the total carbon dioxide emissions produced by the energy
3 facility for the life of the energy facility; and

4 (f)(A) Discharges process wastewater to a wastewater treatment facility that has an existing
5 National Pollutant Discharge Elimination System permit, can obtain an industrial pretreatment
6 permit, if needed, within the expedited review process time frame and has written confirmation from
7 the wastewater facility permit holder that the additional wastewater load will be accommodated by
8 the facility without resulting in a significant thermal increase in the facility effluent or without re-
9 quiring any changes to the wastewater facility National Pollutant Discharge Elimination System
10 permit;

11 (B) Plans to discharge process wastewater to a wastewater treatment facility owned by a mu-
12 nicipal corporation that will accommodate the wastewater from the energy facility and supplies ev-
13 idence from the municipal corporation that:

14 (i) The municipal corporation has included, or intends to include, the process wastewater load
15 from the energy facility in an application for a National Pollutant Discharge Elimination System
16 permit; and

17 (ii) All conditions required of the energy facility to allow the discharge of process wastewater
18 from the energy facility will be satisfied; or

19 (C) Obtains a National Pollutant Discharge Elimination System or water pollution control fa-
20 cility permit for process wastewater disposal, supplies evidence to support a finding that the dis-
21 charge can likely be permitted within the expedited review process time frame and that the
22 discharge will not require:

23 (i) A new National Pollutant Discharge Elimination System permit, except for a storm water
24 general permit for construction activities; or

25 (ii) A change in any effluent limit or discharge location under an existing National Pollutant
26 Discharge Elimination System or water pollution control facility permit.

27 (2) An applicant seeking expedited review under this section shall submit documentation to the
28 State Department of Energy, prior to the submission of an application for a site certificate, that
29 demonstrates that the energy facility meets the qualifications set forth in subsection (1) of this
30 section. The department shall determine, within 14 days of receipt of the documentation, on a pre-
31 liminary, nonbinding basis, whether the energy facility qualifies for expedited review.

32 (3) If the department determines that the energy facility preliminarily qualifies for expedited
33 review, the applicant may submit an application for expedited review. Within 30 days after the date
34 that the application for expedited review is submitted, the department shall determine whether the
35 application is complete. If the department determines that the application is complete, the applica-
36 tion shall be deemed filed on the date that the department sends the applicant notice of its deter-
37 mination. If the department determines that the application is not complete, the department shall
38 notify the applicant of the deficiencies in the application and shall deem the application filed on the
39 date that the department determines that the application is complete. The department or the
40 council may request additional information from the applicant at any time.

41 (4) The State Department of Energy shall send a copy of a filed application to the Department
42 of Environmental Quality, the Water Resources Department, [*the State Department of Fish and*
43 *Wildlife,*] the State Department of Geology and Mineral Industries, the State Department of Agri-
44 culture, the Department of Land Conservation and Development, the Public Utility Commission and
45 any other state agency, city, county or political subdivision of the state that has regulatory or ad-

1 visory responsibility with respect to the proposed energy facility. The State Department of Energy
2 shall send with the copy of the filed application a notice specifying that:

3 (a) In the event the council issues a site certificate for the energy facility, the site certificate
4 will bind the state and all counties, cities and political subdivisions in the state as to the approval
5 of the site, the construction of the energy facility and the operation of the energy facility, and that
6 after the issuance of a site certificate, all permits, licenses and certificates addressed in the site
7 certificate must be issued as required by ORS 469.401 (3); and

8 (b) The comments and recommendations of state agencies, counties, cities and political subdivi-
9 sions concerning whether the proposed energy facility complies with any statute, rule or local
10 ordinance that the state agency, county, city or political subdivision would normally administer in
11 determining whether a permit, license or certificate required for the construction or operation of the
12 energy facility should be approved will be considered only if the comments and recommendations
13 are received by the department within a reasonable time after the date the application and notice
14 of the application are sent by the department.

15 (5) Within 90 days after the date that the application was filed, the department shall issue a
16 draft proposed order setting forth:

17 (a) A description of the proposed energy facility;

18 (b) A list of the permits, licenses and certificates that are addressed in the application and that
19 are required for the construction or operation of the proposed energy facility;

20 (c) A list of the statutes, rules and local ordinances that are the standards and criteria for ap-
21 proval of any permit, license or certificate addressed in the application and that are required for the
22 construction or operation of the proposed energy facility; and

23 (d) Proposed findings specifying how the proposed energy facility complies with the applicable
24 standards and criteria for approval of a site certificate.

25 (6) The council shall review the application for site certification in the manner set forth in
26 subsections (7) to (10) of this section and shall issue a site certificate for the facility if the council
27 determines that the facility, with any required conditions to the site certificate, will comply with:

28 (a) The requirements for expedited review as specified in this section;

29 (b) The standards adopted by the council pursuant to ORS 469.501 (1)(a), (c) to (e), (g), (h) and
30 (L) to (o);

31 (c) The requirements of ORS 469.503 (3); and

32 (d) The requirements of ORS 469.504 (1)(b).

33 (7) Following submission of an application for a site certificate, the council shall hold a public
34 informational meeting on the application. Following the issuance of the proposed order, the council
35 shall hold at least one public hearing on the application. The public hearing shall be held in the area
36 affected by the energy facility. The council shall mail notice of the hearing at least 20 days prior
37 to the hearing. The notice shall comply with the notice requirements of ORS 197.763 (2) and shall
38 include, but need not be limited to, the following:

39 (a) A description of the energy facility and the general location of the energy facility;

40 (b) The name of a department representative to contact and the telephone number at which
41 people may obtain additional information;

42 (c) A statement that copies of the application and proposed order are available for inspection
43 at no cost and will be provided at reasonable cost; and

44 (d) A statement that the record for public comment on the application will close at the conclu-
45 sion of the hearing and that failure to raise an issue in person or in writing prior to the close of

1 the record, with sufficient specificity to afford the decision maker an opportunity to respond to the
 2 issue, will preclude consideration of the issue, by the council or by a court on judicial review of the
 3 council's decision.

4 (8) Prior to the conclusion of the hearing, the applicant may request an opportunity to present
 5 additional written evidence, arguments or testimony regarding the application. In the alternative,
 6 prior to the conclusion of the hearing, the applicant may request a contested case hearing on the
 7 application. If the applicant requests an opportunity to present written evidence, arguments or tes-
 8 timony, the council shall leave the record open for that purpose only for a period not to exceed 14
 9 days after the date of the hearing. Following the close of the record, the department shall prepare
 10 a draft final order for the council. If the applicant requests a contested case hearing, the council
 11 may grant the request if the applicant has shown good cause for a contested case hearing. If a re-
 12 quest for a contested case hearing is granted, subsections (9) to (11) of this section do not apply,
 13 and the application shall be considered under the same contested case procedures used for a non-
 14 expedited application for a site certificate.

15 (9) The council shall make its decision based on the record and the draft final order prepared
 16 by the department. The council shall, within six months of the date that the application is deemed
 17 filed:

- 18 (a) Grant the application;
- 19 (b) Grant the application with conditions;
- 20 (c) Deny the application; or
- 21 (d) Return the application to the site certification process required by ORS 469.320.

22 (10) If the application is granted, the council shall issue a site certificate pursuant to ORS
 23 469.401 and 469.402. Notwithstanding subsection (6) of this section, the council may impose condi-
 24 tions based on standards adopted under ORS 469.501 (1)(b), (f) and (i) to (k), but may not deny an
 25 application based on those standards.

26 (11) Judicial review of the approval or rejection of a site certificate by the council under this
 27 section shall be as provided in ORS 469.403.

28 **SECTION 82.** ORS 469.840 is amended to read:

29 469.840. (1) There is established a Northwest Regional Power and Conservation Account. Mon-
 30 eys received pursuant to Public Law 96-501 shall be placed in the account.

31 (2) The account created by subsection (1) of this section is continuously appropriated for dis-
 32 bursement to state agencies, including but not limited to the Public Utility Commission, the State
 33 Department of Energy, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the
 34 Water Resources Department to carry out the purposes of Public Law 96-501, subject to legislative
 35 approval or limitation by law or Emergency Board action.

36 **SECTION 83.** ORS 477.747 is amended to read:

37 477.747. The State Forestry Department, the State Parks and Recreation Department, the [*State*
 38 *Department of Fish and Wildlife*] **Oregon Watershed Enhancement Board**, the Department of
 39 State Lands and any other state agency with oversight responsibilities for state forestlands shall
 40 promote the effective use of state resources by adopting and implementing policies and management
 41 plans to begin efforts to restore and recover forestlands burned by fire so that social, economic and
 42 environmental values are not lost due to delay. These agencies shall coordinate, to the extent
 43 needed, to promote the efficient use of state resources in developing their fire restoration and re-
 44 covery policies and plans. The Oregon Department of Administrative Services may assist state
 45 agencies under this section in developing contract and other procedures to expedite restoration and

1 recovery efforts. The Oregon Department of Administrative Services shall provide appropriate con-
2 tracting assistance and exceptions as may be necessary to expedite restoration and recovery efforts.

3 **SECTION 84.** ORS 496.004 is amended to read:

4 496.004. As used in the wildlife laws, unless the context requires otherwise:

5 (1) "Angle" means to take or attempt to take a fish for personal use by means involving hook
6 and line.

7 (2) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.

8 (3) "Compatible" means capable of existing in harmony so as to minimize conflict.

9 (4) "Department" means [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**,
10 created by ORS 496.080.

11 (5) "Director" means the State Fish and [*Wildlife*] **Game** Director appointed pursuant to ORS
12 496.112.

13 (6) "Endangered species" means:

14 (a) Any native wildlife species determined by the [*commission*] **Oregon Watershed Enhance-**
15 **ment Board** to be in danger of extinction throughout any significant portion of its range within this
16 state.

17 (b) Any native wildlife species listed as an endangered species pursuant to the federal Endan-
18 gered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.

19 (7) "Fund" means the State Wildlife Fund created by ORS 496.300.

20 (8) "Fur-bearing mammal" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon,
21 red fox and gray fox.

22 (9) "Game mammal" means antelope, black bear, cougar, deer, elk, moose, mountain goat,
23 mountain sheep, silver gray squirrel and gray wolf as a special status mammal defined by commis-
24 sion rule.

25 (10) "Hunt" means to take or attempt to take any wildlife by means involving the use of a
26 weapon or with the assistance of any mammal or bird.

27 (11) "Manage" means to protect, preserve, propagate, promote, utilize and control wildlife.

28 (12) "Optimum level" means wildlife population levels that provide self-sustaining species as well
29 as taking, nonconsumptive and recreational opportunities.

30 (13) "Person with a disability" means a person who complies with the requirement of ORS
31 496.018.

32 (14) "Shellfish" has the meaning given that term in ORS 506.011.

33 (15) "Species" means any species or subspecies of wildlife.

34 (16) "Take" means to kill or obtain possession or control of any wildlife.

35 (17) "Threatened species" means:

36 (a) Any native wildlife species the [*commission*] **board** determines is likely to become an en-
37 dangered species within the foreseeable future throughout any significant portion of its range within
38 this state.

39 (b) Any native wildlife species listed as a threatened species pursuant to the federal Endangered
40 Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.

41 (18) "Trap" means to take or attempt to take any wildlife by means involving the use of a trap,
42 net, snare or other device used for the purpose of capture.

43 (19) "Wildlife" means fish, shellfish, amphibians and reptiles, feral swine as defined by State
44 Department of Agriculture rule, wild birds as defined by commission rule and other wild mammals
45 as defined by commission rule.

1 **SECTION 85.** ORS 496.080 is amended to read:

2 496.080. There is hereby established in the executive branch of the government of this state
3 under the State Fish and Wildlife Commission a department to be known as [*the State Department*
4 *of Fish and Wildlife*] **Oregon Fish and Game.** [*The department*] **Oregon Fish and Game** shall
5 consist of [*the*] a director [*of the department*] and all personnel employed [*in the department*] by
6 **Oregon Fish and Game.**

7 **SECTION 86.** ORS 496.085 is amended to read:

8 496.085. (1) There is established within [*the State Department of Fish and Wildlife*] **Oregon Fish**
9 **and Game** the Fish Screening Task Force consisting of seven members appointed by the State Fish
10 and Wildlife Commission.

11 (2) Three members shall be appointed to represent agricultural interests, three shall be ap-
12 pointed to represent fishing or fish conservation interests and one member shall be appointed to
13 represent the public. Members of the task force shall serve for two-year terms. No member of the
14 task force shall serve for more than three consecutive two-year terms.

15 (3) A member of the task force shall receive no compensation for services as a member. How-
16 ever, subject to any applicable law regulating travel and other expenses of state officers and em-
17 ployees, a member shall be reimbursed for actual and necessary travel and other expenses incurred
18 in the performance of official duties from such moneys as may be available therefor in the State
19 Wildlife Fund.

20 (4) The task force shall meet at such times and places as may be determined by the chair or by
21 a majority of the members of the task force.

22 (5) The duties of the task force are:

23 (a) To advise the department in the development of a comprehensive cost-sharing program for
24 the installation of fish screening or by-pass devices in water diversions.

25 (b) To advise the department in establishing a stable and equitable funding system for the in-
26 stallation and maintenance of fish screening and by-pass devices.

27 (c) To advise the department in identifying sources and applying for grants from local, state and
28 federal governmental agencies for funding the installation and maintenance of fish screening and
29 by-pass devices.

30 (d) To advise the department in monitoring fish screening programs.

31 (e) To advise the department in a survey and study of fish screening technology to determine
32 the most cost-effective alternatives for screening in the various situations that may be encountered
33 in the implementation of fish screening in this state.

34 (f) To advise the department in preparing a report on the capital costs and effectiveness of the
35 program provided in ORS 498.306.

36 (g) To advise the department on the creation of the priority criteria and the priority listing re-
37 ferred to in ORS 498.306 (14)(a) or (d).

38 **SECTION 87.** ORS 496.112 is amended to read:

39 496.112. (1) The State Fish and Wildlife Commission shall appoint a State Fish and [*Wildlife*]
40 **Game** Director to serve for a term not to exceed four years unless sooner removed by the commis-
41 sion.

42 (2) The director shall receive such salary as may be fixed by the commission. In addition to
43 salary, subject to applicable law regulating travel and other expenses of state officers, the director
44 shall be reimbursed for actual and necessary travel and other expenses incurred in the performance
45 of official duties.

1 (3) The commission may delegate to the director any of the powers and duties granted to or
2 imposed upon it by law, except to revoke or refuse to issue licenses issued pursuant to the com-
3 mercial fishing laws.

4 (4) The commission may reappoint the director to additional terms.

5 **SECTION 88.** ORS 496.116 is amended to read:

6 496.116. (1) In exercising any authority to adopt administrative rules delegated by the State Fish
7 and Wildlife Commission under ORS 496.112, the State Fish and [*Wildlife*] **Game** Director shall
8 comply with the requirements of ORS 496.138.

9 (2) Notwithstanding ORS 183.400, for any rule adopted by the director pursuant to subsection
10 (1) of this section, before a person may petition the Court of Appeals to determine the validity of
11 the rule, the person shall first request that the State Fish and Wildlife Commission determine the
12 validity of the rule. The determination of the commission may be reviewed in accordance with ORS
13 183.400.

14 **SECTION 89.** ORS 496.118 is amended to read:

15 496.118. (1) Subject to policy direction by the State Fish and Wildlife Commission, the State Fish
16 and [*Wildlife*] **Game** Director shall:

17 (a) Be the administrative head of [*the State Department of Fish and Wildlife*] **Oregon Fish and**
18 **Game**;

19 (b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter
20 240, to hire, assign, reassign and coordinate personnel of the department;

21 (c) Administer and enforce the wildlife laws of the state;

22 (d) Be authorized to participate in any proceeding before any public officer, commission or body
23 of the United States or any state for the purpose of representing the citizens of Oregon concerning
24 the wildlife resources of this state;

25 (e) Establish such sections and divisions as are necessary to properly carry out the work of the
26 commission;

27 (f) Be responsible for the collection, application and dissemination of information pertinent to
28 the management of the wildlife resources, and to the regulation of the uses of such resources; and

29 (g) Coordinate any activities of the department related to a watershed enhancement project ap-
30 proved by the Oregon Watershed Enhancement Board under ORS 541.932 with activities of other
31 cooperating state and federal agencies participating in the project.

32 (2) In addition to duties otherwise required by law, the director shall prescribe internal policies
33 and procedures for the government of the department, the conduct of its employees, the assignment
34 and performance of its business and the custody, use and preservation of its records, papers and
35 property in a manner consistent with applicable law.

36 (3) In addition to any other duties assigned to the director, the director shall report quarterly
37 on the activities of the department to the appropriate legislative committee.

38 (4) The director may delegate to any employee of the department the exercise or discharge in
39 the director's name of any power, duty or function of whatever character, vested in or imposed by
40 law upon the director. The official act of a person so acting in the director's name and by the
41 director's authority shall be considered to be an official act of the director.

42 (5) The director may restrict or otherwise limit the participation of an employee of the depart-
43 ment in any program administered by the department to ensure that the programs of the department
44 are administered in a fair and equitable manner and that no employee of the department gains an
45 advantage over the public.

1 (6) Notwithstanding the provisions of ORS 496.112 (3), in times of emergency or with respect to
 2 regulating wildlife taking, the director may exercise the full powers of the commission until such
 3 times as the emergency ends or the commission meets in formal session.

4 **SECTION 90.** ORS 496.121 is amended to read:

5 496.121. For the purpose of requesting a state or nationwide criminal records check under ORS
 6 181A.195, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** may require the fin-
 7 gerprints of a person who:

8 (1)(a) Is employed or applying for employment by the department; or

9 (b) Provides services or seeks to provide services to the department as a contractor, vendor or
 10 volunteer; and

11 (2) Is, or will be, working or providing services in a position:

12 (a) In which the person has direct access to persons under 18 years of age, elderly persons or
 13 persons with disabilities;

14 (b) That has personnel or human resources functions as one of the position's primary responsi-
 15 bilities;

16 (c) In which the person is providing information technology services and has control over, or
 17 access to, information technology systems that would allow the person to harm the information
 18 technology systems or the information contained in the systems;

19 (d) That involves the use, possession, issuance, transport, purchase, sale or forfeiture of firearms
 20 or munitions, access to firearms or munitions or the training of others in the use or handling of
 21 firearms;

22 (e) In which the person resides on property managed by the department;

23 (f) In which the person has access to information, the disclosure of which is prohibited by state
 24 or federal laws, rules or regulations or information that is defined as confidential under state or
 25 federal laws, rules or regulations;

26 (g) That has payroll functions or in which the person has responsibility for receiving, receipting
 27 or depositing money or negotiable instruments, for billing, collections or other financial transactions
 28 or for purchasing or selling property or has access to property held in trust or to private property
 29 in the temporary custody of the state;

30 (h) That has mailroom duties as a primary duty or job function;

31 (i) In which the person has responsibility for auditing the department;

32 (j) In which the person has access to Social Security numbers, dates of birth or criminal back-
 33 ground information of employees or members of the public; or

34 (k) In which the person has access to tax or financial information about individuals or business
 35 entities.

36 **SECTION 91.** ORS 496.124 is amended to read:

37 496.124. In addition to such divisions as may be established by the State Fish and [*Wildlife*]
 38 **Game** Director pursuant to ORS 496.118, there are established within [*the State Department of Fish*
 39 *and Wildlife*] **Oregon Fish and Game** a Fish Division and a [*Wildlife*] **Game** Division. [*The Wildlife*
 40 *Division shall be responsible for the management of all wildlife, except fish and other marine life, over*
 41 *which the State Fish and Wildlife Commission has regulatory jurisdiction.*] **The Fish Division may**
 42 **exercise all Oregon Fish and Game duties, functions and powers related to angling or com-**
 43 **mercial fishing or to the restoration, conservation, use or nonuse of fish or shellfish that**
 44 **are subject to angling or commercial fishing. The Game Division shall exercise all Oregon**
 45 **Fish and Game duties, functions and powers related to hunting activities or to the restora-**

1 **tion, conservation, use or nonuse of wildlife that is subject to hunting.**

2 **SECTION 92.** ORS 496.138 is amended to read:

3 496.138. (1) Consistent with the policy of ORS 496.012, the State Fish and Wildlife Commission
4 shall implement the policies and programs of this state for the management of wildlife **for purposes**
5 **related to hunting, angling or commercial fishing.** These policies and programs shall consider
6 the uses of public and private lands and utilize voluntary partnerships with private and public
7 landowners to protect and enhance **fish and** wildlife habitat and effectively manage **fish and**
8 wildlife. *In addition, the commission shall perform any other duty vested in it by law* **for purposes**
9 **related to hunting, angling or commercial fishing. For purposes of this section, ensuring**
10 **sufficient stocks of fish and wildlife for sustainable use in hunting, angling and commercial**
11 **fishing is a purpose related to hunting, angling or commercial fishing.**

12 (2) In accordance with the applicable provisions of ORS chapter 183, the commission shall adopt
13 such rules and standards as it considers necessary and proper to implement the policy and objec-
14 tives of ORS 496.012 and perform the functions vested by law in the commission.

15 (3) Except as provided in ORS 183.335 (5), the commission shall cause a public hearing to be held
16 on any proposed rule or standard prior to its adoption. The hearing may be before the commission,
17 any designated member thereof or any person designated by and acting for the commission.

18 (4) Before submitting an agency request budget or information to the Governor pursuant to ORS
19 291.201 to 291.222, the commission shall hold a public hearing on proposals for planned expenditures
20 and enhancement packages that the commission intends to recommend to the Governor for inclusion
21 in the Governor's budget.

22 **SECTION 93.** ORS 496.141 is amended to read:

23 496.141. On or before February 1 of each odd-numbered year, *[the State Department of Fish and*
24 *Wildlife]* **Oregon Fish and Game** shall provide to the Joint Committee on Ways and Means a
25 complete annual report regarding activities initiated by the department in regard to the fish
26 screening program. The report shall include a complete budget analysis of all costs, including in-kind
27 costs associated with the program, the number of screening or by-pass devices installed and the size
28 of the diversions on which such devices were installed. The budget analysis shall identify all costs
29 associated with the construction and installation of screening or by-pass devices, administrative
30 costs and research and development costs associated with the program.

31 **SECTION 94.** ORS 496.146, as amended by section 3, chapter 100, Oregon Laws 2018, is
32 amended to read:

33 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife
34 Commission:

35 (1) May accept, from whatever source, appropriations, gifts or grants of money or other property
36 for the purposes of wildlife management, and use such money or property for wildlife management
37 purposes.

38 (2) May sell or exchange property owned by the state and used for wildlife management pur-
39 poses when the commission determines that such sale or exchange would be advantageous to the
40 state wildlife policy and management programs.

41 (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-
42 mission determines will carry out the state wildlife policy and management programs.

43 (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,
44 hunting and trapping and may prescribe such tagging and sealing procedures as the commission
45 determines necessary to carry out the provisions of the wildlife laws or to obtain information for

1 use in wildlife management. Permits issued pursuant to this subsection may include special hunting
2 permits for a person and immediate family members of the person to hunt on land owned by that
3 person in areas where permits for deer or elk are limited by quota. As used in this subsection,
4 “immediate family members” means spouses in a marriage, parents, brothers, brothers-in-law, sisters,
5 sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, stepchildren and grandchildren. A
6 landowner who is qualified to receive landowner preference tags from the commission may request
7 two additional tags for providing public access and two additional tags for wildlife habitat programs.
8 This request shall be made to the Access and Habitat Board with supporting evidence that the ac-
9 cess is significant and the habitat programs benefit wildlife. The board may recommend that the
10 commission grant the request. When a landowner is qualified under landowner preference rules
11 adopted by the commission and receives a controlled hunt tag for that unit or a landowner prefer-
12 ence tag for the landowner’s property and does not use the tag during the regular season, the
13 landowner may use that tag to take an antlerless animal, when approved by [*the State Department*
14 *of Fish and Wildlife*] **Oregon Fish and Game**, to alleviate damage that is presently occurring to the
15 landowner’s property.

16 (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued
17 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and
18 place of taking wildlife, the quantities taken and such other information as the commission deter-
19 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in
20 wildlife management.

21 (6) May establish special hunting and angling areas or seasons in which only persons less than
22 18 years of age or over 65 years of age are permitted to hunt or angle.

23 (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests
24 therein for wildlife management and wildlife-oriented recreation purposes.

25 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise
26 real property and all interests therein and establish, operate and maintain thereon public hunting
27 areas.

28 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-
29 erning the use of such areas and the use of wildlife refuge and management areas established and
30 developed pursuant to any other provision of law.

31 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required
32 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of
33 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-
34 scribed by law. No fee or user charge prescribed by the commission pursuant to this subsection shall
35 exceed \$250.

36 (11) May enter into contracts with any person or governmental agency for the development and
37 encouragement of wildlife research and management programs and projects.

38 (12) May perform such acts as may be necessary for the establishment and implementation of
39 cooperative wildlife management programs with agencies of the federal government.

40 (13) May offer and pay rewards for the arrest and conviction of any person who has violated
41 any of the wildlife laws. No such reward shall exceed \$1,000 for any one arrest and conviction.

42 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless
43 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-
44 section shall be based on actual or projected costs of administering falconry regulations and shall
45 not exceed \$250.

1 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons
2 with disabilities.

3 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-
4 lation levels shall be reviewed at least once every five years.

5 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled
6 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those
7 drawings in subsequent years. In establishing the preference system, the commission shall consider
8 giving additional preference points to persons who have been issued a resident annual pioneer
9 combination license pursuant to ORS 497.132.

10 (18) May sell advertising in [*State Department of Fish and Wildlife*] **Oregon Fish and Game**
11 publications, including annual hunting and angling regulation publications.

12 (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an
13 organization that sponsors hunting trips for terminally ill children. Except as provided under section
14 2, chapter 100, Oregon Laws 2018, [*the State Department of Fish and Wildlife*] **Oregon Fish and**
15 **Game** may not issue more than 15 tags annually under this subsection.

16 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting
17 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to
18 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or
19 other mammal. The rules may exempt [*the State Department of Fish and Wildlife*] **Oregon Fish and**
20 **Game** or agents of the department from the prohibition.

21 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-
22 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the
23 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-
24 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS
25 496.300.

26 (22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on
27 any person who fails to comply with mandatory hunting reporting requirements. Amounts collected
28 as surcharges under this subsection must be deposited in the State Wildlife Fund established under
29 ORS 496.300.

30 (23) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon
31 recreational fishing endorsements with a fee not to exceed \$9.75 per annual license and \$1 per day
32 per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in portions
33 of the Columbia Basin as designated by rule and is in addition to and not in lieu of angling licenses
34 and tags required under the wildlife laws. Amounts collected as fees under this subsection must be
35 deposited in the Columbia River Fisheries Enhancement Fund established under section 7, chapter
36 672, Oregon Laws 2013.

37 (24) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees
38 prescribed by the commission for multiyear licenses may provide for a discount from the annual li-
39 cense fees that would otherwise be payable for the period of time covered by the multiyear license.

40 (25) May by rule establish a program to offer unique fishing opportunities through drawings,
41 raffles or auctions and charge application and participation fees for the program.

42 **SECTION 95.** ORS 496.146, as amended by section 10, chapter 672, Oregon Laws 2013, section
43 52, chapter 629, Oregon Laws 2015, section 8, chapter 779, Oregon Laws 2015, and section 4, chapter
44 100, Oregon Laws 2018, is amended to read:

45 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife

1 Commission:

2 (1) May accept, from whatever source, appropriations, gifts or grants of money or other property
3 for the purposes of wildlife management, and use such money or property for wildlife management
4 purposes.

5 (2) May sell or exchange property owned by the state and used for wildlife management pur-
6 poses when the commission determines that such sale or exchange would be advantageous to the
7 state wildlife policy and management programs.

8 (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-
9 mission determines will carry out the state wildlife policy and management programs.

10 (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,
11 hunting and trapping and may prescribe such tagging and sealing procedures as the commission
12 determines necessary to carry out the provisions of the wildlife laws or to obtain information for
13 use in wildlife management. Permits issued pursuant to this subsection may include special hunting
14 permits for a person and immediate family members of the person to hunt on land owned by that
15 person in areas where permits for deer or elk are limited by quota. As used in this subsection,
16 "immediate family members" means spouses in a marriage, parents, brothers, brothers-in-law, sisters,
17 sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, stepchildren and grandchildren. A
18 landowner who is qualified to receive landowner preference tags from the commission may request
19 two additional tags for providing public access and two additional tags for wildlife habitat programs.
20 This request shall be made to the Access and Habitat Board with supporting evidence that the ac-
21 cess is significant and the habitat programs benefit wildlife. The board may recommend that the
22 commission grant the request. When a landowner is qualified under landowner preference rules
23 adopted by the commission and receives a controlled hunt tag for that unit or a landowner prefer-
24 ence tag for the landowner's property and does not use the tag during the regular season, the
25 landowner may use that tag to take an antlerless animal, when approved by [*the State Department*
26 *of Fish and Wildlife*] **Oregon Fish and Game**, to alleviate damage that is presently occurring to the
27 landowner's property.

28 (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued
29 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and
30 place of taking wildlife, the quantities taken and such other information as the commission deter-
31 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in
32 wildlife management.

33 (6) May establish special hunting and angling areas or seasons in which only persons less than
34 18 years of age or over 65 years of age are permitted to hunt or angle.

35 (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests
36 therein for wildlife management and wildlife-oriented recreation purposes.

37 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise
38 real property and all interests therein and establish, operate and maintain thereon public hunting
39 areas.

40 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-
41 erning the use of such areas and the use of wildlife refuge and management areas established and
42 developed pursuant to any other provision of law.

43 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required
44 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of
45 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-

1 scribed by law. No fee or user charge prescribed by the commission pursuant to this subsection shall
2 exceed \$250.

3 (11) May enter into contracts with any person or governmental agency for the development and
4 encouragement of wildlife research and management programs and projects.

5 (12) May perform such acts as may be necessary for the establishment and implementation of
6 cooperative wildlife management programs with agencies of the federal government.

7 (13) May offer and pay rewards for the arrest and conviction of any person who has violated
8 any of the wildlife laws. No such reward shall exceed \$1,000 for any one arrest and conviction.

9 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless
10 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-
11 section shall be based on actual or projected costs of administering falconry regulations and shall
12 not exceed \$250.

13 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons
14 with disabilities.

15 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-
16 lation levels shall be reviewed at least once every five years.

17 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled
18 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those
19 drawings in subsequent years. In establishing the preference system, the commission shall consider
20 giving additional preference points to persons who have been issued a resident annual pioneer
21 combination license pursuant to ORS 497.132.

22 (18) May sell advertising in [*State Department of Fish and Wildlife*] **Oregon Fish and Game**
23 publications, including annual hunting and angling regulation publications.

24 (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an
25 organization that sponsors hunting trips for terminally ill children. Except as provided under section
26 2, chapter 100, Oregon Laws 2018, [*the State Department of Fish and Wildlife*] **Oregon Fish and**
27 **Game** may not issue more than 15 tags annually under this subsection.

28 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting
29 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to
30 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or
31 other mammal. The rules may exempt [*the State Department of Fish and Wildlife*] **Oregon Fish and**
32 **Game** or agents of the department from the prohibition.

33 (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per vio-
34 lation, for violations of provisions of the wildlife laws or rules adopted by the commission under the
35 wildlife laws. Civil penalties established under this subsection must be imposed in the manner pro-
36 vided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS
37 496.300.

38 (22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on
39 any person who fails to comply with mandatory hunting reporting requirements. Amounts collected
40 as surcharges under this subsection must be deposited in the State Wildlife Fund established under
41 ORS 496.300.

42 (23) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees
43 prescribed by the commission for multiyear licenses may provide for a discount from the annual li-
44 cense fees that would otherwise be payable for the period of time covered by the multiyear license.

45 (24) May by rule establish a program to offer unique fishing opportunities through drawings,

1 raffles or auctions and charge application and participation fees for the program.

2 **SECTION 96.** ORS 496.164 is amended to read:

3 496.164. The State Fish and Wildlife Commission and [*the State Department of Fish and*
4 *Wildlife*] **Oregon Fish and Game** may advise, consult and cooperate with other agencies of this
5 state and political subdivisions, other states or the federal government and private landowners with
6 respect to fish and wildlife management. The commission and the department shall provide such in-
7 formation, recommendations or advice in writing if requested by another state or federal agency to
8 do so. Technical advice and information shall be based on the best available scientific information.
9 Policy or implementation recommendations provided in administrative rulemaking proceedings shall
10 be based on consideration of all the goals of wildlife management in ORS 496.012, in addition to
11 applicable scientific information. State agencies, boards or commissions receiving policy or imple-
12 mentation recommendations shall consider such recommendations in the context of their respective
13 statutory responsibilities, and shall take into account the extent to which such recommendations are
14 substantiated with the best available scientific information and based on consideration of all of the
15 goals of wildlife management in ORS 496.012.

16 **SECTION 97.** ORS 496.167 is amended to read:

17 496.167. (1) Subject to rules prescribed by the State Fish and Wildlife Commission, in rendering
18 recompensable assistance to an agency, [*the State Department of Fish and Wildlife*] **Oregon Fish and**
19 **Game** shall,[:]

20 [(a)] for fiscal years beginning on or after July 1, 2015, and before July 1, 2019, track and pre-
21 pare statements reporting the number of hours spent by department personnel performing
22 recompensable assistance for any executive department agency, including an hourly rate that would
23 be charged, based on the class of department personnel performing the services. The department
24 shall send statements to the agency receiving services, but may not charge for services. This [*par-*
25 *agraph*] **subsection** does not prohibit the department from charging another state agency for ser-
26 vices pursuant to an interagency agreement that is in effect between the department and the other
27 agency at any time during the period beginning July 1, 2015, and ending July 1, 2021.

28 [(b)] **(2) Subject to rules prescribed by the State Fish and Wildlife Commission, in ren-**
29 **dering recompensable assistance to an agency, Oregon Fish and Game shall,** for fiscal years
30 beginning on or after July 1, 2019, track and prepare statements reporting the number of hours spent
31 by department personnel performing recompensable assistance for any executive department agency,
32 including an hourly rate that would be charged, based on the class of [*department*] **Oregon Fish and**
33 **Game** personnel performing the services.

34 [(2)(a)] **(3)(a)** The charges for which statements are prepared and, after July 1, 2019, billed in-
35 clude, but are not limited to, costs of providing professional, investigatory, administrative and cler-
36 ical services and capital outlay.

37 (b) An executive department agency may not submit an invoice to a private entity, a member
38 of the public or an applicant for a state-issued permit for services performed by the department,
39 unless the invoice is authorized by a statute, rule or interagency agreement executed:

40 (A) Prior to June 25, 2015; or

41 (B) Following consultation with persons representative of those private entities, members of the
42 public or permit applicants that are subject to invoicing under this paragraph.

43 [(3)] **(4)** As used in this section:

44 (a) "Agency" means any department, board, commission, agency or officer of the executive de-
45 partment.

1 (b) "Executive department" has the meaning given that term in ORS 174.112.

2 (c) "Recompensable assistance" means assistance rendered by the department as part of ad-
3 vancing fee-funded programs administered by an agency.

4 **SECTION 98.** ORS 496.168 is amended to read:

5 496.168. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall estimate in
6 advance the expenses that the department will incur during a biennium under ORS 496.167, and shall
7 render to executive department agencies and other entities described in ORS 496.167 an invoice for
8 their share of such expenses for periods within the biennium and in sufficient amounts to provide
9 reasonable cash operating requirements for the department within the biennial period. Each agency
10 or other entity described in ORS 496.167 shall pay to the credit of the department such invoice as
11 an administrative expense from funds or appropriations available to the invoiced agency or entity
12 in the same manner as other claims against the state are paid. If the estimated expenses for the
13 agency or other entity described in ORS 496.167 are more or less than actual expenses for the period
14 covered by the invoice, the difference shall be reflected in the next following estimate of expenses.

15 **SECTION 99.** ORS 496.169 is amended to read:

16 496.169. The Legislative Assembly finds, in the interest of all Oregonians, a necessity to improve
17 Oregon's resource access and wildlife habitat through the further involvement of its citizens,
18 through voluntary partnership between [*the State Department of Fish and Wildlife*] **Oregon Fish and**
19 **Game** and landowners to manage wildlife on private lands and through support by additional fi-
20 nancial revenues.

21 **SECTION 100.** ORS 496.172 is amended to read:

22 496.172. (1) In carrying out the provisions of the wildlife laws with regard to the management
23 of wildlife that is a threatened species or an endangered species, the [*State Fish and Wildlife Com-*
24 *mission*] **Oregon Watershed Enhancement Board**:

25 [(1)] (a) Shall conduct investigations of wildlife species native to this state and shall determine
26 whether any such species is a threatened species or an endangered species.

27 [(2)] (b) By rule, shall establish and publish, and from time to time may revise, a list of wildlife
28 species that are threatened species or endangered species. Listed threatened species or endangered
29 species shall be protected as provided in ORS 496.182.

30 [(3)] (c) Shall work cooperatively with state agencies that have land management authority or
31 regulatory authority to determine their roles within their statutory obligations in the conservation
32 of endangered species, as described in ORS 496.182 (8).

33 [(4)] (2) [*By rule,*] **The State Fish and Wildlife Commission**:

34 (a) Shall establish a system of permits for scientific taking of threatened species and endangered
35 species and shall establish a system of state permits for incidental taking of state-designated
36 threatened species and endangered species not listed by the federal government under such terms
37 and conditions as the commission determines will minimize the impact on the species taken. An in-
38 cidental taking permit or statement issued by a federal agency for a species listed under the federal
39 Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended, shall be recognized by the
40 state as a waiver of any state protection measures or requirements otherwise applicable to the
41 actions allowed under the federal permit.

42 [(5)] (b) Shall cooperate with the State Department of Agriculture in carrying out the provisions
43 of ORS 564.105.

44 [(6) Shall adopt administrative rules to carry out the provisions of ORS 496.171 to 496.182 and
45 498.026.]

1 **SECTION 101.** ORS 496.176 is amended to read:

2 496.176. (1) The lists of threatened species or endangered species established pursuant to ORS
3 [496.172 (2)] **496.172 (1)(b)** shall include:

4 (a) Those species of wildlife listed as of May 15, 1987, as a threatened species or an endangered
5 species pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as
6 amended; and

7 (b) Those species determined as of May 15, 1987, by the State Fish and Wildlife Commission to
8 be threatened species or endangered species.

9 (2) The [commission] **Oregon Watershed Enhancement Board**, by rule, may add or remove any
10 wildlife species from either list, or change the status of any species on the lists, upon a determi-
11 nation that the species is or is not a threatened species or an endangered species.

12 (3) A determination that a species is a threatened species or an endangered species shall be
13 based on documented and verifiable scientific information about the species' biological status. To list
14 a species as a threatened species or an endangered species under ORS 496.004 and 496.171 to
15 496.182, the [commission] **board** shall determine that the natural reproductive potential of the spe-
16 cies is in danger of failure due to limited population numbers, disease, predation or other natural
17 or human actions affecting its continued existence and, to the extent possible, assess the relative
18 impact of human actions. In addition, the [commission] **board** shall determine that one or more of
19 the following factors exists:

20 (a) That most populations are undergoing imminent or active deterioration of their range or
21 primary habitat;

22 (b) That overutilization for commercial, recreational, scientific or educational purposes is oc-
23 curring or is likely to occur; or

24 (c) That existing state or federal programs or regulations are inadequate to protect the species
25 or its habitat.

26 (4) Determinations required by subsection (3) of this section shall be made by the [commission]
27 **board** on the basis of verifiable scientific and other data after consultation with federal agencies,
28 other interested state agencies, private landowners, affected cities, affected counties, affected local
29 service districts as defined in ORS 174.116, other states having a common interest in the species and
30 interested persons and organizations.

31 (5)(a) Any person may petition the [commission] **board** to, by rule, add, remove or change the
32 status of a species on the list.

33 (b) A petition shall clearly indicate the action sought and shall include documented scientific
34 information about the species' biological status to justify the requested action.

35 (c) Within 90 days of receipt of a petition, the [commission] **board** shall respond in writing to
36 the petitioner indicating whether the petition presents substantial scientific information to warrant
37 the action requested.

38 (d) If the petition is found to present such information, the [commission] **board** shall commence
39 rulemaking.

40 (e) A final determination by the [commission] **board** concerning the action requested in a peti-
41 tion shall be provided within one year from the date of receipt of the petition, with the option for
42 an additional 12-month extension of time to complete the listing if the [commission] **board** deter-
43 mines that limited information or other appropriate considerations require the extension.

44 (f) If the petition is denied, the petitioner may seek judicial review as provided in ORS 183.484.

45 (6) The [commission] **board** may determine not to list a species as a threatened species or an

1 endangered species in any of the following cases:

2 (a) If the species has been listed pursuant to the federal Endangered Species Act of 1973 (P.L.
3 93-205, 16 U.S.C. 1531), as amended.

4 (b) If the species is currently on the list as a sensitive species, or is a candidate species or has
5 been petitioned for listing pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16
6 U.S.C. 1531), as amended.

7 (c) If the species has been determined, pursuant to the federal Endangered Species Act of 1973
8 (P.L. 93-205, 16 U.S.C. 1531), as amended, to not qualify as a threatened species or an endangered
9 species.

10 (7)(a) Notwithstanding subsections (1) to (5) of this section, the [commission] **board** shall take
11 emergency action to add a species to the list of threatened species or endangered species if it de-
12 termines there is a significant threat to the continued existence of the species within the state.

13 (b) The [commission] **board** shall publish notice of such addition in the Secretary of State's
14 bulletin and shall mail notice to affected or interested persons whose names are included on the
15 [commission's] **board's** mailing list for such purposes.

16 (c) Such emergency addition shall take effect immediately upon publication in the Secretary of
17 State's bulletin and shall remain valid for a period no longer than one year, unless during the period
18 the [commission] **board** completes rulemaking procedures as provided in subsection (5) of this sec-
19 tion.

20 (8) The [commission] **board** shall periodically review the status of all threatened species and
21 endangered species listed under ORS 496.171 to 496.192. Each species shall be reviewed at least once
22 every five years to determine whether verifiable scientific information exists to justify its reclassi-
23 fication or removal from the list, according to the criteria listed under subsections (3) and (4) of this
24 section. If a determination is made to reclassify a species or remove it from the list, the
25 [commission] **board**, within 90 days, shall commence rulemaking to change the status of the species.

26 (9) Notwithstanding the provisions of this section, the [commission] **board**:

27 (a) May decide not to list a species that otherwise qualifies as a threatened or endangered
28 species within this state if the [commission] **board** determines that the species is secure outside this
29 state or the species is not of cultural, scientific or commercial significance to the people of this
30 state.

31 (b) May not include *Branta canadensis leucopareia*, commonly known as the Aleutian Canada
32 goose, on the lists of threatened species or endangered species.

33 **SECTION 102.** ORS 496.182 is amended to read:

34 496.182. (1) The burden of protecting and recovering threatened species or endangered species
35 can be a significant cost to the citizens of this state and it is therefore the policy of this state to
36 minimize duplication and overlap between state and federal laws dealing with threatened species or
37 endangered species. To this end, nothing in this section is intended to prevent the adoption of co-
38 operative state or federal programs when such programs provide protection for listed species with-
39 out significant impact on the primary uses of state lands.

40 (2)(a) At the time the [State Fish and Wildlife Commission] **Oregon Watershed Enhancement**
41 **Board** adds a species to the list of threatened species or endangered species under ORS 496.172, the
42 [commission] **board** shall establish by rule quantifiable and measurable guidelines that it considers
43 necessary to ensure the survival of individual members of the species. These guidelines may include
44 take avoidance and protecting resource sites such as spawning beds, nest sites, nesting colonies or
45 other sites critical to the survival of individual members of the species.

1 (b) The [*commission*] **board** shall work with private landowners, affected cities, affected counties
2 and affected local service districts, as defined in ORS 174.116, to mitigate the adverse impact on
3 local economies when the [*commission*] **board** adds a species to the list of threatened species or
4 endangered species pursuant to ORS 496.172.

5 (3) For threatened species listed under ORS 496.172 and in the absence of an approved endan-
6 gered species management plan described in subsection (8) of this section for an endangered species,
7 if a state agency determines that a proposed action on land it owns or leases, or for which it holds
8 a recorded easement, has the potential to violate the guidelines established under subsection (2) of
9 this section, it shall notify the [*State Department of Fish and Wildlife*] **board**. Within 90 days of such
10 notice, the [*department*] **board** shall recommend reasonable and prudent alternatives, if any, to the
11 proposed action which are consistent with the guidelines.

12 (4) If a state agency fails to adopt the recommendations made under subsection (3) of this sec-
13 tion, it shall, after consultation with the [*department*] **board**, demonstrate that:

14 (a) The potential public benefits of the proposed action outweigh the potential harm from failure
15 to adopt the recommendations; and

16 (b) Reasonable mitigation and enhancement measures shall be taken, to the extent practicable,
17 to minimize the adverse impact of the action on the affected species.

18 (5) When an action under this section is initiated by a person other than a state agency, the
19 agency shall provide final approval or denial of the proposed action within 120 days of receipt of a
20 written request for final determination.

21 (6) The provisions of this section do not apply to lands acquired through foreclosures of loans
22 made pursuant to programs of the Department of Veterans' Affairs.

23 (7) State land owning or managing agencies shall set priorities for establishing endangered spe-
24 cies management plans required by subsection (8) of this section after consultation with the com-
25 mission on the level of biological threat and, in consideration of available funds, the immediacy and
26 seriousness of the threat to any listed species.

27 (8)(a)(A) Within four months of the listing of an endangered species, the commission, in consul-
28 tation and cooperation with the state land owning or managing agency, shall determine if state land
29 can play a role in the conservation of endangered species. The commission and the land owning
30 or managing agency shall consider species biology and geography of the land base to determine if
31 the species or its habitat is found on state land. If the species or its habitat is not found on state
32 land, the commission shall determine that state land has no role to play in the conservation of the
33 species.

34 (B) If the species or its habitat is found on state land, the land owning or managing agency, in
35 consultation with the [*State Department of Fish and Wildlife*] **board**, shall determine the role its
36 state land shall serve in the conservation of the endangered species. This role may include, but is
37 not limited to conservation, contribution toward conservation or take avoidance. To carry out its
38 consulting role under this subsection, the [*department*] **board** shall provide state agencies with an
39 assessment of the conservation needs of the endangered species. In making this determination, the
40 land owning or managing agency shall balance the statutory requirements, rules and policies appli-
41 cable to the agency's programs, the social and economic impacts that conservation would have on
42 the state, the conservation needs of the species, the purpose of the land and the roles of other
43 ownership categories. The agency shall balance these factors consistent with the commission's rules
44 related to the biological aspects of species management and the statutory obligations of the land
45 owning or managing agency, including the statutory purpose of the land.

1 (C) After determining the role its state land shall serve in conservation of the species, the land
 2 owning or managing agency, in consultation with the [*State Department of Fish and Wildlife*] **board**
 3 and consistent with the [*commission's*] **board** rules related to endangered species management plans,
 4 shall develop and approve an endangered species management plan within 18 months from the date
 5 the species is first listed as endangered. Endangered species management plans shall be based on
 6 the statutes, rules and policies applicable to the agency's programs and shall take into account any
 7 social or economic impacts that the plan may have on the state. The land owning or managing
 8 agency shall submit the plan to the [*commission*] **board** for review and approval as provided in
 9 subparagraph (D) of this paragraph.

10 (D) The [*commission*] **board** shall review the endangered species management plan approved by
 11 the land owning or managing agency under subparagraph (C) of this paragraph to determine whether
 12 the plan achieves the role defined for the land under subparagraph (B) of this paragraph. Based on
 13 the biology of the endangered species the [*commission*] **board** may modify the endangered species
 14 management plan if necessary to be consistent with the role the land owning or managing agency
 15 has defined for the land under subparagraph (B) of this paragraph and shall approve the plan as
 16 submitted or modified within 24 months from the date the species is listed as endangered.

17 (b) For state agencies other than land owning or managing agencies, the [*commission*] **board**, in
 18 consultation and cooperation with the agency, shall determine whether the agency can serve a role
 19 in the conservation of endangered species. If the [*commission*] **board** determines that the agency has
 20 a role to play in conservation of the endangered species, the agency shall determine what role it
 21 shall serve in conservation of the endangered species. The agency shall make this determination as
 22 provided in [*the commission's*] **board** rules related to the biological aspects of species management
 23 and in a manner consistent with the agency's statutory obligations.

24 **SECTION 103.** ORS 496.201 is amended to read:

25 496.201. (1) The State of Oregon shall, through [*the State Department of Fish and Wildlife*]
 26 **Oregon Fish and Game**, provide surplus salmon:

27 (a) To the Confederated Coos, Lower Umpqua and Siuslaw Indian tribes for their historical,
 28 traditional and cultural salmon ceremonies that take place each year.

29 (b) To the Cow Creek Band of the Umpqua Indians for their historical, traditional and cultural
 30 salmon ceremonies that take place each year.

31 (c) To the Coquille Tribe for their historical, traditional and cultural salmon ceremonies that
 32 take place each year.

33 (d) To the Burns Paiute Tribe for their historical, traditional and cultural salmon ceremonies
 34 that take place each year.

35 (2) The salmon provided by the state shall meet the expressed needs of the Confederated Coos,
 36 Lower Umpqua and Siuslaw tribes, up to 1,000 pounds total, the Coquille Tribe, up to 1,000 pounds
 37 total, the Cow Creek Band of the Umpqua Indians, up to 1,000 pounds total, and the Burns Paiute
 38 Tribe, up to 500 pounds total.

39 (3) The salmon provided by the state may be either surplus whole fish or carcasses.

40 (4) Salmon may be taken from hatcheries under either the complete or joint control of the state.

41 **SECTION 104.** ORS 496.206 is amended to read:

42 496.206. (1) The Indian tribes referred to in ORS 496.201 (1) are required to set forth, in writing,
 43 their request for salmon. This request shall be submitted by the duly elected tribal governing body
 44 no later than 40 days prior to the ceremony and shall include:

45 (a) The poundage of salmon required;

1 (b) The date of the ceremony; and

2 (c) A contact person that the state may refer questions to.

3 (2) Prior to any state action, the written request must be received by:

4 (a) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game**;

5 (b) The Attorney General; and

6 (c) The United States Department of Interior.

7 (3) The salmon shall be provided to the Indian tribes referred to in ORS 496.201 (1) no later than
8 30 days after receiving a proper written request therefor.

9 **SECTION 105.** ORS 496.211 is amended to read:

10 496.211. (1) The State of Oregon shall be limited to a once a year provision of salmon pursuant
11 to ORS 496.201.

12 (2) If the Indian tribes referred to in ORS 496.201 (1) use salmon provided by the state for this
13 purpose in any manner other than that described in ORS 496.201, they shall pay to [*the State De-*
14 *partment of Fish and Wildlife*] **Oregon Fish and Game** the prevailing wholesale rate per pound of
15 the entire amount of salmon supplied to that tribe or tribes for that year.

16 **SECTION 106.** ORS 496.228 is amended to read:

17 496.228. (1) There is established within [*the State Department of Fish and Wildlife*] **Oregon Fish**
18 **and Game** the Access and Habitat Board, consisting of seven members appointed by the State Fish
19 and Wildlife Commission.

20 (2) Three members shall be appointed to represent the broad spectrum of hunters. In making
21 appointments pursuant to this subsection, the commission shall consider recommendations from the
22 State Fish and [*Wildlife*] **Game** Director.

23 (3) Three members of the board shall be appointed to represent the broad spectrum of agricul-
24 ture and timber landowners. In making appointments pursuant to this subsection, the commission
25 shall consider recommendations from the State Fish and [*Wildlife*] **Game** Director from a list of at
26 least five persons submitted by the State Forester and the Director of Agriculture.

27 (4) One member of the board shall be appointed to represent the public and shall serve as the
28 board chairperson.

29 (5) A member of the board shall receive no compensation for services as a member. However,
30 subject to any applicable law regulating travel and other expenses of state officers and employees,
31 a member shall be reimbursed for actual and necessary travel and other expenses incurred in the
32 performance of official duties from such moneys as are made available by section 19, chapter 659,
33 Oregon Laws 1993.

34 (6) The term of office of a member of the board is four years. A member of the board is eligible
35 for reappointment.

36 (7) An official action of the board may be taken only upon the affirmative vote of at least four
37 members.

38 (8) The board shall select such officers for such terms and with such duties and powers as the
39 board considers necessary for the performance of those offices.

40 (9) The board shall meet at such times and at such places as may be determined by the chair
41 or by the majority of the members of the board.

42 **SECTION 107.** ORS 496.232 is amended to read:

43 496.232. (1) The Access and Habitat Board shall meet, adopt and recommend to the State Fish
44 and Wildlife Commission, within 120 days after November 4, 1993, and at not more than 120-day in-
45 tervals thereafter, access and habitat programs.

1 (2) The commission shall review such programs and may approve or disapprove the program
2 recommendation by the board. Funds may be expended from the subaccount referred to in ORS
3 496.242 for projects that have been approved by the commission.

4 (3) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** and the board jointly
5 shall submit to each odd-numbered year regular session of the Legislative Assembly a report on
6 expenditure of funds for the access and habitat programs and on the status of various projects.

7 (4) In recommending access and habitat programs, the board shall:

8 (a) Recommend a mix of projects that provides a balance between access and habitat benefits.

9 (b) Recommend projects that are to be implemented by volunteers under volunteer coordinators
10 and nonprofit organizations engaged in approved access and habitat activities.

11 (c) Recommend programs that recognize and encourage the contributions of landowners to
12 wildlife and programs that minimize the economic loss to those landowners.

13 (d) Encourage agreements with landowners who request damage control hunts to ensure public
14 access to those hunts.

15 (e) Encourage projects that result in obtaining matching funds from other sources.

16 (5) All moneys made available for the access and habitat programs under section 19, chapter 659,
17 Oregon Laws 1993, and from gifts and grants made to carry out the access and habitat programs
18 may be expended only if the board so recommends and the commission so approves. Such amounts
19 may be expended:

20 (a) On programs that benefit wildlife by improving habitat. These programs shall be in coordi-
21 nation with the [*Wildlife*] **Game** Division and shall be in addition to programs provided by federal
22 funds. These programs may:

23 (A) Be on private lands.

24 (B) Provide seed and fertilizer to offset forage consumed by wildlife and for other programs that
25 enhance forage.

26 (C) Be adjacent to agricultural and forest land to attract animals from those crops.

27 (b) On programs that promote access to public and private lands:

28 (A) Through contracting for various levels of management of these lands. These management
29 programs may include:

30 (i) Creating hunting lease programs that provide access at present levels or stimulate new ac-
31 cess.

32 (ii) Controlling access.

33 (iii) Opening vehicle access.

34 (iv) Promoting land exchanges.

35 (v) Promoting proper hunting behavior.

36 (B) Through the acquisition of easements.

37 (c) On programs that would provide for wildlife feeding to alleviate damage, to intercept wildlife
38 before wildlife becomes involved in a damage situation and for practical food replacement in severe
39 winters.

40 (d) On programs to coordinate volunteers to improve habitat, repair damage to fences or roads
41 by wildlife or recreationists, monitor orderly hunter utilization of public and private lands and assist
42 the Oregon State Police in law enforcement activities.

43 (e) On programs that provide for auction or raffle of tags to provide incentives for habitat or
44 access.

45 (6) The board may accept, from whatever source, gifts or grants for the purposes of access and

1 habitat. All moneys so accepted shall be deposited in the subaccount referred to in ORS 496.242.
2 Unless otherwise required by the terms of a gift or grant, gifts or grants shall be expended as pro-
3 vided in subsection (5) of this section.

4 **SECTION 108.** ORS 496.236 is amended to read:

5 496.236. (1) Individuals who reside in the various regions established for administration of the
6 wildlife resources may form advisory councils, with membership in the same proportion as described
7 for the board, to discuss and consider access and habitat programs and projects and to make rec-
8 ommendations thereon to the Access and Habitat Board. When the board considers proposals af-
9 fecting a region, the board shall consult with the advisory council for that region if one exists.

10 (2) Employees of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** or other
11 professional biologists who are residents of the various regions may act in an advisory capacity to
12 the various councils.

13 (3) An individual who serves as a member of an advisory council shall receive no compensation
14 or expenses for service as a member.

15 **SECTION 109.** ORS 496.242 is amended to read:

16 496.242. (1) Notwithstanding ORS 496.300, all moneys received by the State Fish and Wildlife
17 Commission pursuant to section 19, chapter 659, Oregon Laws 1993, shall be deposited in the Access
18 and Habitat Board Subaccount established in the Fish and Wildlife Account. Moneys in the subac-
19 count may be expended only for the access and habitat programs recommended by the Access and
20 Habitat Board for the benefit of the wildlife resources of this state.

21 (2) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall credit the subac-
22 count with a sum equal to 15 percent of the other fund budget for the green forage and Deer En-
23 hancement and Restoration programs in each biennium.

24 (3) The department shall not assess its personnel costs in the administration of ORS 496.169 and
25 496.228 to 496.242 against the subaccount referred to in this section without the prior approval of
26 the Access and Habitat Board.

27 **SECTION 110.** ORS 496.246 is amended to read:

28 496.246. (1)(a) As used in this section, "public lands" means any land, or improvements thereon,
29 owned by the State of Oregon.

30 (b) Public lands open to access and use for hunting shall remain open to access and use for
31 hunting, except as limited by a state agency for reasons of public safety or wildlife management or
32 for any other reason determined by a state agency to be in the public interest. However, a state
33 agency is not required to give preference to hunting over other uses of public lands.

34 (2) In implementing subsection (1) of this section, state agencies shall, to the greatest extent
35 practicable, avoid making determinations that result in a net loss of access to hunting on public
36 lands.

37 (3)(a) Before a state agency restricts or closes access to public lands open to access and use for
38 hunting, the state agency shall notify [*the State Department of Fish and Wildlife*] **Oregon Fish and**
39 **Game** in a sufficient amount of time of the plans to restrict or close access to the public lands in
40 order to allow the department to post notice pursuant to paragraph (b) of this subsection.

41 (b) In order to give hunters notice that a state agency plans to restrict or close access to public
42 lands open to access and use for hunting and before a state agency may restrict or close access to
43 the public lands, the department shall post notice on the department's website for 30 days after it
44 receives notification under paragraph (a) of this subsection.

45 (c) Paragraphs (a) and (b) of this subsection do not apply to restrictions or closures for:

1 (A) Emergencies.

2 (B) Fire prevention pursuant to the provisions of ORS 401.165 to 401.236 or 477.535 to 477.550.

3 (C) Critical wildlife management activities.

4 (4) On or before January 1 of each year, the State Fish and [*Wildlife*] **Game** Director shall
5 submit a report to the Legislative Assembly that describes:

6 (a) The amount, in acres, of public lands open to access and use for hunting that has been closed
7 to hunting by state agencies in the previous calendar year and the reasons for each closure; and

8 (b) The amount, in acres, of public lands that has been opened to access and use for hunting by
9 state agencies in the previous calendar year.

10 **SECTION 111.** ORS 496.270 is amended to read:

11 496.270. (1) The Legislative Assembly declares that it is the policy of the State of Oregon to
12 encourage operators, timber owners and landowners to voluntarily improve fish and wildlife habitat.
13 In order to carry out this policy, the Legislative Assembly encourages cooperation among operators,
14 timber owners and landowners and other volunteers.

15 (2) Consistent with the limitations of ORS 105.672 to 105.696, a landowner is not liable in con-
16 tract or tort for any personal injury, death or property damage that arises out of the use of the land
17 by:

18 (a) A volunteer conducting a fish and wildlife habitat improvement project; or

19 (b) A participant of a state-funded or federally funded watershed or stream restoration or en-
20 hancement program.

21 (3) An operator, timber owner or landowner shall not be held liable for any damages resulting
22 from:

23 (a) A fish and wildlife habitat improvement project done in cooperation and consultation with
24 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** or the Oregon Watershed En-
25 hancement Board, or conducted as part of a forest management practice in accordance with ORS
26 527.610 to 527.770, 527.990 and 527.992; or

27 (b) Leaving large woody debris within the waters of this state to protect, retain and recruit
28 large woody debris for the purposes of fish habitat and water quality improvement.

29 (4) The limitations to liability provided by subsections (2) and (3) of this section do not apply if
30 the damages, injury or death was caused by willful, wanton or intentional conduct on the part of the
31 operator, timber owner or landowner or by the gross negligence of the operator, timber owner or
32 landowner. As used in this subsection “gross negligence” means negligence which is materially
33 greater than the mere absence of reasonable care under the circumstances, and which is charac-
34 terized by indifference to or reckless disregard of the rights of others.

35 (5) The limitation on liability provided by subsection (3) of this section does not apply to claims
36 for death or personal injuries.

37 **SECTION 112.** ORS 496.275 is amended to read:

38 496.275. (1) The Legislative Assembly hereby declares the necessity to review all options and
39 means for the protection and restoration of Oregon’s salmon resource that promote local economic
40 development and enjoyment by all the citizens of Oregon. Options and means shall include operation
41 of salmon production facilities, in cooperation with [*the State Department of Fish and Wildlife*]
42 **Oregon Fish and Game**, by both public and private nonprofit agencies as well as by public local
43 partnerships, to meet local production and harvest needs as well as to help restore and maintain
44 natural salmon spawning populations. Such cooperative production projects shall be operated using
45 scientifically sound hatchery practices and shall be consistent with objectives to protect and restore

1 natural fish production.

2 (2) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game** shall:

3 (a) Review and revise existing state administrative rules so that the different forms of hatchery
4 production are recognized as a necessary and critical element in the state's salmon production sys-
5 tem in order to provide harvest opportunities for Oregon's citizens. In so doing, the department shall
6 identify low natural production areas and, using genetically compatible stocks approved by the de-
7 partment, encourage volunteer efforts such as the salmon and trout enhancement program to main-
8 tain and to enhance production.

9 (b) Identify existing private and public salmon production facilities that are currently either
10 underutilized or subject to decommissioning and that may be appropriate for other forms of opera-
11 tion.

12 (c) Inventory other appropriate local sites, identify possible types of production facilities, re-
13 commend stock selection and release size, and assist in securing the acquisition of brood stock ap-
14 proved by the department that maximizes local production.

15 (d) Investigate and implement ways to improve hatchery smolt survival and reduce predation by
16 such means as night releases, net pen acclimation, alternate release sites, volitional and other re-
17 lease strategies, transport and other means that may be effective and consistent with the conserva-
18 tion of native salmon and genetic resources.

19 (e) Make recommendations on methods by which operations of facilities referred to in this sub-
20 section and subsection (3) of this section can generate revenue for sustainable production, including
21 but not limited to state bonding, license surcharges, ad valorem taxes, local economic development
22 funds, service districts, sale of excess eggs and salmon, and gifts, grants and donations.

23 (f) Identify needed monitoring and evaluation activities to ensure protection of natural spawning
24 fish populations and to assess the contribution of such cooperative projects to public fisheries.

25 (g) Assist in developing, for department approval, plans of operation for such cooperative
26 hatchery projects consistent with applicable rules and standards of sound, scientific fish manage-
27 ment practice.

28 (3) The department shall encourage and assist in planning hatchery facilities that seek to im-
29 plement innovative plans or programs designed to meet production for harvest needs consistent with
30 conservation objectives.

31 (4) The State Fish and Wildlife Commission shall approve, prior to implementation, operational
32 plans for any fish propagation facilities operated by contractor agreement with other state or federal
33 agencies, local governments, special districts and nonprofit organizations.

34 **SECTION 113.** ORS 496.286 is amended to read:

35 496.286. (1) There is established within *[the State Department of Fish and Wildlife]* **Oregon Fish**
36 **and Game** the Restoration and Enhancement Board, consisting of seven members appointed by the
37 State Fish and Wildlife Commission.

38 (2) Three members shall be appointed to represent the ocean and inland recreational fisheries.
39 In making appointments pursuant to this subsection, the commission shall consider recommendations
40 from the State Fish and *[Wildlife]* **Game** Director.

41 (3) Three members of the board shall be appointed to represent the commercial troll and gillnet
42 fisheries and the fish processing industry. In making appointments pursuant to this subsection, the
43 commission shall consider recommendations from the State Fish and *[Wildlife]* **Game** Director.

44 (4) One member of the board shall be appointed to represent the public.

45 (5) A member of the board shall receive no compensation for services as a member. However,

1 subject to any applicable law regulating travel and other expenses of state officers and employees,
2 a member shall be reimbursed for actual and necessary travel and other expenses incurred in the
3 performance of official duties from such moneys made available by sections 4, 6 and 8, chapter 512,
4 Oregon Laws 1989.

5 (6) The term of office of a member of the board is four years. A member of the board is eligible
6 for reappointment.

7 (7) An official action of the board may be taken only upon the affirmative vote of four members.

8 (8) The board shall select such officers for such terms and with such duties and powers as the
9 board considers necessary for the performance of those offices.

10 (9) The board shall meet at such times and at such places as may be determined by the chair
11 or by the majority of the members of the board.

12 **SECTION 114.** ORS 496.289 is amended to read:

13 496.289. (1) The Restoration and Enhancement Board shall meet, adopt and recommend to the
14 State Fish and Wildlife Commission, within 120 days after July 1, 1989, and at not more than 120-day
15 intervals thereafter, fish restoration and enhancement programs.

16 (2) The commission shall review such programs and may approve or disapprove any or all pro-
17 gram recommendations by the board. Funds may be expended from the subaccount referred to in
18 ORS 496.283 for projects that have been approved by the commission.

19 (3) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** and the board jointly
20 shall submit to each odd-numbered year regular session of the Legislative Assembly a report on
21 expenditure of funds for the fish restoration and enhancement program and on the status of various
22 projects.

23 (4) In recommending fish restoration and enhancement programs, the board shall:

24 (a) Recommend a mix of projects that provide a balance between restoration and enhancement
25 benefits.

26 (b) Recommend projects that are to be implemented by the salmon and trout enhancement pro-
27 gram and nonprofit organizations engaged in approved restoration and enhancement activities.

28 (c) Encourage projects that result in obtaining matching funds from other sources.

29 (5) All moneys made available for the fish restoration and enhancement program from funds re-
30 ceived under sections 4, 6 and 8, chapter 512, Oregon Laws 1989, and from gifts and grants made
31 to carry out the fish restoration and enhancement program may be expended only if recommended
32 by the board and approved by the commission. Such amounts may be expended:

33 (a) On programs benefiting the commercial fishing industry in the same proportion as revenues
34 received from surcharges under sections 6 and 8, chapter 512, Oregon Laws 1989, bear to the total
35 amount of surcharge revenues.

36 (b) On programs benefiting recreational angling in the same proportion as revenues received
37 from the dedication under section 4, chapter 512, Oregon Laws 1989, bear to the total amount of
38 dedicated revenues.

39 (6) The board may accept, from whatever source, gifts or grants for the purposes of fish resto-
40 ration and enhancement. All moneys so accepted shall be deposited in the subaccount referred to
41 in ORS 496.283. Unless otherwise required by the terms of a gift or grant, gifts or grants shall be
42 expended as provided in subsection (5) of this section.

43 (7) As used in this section:

44 (a) "Enhancement" includes, but is not limited to, the following activities:

45 (A) Angler access.

1 (B) New fishways and screens.

2 (C) Habitat.

3 (D) New hatchery equipment and technology.

4 (E) Public education.

5 (F) Aquatic inventories.

6 (b) "Restoration" includes, but is not limited to, the following activities:

7 (A) Modification of existing fishways and existing screens.

8 (B) Hatchery restoration.

9 (C) Liberation equipment.

10 **SECTION 115.** ORS 496.291 is amended to read:

11 496.291. (1) Individuals who reside in the various regions established for administration of the
12 salmon and trout enhancement program may form advisory councils to discuss and consider fish
13 restoration and enhancement programs and projects and shall make recommendations thereon to the
14 Restoration and Enhancement Board. When the board considers proposals affecting a region, the
15 board shall consult with the advisory council for that region if one exists.

16 (2) Employees of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** who are
17 residents of the various regions may act in an advisory capacity to the various councils.

18 (3) Individuals who serve as members of an advisory council shall receive no compensation or
19 expenses for service as a member.

20 **SECTION 116.** ORS 496.300 is amended to read:

21 496.300. (1) The State Wildlife Fund is established in the State Treasury separate and distinct
22 from the General Fund. Except as otherwise provided by law, all moneys received by the State Fish
23 and Wildlife Commission pursuant to the wildlife laws, except such as may be required as a revolving
24 fund for payroll and emergency expenses, shall be paid into the State Treasury and credited to
25 the fund. All moneys in the fund are appropriated continuously to the commission to carry out the
26 wildlife laws. Interest earnings on all moneys in the fund shall be retained in the fund.

27 (2)(a) The commission shall keep a record of all moneys deposited in the State Wildlife Fund.
28 The record shall indicate by separate cumulative accounts the source from which the moneys are
29 derived and the individual activity or program against which each withdrawal is charged.

30 (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall
31 report, in the budget documents submitted to the Legislative Assembly, on the application of investment
32 and interest earnings to the maintenance of fish hatcheries and other [*State Department*
33 *of Fish and Wildlife*] **Oregon Fish and Game** facilities.

34 **SECTION 117.** ORS 496.303 is amended to read:

35 496.303. (1) The Fish and Wildlife Account is established in the State Treasury, separate and
36 distinct from the General Fund. All moneys in the account are continuously appropriated to the
37 State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in
38 its various subaccounts and any moneys transferred to the account by the Legislative Assembly.
39 Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the
40 State Treasury and credited to the State Wildlife Fund.

41 (2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The sub-
42 account shall consist of:

43 (A) All penalties recovered under ORS 536.900 to 536.920.

44 (B) All moneys received pursuant to ORS 498.306.

45 (C) All gifts, grants and other moneys from whatever source that may be used to carry out the

1 provisions of ORS 498.306.

2 (D) All moneys received from the sale of angling licenses dedicated by ORS 497.124.

3 (b) All moneys in the subaccount shall be used to carry out the provisions of ORS 315.138,
4 498.306 and 509.620. However, moneys received from the sale of angling licenses dedicated by ORS
5 497.124 shall be expended only to carry out the provisions of law relating to the screening of water
6 diversions.

7 (3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The sub-
8 account shall consist of transfers of moneys authorized by the Legislative Assembly from the State
9 Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the
10 expense of maintaining fish hatcheries operated by the department.

11 (4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All
12 moneys received by the commission from the sale of art works and prints related to the migratory
13 waterfowl stamps shall be deposited in the subaccount. Moneys in the subaccount may be expended
14 only for activities that promote the propagation, conservation and recreational uses of migratory
15 waterfowl and for activities related to the design, production, issuance and arrangements for sale
16 of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the
17 subaccount may be made within this state, in other states or in foreign countries, in such amounts
18 as the commission determines appropriate. Expenditures in other states and foreign countries shall
19 be on such terms and conditions as the commission determines will benefit most directly the mi-
20 gratory waterfowl resources of this state.

21 (5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on
22 the annual number of recreational halibut anglers, a portion of the moneys derived from the sale
23 of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited
24 to the subaccount. Moneys in the subaccount may be expended only for halibut population studies
25 and other research.

26 (6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys
27 received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the
28 sale of any art works and prints related to the upland bird stamps and from private hunting preserve
29 permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only
30 for promoting the propagation and conservation of upland birds and the acquisition, development,
31 management, enhancement, sale or exchange of upland bird habitat, and for activities related to the
32 design, production, issuance and arrangements for sale of the upland bird stamps and related art
33 works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of pro-
34 grams within this state in such amounts and at such times as the commission determines appropriate
35 to most directly benefit the upland bird resources of the state.

36 (7) The Access and Habitat Board Subaccount is established in the Fish and Wildlife Account.
37 The subaccount shall consist of moneys transferred to the subaccount pursuant to ORS 496.242.
38 Moneys in the subaccount may be used for the purposes specified in ORS 496.242.

39 (8) The Marine Shellfish Subaccount is established in the Fish and Wildlife Account. Interest
40 earnings on moneys in the subaccount shall be credited to the subaccount. All moneys received by
41 the commission from the sale of resident and nonresident shellfish licenses pursuant to ORS 497.121
42 shall be deposited in the subaccount. Moneys in the subaccount shall be used for the protection and
43 enhancement of shellfish for recreational purposes, including shellfish sanitation costs and the cost
44 of enforcement of wildlife laws pertaining to the taking of shellfish. The State Fish and [*Wildlife*]
45 **Game** Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent

1 of State Police, or a designee, shall jointly make a recommendation to the Governor for inclusion
2 in the Governor's budget beginning July 1 of each odd-numbered year.

3 (9)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, consist-
4 ing of moneys collected under ORS 497.112 (2)(a) to (c).

5 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
6 sheep, for research, development, management, enhancement and sale or exchange of mountain
7 sheep habitat and for programs within the state that in the discretion of the commission most di-
8 rectly benefit mountain sheep resources of this state.

9 (10)(a) The Antelope Subaccount is established in the Fish and Wildlife Account, consisting of
10 moneys collected under ORS 497.112 (2)(a) to (c).

11 (b) All moneys in the subaccount shall be used for the propagation and conservation of antelope,
12 for research, development, management, enhancement and sale or exchange of antelope habitat and
13 for programs within the state that in the discretion of the commission most directly benefit antelope
14 resources of this state.

15 (11)(a) The Mountain Goat Subaccount is established in the Fish and Wildlife Account, consist-
16 ing of moneys collected under ORS 497.112 (2)(a) to (c).

17 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
18 goats for research, development, management, enhancement and sale or exchange of mountain goat
19 habitat and for programs within the state that in the discretion of the commission most directly
20 benefit mountain goat resources of this state.

21 (12) The commission shall keep a record of all moneys deposited in the Fish and Wildlife Ac-
22 count. The record shall indicate by separate cumulative accounts the sources from which the mon-
23 eys are derived and the individual activity or programs against which each withdrawal is charged.

24 (13) The Oregon Conservation Strategy Subaccount is established in the Fish and Wildlife Ac-
25 count. All moneys received by the commission from the sale of habitat conservation stamps and from
26 the sale of any art works and prints related to the habitat conservation stamp shall be deposited in
27 the subaccount. Moneys in the subaccount may be expended only to promote and implement habitat
28 and species restoration, enhancement and viewing activities identified in the "Oregon Conservation
29 Strategy," 2006, by the State Department of Fish and Wildlife, and for activities related to the de-
30 sign, production, issuance and arrangements for sale of the habitat conservation stamps and related
31 art works and prints.

32 **SECTION 118.** ORS 496.306 is amended to read:

33 496.306. If [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** is required to
34 pay compensation for damage activities of bear and cougar to people, real property, livestock, or
35 agricultural or forest products, the compensation, and any attorney fees, shall not be paid from the
36 State Wildlife Fund, but shall be paid from such other moneys as shall be available therefor.

37 **SECTION 119.** ORS 496.350 is amended to read:

38 496.350. (1) The Willamette River Basin Bonneville Power Administration Stewardship Fund is
39 established in the State Treasury, separate and distinct from the General Fund. Interest earned by
40 the Willamette River Basin Bonneville Power Administration Stewardship Fund shall be credited to
41 the fund. Moneys in the fund are continuously appropriated to [*the State Department of Fish and*
42 *Wildlife*] **Oregon Fish and Game** for long-term operation, maintenance and protection activities
43 that preserve or advance the conservation values of properties purchased under the Willamette
44 River Basin Memorandum of Agreement Regarding Wildlife Habitat Protection and Enhancement
45 between the State of Oregon and the Bonneville Power Administration, dated October 22, 2010.

1 Moneys in the fund may not be used to purchase property or easements.

2 (2) The Willamette River Basin Bonneville Power Administration Stewardship Fund shall consist
3 of moneys accepted by this state pursuant to the Willamette River Basin Memorandum of Agreement
4 Regarding Wildlife Habitat Protection and Enhancement between the State of Oregon and the
5 Bonneville Power Administration, dated October 22, 2010.

6 (3) Moneys in the Willamette River Basin Bonneville Power Administration Stewardship Fund
7 may, with the approval of the State Treasurer, be invested as provided by ORS 293.701 to 293.857,
8 and the earnings from such investment shall be credited to the Willamette River Basin Bonneville
9 Power Administration Stewardship Fund.

10 **SECTION 120.** ORS 496.375 is amended to read:

11 496.375. As used in ORS 496.380 to 496.390 “nongame wildlife” means all wildlife species [*over*
12 *which the State Fish and Wildlife Commission has jurisdiction*], except game mammals, as defined in
13 ORS 496.004, fur-bearing mammals as defined in ORS 496.004, game birds as defined in ORS 496.007
14 and game fish as defined in ORS 496.009.

15 **SECTION 121.** ORS 496.390 is amended to read:

16 496.390. The [*State Department of Fish and Wildlife*] **Oregon Watershed Enhancement Board**
17 shall have access to and control of the moneys held in the Nongame Wildlife Fund, but shall use
18 such moneys only to protect and preserve nongame wildlife and their habitat.

19 **SECTION 122.** ORS 496.445 is amended to read:

20 496.445. In carrying out the salmon and trout enhancement program, the State Fish and Wildlife
21 Commission shall:

22 (1) Provide appropriate [*State Department of Fish and Wildlife*] **Oregon Fish and Game** per-
23 sonnel to act as community advisors to cooperatively develop enhancement projects with citizen
24 volunteers and to cooperatively evaluate enhancement projects with the citizens responsible for
25 project implementation.

26 (2) Provide technical assistance to citizens responsible for implementation of enhancement
27 projects.

28 (3) Coordinate the implementation of enhancement projects with the activities of [*department*]
29 **Oregon Fish and Game** staff and other agencies.

30 (4) Provide educational and informational materials to promote public awareness and involve-
31 ment in the salmon and trout enhancement program.

32 (5) Supervise the activities of citizens developing local brood stock for enhancement projects.

33 (6) Grant funds to citizens for the implementation of approved enhancement projects from such
34 moneys as may be available to the commission therefor.

35 (7) Develop and implement a remote hatchbox program as described in ORS 496.458.

36 (8) Report annually to the Legislative Assembly on the progress of the salmon and trout en-
37 hancement program.

38 **SECTION 123.** ORS 496.460 is amended to read:

39 496.460. (1) The Salmon and Trout Enhancement Program Advisory Committee is established as
40 an advisory committee to the State Fish and Wildlife Commission. The committee shall be of such
41 size and have such geographical representation as the commission determines appropriate. Members
42 of the committee shall be appointed by the Governor.

43 (2) The committee shall review the policies of [*the State Department of Fish and Wildlife*] **Oregon**
44 **Fish and Game** and make recommendations to the State Fish and Wildlife Commission and to the
45 department concerning the implementation of salmon and trout enhancement projects.

1 (3) A member of the committee shall receive no compensation for services as a member. How-
2 ever, subject to any applicable law regulating travel and other expenses of state officers and em-
3 ployees, a member shall be reimbursed for actual and necessary travel and other expenses incurred
4 in the performance of official duties from such moneys as may be available to [*the department*
5 *therefor*] **Oregon Fish and Game for payment of committee reimbursement.**

6 **SECTION 124.** ORS 496.470 is amended to read:

7 496.470. (1) The State Fish and Wildlife Commission shall adopt by rule plans for the natural
8 production of anadromous fish runs in the basins set forth in subsection (2) of this section. The
9 commission shall adopt the plans after government-to-government consultation in the forum estab-
10 lished pursuant to United States v. Oregon, United States District Court Case No. 68-513 MA, among
11 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the Confederated Tribes
12 of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of
13 Oregon and the Nez Perce Tribe.

14 (2) The basins for which plans may be adopted under subsection (1) of this section are:

- 15 (a) Hood;
- 16 (b) Deschutes;
- 17 (c) Fifteenmile Creek;
- 18 (d) John Day;
- 19 (e) Umatilla;
- 20 (f) Walla Walla;
- 21 (g) Grande Ronde; and
- 22 (h) Imnaha.

23 (3) Of the basins set forth in subsection (2) of this section, the commission shall give priority to
24 adopting plans for the Grande Ronde, Imnaha, Umatilla, Walla Walla and Hood basins.

25 **SECTION 125.** ORS 496.480 is amended to read:

26 496.480. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall report at
27 least once every six months to the appropriate legislative committee and the Governor on the
28 progress of the department and the State Fish and Wildlife Commission in implementing ORS 496.470
29 and 496.475.

30 **SECTION 126.** ORS 496.490 is amended to read:

31 496.490. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall establish
32 a Keep Oregon's Rivers Clean program for the collection, recycling and proper disposal of fishing
33 tackle, including monofilament line, fluorocarbon leaders, lines, lead weights and lures.

34 (2) The program shall consist of collection points located at or near established fishing areas
35 and boat ramps. At each collection point, [*the department*] **Oregon Fish and Game** shall work with
36 conservation and outdoor sports groups to provide a container for collection of tackle and post
37 permanent signs or other notices that explain the program, the benefits of proper tackle recycling
38 and disposal and the Oregon conservation ethic.

39 (3) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may work cooperatively
40 with the State Parks and Recreation Department to establish a method by which deposited tackle
41 may be collected for recycling and disposal.

42 (4) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall include in any
43 statewide sportfishing regulations publication produced by the department a statement explaining
44 the collection and recycling program and encouraging nongovernmental organization participation
45 in the program.

1 **SECTION 127.** ORS 496.605 is amended to read:

2 496.605. The State Fish and [*Wildlife*] **Game** Director and any deputies of the director and all
3 other peace officers of this state or any political subdivision thereof have jurisdiction of and may
4 enforce any of the provisions of the wildlife laws.

5 **SECTION 128.** ORS 496.815 is amended to read:

6 496.815. As used in ORS 496.815 to 496.825,[:]

7 [(1) "*Department*" means the State Department of Fish and Wildlife.]

8 [(2) "*Director*" means the State Fish and Wildlife Director.]

9 [(3)] "person" means an individual, corporation, association, firm, partnership, joint stock com-
10 pany, municipal corporations and all other political subdivisions of the State of Oregon. The federal
11 government or any of its agencies are specifically excluded.

12 **SECTION 129.** ORS 496.731 is amended to read:

13 496.731. (1) As used in this section:

14 (a) "Officer" means any person authorized to enforce the wildlife laws pursuant to ORS 496.605,
15 496.610 or 496.615.

16 (b) "Potentially habituated wildlife" means bear, cougar, coyote and wolf.

17 (2) A person who places, deposits, distributes, stores or scatters food, garbage or any other
18 attractant so as to knowingly constitute a lure, attraction or enticement for potentially habituated
19 wildlife may be issued a written notification by an officer requiring the person to remove the food,
20 garbage or other attractant within two days of notification.

21 (3) A person who receives a written notification under subsection (2) of this section shall remove
22 the food, garbage or other attractant as directed.

23 (4) This section does not apply to:

24 (a) Activities related to an agricultural, forestry or ranching operation.

25 (b) Feeding potentially habituated wildlife with the State Fish and [*Wildlife*] **Game** Director's
26 authorization. The director may authorize the feeding:

27 (A) In order to prevent damage to private property;

28 (B) In order to mitigate the population loss anticipated by a predicted winter mortality; or

29 (C) As a part of a research or management program.

30 (c) Waste disposal facilities operating in accordance with applicable federal, state and local
31 laws.

32 (d) Zoos, wildlife refuges and persons that have a permit to keep wildlife in captivity for reha-
33 bilitation or other purposes pursuant to ORS 497.228, 497.298 or 497.308.

34 (5) Nothing in this section affects any provision of ORS 498.164.

35 **SECTION 130.** ORS 496.820 is amended to read:

36 496.820. (1) Any person applying for a permit to appropriate water for hydroelectric purposes
37 under ORS 537.150 to 537.252 or any person applying for a preliminary permit or license under ORS
38 543.010 to 543.610 shall pay an administration fee of \$350 to [*the State Department of Fish and*
39 *Wildlife*] **Oregon Fish and Game**.

40 (2) If a person pays the administration fee under subsection (1) of this section at the time the
41 person applies for a preliminary permit under ORS 543.210, the person shall not also be required to
42 pay the fee when applying for a license for the same project under ORS 543.010 to 543.610.

43 **SECTION 131.** ORS 496.825 is amended to read:

44 496.825. (1) In addition to any other fee required by law, at the time the person applies to the
45 Water Resources Department for a license to operate a hydroelectric project under ORS 543.010 to

1 543.610 or for a permit to appropriate water for hydroelectric purposes under ORS 537.150 to
2 537.230, the person shall pay to the State Fish and [*Wildlife*] **Game** Director an application fee the
3 amount of which shall be the greater of:

4 (a) \$1,000; or

5 (b) Thirty-five cents for each kilowatt of proposed capacity of the project.

6 (2) The director shall postpone the payment of the fee under subsection (1) of this section for
7 a permit to appropriate water under ORS 537.150 to 537.230 until the person submits final plans and
8 specifications for the project to the Water Resources Department under ORS 537.150.

9 (3) Subsection (1) of this section shall not apply to any applicant for a permit or license for a
10 project producing 100 theoretical horsepower or less.

11 **SECTION 132.** ORS 496.830 is amended to read:

12 496.830. A person who fails to pay the fee required under section 4, chapter 674, Oregon Laws
13 1985, or the assessment under section 5, chapter 674, Oregon Laws 1985, or ORS 543.265 on the due
14 date shall pay in addition to the assessed amount due, a penalty in the amount of one percent of the
15 fee per month for the period that the fee is past due. The State Fish and [*Wildlife*] **Game** Director
16 may bring an action to collect an unpaid fee or assessment in the name of the State of Oregon in
17 the Circuit Court of Marion County or the circuit court of the county in which the project is lo-
18 cated. The director shall be entitled to recover all costs and attorney fees incurred in the legal
19 action.

20 **SECTION 133.** ORS 496.835 is amended to read:

21 496.835. (1) There is created within the State Treasury a revolving fund known as the Oregon
22 Fish and Wildlife Hydroelectric Fund, separate and distinct from the General Fund. The moneys in
23 this fund are continuously appropriated for use by [*the State Department of Fish and Wildlife*]
24 **Oregon Fish and Game** in its activities related to hydroelectric projects including payment of
25 necessary administrative expenses.

26 (2) The fund created by subsection (1) of this section shall consist of all moneys received under
27 sections 4 and 5, chapter 674, Oregon Laws 1985, ORS 496.820 and 496.825 and moneys transferred
28 from the Water Resources Department Hydroelectric Fund as provided in ORS 536.015.

29 (3) Moneys in the fund may be invested as provided in ORS 293.701 to 293.857. Interest from any
30 source derived from the investment of the moneys of the fund shall be credited to the fund.

31 **SECTION 134.** ORS 497.022 is amended to read:

32 497.022. (1) The State Fish and Wildlife Commission may appoint agents to issue any of the li-
33 censes, tags or permits the commission is authorized by law to issue. The commission shall prescribe
34 the procedure for the issuance of such licenses, tags and permits. Agents of the commission shall
35 issue licenses, tags and permits in accordance with the prescribed procedure and shall charge and
36 collect the fees prescribed by law therefor.

37 (2)(a) As part of the fees prescribed in the fee schedule under ORS 497.061 and in addition to
38 fees otherwise prescribed by law for the issuance of a license, tag or permit, the issuing agent shall
39 charge and collect:

40 (A) For each resident annual sportspac license issued pursuant to ORS 497.132 (3)(a) and (4)(a),
41 \$5.

42 (B) For each nonresident annual hunting license issued pursuant to ORS 497.102, \$10.

43 (C) For each nonresident annual deer tag, nonresident annual elk tag, nonresident annual black
44 bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and non-
45 resident annual antelope tag issued pursuant to ORS 497.112 (1), \$10.

1 (D) For any other license, tag or permit, \$2 each.

2 (b) If the agent is a county clerk, the agent shall deposit the agent fees provided for in this
3 section in the general fund of the county for which the agent is the clerk. If the agent is an em-
4 ployee of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, the agent fees shall
5 be deposited in the State Wildlife Fund. Agents other than county clerks or department employees
6 who issue licenses without the use of a state computerized licensing system may retain the agent
7 fees for their license tag or permit issuance services. Agents other than county clerks or department
8 employees who issue licenses, tags or permits using a state computerized licensing system may re-
9 tain a portion of the agent fees not less than:

10 (A) For each resident annual sportspac license issued pursuant to ORS 497.132 (3)(a) and (4)(a),
11 \$2.50.

12 (B) For each nonresident annual hunting license issued pursuant to ORS 497.102, \$7.50.

13 (C) For each nonresident annual deer tag, nonresident annual elk tag, nonresident annual black
14 bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and non-
15 resident annual antelope tag issued pursuant to ORS 497.112 (1), \$7.50.

16 (D) For any other license, tag or permit, as may be specified by contract between the depart-
17 ment and the agent for license, tag or permit issuance service performed by the agent, \$1 each.

18 (3) If the commission finds that an agent appointed pursuant to this section has violated any of
19 the provisions of law or the procedures prescribed by the commission for the issuance of licenses,
20 tags or permits or the collection and disposition of fees therefrom, the commission may revoke the
21 authority of the agent to issue licenses, tags and permits, or may suspend such authority for such
22 time as the commission considers appropriate.

23 **SECTION 135.** ORS 497.136 is amended to read:

24 497.136. The moneys received from the fee increases prescribed in the amendments to ORS
25 497.121 and 497.132 and section 4, chapter 512, Oregon Laws 1989, and section 15, chapter 858,
26 Oregon Laws 1991, by sections 1 to 4, chapter 619, Oregon Laws 1993, shall be used by [*the State*
27 *Department of Fish and Wildlife*] **Oregon Fish and Game** for recreational fishing activities, includ-
28 ing fish hatchery production, freshwater fish programs, groundfish sampling, fish research projects,
29 Oregon State Police Game Bureau enforcement, a name and address database, and the Hatchery
30 Maintenance Information System.

31 **SECTION 136.** ORS 497.139 is amended to read:

32 497.139. The Fish Passage Fund is established in the State Treasury, separate and distinct from
33 the General Fund. Interest earned by the Fish Passage Fund shall be credited to the fund. Moneys
34 in the fund are continuously appropriated to [*the State Department of Fish and Wildlife*] **Oregon**
35 **Fish and Game** for purposes related to fish passage.

36 **SECTION 137.** ORS 497.141 is amended to read:

37 497.141. (1) There is created a Fish Passage Restoration Subaccount within the Fish Passage
38 Fund established under ORS 497.139. Fees described in ORS 543.765 (14) shall be paid into the sub-
39 account. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may solicit and accept
40 additional moneys for crediting to the subaccount, including but not limited to federal funds, ap-
41 propriations, donations, grants from nongovernmental entities and moneys from other public or pri-
42 vate sources. Any interest earned by moneys within the subaccount shall be credited to the
43 subaccount.

44 (2) The department shall use the subaccount moneys to fund priority fish passage restoration
45 projects. The department shall give priority to the funding of projects on the statewide inventory

1 of artificial obstructions priority list described in ORS 509.585, with an emphasis on those statewide
2 priority list projects that also pay fees under ORS 543.765 (14), and give priority to projects that
3 have the ability to leverage matching dollars. The department may not use subaccount moneys to
4 fund culvert projects or projects that are state-owned structures. The department may not expend
5 more than six percent of the annual contributions to the subaccount to pay staffing costs associated
6 with the advancement of capital projects funded by the subaccount.

7 **SECTION 138.** ORS 497.228 is amended to read:

8 497.228. (1) No person shall engage in the business of propagating game birds or game mammals
9 for sale unless a wildlife propagation license is first obtained from [*the State Department of Fish and*
10 *Wildlife*] **Oregon Fish and Game.**

11 (2) The State Fish and Wildlife Commission may refuse to issue a license to an applicant if the
12 commission finds that the conduct of the wildlife propagation business would tend to be harmful to
13 existing wildlife populations.

14 (3) The commission, by rule, may prescribe requirements for the care, inspection, transportation
15 and the sale, taking or other disposition of the game birds or game mammals and for such record
16 keeping and reporting procedures as will insure that the propagation activities are conducted in
17 such manner as will not be harmful to existing wildlife populations.

18 **SECTION 139.** ORS 497.248 is amended to read:

19 497.248. (1) No person shall engage in the business of operating a private hunting preserve for
20 the hunting of privately owned or propagated game birds unless the person first obtains from the
21 State Fish and Wildlife Commission a private hunting preserve license.

22 (2) The commission shall issue a private hunting preserve license to an applicant therefor if the
23 commission finds that the operation of the preserve will meet the following requirements:

24 (a) The preserve is on one continuous tract of land owned by the applicant or leased by the
25 applicant and contains:

26 (A) Not more than 640 acres, if the preserve is located in the area west of the summit of the
27 Cascade Mountains; or

28 (B) Not more than 1,280 acres, if the preserve is located in the area east of the summit of the
29 Cascade Mountains.

30 (b) The preserve is located at least one-half mile from any other licensed private hunting pre-
31 serve.

32 (c) No portion of the preserve is located closer than one-half mile to any park, wilderness area,
33 refuge or wildlife management area operated by any agency of the state or federal government.

34 (d) The exterior boundaries of the preserve are clearly defined and posted with signs erected
35 around the extremity at intervals of 1,320 feet or less. The signs shall comply with requirements
36 prescribed by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game.**

37 (e) The applicant has facilities to propagate or hold not less than 500 of each wildlife species
38 to be released for hunting.

39 (f) The applicant will not prevent or attempt to prevent public hunting on lands adjacent to the
40 preserve.

41 (3)(a) The commission, by rule, shall prescribe the time, manner and place of hunting on private
42 preserves, the wildlife species to be hunted, requirements for the care and marking of wildlife raised
43 on the preserve, the release of wildlife received from another state, the procedures for marking
44 indigenous wildlife incidentally taken on the preserve and the fees therefor, and record keeping and
45 reporting procedures.

1 (b) Pursuant to paragraph (a) of this subsection, the commission shall:

2 (A) Allow private hunting preserve operators to use plastic poultry leg bands for marking
3 wildlife species to be released for hunting.

4 (B) Allow the transportation of game birds killed on a private hunting preserve if the birds are
5 cleaned, wrapped, packaged and accompanied by a transportation form from the preserve that states
6 the number and sex of the birds being transported.

7 (C) Require private hunting preserve operators to have at least 10 resident private hunting
8 preserve permits, 10 nonresident private hunting preserve permits and 10 wild bird seals. This re-
9 quirement shall apply to each operator, regardless of the number of preserves operated by that
10 person.

11 (4) No person shall hunt on a private hunting preserve unless the person first obtains from the
12 commission a hunting license or a private hunting preserve permit.

13 **SECTION 140.** ORS 497.249 is amended to read:

14 497.249. (1) In addition to the penalties provided in ORS 496.992, [*the State Department of Fish*
15 *and Wildlife*] **Oregon Fish and Game** may revoke or refuse to renew a license issued under ORS
16 497.248 if the operator fails to comply with any provision of ORS 497.248 or any rule adopted by the
17 State Fish and Wildlife Commission in relation to the operation of private hunting preserves.

18 (2) A new license may not be issued to a person whose license has been revoked unless it ap-
19 pears to the satisfaction of the department that the person will comply with the provisions of ORS
20 497.248 and the rules adopted by the commission in relation to the operation of private hunting
21 preserves.

22 (3) Notwithstanding subsection (1) of this section, the department may not revoke a license for
23 a first violation.

24 (4) Prior to revoking or refusing to renew a license, the department shall serve written notice,
25 in the manner prescribed for contested case proceedings pursuant to ORS 183.415, on the operator
26 of the private hunting preserve, ordering the operator to:

27 (a) Notify the department within 30 days of the service of the notice if the operator seeks a
28 review of the proposed revocation or refusal to renew the license in the manner provided for con-
29 tested case proceedings in ORS 183.413 to 183.470; and

30 (b) Set forth in any notification under paragraph (a) of this subsection the operator's reasons
31 why the license should be renewed or not be revoked.

32 (5) At the conclusion of a contested case proceeding conducted by the department pursuant to
33 subsection (4) of this section, an operator may petition the commission for a review of the determi-
34 nation by the department.

35 **SECTION 141.** ORS 497.252 is amended to read:

36 497.252. (1) Except as provided in ORS 508.700 to 508.745 and 622.220, no person shall engage
37 in the business of propagating game fish or food fish for sale unless a fish propagation license is first
38 obtained from [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**.

39 (2) The State Fish and Wildlife Commission may refuse to issue a license to an applicant if the
40 commission finds that the conduct of the fish propagation business would tend to be harmful to ex-
41 isting game fish or food fish populations.

42 (3) The commission, by rule, may prescribe requirements for the care, inspection, transportation
43 and the sale, taking or other disposition of the game fish or food fish, and for such record keeping
44 and reporting procedures as will insure that the propagation activities are conducted in such man-
45 ner as will not be harmful to existing game fish or food fish populations.

1 (4) Persons propagating the following food fish under the license prescribed in subsection (1) of
2 this section are exempt from the licensing provisions of ORS 508.025 and 508.035:

3 (a) Food fish raised entirely in, then harvested from facilities which are enclosed or designed
4 to prevent escape and from which the fish are not released for natural rearing.

5 (b) Food fish harvested from the wild under licenses prescribed in ORS 508.025 and 508.035 and
6 on which the appropriate fee has been paid at the time holding or rearing commences in the licensed
7 fish propagation facility.

8 (5) As used in this section, food fish has the meaning as defined in ORS 506.011.

9 **SECTION 142.** ORS 497.258 is amended to read:

10 497.258. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** is authorized to
11 issue, upon application, to persons desiring to engage in the following occupations the following li-
12 censes and shall charge the applicable fees under the fee schedule in ORS 497.061:

13 (1) Resident annual fur dealer license.

14 (2) Resident annual taxidermist license.

15 (3) Resident annual wildlife propagation license.

16 (4) Resident annual fish propagation license.

17 (5) Resident annual private hunting preserve license.

18 **SECTION 143.** ORS 497.400, as amended by section 2, chapter 14, Oregon Laws 2018, is
19 amended to read:

20 497.400. No person shall:

21 (1) Apply for, obtain or possess for personal use or for the use of any other person more licenses,
22 tags or permits issued by the State Fish and Wildlife Commission than are authorized for personal
23 use during the current year by the wildlife laws and rules promulgated pursuant thereto.

24 (2) Alter, borrow, loan or transfer to another person any license, tag or permit issued by the
25 commission.

26 (3) In applying for a license, tag or permit issued by the commission, knowingly make any false
27 statement of any information required by the application regarding the person in whose name the
28 license, tag or permit is to be issued.

29 (4) Possess any license, tag or permit that has been altered, borrowed, loaned or transferred or
30 for which any false statements were knowingly made in applying therefor.

31 (5) Apply for or obtain any license, tag or permit issued by the commission when civil damages
32 due pursuant to ORS 496.705, moneys due [*the State Department of Fish and Wildlife*] **Oregon Fish
33 and Game** from court-ordered restitutions for violations of the wildlife laws or moneys due the
34 commission under ORS 496.992 (12) have not been paid.

35 **SECTION 144.** ORS 497.655 is amended to read:

36 497.655. (1) As used in this section:

37 (a) "Fur-bearing mammal," "hunt" and "wildlife" have the meanings given those terms in ORS
38 496.004.

39 (b) "Predatory animals" means those animals listed in ORS 610.002, black bears, cougars, fur-
40 bearing mammals and gray wolves.

41 (2)(a) Each application for the purchase and issuance of a license, tag or permit to hunt wildlife
42 pursuant to ORS 497.102 or 497.112 must include a separate section under which the applicant may
43 make a voluntary contribution to be used for predatory animal control, to the extent allowable un-
44 der federal and state law, in the county or counties in which the license, tag or permit allows the
45 person to hunt.

1 (b) A voluntary contribution made under this section does not convey a privilege to hunt
2 wildlife, and is considered separate from any moneys paid by the applicant for the issuance of a li-
3 cense, tag or permit.

4 (c) Before developing a predatory animal control program, a county shall consult with [*the State*
5 *Department of Fish and Wildlife*] **Oregon Fish and Game** or the State Department of Agriculture,
6 depending on the predatory animals that are part of the program.

7 (d) Voluntary contributions received under this section shall be deposited in the Wildlife Con-
8 servation Fund established under ORS 497.660.

9 (3)(a) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall keep track of
10 voluntary contributions made under this section. Each quarter the department shall pay to each
11 county in which hunting took place under a license, tag or permit issued under the wildlife laws an
12 amount equal to the total of the voluntary contributions made in association with applications for
13 licenses, tags or permits allowing persons to hunt in the county.

14 (b) If a license, tag or permit allows the holder to hunt in an area that includes land within more
15 than one county, the department shall designate a proportionate share of any voluntary contribution
16 under this section to each county based on the percentage of the area that is in each county.

17 **SECTION 145.** ORS 497.660 is amended to read:

18 497.660. (1) The Wildlife Conservation Fund is established in the State Treasury, separate and
19 distinct from the General Fund. Interest earned by the Wildlife Conservation Fund shall be credited
20 to the fund. Moneys in the fund are continuously appropriated to [*the State Department of Fish and*
21 *Wildlife*] **Oregon Fish and Game** to be paid to counties as provided in ORS 497.655.

22 (2) The Wildlife Conservation Fund shall consist of voluntary contributions received by [*the*
23 *State Department of Fish and Wildlife*] **Oregon Fish and Game** pursuant to ORS 497.655.

24 **SECTION 146.** ORS 498.012 is amended to read:

25 498.012. (1) Nothing in the wildlife laws is intended to prevent any person from taking any
26 wildlife that is causing damage, is a public nuisance or poses a public health risk on land that the
27 person owns or lawfully occupies. However, no person shall take, pursuant to this subsection, at a
28 time or under circumstances when such taking is prohibited by the State Fish and Wildlife Com-
29 mission, any game mammal or game bird, fur-bearing mammal or nongame wildlife species, unless
30 the person first obtains a permit for such taking from the commission.

31 (2)(a) Nothing in subsection (1) of this section requires a permit for the taking of cougar, bobcat,
32 red fox or bear pursuant to that subsection. However, any person who takes a cougar, bobcat, red
33 fox or bear must have in possession written authority therefor from the landowner or lawful occu-
34 pant of the land that complies with subsection (4) of this section.

35 (b) Nothing in subsection (1) of this section requires the commission to issue a permit for the
36 taking of any wildlife species for which a U. S. Fish and Wildlife Service permit is required pursuant
37 to the Migratory Bird Treaty Act (16 U.S.C. 703 to 711), as amended.

38 (3) Any person who takes, pursuant to subsection (1) of this section, any cougar, bobcat, red fox,
39 bear, game mammal, game bird, fur-bearing mammal or wildlife species whose survival the commis-
40 sion determines is endangered shall immediately report the taking to a person authorized to enforce
41 the wildlife laws, and shall dispose of the wildlife in such manner as the commission directs. In de-
42 termining procedures for disposal of bear and cougar, the commission shall direct [*the State De-*
43 *partment of Fish and Wildlife*] **Oregon Fish and Game** to first offer the animal to the landowner
44 incurring the damage.

45 (4) The written authority from the landowner or lawful occupant of the land required by sub-

1 section (2) of this section for the taking of cougar, bobcat, red fox or bear must set forth all of the
2 following:

3 (a) The date of issuance of the authorization;

4 (b) The name, address, telephone number and signature of the person granting the authorization;

5 (c) The name, address and telephone number of the person to whom the authorization is granted;

6 (d) The wildlife damage control activities to be conducted, whether for bear, cougar, red fox or
7 bobcat; and

8 (e) The expiration date of the authorization, which shall be not later than one year from the
9 date of issuance of the authorization.

10 (5) Any regional office of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
11 ordering the disposal of an animal under subsection (3) of this section shall file a report with the
12 State Fish and [*Wildlife*] **Game** Director within 30 days after the disposal. The report shall include
13 but need not be limited to the loss incurred, the financial impact and the disposition of the animal.
14 The director shall compile all reports received under this subsection on a bimonthly basis. The re-
15 ports compiled by the director shall be available to the public upon request.

16 (6) ORS 498.014 governs the taking of wolves that are causing damage.

17 (7) As used in this section:

18 (a) "Damage" means loss of or harm inflicted on land, livestock or agricultural or forest crops.

19 (b) "Nongame wildlife" has the meaning given that term in ORS 496.375.

20 (c) "Public nuisance" means loss of or harm inflicted on gardens, ornamental plants, ornamental
21 trees, pets, vehicles, boats, structures or other personal property.

22 **SECTION 147.** ORS 498.014 is amended to read:

23 498.014. (1) As used in this section:

24 (a) "Chronic depredation":

25 (A) Means at least four confirmed qualifying incidents of depredation by wolves upon livestock
26 or working dogs within a consecutive six-month period during phase 1 of the Oregon Wolf Conser-
27 vation and Management Plan adopted by the State Fish and Wildlife Commission; or

28 (B) Has the meaning given that term by the commission for periods of time after the expiration
29 of phase 1 of the Oregon Wolf Conservation and Management Plan adopted by the State Fish and
30 Wildlife Commission.

31 (b) "Livestock" has the meaning given that term in ORS 610.150.

32 (c) "Working dog" has the meaning given that term in ORS 610.150.

33 (2) Nothing in the wildlife laws prevents the State Fish and Wildlife Commission or [*the State*
34 *Department of Fish and Wildlife*] **Oregon Fish and Game** from lethally taking wolves to address
35 chronic depredation pursuant to rules adopted by the commission, regardless of the management
36 status of wolves under the Oregon Wolf Conservation and Management Plan adopted by the com-
37 mission.

38 (3) Pursuant to rules adopted by the State Fish and Wildlife Commission, a person who owns
39 or lawfully occupies land may take wolves on land that is owned or occupied by the person, without
40 a permit issued by the commission, if:

41 (a) The person has not used bait to attract wolves or taken any other intentional action to at-
42 tract wolves other than engaging in regular and ordinary livestock management practices;

43 (b) The taking is allowed under the federal Endangered Species Act of 1973 (P.L. 93-205, 16
44 U.S.C. 1531 et seq.); and

45 (c) The wolves are:

1 (A) Caught in the act of biting, wounding or killing livestock or working dogs; or

2 (B) Caught in the act of chasing livestock or working dogs. If the taking in response to chasing
3 occurs during phase 1 of the Oregon Wolf Conservation and Management Plan adopted by the
4 commission:

5 (i) A person must have first undertaken nonlethal actions as specified by [*the State Department*
6 *of Fish and Wildlife*] **Oregon Fish and Game** to minimize conflict between the wolves and livestock
7 or working dogs; and

8 (ii) The taking must occur during a time period in which the department has determined a sit-
9 uation of chronic depredation exists.

10 (4) A person who is a landowner or a lawful occupant of land may authorize another person to
11 enter the land for the purpose of taking wolves under subsection (3) of this section on behalf of the
12 landowner or occupant. The authorization must be in writing and must include:

13 (a) The date of issuance of the authorization;

14 (b) The name, address, telephone number and signature of the person granting the authorization;

15 (c) The name, address and telephone number of the person to whom the authorization is granted;
16 and

17 (d) The expiration date of the authorization, which may not be later than one year from the date
18 of issuance of the authorization.

19 (5) The person taking wolves on behalf of a landowner or lawful occupant under subsection (4)
20 of this section must be carrying the written authorization when wolves are taken.

21 (6) If a person takes wolves under the provisions of this section, the person shall report the
22 taking to [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** within 24 hours and
23 make all reasonable efforts to preserve, and to keep undisturbed, the scene of the taking. The de-
24 partment and the Oregon State Police shall immediately investigate the report of the taking to de-
25 termine compliance with the provisions of this section.

26 **SECTION 148.** ORS 498.022 is amended to read:

27 498.022. (1) Except as the State Fish and Wildlife Commission by rule may provide otherwise,
28 but subject to subsection (2) of this section, a person may not purchase, sell or exchange, or offer
29 to purchase, sell or exchange any wildlife, or any part of any wildlife.

30 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, and notwithstanding any
31 other provision of law, or rule enacted pursuant to subsection (1) of this section, a person may not
32 purchase, sell, offer for sale or possess with intent to sell any item that the person knows or should
33 know is a covered animal species part or product.

34 (b) This subsection does not apply:

35 (A) To employees or agents of the federal or state government undertaking any law enforcement
36 activities pursuant to federal or state law or any mandatory duties required by federal or state law;

37 (B) When the activity is expressly authorized by federal law;

38 (C) When the activity involves a species that is subject to a federal management plan under
39 Title III of P.L. 94-265 (16 U.S.C. 1851 to 1869), as amended;

40 (D) When the activity is exempt under ORS 498.257 (3) or 509.160 (3);

41 (E) When the covered animal species part or product is a fixed component of an antique that is
42 not made wholly or primarily of the covered animal species part or product, provided that the an-
43 tique status is established by the owner or seller of the antique with documentation evidencing
44 provenance and showing the covered animal species part or product to be not less than 100 years
45 old and provided that the total weight of the covered animal species part or product is less than 200

1 grams;

2 (F) When the covered animal species part or product is a fixed component of a musical instru-
3 ment, including, but not limited to, string instruments and bows, wind and percussion instruments
4 and pianos, provided that the covered animal species part or product was legally acquired and pro-
5 vided that the total weight of the covered animal species part or product is less than 200 grams;

6 (G) To the noncommercial transfer of ownership of a covered animal species part or product to
7 a legal beneficiary of an estate, trust or other inheritance;

8 (H) To the possession of a covered animal species part or product by any enrolled member of
9 a federally recognized Indian tribe; or

10 (I) To the sale of a covered animal species part or product by or to a bona fide scientific or
11 educational institution when the sale is made pursuant to a written gift agreement or similar in-
12 strument entered into before July 1, 2017.

13 (c)(A) Unless otherwise prohibited by federal law, [*the State Department of Fish and Wildlife*]
14 **Oregon Fish and Game** may permit the purchase, sale or donation of a lawfully acquired covered
15 animal species part or product by or to a bona fide scientific or educational institution for scientific
16 or educational purposes on or after July 1, 2017.

17 (B) For each covered animal species part or product that is purchased, sold or donated under
18 this paragraph, the bona fide scientific or educational institution shall:

19 (i) Keep documentation from the transaction detailing the type of part or product acquired and
20 the source of the part or product; and

21 (ii) Provide the department with a copy of the documentation described in sub-subparagraph (i)
22 of this subparagraph.

23 (d) There is a presumption of possession with intent to sell a covered animal species part or
24 product when the part or product is possessed by a retail or wholesale establishment or other forum
25 engaged in the business of buying or selling of similar items. This rebuttable presumption does not
26 preclude a finding of intent to sell based on any other evidence that may serve to independently
27 establish such intent.

28 (e) Each violation of this subsection is punishable by a civil penalty not to exceed \$6,500 or an
29 amount equal to two times the total value of the covered animal species part or product that is the
30 subject of the violation, whichever is higher. The civil penalty authorized by this paragraph shall
31 be imposed in the manner provided by ORS 183.745.

32 (f) Any covered animal species part or product that is subject to seizure by or forfeiture to the
33 department may not be sold by the department.

34 (g) The commission may adopt rules necessary for the implementation of this subsection, in-
35 cluding rules restricting the purchase, sale, offer for sale or possession with intent to sell of parts
36 or products of any animal species that so closely resemble in appearance parts or products of a
37 covered animal species that law enforcement personnel would have substantial difficulty in at-
38 tempting to differentiate between the species.

39 (h) As used in this subsection:

40 (A) "Bona fide scientific or educational institution" means:

41 (i) A career school granted authority to operate under ORS 345.010 to 345.450;

42 (ii) A community college established under ORS chapter 341;

43 (iii) An education service district as defined in ORS 334.003;

44 (iv) The Oregon Health and Science University;

45 (v) A public high school;

- 1 (vi) A public university listed in ORS 352.002;
- 2 (vii) Any institution not otherwise listed in this subparagraph that is exempt from ORS 348.594
3 to 348.615 under ORS 348.597 (2); or
- 4 (viii) A zoo or aquarium that is accredited under standards that equal or exceed the accredi-
5 tation standards of the Association of Zoos and Aquariums in effect on May 18, 2017.
- 6 (B) "Covered animal species" means any species of:
- 7 (i) Elephant;
- 8 (ii) Rhinoceros;
- 9 (iii) Whale;
- 10 (iv) Tiger;
- 11 (v) Lion;
- 12 (vi) Leopard;
- 13 (vii) Cheetah;
- 14 (viii) Jaguar;
- 15 (ix) Pangolin;
- 16 (x) Sea Turtle;
- 17 (xi) Shark (excluding spiny dogfish as defined in ORS 498.257); or
- 18 (xii) Ray.
- 19 (C) "Covered animal species part or product" means any item that contains, or is wholly or
20 partially made from, any covered animal species.
- 21 (D) "Person" means any individual, firm, partnership, joint venture, corporation, limited liability
22 company, joint stock company, estate, trust, receiver, syndicate, association or other legal entity.
- 23 (E) "Sale" or "sell" means any act of selling, trading or bartering for monetary or nonmonetary
24 consideration and includes any transfer of ownership that occurs in the course of a commercial
25 transaction, but does not include a nonmonetary transfer of ownership by way of gift, donation or
26 bequest.
- 27 (F) "Total value" means either the fair market value or the actual price paid for a covered an-
28 imal species part or product, whichever is greater.
- 29 **SECTION 149.** ORS 498.126 is amended to read:
- 30 498.126. (1) A person may not:
- 31 (a) Hunt game mammals or game birds from or with the aid of an aircraft.
- 32 (b) Transmit from an aircraft to a person not in the aircraft information regarding the location
33 of any game mammals or game birds.
- 34 (c) Otherwise use an aircraft to assist another person in hunting or locating game mammals or
35 game birds for the purpose of hunting.
- 36 (2) A person may not hunt any game mammal within eight hours after having been transported
37 by aircraft to or from any place other than a recognized airport that the Oregon Department of
38 Aviation has licensed as a public use airport, registered as a personal use airport or specifically
39 exempted from licensing or registration.
- 40 (3) Every pilot shall maintain a log book that shows the names and addresses of record of the
41 persons transported, point of departure, point of destination, time and date of each flight that the
42 pilot makes in an aircraft within this state to transport a person to or from any place to hunt. The
43 log book is subject to inspection by any person authorized to enforce the wildlife laws.
- 44 (4)(a) Notwithstanding subsections (1) to (3) of this section, and except as provided in subsection
45 (5) of this section, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, or its agents,

1 may conduct wildlife management activities necessary for scientific research or, in emergency situ-
2 ations, to protect human safety, wildlife species or property by:

3 (A) Hunting game mammals or game birds from or with the aid of an aircraft; or

4 (B) Transmitting from an aircraft information regarding the location of any game mammal or
5 game bird.

6 (b) The State Fish and Wildlife Commission shall define by rule the terms “emergency
7 situations” and “necessary” for purposes of implementation of this section.

8 (5) If the definition of “game mammal” in ORS 496.004 is modified to include wolves, then the
9 department may conduct wolf management activities under this section only under a statewide wolf
10 management plan adopted by the commission.

11 **SECTION 150.** ORS 498.128 is amended to read:

12 498.128. (1) The State Fish and Wildlife Commission shall adopt rules prohibiting the use of
13 drones for the following purposes related to the pursuit of wildlife:

14 (a) Angling;

15 (b) Hunting;

16 (c) Trapping;

17 (d) Aiding angling, hunting or trapping through the use of drones to harass, track, locate or
18 scout wildlife; and

19 (e) Interfering in the acts of a person who is lawfully angling, hunting or trapping.

20 (2) Rules adopted to carry out the prohibitions provided for in this section may include ex-
21 emptions for:

22 (a) Subject to ORS 837.360, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
23 and the department’s agents and contractors for the use of drones in carrying out the duties of the
24 department; or

25 (b) The use of drones in a manner otherwise prohibited under this section if the purpose of the
26 use is to benefit wildlife management or habitat or for the protection of property.

27 (3) Nothing in this section is meant to limit the use of drones by a person who is lawfully en-
28 gaging in activities authorized under the commercial fishing laws.

29 (4) As used in this section, “drone” means:

30 (a) An unmanned flying machine;

31 (b) An unmanned water-based vehicle; or

32 (c) Any other vehicle that is able to operate in the air, in or under the water or on land, either
33 remotely or autonomously, and without a human occupant.

34 **SECTION 151.** ORS 498.166 is amended to read:

35 498.166. (1) Notwithstanding the licensing and tag requirements of ORS 497.102, 497.112, 497.127
36 and 497.132, a person may take a cougar or bear that poses a threat to human safety.

37 (2) Any person who takes a cougar or bear pursuant to subsection (1) of this section shall im-
38 mediately report the taking to a person authorized to enforce the wildlife laws and shall dispose of
39 the animal in such manner as the State Fish and Wildlife Commission directs.

40 (3) Any regional office of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
41 ordering the disposal of an animal under subsection (2) of this section shall file a report with the
42 State Fish and [*Wildlife*] **Game** Director within 30 days after the disposal. The report shall include
43 but need not be limited to the disposition of the animal, the events leading to the taking of the an-
44 imal and any injury caused by the animal to humans or domesticated animals. The director shall
45 compile all reports received under this subsection on a bimonthly basis. The reports compiled by the

1 director shall be available to the public upon request.

2 (4) As used in this section:

3 (a) "Structure" includes a building being used as a residence, a building located on land actively
4 used for agricultural, timber management, ranching or construction purposes or a building used as
5 part of a business.

6 (b) "Threat to human safety" means the exhibition by a cougar or bear of one or more of the
7 following behaviors:

8 (A) Aggressive actions directed toward a person or persons, including but not limited to charg-
9 ing, false charging, growling, teeth popping and snarling.

10 (B) Breaking into, or attempting to break into, a residence.

11 (C) Attacking a pet or domestic animal as defined in ORS 167.310.

12 (D) Loss of wariness of humans, displayed through repeated sightings of the animal during the
13 day near a permanent structure, permanent corral or mobile dwelling used by humans at an agri-
14 cultural, timber management, ranching or construction site.

15 **SECTION 152.** ORS 498.182 is amended to read:

16 498.182. (1) A person, or an employee of that person who acts as a land manager, may not
17 knowingly, as defined in ORS 161.085, allow feral swine to roam on land owned or controlled by that
18 person.

19 (2) A person, or an employee of that person who acts as a land manager, shall take action in a
20 manner consistent with rules adopted by the State Fish and Wildlife Commission to remove any feral
21 swine that roams on land owned or controlled by that person if the person or employee knows that
22 feral swine roam on land owned or controlled by that person. ORS 497.075 does not apply to this
23 subsection.

24 (3) A person, or an employee of that person who acts as a land manager, shall, within 10 days
25 after discovering feral swine on land owned or controlled by that person, inform [*the State Depart-*
26 *ment of Fish and Wildlife*] **Oregon Fish and Game** about the feral swine.

27 **SECTION 153.** ORS 498.257 is amended to read:

28 498.257. (1) As used in this section:

29 (a) "Shark fin" means the raw or dried fin or tail of a shark.

30 (b) "Spiny dogfish" means a shark belonging to the family Squalidae in the order Squaliformes
31 that has two spines, one anterior to each dorsal fin, and that does not have an anal fin.

32 (2) A person may not possess, sell or offer for sale, trade or distribute a shark fin in this state.

33 (3) This section does not apply to:

34 (a) A person who possesses, sells or offers for sale, trades or distributes a shark fin from a spiny
35 dogfish that was legally taken or landed under rules adopted by [*the State Department of Fish and*
36 *Wildlife*] **Oregon Fish and Game** and in accordance with federal regulations; and

37 (b) A person who holds a license or permit issued by [*the State Department of Fish and*
38 *Wildlife*] **Oregon Fish and Game** under the wildlife laws to take a shark and who possesses, sells
39 or offers for sale, trades or distributes a shark fin consistent with the terms of that license or per-
40 mit.

41 **SECTION 154.** ORS 498.279 is amended to read:

42 498.279. (1) A person, or group of persons, may conduct, sponsor and participate in any compe-
43 tition or contest in which prizes are offered for the amount, quality, size, weight or other physical
44 characteristics of black bass or walleye, provided that the rules of a competition or contest are
45 prepared and distributed by the sponsors to the contestants and are administered and enforced by

1 the sponsors. Such rules shall include, but are not limited to:

2 (a) A requirement that the contestants use aerated live wells or other equipment so that all
3 reasonable efforts are made to maintain the fish taken in a live and healthy condition.

4 (b) A requirement that all fish caught that are in a healthy condition are immediately returned
5 to the water where they were caught, after weighing. Black bass may be turned over to [*the State*
6 *Department of Fish and Wildlife*] **Oregon Fish and Game** for restocking.

7 (c) A requirement that bass tournament contestants use only artificial or other such prepared
8 baits.

9 (2) As used in this section, "black bass" means largemouth bass, smallmouth bass, redeye bass,
10 spotted bass and all other basses of the genus *Micropterus*.

11 (3) The State Fish and Wildlife Commission may adopt rules to limit the number of contests and
12 participants, determine the location of contests and prescribe other terms and conditions regarding
13 the conduct of contests under this section.

14 **SECTION 155.** ORS 498.306 is amended to read:

15 498.306. (1) Any person who diverts water from any body of water in this state in which any fish,
16 subject to the State Fish and Wildlife Commission's regulatory jurisdiction, exist may be required
17 to install, operate and maintain screening or by-pass devices to provide adequate protection for fish
18 populations present at the water diversion in accordance with the provisions of this section.

19 (2)(a) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall establish a
20 cost-sharing program to implement the installation of screening or by-pass devices on not less than
21 150 water diversions or 150 cubic feet per second of diverted water per biennium. The department
22 shall select the water diversions to be screened from the priority listing of diversions established
23 by the department and reviewed by the Fish Screening Task Force. The installation of a screening
24 or by-pass device may be required only if:

25 (A) The water diversion is 30 cubic feet per second or more;

26 (B) A new water right is issued for the water diversion;

27 (C) The point of water diversion is transferred as described in ORS 540.525;

28 (D) Fewer than 150 persons per biennium volunteer to request such installation on the diver-
29 sions for which they are responsible; or

30 (E) The Fish Screening Task Force has reviewed and approved the department's request to re-
31 quire installation of screening or by-pass devices in order to complete the screening of a stream
32 system or stream reach.

33 (b) The limitations on the number of diversions or cubic feet per second of diverted water to
34 be screened as provided in this section do not prevent the installation of screening and by-pass de-
35 vices for diversions by persons responsible for diversions who are willing to pay the full cost of in-
36 stallling screening and by-pass devices.

37 (c) Cost-sharing program funds may not be provided under this subsection for screening or by-
38 pass devices on a water diversion involving water rights issued on or after January 1, 1996, unless
39 the Fish Screening Task Force finds there is good cause to allow an exception. The department shall
40 give preference to diversions of 30 cubic feet per second or less when making cost-sharing program
41 funds available.

42 (3) When selecting diversions to be equipped with screening or by-pass devices, the department
43 shall attempt to solicit persons who may volunteer to request the installation of such devices on the
44 diversions for which they are responsible. When selecting diversions to be equipped with screening
45 or by-pass devices, the department shall select those diversions that will provide protection to the

1 greatest number of indigenous naturally spawning fish possible.

2 (4) If the department constructs and installs the screening or by-pass device, a fee shall be as-
3 sessed against the person responsible for the diversion in an amount that does not exceed 40 percent
4 of the construction and installation costs of the device. The fee shall be paid into the Fish
5 Screening Subaccount. If the person responsible for the diversion constructs and installs the by-pass
6 or screening device, the person shall be reimbursed from the Fish Screening Subaccount or other
7 state funds in an amount that does not exceed 60 percent of the actual construction and installation
8 costs of the device.

9 (5) The department's cost of major maintenance and repair of screening or by-pass devices shall
10 be paid from the Fish Screening Subaccount.

11 (6) The department is responsible for major maintenance and repair of screening or by-pass de-
12 vices at water diversions of less than 30 cubic feet per second, and if failure by the department to
13 perform major maintenance on or repair such devices results in damage or blockage to the water
14 diversion on which a device has been installed, the person responsible for the water diversion shall
15 give written notice of such damage or blockage to the department. If within seven days of the notice,
16 the department fails to take appropriate action to perform major maintenance on or repair the de-
17 vice, and to repair any damage that has occurred, the person responsible for the water diversion
18 may remove the device. If an emergency exists that will result in immediate damage to livestock or
19 crops, the person responsible for the water diversion may remove the screening or by-pass device.
20 A person required to comply with this section is responsible for minor maintenance and shall, in a
21 timely manner, notify the department of the need for activities associated with major maintenance.

22 (7) A person who diverts water at a rate of 30 cubic feet per second or more is responsible for
23 all maintenance of an installed screening or by-pass device.

24 (8) A person required to comply with this section may design, construct and install screening
25 or by-pass devices adequate to prevent fish from leaving the body of water and entering the diver-
26 sion or may request the department to design, construct and install such devices. However, if a
27 person required to comply with this section fails to comply within 180 days after notice to comply
28 by the department, the department shall design, install, operate and maintain on that person's water
29 diversion appropriate screening or by-pass devices and shall charge and collect from the person the
30 actual costs thereof in an amount not to exceed the average cost for diversions of that size.

31 (9) If the diversion requiring screening or by-pass devices is located on public property, the de-
32 partment shall obtain from the property owner approval or permits necessary for such devices.
33 Activities of the department pursuant to this section may not interfere with existing rights of way
34 or easements of the person responsible for the diversion.

35 (10)(a) The department or its agent has the right of ingress and egress to and from those places
36 where screening or by-pass devices are required, doing no unnecessary injury to the property of the
37 landowner, for the purpose of designing, installing, inspecting, performing major maintenance on or
38 repairing such devices.

39 (b) If a screening or by-pass device installed by the department must be removed or replaced
40 due to inadequate design or faulty construction, the person responsible for the diversion shall bear
41 no financial responsibility for its replacement or reconstruction.

42 (c) If a screening or by-pass device installed by the person responsible for the diversion must
43 be removed or replaced due to faulty construction, the person shall bear full financial responsibility
44 for its replacement or reconstruction.

45 (d) If the person responsible for a diversion on which a screening or by-pass device is installed

1 fails to conduct appropriate inspection and minor maintenance, the department may perform such
2 activities and charge and collect from the person responsible a fee not to exceed \$150 for each re-
3 quired visit to the location of the screening or by-pass device.

4 (e) If the department determines that a person must install, operate, maintain, repair or replace
5 a screening or by-pass device under this section, the department shall notify the person, by regis-
6 tered mail, of the specific action the person is required to take. The person may request a contested
7 case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS
8 chapter 183.

9 (11) A person may not interfere with, tamper with, damage, destroy or remove in any manner
10 not associated with regular and necessary maintenance procedures any screening or by-pass devices
11 installed pursuant to this section.

12 (12) The department may maintain an action to cover any costs incurred by the department
13 when a person who is required to comply with this section fails to comply. Such action shall be
14 brought in the circuit court for the county in which the screening or by-pass device is located.

15 (13) Upon receiving notice from the department to comply with this section, a person responsible
16 for a water diversion may be excused from compliance if the person demonstrates to the Fish
17 Screening Task Force that:

18 (a) The installation and operation of screening or by-pass devices would not prevent appreciable
19 damage to the fish populations in the body of water from which water is being diverted.

20 (b) Installation and operation of screening or by-pass devices would not be technically feasible.

21 (c) Installation of screening or by-pass devices would result in undue financial hardship.

22 (14)(a) Not later than January 1, 1996, the department, with the assistance of the Fish Screening
23 Task Force and the Water Resources Department, shall establish and publish an updated priority
24 listing of 3,500 water diversions in the state that should be equipped with screening or by-pass de-
25 vices. Changes may be made to the list whenever deletions are made for any reason. The priority
26 listing shall include the name and address of the person currently responsible for the water diver-
27 sion, the location of the diversion, size of the diversion, type of screening or by-pass device required,
28 estimated costs for construction and installation of screening or by-pass devices for the individual
29 diversion and species of fish present in the water body. When developing the priority listing, the
30 department shall base priorities for the installation of screening or by-pass devices on unscreened
31 diversions on the following criteria:

32 (A) Fish species status.

33 (B) Fish numbers.

34 (C) Fish migration.

35 (D) Diversion size.

36 (E) Diversion amount.

37 (F) Any other criteria that the department, in consultation with the Fish Screening Task Force,
38 considers appropriate.

39 (b) Criteria identified in this subsection shall be given appropriate consideration by the depart-
40 ment when updating its priority listing. The priority listing will be updated to give the highest pri-
41 ority to those diversions that save the greatest number of fish and simultaneously protect the
42 greatest number of threatened or endangered fish species.

43 (c) After the priority listing has been updated, the persons responsible for the diversions on the
44 list shall be notified that their diversions appear on the list. Such persons also shall be furnished a
45 description of the fish screening cost-sharing program.

1 (d)(A) The department shall notify, by means of registered mail, each person responsible for the
2 first 250 diversions on the priority listing on or before January 1, 1996. The department shall furnish
3 information regarding the fish screening cost-sharing program to each person responsible for a di-
4 version included in the first 250 diversions on the priority listing on or before January 1, 1996. A
5 person may not be required to install a screening or by-pass device unless previously notified by the
6 department of the requirement to install such devices.

7 (B) On January 1 of each even-numbered year, the department shall notify each person respon-
8 sible for a diversion included in the first 250 diversions on the priority listing. However, the de-
9 partment is not required to notify in a subsequent year any person previously notified. The
10 department shall include with such notification information regarding the fish screening cost-sharing
11 program.

12 (C) Before any person is required to install a screening or by-pass device, the department shall
13 confirm the need for the device through a visual, on-site inspection by appropriate staff of the fish
14 screening division of the department, or a district biologist of the department.

15 (15) As used in this section:

16 (a) "Behavioral barrier" means a system that utilizes a stimulus to take advantage of natural
17 fish behavior to attract or repel fish. A behavioral barrier does not offer a physical impediment to
18 fish movement, but uses such means as electricity, light, sound or hydraulic disturbance to move or
19 guide fish.

20 (b) "Body of water" includes but is not limited to irrigation ditches, reservoirs, stock ponds and
21 other artificially created structures or impoundments.

22 (c) "By-pass device" means any pipe, flume, open channel or other means of conveyance that
23 transports fish back to the body of water from which the fish were diverted but does not include
24 fishways or other passages around a dam.

25 (d) "Fish screen" means a screen, bar, rack or other barrier, including related improvements
26 necessary to ensure its effective operation, to provide adequate protection for fish populations
27 present at a water diversion.

28 (e) "Major maintenance" means all maintenance work done on a screening or by-pass device
29 other than minor maintenance.

30 (f) "Minor maintenance" means periodic inspection, cleaning and servicing of screening or by-
31 pass devices at such times and in such manner as to ensure proper operation of the screening or
32 by-pass device.

33 (g) "Person" means any person, partnership, corporation, association, municipal corporation,
34 political subdivision or governmental agency.

35 (h) "Screening device" means a fish screen or behavioral barrier.

36 **SECTION 156.** ORS 498.321 is amended to read:

37 498.321. (1) In order to carry out the provisions of ORS 498.301 and 498.306, the following min-
38 imum standards and criteria apply to actions of the State Fish and Wildlife Commission and [*the*
39 *State Department of Fish and Wildlife*] **Oregon Fish and Game** with regard to fish screening or
40 by-pass devices:

41 (a) Standards and criteria shall address the overall level of protection necessary at a given
42 water diversion and may not favor one technology or technique over another.

43 (b) Standards and criteria shall take into account at least the following factors relating to the
44 fish populations present at a water diversion:

45 (A) The source of the population, whether native or introduced and whether hatchery or wild.

1 (B) The status of the population, whether endangered, threatened or sensitive.

2 (c) Standards and criteria may take into account the cumulative effects of other water diver-
3 sions on the fish populations being protected.

4 (d) Design and engineering recommendations shall consider cost-effectiveness.

5 (e) Alternative design and installation proposals must be approved if they can be demonstrated
6 to provide an equal level of protection to fish populations as those recommended by the department.

7 (2) In order to maximize effectiveness and promote consistency relating to the protection of fish
8 at nonhydroelectric water diversions, the department shall establish a single organizational entity
9 to administer all agency activities related to fish screening and by-pass devices.

10 (3) The department shall emphasize cooperative effort and mutual understanding with those re-
11 sponsible for water diversions that need fish screening or by-pass devices.

12 (4) The department shall aggressively investigate and encourage the development of new tech-
13 nologies and techniques to provide protection for fish populations at water diversions in order to
14 reduce initial costs, reduce operating costs and improve cost-effectiveness.

15 **SECTION 157.** ORS 498.326 is amended to read:

16 498.326. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall establish
17 guidelines to determine the need for and location of potential fish screening and by-pass projects.
18 The guidelines shall include a plan to be used for determining priorities for and expected costs of
19 installing and maintaining the fish screening and by-pass devices.

20 (2) Nothing in subsection (1) of this section is intended to prevent [*the State Department of Fish*
21 *and Wildlife*] **Oregon Fish and Game** from expending federal or other funds if such funds become
22 available for the installation and maintenance of fish screening and by-pass projects.

23 **SECTION 158.** ORS 498.341 is amended to read:

24 498.341. Notwithstanding the limitations imposed by ORS 498.306, if sufficient funds are made
25 available in the Fish Screening Subaccount of the Fish and Wildlife Account, by allocation from the
26 Administrative Services Economic Development Fund or from other sources, [*the State Department*
27 *of Fish and Wildlife*] **Oregon Fish and Game** may provide financial assistance for construction and
28 installation of screening or by-pass devices on additional water diversions.

29 **SECTION 159.** ORS 498.500 is amended to read:

30 498.500. (1) To assist persons with meeting the requirements of this state and local and federal
31 governments concerning the mitigation of the adverse effects that a proposed action may have on
32 core area habitat of sage grouse, [*the State Department of Fish and Wildlife*] **Oregon Fish and**
33 **Game**, after consultation with interested local and tribal governments, state and federal agencies
34 and private organizations, may develop and administer a uniform policy for mitigating the adverse
35 effects that the proposed actions may have on core area habitat of sage grouse.

36 (2) If the department develops a mitigation policy under this section, the policy may include:

37 (a) Provisions for the recognition or establishment of mitigation banks; and

38 (b) Any other framework, criteria or goals developed to facilitate the mitigation of the adverse
39 effects that a proposed action may have on core area habitat of sage grouse in a manner that en-
40 sures a landscape approach to the conservation of sage grouse.

41 (3) If the department develops a mitigation policy under this section, the policy must:

42 (a) Provide that the department review, at least once every five years, the mapping by the de-
43 partment of core area habitat of sage grouse and revise the mapping, if necessary, to account for
44 any new and substantial biological information; and

45 (b) Ensure that any use of a mitigation bank or other mitigation framework provided for under

1 the policy does not result in a net loss of either the quality or quantity of sage grouse habitat and
2 provides a net benefit to the quality or quantity of sage grouse habitat.

3 (4) If the department develops a mitigation policy under this section for the purpose of benefiting
4 sage grouse as a result of a listing as a sensitive, threatened or endangered species under ORS
5 496.171 to 496.182, or a listing as a candidate, threatened or endangered species pursuant to the
6 federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.), the policy shall ensure,
7 to the greatest extent practicable, that any use of land, water or other natural resources occurring
8 in a habitat identified as part of a mitigation bank or other mitigation framework developed under
9 the policy may continue after the department identifies the habitat as part of a mitigation bank or
10 other mitigation framework.

11 (5)(a) Subsections (1) to (4) of this section do not affect the ability of a person to develop a
12 proposal under ORS 498.502 for off-site mitigation or a mitigation bank in order to meet the re-
13 quirements of this state and local and federal governments concerning the mitigation of the adverse
14 effects that a proposed action by the person may have on core area habitat of sage grouse.

15 (b) Any proposal for off-site mitigation or a mitigation bank developed under this section and
16 ORS 498.502 must not result in a net loss of either the quality or quantity of sage grouse habitat
17 and must provide a net benefit to the quality or quantity of sage grouse habitat.

18 **SECTION 160.** ORS 498.502 is amended to read:

19 498.502. (1) Subject to and consistent with the federal Endangered Species Act of 1973 (P.L.
20 93-205, 16 U.S.C. 1531 et seq.) and notwithstanding any provision of ORS 496.171 to 496.182:

21 (a) If a person applies for a permit, license, authorization or other form of permission required
22 by law from a state agency for a proposed action that may affect core area habitat of sage grouse,
23 the person may file with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, at any
24 time before or after the commencement of the relevant permitting, licensing, authorization or other
25 form of permission process, a report that uses the best scientific and commercial data available to
26 provide a description of the proposed action and its possible effects on the habitat.

27 (b) The report described in this section must describe the core area habitat of sage grouse af-
28 fected by the proposed action, specify whether the habitat is essential and irreplaceable and provide
29 proposals for off-site mitigation or a mitigation bank.

30 (c)(A) Within 60 days after the filing of the report described in this section, the department shall
31 evaluate whether the proposals specified in the report result in a net loss of either the quality or
32 quantity of sage grouse habitat and provide a net benefit to the quality or quantity of sage grouse
33 habitat.

34 (B)(i) If the department concludes that the proposals specified in the report do not result in a
35 net loss of either the quality or quantity of sage grouse habitat and do provide a net benefit to the
36 quality or quantity of sage grouse habitat, the department shall issue an order finding that the core
37 area habitat of sage grouse affected by the proposed action is not irreplaceable. The department
38 may not thereafter reverse or modify the order except pursuant to a judgment of a court.

39 (ii) If the department concludes that the proposals specified in the report result in a net loss
40 of either the quality or quantity of sage grouse habitat and do not provide a net benefit to the
41 quality or quantity of sage grouse habitat, a person affected by the action may request a contested
42 case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS
43 chapter 183.

44 (2) The provisions of this section apply to a site certificate for an energy facility described in
45 ORS 469.300 (11)(a)(F), but do not apply to a site certificate for any other facility under the pro-

1 visions of ORS 469.300 to 469.563.

2 (3) The commission may adopt rules to carry out the provisions of this section.

3 **SECTION 161.** ORS 498.825 is amended to read:

4 498.825. (1) There is established the Oregon Hatchery Research Center Board within [*the State*
5 *Department of Fish and Wildlife*] **Oregon Fish and Game**. The board shall consist of 15 members,
6 including 12 voting members appointed by the State Fish and [*Wildlife*] **Game** Director under sub-
7 section (3) of this section and three nonvoting members specified in subsection (4) of this section.
8 Members of the board must be residents of this state who are well informed on matters related to
9 fish management policy and scientific research and who demonstrate an interest in research related
10 to the propagation of fish in hatcheries.

11 (2) In making appointments under subsection (3) of this section, the director shall consult with
12 organizations that represent or that are engaged in the same interests as those interests that ap-
13 pointees to the board are required to represent, and shall take into consideration nominations or
14 recommendations of persons for appointment as members of the board that are received in the
15 course of the consultation required by this subsection.

16 (3) The 12 voting members appointed by the director shall be representative of each of the fol-
17 lowing interests:

18 (a) One member shall represent the Oregon Salmon Commission established under ORS 576.062.

19 (b) One member shall represent the Columbia River gillnet salmon fishery established under ORS
20 508.775 to 508.796.

21 (c) Two members shall represent wild fish advocacy organizations.

22 (d) Two members shall represent statewide sport angling organizations.

23 (e) One member shall represent the agricultural industry.

24 (f) One member shall represent coastal ports.

25 (g) One member shall represent the forest products industry.

26 (h) One member shall represent the independent scientific community and have scientific back-
27 ground related to fish management and the propagation of fish in hatcheries.

28 (i) One member shall represent fish habitat restoration interests and have experience in the
29 management or implementation of habitat restoration projects.

30 (j) One member shall represent Oregon Indian tribes, to be appointed by the director after con-
31 sultation with the Commission on Indian Services.

32 (4) In addition to the members appointed under subsection (3) of this section, the director shall:

33 (a) Appoint the following two nonvoting members of the board who have a background in fish
34 management and the propagation of fish in hatcheries:

35 (A) One member to represent [*the State Department of Fish and Wildlife*] **Oregon Fish and**
36 **Game**.

37 (B) One member to represent Oregon State University.

38 (b) Invite a representative of agencies of the federal government related to fish management to
39 serve as a nonvoting member of the board.

40 (5) The term of office of each member is five years, but a member serves at the pleasure of the
41 director. Before the expiration of the term of a member, the director shall appoint a successor whose
42 term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy
43 for any cause, the director shall make an appointment to become immediately effective for the un-
44 expired term.

45 (6) A member of the board is not entitled to compensation under ORS 292.495. At the discretion

1 of the board, board members may be reimbursed from funds available to the board for actual and
2 necessary travel and other expenses incurred by members of the board in the performance of their
3 official duties, subject to the limits described in ORS 292.495.

4 **SECTION 162.** ORS 498.827 is amended to read:

5 498.827. The Oregon Hatchery Research Center Board shall report to the Director of the Oregon
6 Hatchery Research Center and shall:

7 (1) Establish strategic directions and operational objectives for the Oregon Hatchery Research
8 Center located on Fall Creek, near Alsea, consistent with ORS 496.275.

9 (2) Develop, after consultation with the Director of the Oregon Hatchery Research Center,
10 Oregon State University and [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**,
11 the proposed operating budget for the center.

12 (3) Recommend research projects for the Oregon Hatchery Research Center and issue requests
13 for research proposals as needed to carry out the activities of the Oregon Hatchery Research Center
14 specified in ORS 498.831.

15 (4) Review and prioritize all research proposals submitted to the Oregon Hatchery Research
16 Center before research takes place and prioritize the research according to whether the research
17 is consistent with the strategic directions and operational objectives specified in subsection (1) of
18 this section and with the activities of the Oregon Hatchery Research Center specified in ORS
19 498.831.

20 (5) Make recommendations, as needed, regarding how the research projects at the Oregon
21 Hatchery Research Center may be enhanced to meet the strategic directions and operational objec-
22 tives specified in subsection (1) of this section and the activities specified in ORS 498.831.

23 (6) On or before February 1 of each calendar year, report to the Legislative Assembly in the
24 manner required by ORS 192.245, and to the State Fish and [*Wildlife*] **Game** Director and the State
25 Fish and Wildlife Commission, regarding the findings of research projects carried out by the Oregon
26 Hatchery Research Center and any recommendations regarding current hatchery management
27 practices based on the research projects. The Director of the Oregon Hatchery Research Center
28 shall post the report on the center's website for public access.

29 **SECTION 163.** ORS 498.833 is amended to read:

30 498.833. The State Fish and [*Wildlife*] **Game** Director, after consultation with the chairperson
31 of a department related to fish and wildlife at Oregon State University and the Oregon Hatchery
32 Research Center Board established under ORS 498.825, shall appoint a Director of the Oregon
33 Hatchery Research Center.

34 **SECTION 164.** ORS 506.006 is amended to read:

35 506.006. As used in the commercial fishing laws, unless the context requires otherwise:

36 (1) "Angling" means fishing for personal use with one line attached to a pole held in hand while
37 landing the fish, or with a hand-operated line without rod or reel, to which may be attached not to
38 exceed three hooks, except on floating bass plugs.

39 (2) "Boat" means any vessel, any floating craft, powered, towed, rowed or otherwise propelled
40 which is used for landing or taking food fish.

41 (3) "Buy" includes offer to buy, barter, exchange or trade.

42 (4) "Commercial purposes" means taking food fish with any gear unlawful for angling, or taking
43 or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for,
44 handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing
45 of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.

1 (5) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.

2 (6) "Department" means [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**.

3 (7) "Director" means the State Fish and [*Wildlife*] **Game** Director appointed pursuant to ORS
4 496.112.

5 (8) "Fishing gear" means any appliance or device intended for or capable of being used to take
6 food fish except by angling.

7 (9) "Fixed fishing gear" includes but is not limited to stationary gear operated at a fixed lo-
8 cation.

9 (10) "Personal use" means taking or fishing for food fish by angling or by such other means and
10 with such gear as the commission may authorize for fishing for personal use, or possessing the same
11 for the use of the person fishing for, taking or possessing the same and not for sale or barter.

12 (11) "Sell" includes offer or possess for sale, barter, exchange or trade.

13 (12) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt,
14 pursue, catch, capture or kill.

15 (13) "Transport" means transport by any means, and includes offer or receive for transportation.

16 (14) "Waters of this state" means all waters over which the State of Oregon has jurisdiction,
17 or joint or other jurisdiction with any other state or government, including waters of the Pacific
18 Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state.

19 **SECTION 165.** ORS 506.154 is amended to read:

20 506.154. The State Fish and [*Wildlife*] **Game** Director shall:

21 (1) Be responsible to the State Fish and Wildlife Commission for the administration and
22 enforcement of the commercial fishing laws.

23 (2) Be responsible for the collection, application and dissemination of information pertinent to
24 the management of food fish resources and to the regulation of the uses of such resources.

25 **SECTION 166.** ORS 506.214 is amended to read:

26 506.214. The Hatchery Construction Fund is established in the State Treasury, separate and
27 distinct from the General Fund. Interest earned by the Hatchery Construction Fund shall be cred-
28 ited to the fund. Moneys in the fund are continuously appropriated to [*the State Department of Fish*
29 *and Wildlife*] **Oregon Fish and Game**. The fund shall consist of any moneys appropriated to the
30 fund by the Legislative Assembly and moneys received by the department for the purposes estab-
31 lished in this section in the form of gifts, grants, bequests, endowments or donations. Moneys in the
32 fund may be expended only to improve, upgrade or replace current coastal hatchery facilities in
33 order to incorporate new technologies.

34 **SECTION 167.** ORS 506.226 is amended to read:

35 506.226. Notwithstanding any other provision of law [*the State Department of Fish and Wildlife*
36 *shall*] **Oregon Fish and Game** may not use in any body of water any electric current or electric
37 shock device for the purpose of capturing any adult salmonids for a person granted a permit pur-
38 suant to ORS 508.700 to 508.745.

39 **SECTION 168.** ORS 506.231 is amended to read:

40 506.231. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall prepare and
41 make available to the public upon request monthly reports of fish hatchery operations. Information
42 in the report shall include, but is not limited to:

43 (1) The location of each state facility at which salmon eggs were taken and the number of eggs
44 taken.

45 (2) The number and destination of salmon eggs transferred from one state facility to another.

1 (3) The number of salmon eggs to be reared at each state facility.

2 (4) The number of salmon eggs sold from each state facility to any person granted a permit
3 pursuant to ORS 508.700 to 508.745.

4 (5) The number of salmon eggs from state facilities allocated for volunteer salmonid improve-
5 ment program activities.

6 (6) The location and circumstances of each mortality incident involving 10,000 or more salmon
7 eggs at a state facility.

8 **SECTION 169.** ORS 506.462 is amended to read:

9 506.462. (1) A person whose application for a developmental fisheries permit or a restricted
10 permit established under subsection (6) of this section, or for the renewal or transfer of a develop-
11 mental fisheries permit or restricted permit, is denied may make written request to the Commercial
12 Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of
13 any review by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** or the State Fish
14 and Wildlife Commission. The request shall be in such form and shall contain such information as
15 the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125.
16 The fee shall apply toward any applicable permit fees resulting from an order of the board in favor
17 of the requesting applicant.

18 (2) The board shall review a denial as a contested case under ORS chapter 183. Orders issued
19 by the board are not subject to review by the commission, but may be appealed as provided in ORS
20 183.482.

21 (3) The board may waive requirements for renewal of a developmental fisheries permit or a re-
22 stricted permit established under subsection (6) of this section if the board finds that an individual
23 applicant fails to meet the requirements as the result of illness, accident or other circumstances
24 beyond the individual's control.

25 (4) The board may delegate to [*the department*] **Oregon Fish and Game** the board's authority
26 to waive requirements for renewal of developmental fisheries permits or restricted permits estab-
27 lished under subsection (6) of this section.

28 (5) The board may adopt such rules as it determines necessary to carry out its duties, functions
29 and powers under this section.

30 (6) Once the commission determines that a commercial harvest of a developmental fishery can
31 be sustained, it may remove that fishery from the developmental fisheries list, and may, by rule,
32 establish a restricted participation system or a restricted vessel permit system for that fishery.
33 These restricted permit systems may include, but are not limited to, provisions relating to the fol-
34 lowing matters:

35 (a) Establishment of criteria for initial entry into the restricted permit system and criteria for
36 annual qualification for continued participation in the system; and

37 (b) Establishment of terms and conditions for transferring participation rights.

38 **SECTION 170.** ORS 506.465 is amended to read:

39 506.465. (1) The Developmental Fisheries Board is established [*in the State Department of Fish*
40 *and Wildlife*] **within Oregon Fish and Game**. The board shall consist of members appointed by the
41 State Fish and Wildlife Commission after consultation with commercial fishing industry represen-
42 tatives to insure representation on the board of a broad range of fishing interests.

43 (2) The commission shall appoint:

44 (a) Two members who are commercial fishermen licensed in this state and who are the operators
45 of commercial fishing vessels that are less than 60 feet in length.

1 (b) Two members who are commercial fishermen licensed in this state and who are the operators
2 of commercial fishing vessels that are 60 feet or more in length.

3 (c) One member who represents commercial fishing interests in general.

4 (d) One member who is employed by a fish processor having fewer than 50 employees.

5 (e) One member who is employed by a fish processor having 50 or more employees.

6 (f) One member who is an employee of [*the State Department of Fish and Wildlife*] **Oregon Fish**
7 **and Game**.

8 (g) One member who is an employee of the State Department of Agriculture.

9 (3) A member of the board shall receive no compensation for services as a member. However,
10 subject to any applicable law regulating travel and other expenses of state officers and employees,
11 a member shall be reimbursed for actual and necessary travel and other expenses incurred in the
12 performance of duties as a board member. The board shall meet at least once each year.

13 **SECTION 171.** ORS 506.521 is amended to read:

14 506.521. Each member of the State Fish and Wildlife Commission, the State Fish and [*Wildlife*]
15 **Game** Director and every inspector, deputy fish warden, special deputy fish warden, and all peace
16 officers of this state or any political subdivision therein, including police officers commissioned by
17 a university under ORS 352.121 or 353.125, shall enforce the commercial fishing laws within their
18 respective jurisdictions. In the performance of these duties such officers are subject to the direction
19 and control of the commission or director.

20 **SECTION 172.** ORS 506.526 is amended to read:

21 506.526. (1) The State Fish and [*Wildlife*] **Game** Director or any inspector, deputy fish warden
22 or special deputy fish warden may arrest any person the officer has probable cause to believe is in
23 the act of committing a violation of the commercial fishing laws. Such officers are peace officers of
24 the state for this purpose and may execute all criminal process issued for the arrest or detention
25 of any person complained against for violation of the commercial fishing laws. It is unlawful know-
26 ingly or willfully to resist or oppose such officers in the discharge of their duties.

27 (2) Any officer described in subsection (1) of this section who makes an arrest must report it,
28 together with the disposition of the case, to the director within 30 days after the date of the arrest.
29 Failure so to report subjects the officer to removal from office by the authority that appointed the
30 officer.

31 (3) The officers described in subsection (1) of this section have all the powers and authority of
32 a peace officer in serving warrants, subpoenas and other legal process in the enforcement of the
33 commercial fishing laws.

34 **SECTION 173.** ORS 506.620 is amended to read:

35 506.620. The State Fish and [*Wildlife*] **Game** Director or authorized agent may enter and inspect
36 all canneries, cold storage houses, packing establishments, business places, boats, fishing gear, and
37 all property used in the taking, processing and packing of food fish, for the purpose of enforcing the
38 commercial fishing laws.

39 **SECTION 174.** ORS 506.720 is amended to read:

40 506.720. (1) The State Fish and Wildlife Commission may institute suit for the recovery of dam-
41 ages for the unlawful taking, possession or killing of food fish referred to in this section that are
42 the property of the state.

43 (2) The damages referred to in subsection (1) of this section shall be as follows:

44 (a) For food fish other than pink shrimp, salmon or steelhead, twice the average market value
45 of the food fish.

1 (b) For salmon or steelhead taken in waters other than the waters of the Pacific Ocean, \$125
2 per fish.

3 (c) For salmon or steelhead taken in the waters of the Pacific Ocean:

4 (A) For the first violation, twice the average market value of the food fish.

5 (B) For the second and each subsequent violation within a five-year period, \$125 per fish.

6 (d) For pink shrimp:

7 (A) For the first violation, five percent of the average market value of the food fish.

8 (B) For the second violation within a five-year period, 10 percent of the average market value
9 of the food fish.

10 (C) For the third and each subsequent violation within a five-year period, 20 percent of the av-
11 erage market value of the food fish.

12 (3) The commission shall by rule in January of each year establish the average market value for
13 each species of food fish for the year.

14 (4) No person shall apply for or obtain any license, tag or permit issued by the commission when
15 civil damages due pursuant to this section, or when moneys due [*the State Department of Fish and*
16 *Wildlife*] **Oregon Fish and Game** from court-ordered restitutions for violations of the commercial
17 fishing laws have not been paid.

18 **SECTION 175.** ORS 506.995 is amended to read:

19 506.995. (1) As used in this section, "gain" means the amount of money and the value of any
20 property derived from the violation.

21 (2) In addition to any other sanction imposed by law, if a person derives a gain of at least \$5,000
22 from violating any commercial fishing law or rule promulgated pursuant to such laws, the person
23 shall be subject to a civil penalty that is equal to twice the amount of the gain.

24 (3) Civil penalties under this section shall be imposed pursuant to ORS 183.745.

25 (4) Any civil penalty received by [*the State Department of Fish and Wildlife*] **Oregon Fish and**
26 **Game** under this section shall be deposited in the Commercial Fisheries Fund.

27 **SECTION 176.** ORS 507.050 is amended to read:

28 507.050. (1) The State Fish and [*Wildlife*] **Game** Director, one legislator appointed as provided
29 in this section and one public member appointed by the Governor shall act as representatives of the
30 State of Oregon on the Pacific States Marine Fisheries Commission in accordance with the pro-
31 visions of and with the powers and duties in the compact set forth in ORS 507.040.

32 (2) The legislative member shall be appointed by the President of the Senate or the Speaker of
33 the House of Representatives.

34 (3) The legislative member shall serve for a term of four years. The Speaker of the House of
35 Representatives and the President of the Senate shall alternate in making the appointment of the
36 legislative member.

37 (4) Notwithstanding ORS 171.072, the legislative member is not entitled to mileage expenses or
38 a per diem and serves as a volunteer on the commission.

39 (5) Members of the commission who are not members of the Legislative Assembly are not enti-
40 tled to compensation or reimbursement of expenses and serve as volunteers on the commission.

41 **SECTION 177.** ORS 508.030 is amended to read:

42 508.030. It is unlawful for any individual to operate, or leave in a condition to take food fish in
43 any of the waters of this state, any fishing gear used in taking food fish, without first obtaining from
44 the State Fish and [*Wildlife*] **Game** Director or the authorized agent of the director such license as
45 may be prescribed by this chapter. The license must be in the possession of such individual at the

1 time the fishing gear is being used.

2 **SECTION 178.** ORS 508.035 is amended to read:

3 508.035. (1) Separate licenses are required for each:

4 (a) Person other than an employee operating as a canner of food fish.

5 (b) Person other than an employee operating as a wholesale fish dealer, for each separate place
6 of business.

7 (c) Individual acting or engaged as a fish buyer by a person licensed under paragraph (a) or (b)
8 of this subsection.

9 (d) Person licensed under paragraph (a) or (b) of this subsection, for each permanent site or lo-
10 cation operated by such person as a fish-buying station.

11 (e) Individual taking or assisting in the taking of food fish for commercial purposes as described
12 in ORS 508.235.

13 (f) Boat, used in taking food fish for commercial purposes, as described in ORS 508.260.

14 (g) Single delivery of food fish from the Pacific Ocean for commercial purposes in the absence
15 of licenses under paragraphs (e) and (f) of this subsection.

16 (h) Person other than an employee operating as a fish bait dealer, for each separate place of
17 business.

18 (i) Individual taking or assisting in the taking of food fish for sale to a fish bait dealer.

19 (2) The State Fish and Wildlife Commission shall classify and define the various licenses pro-
20 vided for in this section and shall direct the State Fish and [Wildlife] **Game** Director to issue li-
21 censes accordingly and the classification shall be final.

22 **SECTION 179.** ORS 508.111 is amended to read:

23 508.111. The State Fish and [Wildlife] **Game** Director may issue to any person a permit to take
24 food fish solely for educational and scientific purposes.

25 **SECTION 180.** ORS 508.116 is amended to read:

26 508.116. (1)(a) The State Fish and [Wildlife] **Game** Director may issue to any person a permit
27 to take animals living intertidally on the bottom.

28 (b) The annual fee for a resident permit issued under this section is \$125.

29 (c) The annual fee for a nonresident permit issued under this section is \$175.

30 (2) It is unlawful to take animals living intertidally on the bottom for commercial purposes by
31 a permit issued under subsection (1) of this section without first having obtained a license under
32 ORS 508.035.

33 **SECTION 181.** ORS 508.316 is amended to read:

34 508.316. Except as provided in ORS 508.843 and 508.883, the State Fish and [Wildlife] **Game**
35 Director shall not issue a boat more than one single delivery license under ORS 508.285 during a
36 12-month period as established by rule of the director. For purposes of this section, the disquali-
37 fication from receiving additional single delivery licenses shall apply to a boat without regard to
38 ownership or changes in ownership.

39 **SECTION 182.** ORS 508.406 is amended to read:

40 508.406. The State Fish and [Wildlife] **Game** Director or the authorized agent of the director
41 shall issue or renew any license required by the commercial fishing laws to a qualified person upon
42 proper application and payment of the license fee required by ORS 508.285.

43 **SECTION 183.** ORS 508.410 is amended to read:

44 508.410. All applications for licenses under ORS 508.406 shall be made on blanks furnished by
45 the State Fish and [Wildlife] **Game** Director and shall contain such information as the State Fish

1 and Wildlife Commission determines to be necessary for proper administration and enforcement of
2 the commercial fishing laws.

3 **SECTION 184.** ORS 508.415 is amended to read:

4 508.415. (1) In case of license applications by canners or wholesalers, the State Fish and
5 [Wildlife] **Game** Director, in addition to license fees provided by law, may exact from the applicant
6 a bond from a corporate surety, authorized to do business in this state, guaranteeing the payment
7 of fees, if the director considers such action is necessary to insure compliance with ORS 508.505 to
8 508.540.

9 (2) In lieu of any bond that may be required under subsection (1) of this section, any applicant
10 may deposit with the State Fish and Wildlife Commission, under such terms and conditions as the
11 director may prescribe, a like amount of lawful money of the United States or an irrevocable letter
12 of credit issued by an insured institution, as defined in ORS 706.008. The commission shall turn over
13 to the State Treasurer for safekeeping all such deposits so received.

14 **SECTION 185.** ORS 508.445 is amended to read:

15 508.445. In all prosecutions requiring proof as to the issuance or nonissuance of a license by the
16 State Fish and [Wildlife] **Game** Director under any of the laws of this state, the certificate of the
17 director as to the issuance or nonissuance of the license by the director shall be sufficient proof on
18 that question to establish the fact. This certificate shall be admitted in evidence as to the issuance
19 or nonissuance of the license in any such prosecution.

20 **SECTION 186.** ORS 508.450 is amended to read:

21 508.450. Each license issued under ORS 508.406 shall be numbered and dated by the State Fish
22 and [Wildlife] **Game** Director or an authorized agent and contain the site or address where the ap-
23 plication or business is located and the name of the person to whom the license is granted.

24 **SECTION 187.** ORS 508.470 is amended to read:

25 508.470. All licenses for which fees are provided for under ORS 508.285 unless otherwise speci-
26 fied in law expire as of midnight, December 31, following the dates of their issuance or on such date
27 as may be specified by [*rule of the State Department of Fish and Wildlife*] **Oregon Fish and Game**
28 **rules**. The licenses may be renewed annually thereafter upon application and payment of fees re-
29 quired therefor.

30 **SECTION 188.** ORS 508.485 is amended to read:

31 508.485. (1) Except for vessel licenses described in ORS 508.285 and 508.470 and vessel permits
32 described in ORS 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883, 508.889 to 508.910 and
33 508.926, the State Fish and Wildlife Commission may, in its discretion, revoke for the remainder of
34 the license or permit year any license or permit issued to a person under the authority of the com-
35 mission, or the State Fish and [Wildlife] **Game** Director, pursuant to the commercial fishing laws,
36 and in its discretion may refuse the issuance of any license or permit issued under the authority of
37 the commission, or director, pursuant to the commercial fishing laws, during any period not to ex-
38 ceed one year from the date of the license or permit revocation order:

39 (a) Upon conviction within this state of any person of violation of any of the commercial fishing
40 laws or rules;

41 (b) Upon receiving notice from the agency that regulates commercial fishing in the State of
42 Washington of the conviction of any person in that state of an offense that was a violation of
43 Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and that
44 if committed in this state would be grounds for license revocation pursuant to paragraph (a) of this
45 subsection;

1 (c) Upon conviction within this state of any person for violation of ORS 498.022, or any rule
2 adopted pursuant thereto, involving game fish, through the use of a license issued pursuant to the
3 commercial fishing laws; or

4 (d) Upon conviction within this state of a person for violation of ORS 164.043 to 164.065 when
5 the subject of the theft is commercial fishing crab rings or crab pots, or the crabs taken therefrom.

6 (2)(a) Except for vessel licenses described in ORS 508.285 and 508.470 and vessel permits de-
7 scribed in ORS 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883, 508.889 to 508.910 and 508.926,
8 a court may order the commission to revoke any licenses or permits issued to a person under the
9 authority of the commission, or the director, pursuant to the commercial fishing laws. Such revoca-
10 tions may not exceed a period of two years from the date of the license or permit revocation order.
11 Revocation of licenses and permits is in addition to and not in lieu of other penalties provided by
12 law.

13 (b) The license and permit revocation provisions of paragraph (a) of this subsection apply to the
14 following persons:

15 (A) Any person who is convicted of a violation of the commercial fishing laws, or any rule
16 adopted pursuant thereto, or who otherwise fails to comply with the requirements of a citation in
17 connection with any such offense;

18 (B) Any person who is convicted of a violation of ORS 498.022, or any rule adopted pursuant
19 thereto, involving game fish, through the use of a license issued pursuant to the commercial fishing
20 laws; or

21 (C) Any person who is convicted of a violation of ORS 164.043 to 164.065 when the subject of
22 the theft is commercial fishing crab rings or crab pots, or the crabs taken therefrom.

23 (c) When a court orders the revocation of a license or permit under the provisions of this sub-
24 section, the court shall take up any such licenses and permits and forward them, together with a
25 copy of the revocation order, to the commission. Upon receipt thereof, the commission shall cause
26 revocation of the appropriate licenses and permits in accordance with the court order.

27 (d) Nothing in this subsection requires a court to take additional action, after the conclusion
28 of the sentencing hearing, to secure the licenses or permits if the defendant does not have the li-
29 cense or permit in the defendant's possession at the time of sentencing.

30 (3) Any person whose license revocation involves the buying, selling or dealing of food fish is
31 prohibited from engaging in such activity under any license issued by the commission during the
32 period the court orders the revocation.

33 **SECTION 189.** ORS 508.490 is amended to read:

34 508.490. Except for vessel licenses described in ORS 508.260, 508.285 and 508.470 and vessel
35 permits described in ORS 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883, 508.889 to 508.910
36 and 508.926, the State Fish and Wildlife Commission may, in its discretion, refuse the issuance of
37 any license or permit issued under the authority of the commission, or the State Fish and
38 [Wildlife] **Game** Director, pursuant to the commercial fishing laws, during any period not to exceed
39 two years from the date of the license or permit revocation order:

40 (1) Upon conviction within this state of any person of violation of any of the commercial fishing
41 laws or rules after the person has once been convicted and penalized under ORS 508.485; or

42 (2) Upon receiving notice from the agency that regulates commercial fishing in the State of
43 Washington of the conviction of any person in that state of an offense that was a violation of
44 Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and that
45 if committed in this state would be grounds for refusal to issue a license or permit pursuant to

1 subsection (1) of this section.

2 **SECTION 190.** ORS 508.495 is amended to read:

3 508.495. Upon the receipt of a fee of \$16.50 and the filing of an affidavit that a license issued
4 under authority of ORS 508.406 has been lost or destroyed, the State Fish and [Wildlife] **Game** Di-
5 rector or the authorized agent of the director shall issue a certificate that such license has been
6 issued and has been lost or destroyed. Except as provided in ORS 508.260, the certificate may be
7 used in lieu of the lost or destroyed license.

8 **SECTION 191.** ORS 508.500 is amended to read:

9 508.500. No person shall:

10 (1) Alter, borrow or loan to any other person any license or permit issued by [*the department*]
11 **Oregon Fish and Game.**

12 (2) In applying for a license or permit issued by [*the State Department of Fish and Wildlife*]
13 **Oregon Fish and Game** knowingly make any false statement of any information required by the
14 application regarding the person in whose name the license or permit is to be issued.

15 (3) Possess any license or permit that has been altered, borrowed or loaned or for which any
16 false statements were knowingly made in applying therefor.

17 **SECTION 192.** ORS 508.502 is amended to read:

18 508.502. (1) In a circuit court proceeding concerning a claim by a seller of a vessel permit
19 transferable under ORS 508.760, 508.793, 508.864, 508.907, 508.936 or 508.957 that the buyer of the
20 vessel permit has failed to fulfill one or more terms of the sale, the seller may petition the circuit
21 court for a preliminary injunction requiring [*the State Department of Fish and Wildlife*] **Oregon Fish**
22 **and Game** and the Commercial Fishery Permit Board to take such actions as are necessary to allow
23 the seller to continue to operate a vessel in the appropriate fishery during the pendency of the
24 proceeding. An order granting a preliminary injunction under this section must include a finding
25 that allowing the seller to continue to operate a vessel in the appropriate fishery during the
26 pendency of the proceeding will not cause excessive harvest pressure on the fishery resource.

27 (2) Notwithstanding any other provision of law, the State Fish and Wildlife Commission may
28 adopt rules necessary to allow for the issuance of temporary vessel permits or other relief necessary
29 to comply with a preliminary injunction issued pursuant to a petition filed under subsection (1) of
30 this section.

31 **SECTION 193.** ORS 508.505 is amended to read:

32 508.505. (1) Additional fees shall be collected by the State Fish and [Wildlife] **Game** Director in
33 the amount prescribed by this section, except as provided in ORS 508.510. Every person operating
34 within the state as a canner, buyer, bait dealer or wholesaler of any food fish or shellfish shall pay,
35 in addition to all other licenses or fees provided by law, a fee equal to the value of the food fish
36 at the point of landing multiplied by the following rates:

37 (a) All salmon and steelhead, 3.15 percent.

38 (b) All black rockfish, blue rockfish and nearshore fish, 5.00 percent.

39 (c) All tuna, 1.09 percent.

40 (d) All crab, 2.35 percent.

41 (e) All shrimp, 2.40 percent.

42 (f) All sardines, 2.25 percent.

43 (g) All sablefish, 2.40 percent.

44 (h) All whiting, 2.30 percent.

45 (i) All other groundfish, 2.25 percent.

1 (j) All other food fish and shellfish, 2.30 percent.

2 (2) Only live, fresh or frozen in the round or dressed food fish or shellfish are subject to the fees
3 provided in this section. "Dressed" includes but is not limited to beheaded, gutted, filleted, loined
4 or shucked. However, frozen food fish or frozen shellfish received in a wrapped package to which
5 a legible label is stamped or printed showing the name, address, brand or trade name of the original
6 processor or wholesale distributor under which the package is marketed and the kind of frozen food
7 fish or frozen shellfish contained therein, for distribution and ultimate sale in the original package
8 are not subject to the fees provided in this section.

9 **SECTION 194.** ORS 508.515 is amended to read:

10 508.515. (1) The fee required by ORS 508.505 shall be paid to the State Fish and [*Wildlife*] **Game**
11 Director on or before the 20th day of each calendar month for the preceding calendar month.

12 (2) The fee shall be accompanied by a report showing the total number of pounds of all varieties
13 of food fish, stated separately upon blanks furnished by the director, and the value at the point of
14 landing.

15 (3) In the event that such fee is not paid within the time for payment provided in subsection (1)
16 of this section, there shall be added as a late payment charge a sum equal to five percent of the
17 unpaid fees or \$5, whichever is greater, and there shall be charged an interest rate of one percent
18 per month until the principal and interest is paid.

19 (4) Notwithstanding subsection (1), (2) or (3) of this section, the State Fish and Wildlife Com-
20 mission may waive or extend payment of any fees required by ORS 508.505 amounting to less than
21 \$10 during any calendar year.

22 **SECTION 195.** ORS 508.520 is amended to read:

23 508.520. It is the intention that only one fee based on the value of the fish at the point of landing
24 shall be collected for each fish purchased or received, and in order that this end may be accom-
25 plished the State Fish and Wildlife Commission and the State Fish and [*Wildlife*] **Game** Director
26 may determine finally any dispute arising out of the operation and enforcement of ORS 508.505.

27 **SECTION 196.** ORS 508.535 is amended to read:

28 508.535. (1) Every fish canner, fish buyer, retail fish dealer, fish bait dealer or wholesale fish
29 dealer shall keep a record, of all food fish received and bought, in accordance with rules
30 promulgated by the State Fish and Wildlife Commission. Such information may be required as is
31 necessary to enable the commission to carry out its duties of conservation, protection, adminis-
32 tration or enforcement under the commercial fishing laws without imposing undue hardship on the
33 licensees.

34 (2) At least one copy of this record shall be kept:

35 (a) On each boat, vessel, scow, pickup boat or other craft, truck, automobile, motor vehicle or
36 other vehicle of any kind whatsoever used in buying, receiving or transporting the fish.

37 (b) By the canner, buyer, retailer, fish bait dealer or wholesaler.

38 (3) This record is subject to inspection by the commissioners, the State Fish and [*Wildlife*] **Game**
39 Director, the authorized agent of the director, or any duly authorized police officer. This record
40 shall be transmitted to the office of the director at such times and in such manner as the commission
41 directs.

42 (4) Every person shall always keep open to inspection by the commission or its agent any books,
43 records, papers or memoranda which are pertinent to the administration of ORS 508.505 to 508.540.
44 For the purpose of ascertaining the correctness of any fee record or report or the number of pounds
45 or value of fish upon which the additional fee is based or such other information as may be neces-

1 sary to the administration of ORS 508.505 to 508.540, the commission or its agent may inspect such
2 books, records, papers or memoranda.

3 (5) Restaurants licensed under ORS 624.020 shall keep a record of all fresh or frozen fish re-
4 ceived or bought while such fish are in the restaurant's possession. This record shall be subject to
5 inspection by the commissioners, the director, the authorized agent of the director, or any duly au-
6 thorized police officer. An invoice or receipt shall be adequate for the purposes of this subsection.

7 **SECTION 197.** ORS 508.540 is amended to read:

8 508.540. (1) In addition to the penalty prescribed by ORS 506.991, the State Fish and [*Wildlife*]
9 **Game** Director, under the authority of the State Fish and Wildlife Commission, may suspend or re-
10 voke any license for which a fee is required under ORS 508.285 if the person holding the license fails
11 to keep the record required by ORS 508.535 or fails to submit the books, records, papers or memo-
12 randa of the person for inspection, pursuant to ORS 508.535 (4), to any member of the commission
13 or any of its representatives presenting written authority from the commission.

14 (2) The State Fish and [*Wildlife*] **Game** Director may suspend, deny the renewal of or refuse to
15 issue any license for which a fee is required under ORS 508.285 if the person holding or applying
16 for the license is more than 60 days past due in an amount of more than \$400 owed:

17 (a) From fees pursuant to ORS 508.505;

18 (b) From overage, incidental catch or bycatch charges; or

19 (c) To any food fish commodity commission established under ORS chapter 576.

20 (3) The State Fish and Wildlife Commission may contact any food fish commodity commission
21 at any time to obtain lists of persons who owe past due fees to the commodity commission.

22 (4) For purposes of this section:

23 (a) "Bycatch" means the unintended taking of a species of food fish that:

24 (A) Occurs while targeting another species of food fish; and

25 (B) Is prohibited due to time, place, manner, regulations or quota restrictions.

26 (b) "Incidental catch" means the unintended legal taking of a species of food fish that occurs
27 while targeting another species of food fish.

28 (c) "Overage" means the amount of food fish taken for commercial purposes that exceeds the
29 amount allowed by federal and state law.

30 **SECTION 198.** ORS 508.715 is amended to read:

31 508.715. Any permit granted by the State Fish and Wildlife Commission pursuant to ORS 508.700
32 to 508.745 shall contain at least the following conditions:

33 (1) All propagated fish released into state waters shall be marked annually at no less than the
34 level of marking of the same species of fish by hatcheries operated by the commission for the pur-
35 pose of determining contributions to ocean fisheries.

36 (2) All propagated coho and chinook salmon released into state waters shall be marked annually,
37 consistent with subsection (8) of this section, at a minimum level necessary to determine the pro-
38 portion of straying of hatchery coho and chinook salmon into the spawning beds of natural and
39 hatchery produced native stocks of salmon. However, the commission shall not require private
40 hatcheries to meet marking standards that the commission would not apply to its own operations in
41 similar circumstances.

42 (3) Prior to release into state waters, the fish must be subject to examination by a qualified fish
43 pathologist approved by the commission to determine that they are not diseased or infected with any
44 disease which in the opinion of the commission may be detrimental to the state fishery resources.
45 Cost of such examination shall be paid by the permittee. No fish shall be released without written

1 approval from the commission. The commission may require diseased fish to be destroyed. The
2 commission shall not suffer civil or criminal liability for any fish destroyed under this section.

3 (4) The permittee may be authorized by the commission to divert all fish returning to the stream
4 to an inspection area, the location of such area to be approved by the commission, to examine all
5 fish for the purpose of identifying propagated fish.

6 (5) Notwithstanding the provisions of ORS chapters 509 and 511, the permittee shall have the
7 right to take for commercial purposes, only those fish the commission determines were propagated
8 by the permittee, and the commission's decision is final.

9 (6) It shall be unlawful for the permittee to select stocks of fish or to genetically alter the life
10 history or habits of propagated fish in a way [*the State Department of Fish and Wildlife*] **Oregon**
11 **Fish and Game** determines is inconsistent with the provisions of ORS 496.012 or 506.109.

12 (7) It shall be unlawful for the permittee to conduct any activity not authorized by the permit
13 or fail to conduct activities required by the permit without approval of the commission after public
14 hearings.

15 (8) The permittee shall pay all reasonable costs incurred by the commission as a result of the
16 operation of the private hatchery.

17 **SECTION 199.** ORS 508.718 is amended to read:

18 508.718. (1) The Legislative Assembly finds that protecting the natural runs and genetic diversity
19 of anadromous fish is essential to the long-term health of Oregon's natural resources and sport and
20 commercial fisheries.

21 (2) [*Not later than January 1, 1990, the State Department of Fish and Wildlife*] **Oregon Fish and**
22 **Game** shall:

23 (a) Develop and implement monitoring programs, consistent with ORS 508.715 (8) at a minimum
24 level necessary to determine the proportion of straying of hatchery fish into the spawning beds of
25 natural and hatchery produced native stocks of salmon.

26 (b) Utilizing the best available scientific evidence, adopt rules, after public hearing, that deter-
27 mine the proportion of straying that by indicator stock is likely to cause deterioration of the genetic
28 diversity and habitat necessary to maintain long-term species viability or that causes a deterioration
29 of natural or native stocks of salmon.

30 (3) The Legislative Assembly further finds that private hatcheries are a significant part of
31 Oregon's salmon resource and that the Legislative Assembly relies on the State Fish and Wildlife
32 Commission to monitor and regulate private hatcheries in a way that will optimize their long-term
33 contribution to Oregon's salmon resource in conformity with the findings under subsection (1) of this
34 section.

35 **SECTION 200.** ORS 508.730 is amended to read:

36 508.730. After first ensuring that all natural and artificial fish production needs of [*the State*
37 *Department of Fish and Wildlife*] **Oregon Fish and Game** have been met, the State Fish and Wildlife
38 Commission may provide at a reasonable fee chum salmon, chinook salmon, silver salmon or pink
39 salmon, or the sexual products therefrom, for the needs of any person granted a permit by the
40 commission pursuant to ORS 508.700 to 508.745 in the following order of priority:

41 (1) The needs of the salmon and trout enhancement program.

42 (2) The needs of fish propagation facilities operated under contract or agreement with other
43 state or federal agencies, local governments, special districts and nonprofit organizations.

44 (3) The needs of all federal and other fish propagation facilities located on the Columbia River
45 and its tributaries.

1 **SECTION 201.** ORS 508.755 is amended to read:

2 508.755. (1) There is established within [*the State Department of Fish and Wildlife*] **Oregon Fish**
3 **and Game** the Commercial Fishery Permit Board. The board shall consist of members appointed by
4 the State Fish and Wildlife Commission as follows:

5 (a) Three members shall be chosen to represent the Columbia River gillnet salmon fishing in-
6 dustry.

7 (b) Three members shall be chosen to represent the ocean troll salmon fishing industry.

8 (c) Three members shall be chosen to represent the ocean pink shrimp fishing industry.

9 (d) Three members shall be chosen to represent the Yaquina Bay roe-herring fishing industry.

10 (e) Three members shall be chosen to represent the sea urchin commercial fishery.

11 (f) Three members shall be chosen to represent the ocean Dungeness crab fishing industry.

12 (g) Three members shall be chosen to represent the black rockfish and blue rockfish fishing in-
13 dustry and the nearshore fish fishing industry.

14 (h) Three members shall be chosen to represent developmental fisheries as described in ORS
15 506.450 to 506.465.

16 (i) Three members shall be chosen to represent each restricted participation system or restricted
17 vessel permit system established by rule of the commission under ORS 506.462.

18 (j) Two members shall be chosen to represent the public.

19 (2) A member of the board shall receive no compensation for services as a member. However,
20 subject to any applicable law regulating travel and other expenses of state officers and employees,
21 a member shall be reimbursed for travel and other expenses incurred in the performance of official
22 duties.

23 (3) The board shall select such officers, for such terms and with such duties and powers, as the
24 board considers necessary for the performance of those offices.

25 (4) A majority of the members of the board constitutes a quorum for the transaction of business.

26 (5) The board shall meet at such times and places as may be determined by the chairperson or
27 by a majority of the members of the board.

28 (6) Notwithstanding any other provision of law:

29 (a) Members of the board representing the Columbia River gillnet salmon fishing industry shall
30 participate in actions of the board only on matters arising under ORS 508.285, 508.470 and 508.775
31 to 508.796.

32 (b) Members of the board representing the ocean troll salmon fishing industry shall participate
33 in actions of the board only on matters arising under ORS 508.801 to 508.825.

34 (c) Members of the board representing the ocean pink shrimp fishing industry shall participate
35 in actions of the board only on matters arising under ORS 508.880, 508.883 and 508.889 to 508.910.

36 (d) Members of the board representing the Yaquina Bay roe-herring fishing industry shall par-
37 ticipate in actions of the board only on matters arising under ORS 508.765.

38 (e) Members of the board representing the sea urchin commercial fishery shall participate in
39 actions of the board only on matters arising under ORS 508.760.

40 (f) Members of the board representing the ocean Dungeness crab fishing industry shall partic-
41 ipate in actions of the board only on matters arising under ORS 508.921 and 508.934.

42 (g) Members of the board representing the black rockfish and blue rockfish fishing industry and
43 the nearshore fish fishing industry shall participate in actions of the board only on matters arising
44 under ORS 508.947, 508.957 or 508.960.

45 (h) Members of the board representing developmental fisheries shall participate in actions of the

1 board only on matters arising under ORS 506.450 to 506.465.

2 (i) Members of the board representing a restricted participation system or a restricted vessel
3 permit system established by rule of the commission under ORS 506.462 shall participate in actions
4 of the board only on matters related to that system.

5 **SECTION 202.** ORS 508.762 is amended to read:

6 508.762. (1) A person whose application for renewal or transfer of a permit established pursuant
7 to ORS 508.760 is denied may make written request to the Commercial Fishery Permit Board for
8 review of the denial. The review provided in this subsection is in lieu of any such review by [*the*
9 *State Department of Fish and Wildlife*] **Oregon Fish and Game** or the State Fish and Wildlife
10 Commission. The request shall be in such form and shall contain such information as the board
11 considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. Such fee
12 shall apply toward the permit fee of an applicant seeking review who is successful in obtaining a
13 permit.

14 (2) The board shall review a denial of an application for renewal or request to transfer a permit
15 according to the applicable provisions of ORS chapter 183. Orders issued by the board are not sub-
16 ject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.500.

17 (3) According to the applicable provisions of ORS chapter 183, the board may promulgate such
18 rules as it considers necessary to carry out its duties, functions and powers.

19 (4) The board may delegate to [*the department*] **Oregon Fish and Game** its authority to waive
20 requirements for renewal of permits.

21 **SECTION 203.** ORS 508.765 is amended to read:

22 508.765. (1) Notwithstanding any other provision of the commercial fishing laws, in order to
23 provide a roe-herring commercial fishery with optimum profits to those engaged in the fishery and
24 to prevent a concentration of fishing effort that would deplete the resource, the State Fish and
25 Wildlife Commission, by rule, shall establish a system for limiting participation in the roe-herring
26 commercial fishing. Any such system may include, but is not limited to, provisions on the following
27 matters:

28 (a) Establishment of criteria for initial entry into fishery participation and for annual qualifica-
29 tion for participation thereafter.

30 (b) Establishment of terms and conditions for transferring participation rights.

31 (2)(a) The annual fee to participate in the roe-herring fishery is:

32 (A) \$125 for resident applicants.

33 (B) \$175 for nonresident applicants.

34 (b) A fee of \$100 shall be charged for each transfer of participation rights under this section.

35 (3)(a) A denial by the commission of an application for renewal of any permit or transfer of any
36 permit established under this section shall be subject to review by the Commercial Fishery Permit
37 Board upon written request of the applicant. The review provided under this subsection shall be in
38 lieu of any such review by the commission or [*the State Department of Fish and Wildlife*] **Oregon**
39 **Fish and Game**.

40 (b) Request for review under this subsection shall be on such forms and contain such informa-
41 tion as the board shall determine. Requests for review shall be accompanied by a \$125 fee, which
42 fee shall apply toward any applicable permit fees resulting from an order of the board in favor of
43 the requesting applicant.

44 (4) Orders issued by the board are not subject to review by the commission but may be appealed
45 as provided in ORS chapter 183.

1 (5) According to the provisions of ORS chapter 183, the board shall adopt such rules as it de-
2 termines necessary to carry out its duties, functions and powers.

3 **SECTION 204.** ORS 508.781 is amended to read:

4 508.781. An individual who obtained the permit required by ORS 508.775 for a particular calen-
5 dar year is eligible to obtain renewal of the permit in a subsequent calendar year, upon application
6 and payment of the fees therefor by December 31 of the permit year or by such date as may be
7 specified by [rule of the State Department of Fish and Wildlife] **Oregon Fish and Game rules.**

8 **SECTION 205.** ORS 508.784 is amended to read:

9 508.784. In making determinations regarding renewal of the permits required by ORS 508.775,
10 [the State Department of Fish and Wildlife] **Oregon Fish and Game** and the Commercial Fishery
11 Permit Board may consider as evidence of permit qualifications or requirements [department]
12 **Oregon Fish and Game** records and such receipts, accounts, contracts and other business records
13 of private parties as [the department] **Oregon Fish and Game** or the board consider reliable evi-
14 dence of the qualifications or requirements in question.

15 **SECTION 206.** ORS 508.790 is amended to read:

16 508.790. (1) The annual fee for the vessel permit required by ORS 508.775 is:

17 (a) \$51 for resident applicants.

18 (b) \$101 for nonresident applicants.

19 (2) Applications shall be in such form and contain such information as [the State Department of
20 Fish and Wildlife] **Oregon Fish and Game**, by rule, may prescribe.

21 **SECTION 207.** ORS 508.792 is amended to read:

22 508.792. (1) Except as provided in subsection (2) of this section, if the number of permits renewed
23 under ORS 508.781 falls below 200, [the State Department of Fish and Wildlife] **Oregon Fish and
24 Game** shall issue permits by a lottery system for vessels that do not meet the requirements of ORS
25 508.781. However, the number of permits issued pursuant to any such lottery system shall not in-
26 crease the number of permits issued to a total number greater than 200.

27 (2) The State Fish and Wildlife Commission may, in its discretion, suspend the lottery for up to
28 two years. Suspension shall be based on the commission's assessment of the condition of the re-
29 source and shall account for the recommendations of the Gillnet Salmon Review Board.

30 **SECTION 208.** ORS 508.793 is amended to read:

31 508.793. (1) The vessel permit required by ORS 508.775 is transferable:

32 (a) To a replacement vessel of the permit holder.

33 (b) To the purchaser of the vessel when the vessel is sold.

34 (2) Notwithstanding subsection (1) of this section, upon request of a permit holder, [the State
35 Department of Fish and Wildlife] **Oregon Fish and Game** may authorize transfer of a permit to a
36 replacement vessel owned by an individual other than the permit holder. However, any transfer of
37 a permit away from a vessel without the written consent of each person holding a security interest
38 in such vessel is void.

39 (3) A fee of \$100 shall be charged for each transfer of a vessel permit under this section.

40 **SECTION 209.** ORS 508.796 is amended to read:

41 508.796. (1) An individual whose application for renewal of the permit required by ORS 508.775
42 is denied by [the State Department of Fish and Wildlife] **Oregon Fish and Game** may make written
43 request to the Commercial Fishery Permit Board for review of the denial. The review provided in
44 this subsection is in lieu of any such review by [the department] **Oregon Fish and Game** or the
45 State Fish and Wildlife Commission. The request shall be in such form and shall contain such in-

1 formation as the board considers appropriate. The request shall be accompanied by a nonrefundable
2 fee of \$125. Such fees shall apply toward the permit fee of successful applicants.

3 (2) In accordance with any applicable provision of ORS chapter 183, the board shall review de-
4 nials of applications for renewal of permits. Orders issued by the board are not subject to review
5 by the commission, but may be appealed as provided in ORS 183.480 to 183.500. The board may waive
6 requirements for renewal of permits if the board finds:

7 (a) That the individual for personal or economic reasons chose to actively commercially fish in
8 some other fishery during the Columbia River gillnet salmon seasons; or

9 (b) That the individual failed to meet the requirements as the result of illness, accident or other
10 circumstances beyond the individual's control.

11 (3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate
12 such rules as it considers necessary to carry out its duties, functions and powers.

13 (4) The board may delegate to [*the department*] **Oregon Fish and Game** its authority to waive
14 requirements for renewal of permits.

15 (5) Notwithstanding any other provision of law, without the prior approval of the Commercial
16 Fishery Permit Board, a Columbia River gillnet salmon vessel permit acquired as a result of a
17 waiver pursuant to subsection (2) of this section may not be transferred to another vessel until the
18 vessel for which the permit was issued has been used in the Columbia River gillnet salmon fishery
19 for two or more calendar years.

20 **SECTION 210.** ORS 508.807 is amended to read:

21 508.807. (1) An individual who obtained the permit required by ORS 508.801 for a particular
22 calendar year is eligible to obtain renewal of the permit in a subsequent calendar year upon ob-
23 taining the annual boat license referred to in ORS 508.285. The permit must be renewed, and the
24 boat license obtained, not later than December 31 of each year or such date as may be established
25 by [*rule of the State Department of Fish and Wildlife*] **Oregon Fish and Game rules.**

26 (2) Notwithstanding any other provision of law, an individual who permanently loses the ser-
27 vices of a vessel through capsizing, sinking, fire, collision or other catastrophic accident has a pe-
28 riod of two years from the date of loss to replace the vessel without losing eligibility to renew the
29 vessel permit.

30 **SECTION 211.** ORS 508.808 is amended to read:

31 508.808. (1) In order to be able to renew the vessel permit in any subsequent year, an individual
32 is not required to renew the boat license as provided in ORS 508.807 if:

33 (a) In the year prior to renewal there was not an ocean troll salmon season of more than 20
34 consecutive days between May 1 and July 31 in the Pacific Fisheries Management Council man-
35 agement area adjacent to the port where the vessel lands fish; and

36 (b) The vessel landed salmon in only one single Oregon port and no other during the preceding
37 three years in which there was a salmon season of more than 20 consecutive days between May 1
38 and July 31 in the Pacific Fisheries Management Council management area adjacent to the port.

39 (2) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may, upon written re-
40 quest by the purchaser, refund any amount paid for a boat license for a boat that qualifies under
41 the provisions of subsection (1) of this section.

42 **SECTION 212.** ORS 508.810 is amended to read:

43 508.810. In making determinations regarding renewal of the permits required by ORS 508.801,
44 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the Commercial Fishery
45 Permit Board may consider as evidence of permit qualifications or requirements [*department*]

1 **Oregon Fish and Game** records and such receipts, accounts, contracts and other business records
2 of private parties as *[the department]* **Oregon Fish and Game** or the board considers reliable evi-
3 dence of the qualifications or requirements in question.

4 **SECTION 213.** ORS 508.816 is amended to read:

5 508.816. (1) The annual fee for the vessel permit required by ORS 508.801 is:

6 (a) \$60 for resident applicants.

7 (b) \$110 for nonresident applicants.

8 (2) Applications shall be in such form and contain such information as *[the State Department of*
9 *Fish and Wildlife]* **Oregon Fish and Game**, by rule, may prescribe.

10 **SECTION 214.** ORS 508.819 is amended to read:

11 508.819. *[The State Department of Fish and Wildlife]* **Oregon Fish and Game** shall consider a
12 permit transferred to, purchased by or otherwise held by the federal government as a permit re-
13 newed under ORS 508.807.

14 **SECTION 215.** ORS 508.822 is amended to read:

15 508.822. (1) The vessel permit required by ORS 508.801 is transferable:

16 (a) To a replacement vessel of the permit holder.

17 (b) To the purchaser of the vessel when the vessel is sold.

18 (c) Upon request of a permit holder, to a replacement vessel owned by an individual other than
19 the permit holder if authorized by *[the State Department of Fish and Wildlife]* **Oregon Fish and**
20 **Game**. However, any transfer of a permit away from a vessel without the written consent of each
21 person holding a security interest in such vessel is void.

22 (2) Permits may be transferred between vessels where both vessels fall within any one of the
23 following categories:

24 (a) Vessels less than or equal to 30 feet;

25 (b) Vessels greater than 30 feet and less than or equal to 42 feet; or

26 (c) Vessels greater than 42 feet.

27 (3) A permit may be transferred from a vessel that is in one of the categories defined in sub-
28 section (2) of this section to a vessel that is in a different category provided that no vessel permit
29 may be transferred to a vessel more than five feet longer than the vessel from which the permit is
30 being transferred.

31 (4) A vessel permit may not be transferred more than once in any 12-month period. However, the
32 Commercial Fishery Permit Board may waive the waiting period for additional transfer if the board
33 finds that strict adherence to the waiting period would create undue hardship for the individual
34 seeking transfer of the permit.

35 (5) Persons requesting the transfer of a permit pursuant to subsection (1)(c) of this section shall
36 provide to *[the department]* **Oregon Fish and Game** copies of documents or state registration for
37 each vessel as proof of the length and ownership.

38 (6) A fee of \$100 shall be charged for each transfer of a vessel permit under this section.

39 **SECTION 216.** ORS 508.825 is amended to read:

40 508.825. (1) An individual whose application for renewal or transfer of the permit required by
41 ORS 508.801 is denied by *[the State Department of Fish and Wildlife]* **Oregon Fish and Game** may
42 make written request to the Commercial Fishery Permit Board for review of the denial. The review
43 provided in this subsection is in lieu of any such review by *[the department]* **Oregon Fish and Game**
44 or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such
45 information as the board considers appropriate. The request shall be accompanied by a

1 nonrefundable fee of \$125. Such fee shall apply toward the permit fee of successful applicants.

2 (2) In accordance with any applicable provision of ORS chapter 183, the board shall review de-
3 nials of applications for renewal or transfer of permits. Orders issued by the board are not subject
4 to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board
5 may waive requirements for renewal or transfer of permits if the board finds that the individual fails
6 to meet the requirements as the result of illness, accident or other circumstances beyond the
7 individual's control.

8 (3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate
9 such rules as it considers necessary to carry out its duties, functions and powers.

10 (4) The board may delegate to [*the department*] **Oregon Fish and Game** its authority to waive
11 requirements for renewal or transfer of permits.

12 **SECTION 217.** ORS 508.828 is amended to read:

13 508.828. Notwithstanding ORS 508.801 to 508.825, 508.880, 508.883 and 508.889 to 508.910, subject
14 to ORS 508.316, a vessel not having a permit may in an emergency and with the approval of [*the*
15 *State Department of Fish and Wildlife*] **Oregon Fish and Game** land salmon by purchase of a single
16 delivery license.

17 **SECTION 218.** ORS 508.852 is amended to read:

18 508.852. In making determinations regarding renewal of the permits required by ORS 508.840,
19 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the Commercial Fishery
20 Permit Board may consider as evidence of permit qualifications or requirements [*department*]
21 **Oregon Fish and Game** records and such receipts, accounts, contracts and other business records
22 of private parties as [*the department*] **Oregon Fish and Game** or the board considers reliable evi-
23 dence of the qualifications or requirements in question.

24 **SECTION 219.** ORS 508.861 is amended to read:

25 508.861. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may establish by
26 rule a lottery system for issuing permits to vessels that do not meet the requirements of ORS
27 508.849. [*The department*] **Oregon Fish and Game**, by rule, shall determine the number of permits
28 and the criteria for issuance.

29 **SECTION 220.** ORS 508.867 is amended to read:

30 508.867. (1) Notwithstanding ORS 508.755 (6)(b) and (c), an individual whose application for re-
31 newal of the permit required by ORS 508.840 is denied by [*the State Department of Fish and*
32 *Wildlife*] **Oregon Fish and Game** may make written request to the Commercial Fishery Permit
33 Board for review of the denial. The review provided in this subsection is in lieu of any such review
34 by [*the department*] **Oregon Fish and Game** or the State Fish and Wildlife Commission. The request
35 shall be in such form and shall contain such information as the board considers appropriate. The
36 request shall be accompanied by a nonrefundable fee of \$125. Such fee shall apply toward the permit
37 fee of successful applicants.

38 (2) In accordance with any applicable provision of ORS chapter 183, the board shall review de-
39 nials of applications for renewal of permits. Orders issued by the board are not subject to review
40 by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board may waive
41 requirements for renewal of permits if the board finds that the individual for personal or economic
42 reasons chooses to actively fish the permit vessel in some other ocean fishery or if the board finds
43 that the individual fails to meet the requirements as the result of illness, accident or other circum-
44 stances beyond the individual's control.

45 (3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate

1 such rules as it considers necessary to carry out its duties, functions and powers.

2 (4) The board may delegate to *[the department]* **Oregon Fish and Game** the authority to waive
3 eligibility requirements for renewal of permits.

4 **SECTION 221.** ORS 508.883 is amended to read:

5 508.883. (1) Notwithstanding ORS 508.880, an individual who holds valid commercial fishing
6 permits required by or issued pursuant to the laws of the states of Washington or California to take
7 pink shrimp may land pink shrimp in this state that were taken in the ocean pink shrimp fishery
8 without the permit required by ORS 508.880 if the vessel possesses a single delivery license referred
9 to in ORS 508.285. However, a single delivery license may be used to land pink shrimp only once in
10 a 12-month period as established by rule of the State Fish and *[Wildlife]* **Game** Director.

11 (2) Subsection (1) of this section shall apply to a vessel registered under the laws of another
12 state only while laws or administrative rules are operative in that state that contain, in substance
13 or effect, provisions similar to the provisions of subsection (1) of this section.

14 **SECTION 222.** ORS 508.892 is amended to read:

15 508.892. (1) An individual who obtained the permit required by ORS 508.880 for a particular
16 calendar year is eligible to obtain renewal of the permit in a subsequent calendar year upon appli-
17 cation and payment of the fees therefor and upon obtaining the annual boat license referred to in
18 ORS 508.285. The permit must be applied for, and the boat license obtained, not later than December
19 31 of each year or such date as may be established by **Oregon Fish and Game** rule *[of the State*
20 *Department of Fish and Wildlife]*.

21 (2) An individual who permanently loses the services of a vessel through capsizing, sinking, fire,
22 collision or other catastrophic accident shall remain eligible to obtain a vessel permit for a re-
23 placement vessel for two years from the date of loss.

24 **SECTION 223.** ORS 508.895 is amended to read:

25 508.895. In making determinations regarding renewal of the permits required by ORS 508.880,
26 *[the State Department of Fish and Wildlife]* **Oregon Fish and Game** and the Commercial Fishery
27 Permit Board may consider as evidence of permit qualifications or requirements *[department]*
28 **Oregon Fish and Game** records and such receipts, accounts, contracts and other business records
29 of private parties as *[the department]* **Oregon Fish and Game** or the board considers reliable evi-
30 dence of the qualifications or requirements in question.

31 **SECTION 224.** ORS 508.901 is amended to read:

32 508.901. (1) The annual fee for the vessel permit required by ORS 508.880 is:

33 (a) \$200 for resident applicants.

34 (b) \$250 for nonresident applicants.

35 (2) Applications shall be in such form and contain such information as *[the State Department of*
36 *Fish and Wildlife]* **Oregon Fish and Game**, by rule, may prescribe.

37 **SECTION 225.** ORS 508.904 is amended to read:

38 508.904. (1) Except as provided in subsection (2) of this section, if the number of permits renewed
39 under ORS 508.892 falls below 150, *[the State Department of Fish and Wildlife]* **Oregon Fish and**
40 **Game** shall issue permits by lottery systems for vessels that do not meet such requirements, first
41 among those individuals who landed pink shrimp pursuant to a single delivery license referred to in
42 ORS 508.285, and then among all other individuals making application therefor. However, the num-
43 ber of permits issued pursuant to any such lottery system may not increase the total number of
44 permits issued beyond 150.

45 (2) *[The department]* **Oregon Fish and Game** shall consider a permit transferred to, purchased

1 by or otherwise held by the federal government as a permit renewed under ORS 508.892. A permit
2 transferred to, purchased by or otherwise held by the federal government is a permit under the limit
3 of 150 permits established by this section.

4 **SECTION 226.** ORS 508.910 is amended to read:

5 508.910. (1) An individual whose application for renewal of the permit required by ORS 508.880
6 is denied by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** may make written
7 request to the Commercial Fishery Permit Board for review of the denial. The review provided in
8 this subsection is in lieu of any such review by [*the department*] **Oregon Fish and Game** or the
9 State Fish and Wildlife Commission. The request shall be in such form and shall contain such in-
10 formation as the board considers appropriate. The request shall be accompanied by a nonrefundable
11 fee of \$125. Such fee shall apply toward the permit fee of successful applicants.

12 (2) In accordance with any applicable provision of ORS chapter 183, the board shall review de-
13 nials of applications for renewal of permits. Orders issued by the board are not subject to review
14 by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board may waive
15 requirements for renewal of permits if the board finds that the individual fails to meet the require-
16 ments as the result of illness, accident or other circumstances beyond the individual's control.

17 (3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate
18 such rules as it considers necessary to carry out its duties, functions and powers.

19 (4) The board may delegate to [*the department*] **Oregon Fish and Game** its authority to waive
20 requirements for renewal of permits.

21 **SECTION 227.** ORS 508.915 is amended to read:

22 508.915. The State Fish and [*Wildlife*] **Game** Director shall work with the appropriate authori-
23 ties in the states of California and Washington to negotiate reciprocal agreements that would allow
24 vessels registered under the laws of those states to land pink shrimp in Oregon to the same extent
25 that vessels registered in Oregon may land pink shrimp in California or Washington.

26 **SECTION 228.** ORS 508.936 is amended to read:

27 508.936. (1) The system established under ORS 508.921 shall include provisions to make the
28 vessel ocean Dungeness crab permit required by ORS 508.926 transferable:

29 (a) To another vessel; or

30 (b) To the purchaser of the vessel when the vessel is sold.

31 (2) Except as provided in subsection (3) of this section, the vessel to which a permit is trans-
32 ferred may not be:

33 (a) More than 10 feet longer than the vessel from which the permit is transferred; or

34 (b) More than 99 feet in length.

35 (3) A permit that is transferred to a vessel that is more than 10 feet shorter than the vessel for
36 which the permit was held on January 1, 2013, may subsequently be transferred to a vessel of a
37 length equal to or less than the length of the vessel for which the permit was held on January 1,
38 2013.

39 (4) Notwithstanding subsections (2) and (3) of this section, a permit issued to a vessel:

40 (a) Under ORS 508.931 (1)(e) shall be transferred only to a vessel that is 26 feet or less in length.

41 (b) May not be transferred to a vessel that is more than 10 feet longer than the vessel for which
42 the permit was held on January 1, 2006. However, the Commercial Fishery Permit Board may waive
43 the length restriction in this paragraph if the board finds that strict adherence to the length re-
44 striction would create undue hardship, as that term is defined by rule by the State Fish and Wildlife
45 Commission, for the individual seeking transfer of the permit.

1 (5) Transfer of a permit under this section is subject to *[the approval of the State Department of*
2 *Fish and Wildlife]* **Oregon Fish and Game approval** according to such rules as the State Fish and
3 Wildlife Commission may adopt. Any transfer of a permit from a vessel without the written consent
4 of each person holding a security interest in the vessel is void.

5 (6) For purposes of this section, the length of a vessel shall be determined by the manufacturer's
6 specification of overall length, United States Coast Guard documentation stating overall length or
7 a survey of overall length by a certified marine surveyor, as the State Fish and Wildlife Commission
8 by rule shall establish.

9 (7) A fee of \$100 shall be charged for each transfer of a vessel permit under this section.

10 **SECTION 229.** ORS 508.943 is amended to read:

11 508.943. (1) As used in this section, "crab fishing season" has the meaning given that term in
12 ORS 508.931.

13 (2) A person may not leave a crab pot used as part of the ocean Dungeness crab fishery in the
14 waters of this state more than 15 days after the closure of the crab fishing season.

15 (3) The State Fish and Wildlife Commission may issue permits to persons for the removal of crab
16 pots left in violation of subsection (2) of this section:

17 (a) Regardless of whether the person who removes the crab pot originally set the crab pot; and

18 (b) If the permit holder also holds a boat license issued pursuant to ORS 508.260.

19 (4) By rule the commission:

20 (a) Shall establish provisions related to the disposition of the crab pots by the permit holder
21 who removes the crab pots.

22 (b) May restrict the removal of crab pots to specific geographic areas.

23 (5) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game** may exempt certain
24 owners of crab pots from the requirements of subsection (2) of this section. If *[the department]*
25 **Oregon Fish and Game** exempts certain owners under this subsection, *[the department]* **Oregon**
26 **Fish and Game** must notify the holders of permits issued under subsection (3) of this section.

27 (6) The provisions of ORS 98.005, 98.015, 98.025 and 98.302 to 98.436 do not apply to crab pots
28 removed under the provisions of this section.

29 **SECTION 230.** ORS 508.947 is amended to read:

30 508.947. (1) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game** may issue a
31 black rockfish and blue rockfish vessel permit to an owner of a vessel that landed a minimum of 750
32 pounds of nontrawl caught black rockfish, blue rockfish or nearshore fish in any one calendar year
33 between January 1, 1995, and January 1, 2001, or in the six-month period between January 1, 2001,
34 and July 1, 2001, for delivery to a fish processor licensed pursuant to ORS 508.025.

35 (2) *[The department]* **Oregon Fish and Game** may issue a black rockfish and blue rockfish vessel
36 permit with a nearshore fish endorsement to an owner of a vessel that was issued a permit under
37 the Interim Nearshore Fisheries Plan through the Developmental Fisheries Program.

38 (3) *[The department]* **Oregon Fish and Game** may renew a black rockfish and blue rockfish
39 vessel permit or a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement
40 if the vessel made a minimum of five commercial fish landings during the calendar year prior to the
41 request for renewal for delivery to a fish processor licensed pursuant to ORS 508.025.

42 (4) Permits issued under this section expire on December 31 of each year or on such date as
43 may be specified by *[department]* **Oregon Fish and Game** rule. An owner of a vessel with a permit
44 must submit a renewal application to *[the department]* **Oregon Fish and Game** by January 1 of each
45 year or by such date as may be specified by *[department]* **Oregon Fish and Game** rule. If the owner

1 of a vessel with a permit does not timely submit a renewal application, *[the department]* **Oregon**
 2 **Fish and Game** shall, not more than 30 days after the application was due, send to the owner by
 3 certified letter a notice of the failure to submit the renewal application. An owner may submit a
 4 late application to renew a permit not more than 90 days after the application was due if the owner
 5 pays a \$150 late fee in addition to the fee required in ORS 508.949.

6 (5) In making determinations regarding initial eligibility for and renewal of a permit issued un-
 7 der this section, *[the department]* **Oregon Fish and Game** may consider *[department]* **Oregon Fish**
 8 **and Game** records and receipts and accounts, contracts and other business records of private par-
 9 ties that *[the department]* **Oregon Fish and Game** considers reliable.

10 (6) Except as provided in ORS 508.955, new vessel permits may not be issued under this section
 11 after December 30, 2005.

12 **SECTION 231.** ORS 508.949 is amended to read:

13 508.949. (1) The annual fee for a black rockfish and blue rockfish vessel permit or a black
 14 rockfish and blue rockfish vessel permit with a nearshore fish endorsement issued under ORS
 15 508.947 is:

16 (a) \$125 for resident applicants.

17 (b) \$175 for nonresident applicants.

18 (2) Applications for a permit shall be in such form and contain such information as *[the State*
 19 *Department of Fish and Wildlife]* **Oregon Fish and Game**, by rule, may prescribe.

20 (3) All fees collected under this section and ORS 508.505 (1)(b) and 508.947 shall be placed into
 21 the Black Rockfish, Blue Rockfish and Nearshore Species Research Account established in ORS
 22 508.951.

23 **SECTION 232.** ORS 508.951 is amended to read:

24 508.951. (1) There is established a Black Rockfish, Blue Rockfish and Nearshore Species Re-
 25 search Account in the State Treasury, separate and distinct from the General Fund. Interest on
 26 moneys in the account shall be credited to the account.

27 (2) The account shall consist of moneys deposited into the account by *[the State Department of*
 28 *Fish and Wildlife]* **Oregon Fish and Game** from fees collected for the value of black rockfish, blue
 29 rockfish or nearshore fish at the point of landing pursuant to ORS 508.505 (1)(b) and black rockfish
 30 and blue rockfish vessel permit fees and late fees collected under ORS 508.947 and 508.949. The
 31 moneys in the account are continuously appropriated to *[the State Department of Fish and Wildlife]*
 32 **Oregon Fish and Game** for gathering and analyzing data and conducting research on the black
 33 rockfish and blue rockfish fishery and the nearshore species fishery.

34 **SECTION 233.** ORS 508.953 is amended to read:

35 508.953. (1) An owner of a vessel that has a black rockfish and blue rockfish vessel permit or
 36 a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement shall keep a log
 37 book that includes:

38 (a) The amount of food fish that are caught;

39 (b) The date on which the food fish are caught;

40 (c) The species of food fish that are caught by the vessel; and

41 (d) Any other information that *[the State Department of Fish and Wildlife]* **Oregon Fish and**
 42 **Game** may prescribe.

43 (2) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game** shall:

44 (a) Annually collect and summarize the information required by subsection (1) of this section;
 45 and

1 (b) Present a report on the black rockfish and blue rockfish fishery and the nearshore species
2 fishery, including the summary prepared in paragraph (a) of this subsection, to the State Fish and
3 Wildlife Commission during a public meeting held by July 1.

4 **SECTION 234.** ORS 508.960 is amended to read:

5 508.960. (1) A person whose application for issuance, renewal or transfer of a permit under ORS
6 508.947 is denied by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** may make
7 written request to the Commercial Fishery Permit Board for review of the denial. The review pro-
8 vided in this subsection is in lieu of any such review by [*the department*] **Oregon Fish and Game**
9 or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such
10 information as the board considers appropriate. The request shall be accompanied by a
11 nonrefundable fee of \$125, which shall apply toward the permit fee if the application is approved.

12 (2) In accordance with the applicable provisions of ORS chapter 183, the board shall review
13 denials of applications for issuance, transfer or renewal of permits. Orders issued by the board are
14 not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540.
15 The board may waive requirements for renewal or transfer of permits if the board finds that the
16 person fails to meet the requirements as the result of illness, accident or other circumstances be-
17 yond the person's control.

18 (3) In accordance with the applicable provisions of ORS chapter 183, the board may promulgate
19 such rules as it considers necessary to carry out its duties, functions and powers under this section.

20 **SECTION 235.** ORS 509.015 is amended to read:

21 509.015. (1) In addition to the penalty prescribed by ORS 506.991, upon conviction of a violation
22 of ORS 509.011, the court may order the forfeiture of the boat, vessel, vehicle and fishing gear un-
23 lawfully used, in the manner provided by ORS 506.695 and 506.700, and the clear proceeds of the
24 property forfeited shall be deposited with the State Treasury in the Common School Fund.

25 (2) All food fish taken, transported or possessed in violation of ORS 509.011 are subject to sei-
26 zure by the State Fish and [*Wildlife*] **Game** Director, a deputy fish or game warden or a member
27 of the state police, either with or without arrest. Upon such seizure, the fish are subject to forfeiture
28 and disposition pursuant to ORS 506.690.

29 **SECTION 236.** ORS 509.110 is amended to read:

30 509.110. (1) All transportation companies, common carriers or other persons or agencies trans-
31 porting food fish, fresh, frozen, salted, smoked, kippered or preserved in ice, shall require of the
32 shipper, before accepting such shipments, a signed statement in writing showing:

33 (a) The name of the consignor or shipper.

34 (b) The name of the consignee.

35 (c) The net weight in pounds of each species of fish in the shipment, in the whole or round, or
36 dressed.

37 (d) The date of the shipment.

38 (2) The State Fish and Wildlife Commission may require such statement to be forwarded to its
39 office.

40 (3) The State Fish and [*Wildlife*] **Game** Director or the authorized representative of the director
41 may at any time examine the records of any such transportation companies, common carriers or
42 other persons or agencies, for the purpose of enforcing this section.

43 **SECTION 237.** ORS 509.120 is amended to read:

44 509.120. It is unlawful to use or permit to be used in any of the waters of this state any elec-
45 trical device, appliance or current which in any manner has a tendency to retard, scare, frighten

1 or obstruct any food fish in their migrations or movements in such waters without first having ob-
 2 tained the consent of and a permit from the State Fish and [*Wildlife*] **Game** Director.

3 **SECTION 238.** ORS 509.160 is amended to read:

4 509.160. (1) As used in this section:

5 (a) "Shark fin" means the raw or dried fin or tail of a shark.

6 (b) "Spiny dogfish" means a shark belonging to the family Squalidae in the order Squaliformes
 7 that has two spines, one anterior to each dorsal fin, and that does not have an anal fin.

8 (2) A person may not possess, sell or offer for sale, trade or distribute a shark fin in this state.

9 (3) This section does not apply to:

10 (a) A person who possesses, sells or offers for sale, trades or distributes a shark fin from a spiny
 11 dogfish that was legally taken or landed under rules adopted by [*the State Department of Fish and*
 12 *Wildlife*] **Oregon Fish and Game** and in accordance with federal regulations;

13 (b) A person who holds a license or permit issued by [*the State Department of Fish and*
 14 *Wildlife*] **Oregon Fish and Game** under the commercial fishing laws to take a shark and who pos-
 15 sesses, sells or offers for sale, trades or distributes a shark fin consistent with the terms of that li-
 16 cense or permit; and

17 (c) A fish processor who holds a license under the commercial fishing laws, who possesses and
 18 processes a shark obtained from a person described in paragraph (a) of this subsection and who sells
 19 or offers for sale, trades or distributes the shark fin consistent with the terms of the license of that
 20 fish processor.

21 **SECTION 239.** ORS 509.245 is amended to read:

22 509.245. Any person desiring to operate a snagging net as provided in ORS 509.240 shall, before
 23 operating or attempting to so operate such net, obtain from the State Fish and [*Wildlife*] **Game** Di-
 24 rector a snagging permit by forwarding a written request to the office of the State Fish and Wildlife
 25 Commission specifically providing:

26 (1) The particular gillnet drift, fishing ground or other area to be cleared;

27 (2) The waters in which located;

28 (3) The mesh size of the snagging net to be used; and

29 (4) The dates on which or within which the proposed snagging operations will be carried on. In
 30 specifying any such dates, no one notice is valid for a period of more than 30 days from the date
 31 thereof.

32 **SECTION 240.** ORS 509.580 is amended to read:

33 509.580. As used in ORS 509.580 to 509.590, 509.600 to 509.645 and 509.910:

34 (1) "Artificial obstruction" means any dam, diversion, culvert or other human-made device
 35 placed in the waters of this state that precludes or prevents the migration of native migratory fish.

36 (2) "Construction" means:

37 (a) Original construction;

38 (b) Major replacement;

39 (c) Structural modifications that increase storage or diversion capacity; or

40 (d) For purposes of culverts, installation or replacement of a roadbed or culvert.

41 (3) "Emergency" means unforeseen circumstances materially related to or affected by an artifi-
 42 cial obstruction that, because of adverse impacts to a population of native migratory fish, requires
 43 immediate action. The State Fish and [*Wildlife*] **Game** Director may further define the term "emer-
 44 gency" by rule.

45 (4) "Fundamental change in permit status" means a change in regulatory approval for the op-

1 eration of an artificial obstruction where the regulatory agency has discretion to impose additional
2 conditions on the applicant, including but not limited to licensing, relicensing, reauthorization or the
3 granting of new water rights, but not including water right transfers or routine maintenance per-
4 mits.

5 (5) “In-proximity” means within the same watershed or water basin and having the highest
6 likelihood of benefiting the native migratory fish populations directly affected by an artificial ob-
7 struction.

8 (6) “Native migratory fish” means those native fish that migrate for their life cycle needs and
9 that are listed in the rules of the State Fish and *[Wildlife]* **Game** Director.

10 (7) “Net benefit” means an increase in the overall, in-proximity habitat quality or quantity that
11 is biologically likely to lead to an increased number of native migratory fish after a development
12 action and any subsequent mitigation measures have been completed.

13 (8) “Oregon Plan” means the guidance statement and framework described in ORS 541.898.

14 **SECTION 241.** ORS 509.585 is amended to read:

15 509.585. (1) It is the policy of the State of Oregon to provide for upstream and downstream
16 passage for native migratory fish and the Legislative Assembly finds that cooperation and collab-
17 oration between public and private entities is necessary to accomplish the policy goal of providing
18 passage for native migratory fish and to achieve the enhancement and restoration of Oregon’s native
19 salmonid populations, as envisioned by the Oregon Plan. Therefore, except as provided in ORS
20 chapter 509, fish passage is required in all waters of this state in which native migratory fish are
21 currently or have historically been present.

22 (2) Except as otherwise provided by this section or ORS 509.645, a person owning or operating
23 an artificial obstruction may not construct or maintain any artificial obstruction across any waters
24 of this state that are inhabited, or historically inhabited, by native migratory fish without providing
25 passage for native migratory fish.

26 (3) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game** shall complete and
27 maintain a statewide inventory of artificial obstructions in order to prioritize enforcement actions
28 based on the needs of native migratory fish. This prioritization shall include, but need not be limited
29 to, the degree of impact of the artificial obstruction on the native migratory fish, the biological
30 status of the native migratory fish stocks in question and any other factor established by the de-
31 partment by rule. The department shall establish a list of priority projects for enforcement purposes.
32 Priority artificial obstructions are subject to the State Fish and Wildlife Commission’s authority as
33 provided in ORS 509.625. Unless requested by persons owning or operating an artificial obstruction,
34 the department shall primarily direct its enforcement authority toward priority projects, emergen-
35 cies and projects described in subsection (4) of this section. The priority project list shall be subject
36 to periodic review and amendment by the department and to formal review and amendment by the
37 commission no less frequently than once every five years.

38 (4) A person owning or operating an artificial obstruction shall, prior to construction, funda-
39 mental change in permit status or abandonment of the artificial obstruction in any waters of this
40 state, obtain a determination from the department as to whether native migratory fish are or his-
41 torically have been present in the waters. If the department determines that native migratory fish
42 are or historically have been present in the waters, the person owning or operating the artificial
43 obstruction shall either submit a proposal for fish passage to the department or apply for a waiver
44 pursuant to subsection (7) of this section. Approval of the proposed fish passage facility or of the
45 alternatives to fish passage must be obtained from the department prior to construction, permit

1 modification or abandonment of the artificial obstruction.

2 (5) Consistent with the purpose and goals of the Oregon Plan, the department shall seek coop-
3 erative partnerships to remedy fish passage problems and to ensure that problems are corrected as
4 soon as possible. The department and the person owning or operating the artificial obstruction are
5 encouraged to negotiate the terms and conditions of fish passage or alternatives to fish passage,
6 including appropriate cost sharing. The negotiations may include, but are not limited to, consider-
7 ation of equitable factors.

8 (6) The department shall submit a proposed determination of the required fish passage or alter-
9 natives to fish passage to the commission for approval. The determination may be the result of the
10 negotiations described in subsection (5) of this section or, if no agreement was reached in the ne-
11 gotiations, a determination proposed by the department. If a protest is not filed within the time pe-
12 riod specified in ORS 509.645, the proposed determination shall become a final order.

13 (7)(a) The commission shall waive the requirement for fish passage if the commission determines
14 that the alternatives to fish passage proposed by the person owning or operating the artificial ob-
15 struction provide a net benefit to native migratory fish.

16 (b) Net benefit to native migratory fish is determined under this subsection by comparing the
17 benefit to native migratory fish that would occur if the artificial obstruction had fish passage to the
18 benefit to native migratory fish that would occur using the proposed alternatives to fish passage.
19 Alternatives to fish passage must result in a benefit to fish greater than that provided by the arti-
20 ficial obstruction with fish passage. The net benefit to fish shall be determined based upon condi-
21 tions that exist at the time of comparison.

22 (c) The State Fish and [*Wildlife*] **Game** Director shall develop rules establishing general criteria
23 for determining the adequacy of fish passage and of alternatives to fish passage. The general criteria
24 shall include, but not be limited to:

25 (A) The geographic scope in which alternatives must be conducted;

26 (B) The type and quality of habitat;

27 (C) The species affected;

28 (D) The status of the native migratory fish stocks;

29 (E) Standards for monitoring, evaluating and adaptive management;

30 (F) The feasibility of fish passage and alternatives to fish passage;

31 (G) Quantified baseline conditions;

32 (H) Historic conditions;

33 (I) Existing native migratory fish management plans;

34 (J) Financial or other incentives and the application of incentives;

35 (K) Data collection and evaluation; and

36 (L) Consistency with the purpose and goals of the Oregon Plan.

37 (d) To the extent feasible, the department shall coordinate its requirements for adequate fish
38 passage or alternatives to fish passage with any federal requirements.

39 (8) A person owning or operating an artificial obstruction may at any time petition the com-
40 mission to waive the requirement for fish passage in exchange for agreed-upon alternatives to fish
41 passage that provide a net benefit to native migratory fish as determined in subsection (7) of this
42 section.

43 (9)(a) Artificial obstructions without fish passage are exempt from the requirement to provide
44 fish passage if the commission:

45 (A) Finds that a lack of fish passage has been effectively mitigated;

1 (B) Has granted a legal waiver for the artificial obstruction; or

2 (C) Finds there is no appreciable benefit to providing fish passage.

3 (b) The commission shall review, at least once every seven years, the artificial obstructions ex-
4 empted under this subsection that do not have an exemption expiration date to determine whether
5 the exemption should be renewed. The commission may revoke or amend an exemption if it finds
6 that circumstances have changed such that the relevant requirements for the exemption no longer
7 apply. The person owning or operating the artificial obstruction may protest the decision by the
8 commission pursuant to ORS 509.645.

9 (10) If the fundamental change in permit status is an expiration of a license of a federally li-
10 censed hydroelectric project, the commission's determination shall be submitted to the Federal En-
11 ergy Regulatory Commission as required by ORS 543A.060 to 543A.410.

12 (11) To the extent that the requirements of this section are preempted by the Federal Power
13 Act or by the laws governing hydroelectric projects located in waters governed jointly by Oregon
14 and another state, federally licensed hydroelectric projects are exempt from the requirements of this
15 section.

16 (12) A person subject to a decision of the commission under this section shall have the right to
17 a contested case hearing according to the applicable provisions of ORS chapter 183.

18 **SECTION 242.** ORS 509.590 is amended to read:

19 509.590. (1) The State Fish and [*Wildlife*] **Game** Director shall establish a Fish Passage Task
20 Force to advise the director and [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
21 on matters related to fish passage in Oregon, including but not limited to funding, cost sharing and
22 prioritization of efforts. The director shall determine the members and the specific duties of the task
23 force by rule.

24 (2) The department shall provide staff necessary for the performance of the functions of the task
25 force.

26 (3) A member of the task force may not receive compensation for services as a member of the
27 task force. In accordance with ORS 292.495, a member of the task force may receive reimbursement
28 for actual and necessary travel or other expenses incurred in the performance of official duties.

29 (4) The task force shall report semiannually to the appropriate legislative committee with re-
30 sponsibility for salmon restoration or species recovery, to advise the committee on matters related
31 to fish passage.

32 **SECTION 243.** ORS 509.592 is amended to read:

33 509.592. (1) The Fish Passage Task Force established pursuant to ORS 509.590 shall provide ad-
34 vice to [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** regarding the projects
35 to be funded and the expenditures to be made from the Fish Passage Restoration Subaccount created
36 under ORS 497.141.

37 (2) The department shall maintain a record of all moneys deposited to or expended from the
38 subaccount. The department shall make an annual report of the deposits and expenditures available
39 to the public on the department's website.

40 **SECTION 244.** ORS 509.595 is amended to read:

41 509.595. The State Fish and [*Wildlife*] **Game** Director shall report to the Governor, the Speaker
42 of the House of Representatives, the President of the Senate and the appropriate legislative com-
43 mittee with responsibility for salmon restoration or species recovery:

44 (1) Prior to the adoption of rules relating to fish passage;

45 (2) Prior to the establishment of the general criteria for determining the adequacy of fish pas-

1 sage and of alternatives to fish passage required to be established under ORS 509.585 (7)(c); and

2 (3) Semiannually on the progress that the director has made in implementing ORS 509.580 to
3 509.590.

4 **SECTION 245.** ORS 509.610 is amended to read:

5 509.610. (1) Subject to ORS 509.645, [*when the State Department of Fish and Wildlife*] **if Oregon**
6 **Fish and Game** requires fish passage to be provided pursuant to ORS 509.585, the person owning
7 or operating an artificial obstruction shall keep the fish passage in such repair as to provide ade-
8 quate fish passage of native migratory fish at all times.

9 (2) Each day of neglect or refusal to comply with subsection (1) of this section, after notification
10 in writing by the department, constitutes a separate offense.

11 (3) A person owning or operating an artificial obstruction is responsible for maintaining, moni-
12 toring and evaluating the effectiveness of fish passage or alternatives to fish passage.

13 **SECTION 246.** ORS 509.620 is amended to read:

14 509.620. If, in the judgment of [*the State Department of Fish and Wildlife*] **Oregon Fish and**
15 **Game**, fish passage is not functioning as intended or is inadequate, as constructed under ORS
16 509.585, the State Fish and Wildlife Commission may condemn the fish passage and order new fish
17 passage installed in accordance with plans and specifications determined by the department.

18 **SECTION 247.** ORS 509.625 is amended to read:

19 509.625. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may determine
20 or ascertain by inspection of any artificial obstruction whether it would be advisable to construct
21 fish passage, or order the construction pursuant to ORS 509.585 of fish passage, at the artificial
22 obstruction. Without affecting other remedies to enforce the requirement to install fish passage, if
23 the State Fish and Wildlife Commission determines that an emergency exists, the commission may
24 order the construction, pursuant to ORS 509.585, of fish passage in the waters of this state inhabited
25 by native migratory fish as deemed adequate to provide passage for native migratory fish.

26 (2) Where fish passage has previously been constructed with or without the approval of the
27 commission and has proved useless or inadequate for the purposes for which it is intended, the
28 commission may improve or rebuild such fish passage. However, such construction or reconstruction
29 shall not interfere with the prime purpose of the artificial obstruction. This subsection may not be
30 construed to require the improvement or rebuilding of fish passage by the commission.

31 (3)(a) The commission may order a person owning or operating an artificial obstruction on the
32 priority list created pursuant to ORS 509.585 who has been issued a water right, owners of lawfully
33 installed culverts or owners of other lawfully installed obstructions to install fish passage or to
34 provide alternatives to fish passage if the commission can arrange for nonowner or nonoperator
35 funding of at least 60 percent of the cost.

36 (b) Notwithstanding paragraph (a) of this subsection, the commission may order installation of
37 fish passage or alternatives to fish passage without regard to funding sources:

38 (A) If the person owning or operating the artificial obstruction is already subject to an obli-
39 gation to install fish passage or to provide alternatives to fish passage under ORS 509.585;

40 (B) If the commission declares an emergency under this section; or

41 (C) If the person owning or operating the artificial obstruction has not been issued a water right
42 or if the artificial obstruction has been otherwise unlawfully installed.

43 (4) If a person who owns or operates an artificial obstruction and who is required to provide fish
44 passage under ORS 509.585 fails to provide fish passage in the manner and time required by [*the*
45 *State Department of Fish and Wildlife*] **Oregon Fish and Game**, the commission may remove, replace

1 or repair the artificial obstruction or any parts of the obstruction at the expense of the owner or
2 operator.

3 **SECTION 248.** ORS 509.630 is amended to read:

4 509.630. [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may determine or
5 ascertain by inspection of any natural obstruction whether it would be advisable to construct fish
6 passage over or around such natural obstruction. If it is deemed advisable the State Fish and
7 Wildlife Commission may construct fish passage that provides adequate passage for native migratory
8 fish in the waters of this state inhabited by native migratory fish.

9 **SECTION 249.** ORS 509.645 is amended to read:

10 509.645. (1) A person owning or operating an artificial obstruction may request alternative dis-
11 pute resolution at any point in the process of determining fish passage requirements.

12 (2) A person owning or operating an artificial obstruction may file a protest with the State Fish
13 and Wildlife Commission within 30 days from the receipt of [*the State Department of Fish and*
14 *Wildlife*] **Oregon Fish and Game** determinations under ORS 509.585. The person shall identify the
15 grounds for protesting the [*department's*] **Oregon Fish and Game** determinations.

16 (3) The commission may, after sufficient opportunity for public review and comment, approve,
17 deny or modify the proposed determinations.

18 **SECTION 250.** ORS 517.750 is amended to read:

19 517.750. As used in ORS 517.702 to 517.989, unless the context requires otherwise:

20 (1) "Board" means the governing board of the State Department of Geology and Mineral Indus-
21 tries.

22 (2) "Completion" means termination of surface mining activities including reclamation of the
23 surface-mined land in accordance with the approved reclamation plan and operating permit.

24 (3) "Cooperating agency" means the State Department of Agriculture, [*the State Department of*
25 *Fish and Wildlife*] **Oregon Fish and Game** or any agency that has statutory responsibility related
26 to a mining operation but that does not issue a permit for the mining operation.

27 (4) "Department" means the State Department of Geology and Mineral Industries.

28 (5) "Exploration" means all activities conducted on or beneath the surface of the earth for the
29 purpose of determining presence, location, extent, grade or economic viability of a deposit. "Explo-
30 ration" does not include prospecting or chemical processing of minerals.

31 (6) "Explorer" means, notwithstanding the provisions of ORS 517.810 (2), any individual, public
32 or private corporation, political subdivision, agency, board or department of this state, any munici-
33 pality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is en-
34 gaged in exploration.

35 (7) "Landowner" means:

36 (a) The person possessing fee title to the natural mineral deposit being surface mined or ex-
37 plored; and

38 (b) The owner of an equitable interest in land that is subject to a deed of trust.

39 (8) "Minerals" includes soil, coal, clay, stone, sand, gravel, metallic ore and any other solid
40 material or substance excavated for commercial, industrial or construction use from natural deposits
41 situated within or upon lands in this state.

42 (9) "Operator" means any individual, public or private corporation, political subdivision, agency,
43 board or department of this state, any municipality, partnership, association, firm, trust, estate or
44 any other legal entity whatsoever that is engaged in surface mining operations.

45 (10) "Overburden" means the soil, rock and similar materials that lie above natural deposits of

1 minerals.

2 (11) "Person" means any person, any federal agency or any public body, as defined in ORS
3 174.109.

4 (12) "Processing" includes, but is not limited to, crushing, washing, milling and screening as well
5 as the batching and blending of mineral aggregate into asphalt and portland cement concrete located
6 within the operating permit area.

7 (13) "Reclamation" means the employment in a surface mining operation or exploration of pro-
8 cedures reasonably designed to:

9 (a) Minimize, as much as practicable, the adverse effects of the surface mining operation or ex-
10 ploration on land, air and water resources; and

11 (b) Provide for the rehabilitation of surface resources adversely affected by the surface mining
12 operations or exploration through the rehabilitation of plant cover, soil stability and water re-
13 sources and through other measures that contribute to the subsequent beneficial use of the explored,
14 mined or reclaimed lands.

15 (14) "Reclamation plan" means a written proposal, submitted to the department as required by
16 ORS 517.702 to 517.989 and subsequently approved by the department as provided in ORS 517.702
17 to 517.989, for the reclamation of the land area adversely affected by a surface mining operation or
18 exploration and including, but not limited to the following information:

19 (a) Proposed measures to be undertaken by the operator in protecting the natural resources of
20 adjacent lands.

21 (b) Proposed measures for the rehabilitation of the explored or surface-mined lands and the
22 procedures to be applied.

23 (c) The procedures to be applied in the surface mining operation or exploration to control the
24 discharge of contaminants and the disposal of surface mining refuse.

25 (d) The procedures to be applied in the surface mining operation or exploration in the rehabili-
26 tation of affected stream channels and stream banks to a condition minimizing erosion,
27 sedimentation and other factors of pollution.

28 (e) The map required by ORS 517.790 (1)(e) and such other maps and supporting documents as
29 may be requested by the department.

30 (f) A proposed time schedule for the completion of reclamation operations.

31 (g) Requirements of the exploration permit.

32 (15) "Surface impacts of underground mining" means all waste materials produced by under-
33 ground mining and placed upon the surface including, but not limited to, waste dumps, mill tailings,
34 washing plant fines and all surface subsidence related to underground mining.

35 (16)(a) "Surface mining" includes:

36 (A) All or any part of the process of mining minerals by the removal of overburden and the
37 extraction of natural mineral deposits thereby exposed by any method by which more than 5,000
38 cubic yards of minerals are extracted or by which at least one acre of land is affected within a pe-
39 riod of 12 consecutive calendar months, including open-pit mining operations, auger mining oper-
40 ations, processing, surface impacts of underground mining, production of surface mining refuse and
41 the construction of adjacent or off-site borrow pits (except those constructed for use as access
42 roads).

43 (B) Removal or filling, or both, within the beds or banks of any waters of this state that is the
44 subject of a memorandum of agreement between the Department of State Lands and the State De-
45 partment of Geology and Mineral Industries in which the State Department of Geology and Mineral

1 Industries is assigned sole responsibility for permitting as described in ORS 517.797.

2 (b) "Surface mining" does not include:

3 (A) Excavations of sand, gravel, clay, rock or other similar materials conducted by the land-
4 owner or tenant for the primary purpose of construction, reconstruction or maintenance of access
5 roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel
6 that is being excavated;

7 (B) Excavation or grading operations, reasonably necessary for farming;

8 (C) Nonsurface effects of underground mining;

9 (D) Removal of rock, gravel, sand, silt or other similar substances removed from the beds or
10 banks of any waters of this state pursuant to a permit issued under ORS 196.800 to 196.900;

11 (E) Excavations or reprocessing of aggregate material, or grading operations, within the high-
12 way right of way reasonably necessary for the construction, reconstruction or maintenance of a
13 highway as defined in ORS 801.305;

14 (F) Excavation or movement of materials on site at a landfill, as defined in ORS 459.005, for the
15 primary purpose of construction, reconstruction or maintenance of access roads or for landfill op-
16 erations, including but not limited to landfill cell construction and daily, interim and final cover
17 operations, if the excavation or movement of materials is covered by a permit issued by the De-
18 partment of Environmental Quality under ORS 459.205 to 459.385; or

19 (G) Excavation or grading operations necessary for construction and maintenance of utilities or
20 drainage facilities, where the excavated material is used on site and is not sold into the commercial
21 market as aggregate material.

22 (17) "Surface mining refuse" means all waste materials, soil, rock, mineral, liquid, vegetation and
23 other materials resulting from or displaced by surface mining operations within the operating permit
24 area, including all waste materials deposited in or upon lands within the operating permit area.

25 (18) "Underground mining" means all human-made excavations below the surface of the ground
26 through shafts or adits for the purpose of exploring for, developing or producing valuable minerals.

27 **SECTION 251.** ORS 517.956 is amended to read:

28 517.956. Mining operations in Oregon shall comply with the following:

29 (1) Mining operations shall be undertaken in a manner that minimizes environmental damage
30 through the use of the best available, practicable and necessary technology to ensure compliance
31 with environmental standards.

32 (2) Protection measures for fish and wildlife shall be consistent with [*policies of the State De-*
33 *partment of Fish and Wildlife*] **Oregon Fish and Game policies**, including:

34 (a) Protective measures to maintain an objective of zero wildlife mortality. All chemical pro-
35 cessing solutions and associated waste water shall be covered or contained to preclude access by
36 wildlife or maintained in a condition that is not harmful to wildlife.

37 (b) On-site and off-site mitigation ensuring that there is no overall net loss of habitat value.

38 (c) No loss of existing critical habitat of any state or federally listed threatened or endangered
39 species.

40 (d) Fish and wildlife mortality shall be reported in accordance with a monitoring and reporting
41 plan approved by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**.

42 (e) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall establish by rule
43 standards for review of a proposed mining operation for the purpose of developing conditions for fish
44 and wildlife habitat protection that satisfy the terms of this section for inclusion in a consolidated
45 permit by the State Department of Geology and Mineral Industries.

1 (3) Surface reclamation of a mine site shall:

2 (a) Ensure protection of human health and safety, as well as that of livestock, fish and wildlife;

3 (b) Ensure environmental protection;

4 (c) Require certification to the operator, by [*the State Department of Fish and Wildlife*] **Oregon**
5 **Fish and Game** and the State Department of Agriculture, that a self-sustaining ecosystem, compa-
6 rable to undamaged ecosystems in the area, has been established in satisfaction of the operator's
7 habitat restoration obligations; and

8 (d) Include backfilling or partial backfilling as determined on a case-by-case basis by the State
9 Department of Geology and Mineral Industries when necessary to achieve reclamation objectives
10 that cannot be achieved through other mitigation activities.

11 **SECTION 252.** ORS 517.988 is amended to read:

12 517.988. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall develop
13 conditions for the protection of fish and wildlife resources that shall be included in any permit is-
14 sued by the State Department of Geology and Mineral Industries under the process established un-
15 der ORS 517.952 to 517.989.

16 (2) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall have the right of
17 ingress and egress to and from a mine operating under a permit that includes conditions imposed
18 pursuant to subsection (1) of this section, doing no unnecessary injury to the property of the mine
19 operator, to determine whether the operator is complying with such conditions. If [*the State De-*
20 *partment of Fish and Wildlife*] **Oregon Fish and Game** determines that a violation has occurred,
21 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** shall inform the State Depart-
22 ment of Geology and Mineral Industries of the violation and the State Department of Geology and
23 Mineral Industries shall cooperate with [*the State Department of Fish and Wildlife*] **Oregon Fish**
24 **and Game** to take appropriate enforcement action.

25 **SECTION 253.** ORS 522.125 is amended to read:

26 522.125. (1) Upon receipt of a complete application for a permit to drill or operate a geothermal
27 well, the State Department of Geology and Mineral Industries shall circulate copies of the applica-
28 tion to the Water Resources Department, [*the State Department of Fish and Wildlife,*] the Department
29 of Environmental Quality, the State Parks and Recreation Department, the Department of Land
30 Conservation and Development, the State Department of Energy, the Department of State Lands and
31 the governing body of the county and the geothermal heating district in which the well will be lo-
32 cated. The State Department of Geology and Mineral Industries may circulate copies to other public
33 agencies that have an interest in the application.

34 (2) Any public agency receiving a copy of the application as provided in subsection (1) of this
35 section may suggest conditions under which a permit should be granted. A public agency shall sub-
36 mit any suggested conditions to the State Department of Geology and Mineral Industries within 45
37 days of the public agency's receipt of the copy of the application. The department shall consider any
38 suggested conditions that a public agency submits to the department within the 45-day period.

39 **SECTION 254.** ORS 526.271 is amended to read:

40 526.271. The Legislative Assembly finds and declares that:

41 (1) The State Forestry Department is well-positioned, due to experience in managing Oregon
42 forests and its understanding of science-based, active forest management, to facilitate state govern-
43 ment participation in forest management on federal lands located within the state.

44 (2) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** has expertise with fish
45 and wildlife habitat and the Department of Environmental Quality has expertise with water quality.

1 Both departments have an important role to play in the management of federal forests located within
2 the state.

3 (3) A collaborative relationship between the State Forestry Department, the federal government,
4 other agencies of the executive department, as defined in ORS 174.112, interested persons and non-
5 governmental organizations may restore the health, diversity and resilience of federal forests by
6 increasing the information shared and by providing a variety of perspectives on site-specific and
7 landscape-level determinations.

8 (4) In cooperation with the State Forestry Department and the federal government, many com-
9 munities in wildfire-prone areas have completed a community wildfire protection plan that identifies
10 priority areas for hazardous fuel removal from federal lands.

11 (5) The federal government has provided opportunities for agencies of the executive department,
12 as defined in ORS 174.112, to become involved, to a greater extent, in the management of federal
13 lands.

14 **SECTION 255.** ORS 526.274 is amended to read:

15 526.274. In furtherance of the policy established in ORS 526.271, the State Board of Forestry, in
16 consultation with the Governor, may:

17 (1) In conformance with federal law, including Public Law 108-7, direct the State Forester to
18 facilitate the development of stewardship contracts utilizing private contractors and, when appro-
19 priate, to seek and enter into a stewardship contract agreement with federal agencies to carry out
20 forest management activities on federal lands. The State Forester may, under the stewardship con-
21 tract agreements:

- 22 (a) Perform road and trail maintenance;
- 23 (b) Set prescribed fires to improve forest health, composition, structure and condition;
- 24 (c) Manage vegetation;
- 25 (d) Perform watershed restoration and maintenance;
- 26 (e) Restore wildlife habitat;
- 27 (f) Control exotic weeds and species; and
- 28 (g) Perform other activities related to stewardship.

29 (2) Create a forum for interagency cooperation and collaborative public involvement regarding
30 federal forest management issues that may include, at the discretion of the board, the appointment
31 of advisory committees, the use of existing advisory committees and procedures for holding public
32 hearings.

33 (3) Provide guidelines for the State Forestry Department and State Forester to follow that con-
34 tain directions regarding the management of federal lands and that specify the goals and objectives
35 of the board regarding the management of federal lands.

36 (4) Participate, to the extent allowed by federal law, in the development of federal forest policies
37 and the forest management planning processes of federal agencies.

38 (5) Provide guidelines for the department to follow in implementing this section.

39 (6) Coordinate with Oregon State University, [*the State Department of Fish and Wildlife*] **Oregon**
40 **Fish and Game**, the Oregon Forest Resources Institute, the Department of Environmental Quality,
41 the Oregon Business Development Department, the State Department of Energy and other agencies
42 of the executive department, as defined in ORS 174.112, to assist the State Forestry Department in
43 carrying out the provisions of this section.

44 **SECTION 256.** ORS 526.280 is amended to read:

45 526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

1 (1) Establish a policy of active and inclusive communication with the federal government, public
2 bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization
3 of woody biomass produced through forest health restoration. The State Forester shall actively uti-
4 lize the statutory provisions of the National Forest Management Act of 1976, the Forest and
5 Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of
6 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration
7 Act of 2003 that allow the state to participate in federal policy development in a manner that ex-
8 presses the policy established in ORS 526.277.

9 (2) Promote public involvement in the identification of the areas of interface between urban
10 lands and forestlands that pose the highest potential to threaten lives and private property.

11 (3) Solicit public comment on the location of biomass-based energy projects and conversion fa-
12 cilities.

13 (4) Promote public understanding, through education and outreach, of forest conditions, forest
14 management options, the potential benefits and potential consequences of woody biomass utilization,
15 the quality and quantity of woody biomass on federal lands and the potential for woody biomass
16 utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience.
17 The State Forestry Department may coordinate with the State Department of Energy, the Oregon
18 Business Development Department, Oregon State University, [*the State Department of Fish and*
19 *Wildlife*] **Oregon Fish and Game**, the Department of Environmental Quality and other entities in
20 any education and outreach performed pursuant to this subsection.

21 (5) Assess the types of woody biomass available and serve as an information resource for per-
22 sons seeking to utilize woody biomass for energy development. Notwithstanding ORS 192.345, reports
23 on any assessment of woody biomass conducted by the State Forester shall be made available for
24 public inspection.

25 (6) Promote public understanding that woody biomass utilization may be an effective tool for
26 restoration of forest health and for economic development in rural communities.

27 (7) Develop and apply, with advice from the forestry program at Oregon State University, [*the*
28 *State Department of Fish and Wildlife*] **Oregon Fish and Game**, the Department of Environmental
29 Quality and other sources, the best available scientific knowledge and technologies pertaining to
30 forest and wildlife habitat restoration and woody biomass utilization when developing rules under
31 ORS 527.630.

32 (8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and pri-
33 vate forests.

34 (9) Periodically prepare a report utilizing, to the greatest extent practicable, data collected from
35 state and federal sources that specify the effect of woody biomass collection and conversion on the
36 plant and wildlife resources and on the air and water quality of this state. The report shall identify
37 any changes that the State Forester determines are necessary to encourage woody biomass col-
38 lection and conversion and to avoid negative effects on the environment from woody biomass col-
39 lection and conversion. The State Forester shall submit the report to the Governor and to an
40 appropriate legislative interim committee with jurisdiction over forestry issues.

41 **SECTION 257.** ORS 526.710 is amended to read:

42 526.710. To assist the State Board of Forestry in carrying out the duties of the Forest Resource
43 Trust, the State Forestry Department shall:

44 (1) Identify potentially suitable lands, and educate the owners of those lands on Forest Resource
45 Trust programs.

1 (2) Provide technical and other management assistance to participating landowners.

2 (3) Monitor compliance with Forest Resource Trust programs by participating landowners.

3 (4) Encourage involvement of the landowner.

4 (5) Encourage the use of private contractors, consultants, forestry extension programs, nongov-
5 ernmental organizations and landowner cooperatives.

6 (6) Develop project plans in cooperation with landowners that establish clear benchmarks for
7 compliance with terms of the plan.

8 (7) Release from financial obligation for any portion of the qualified private and local govern-
9 ment forestlands included under Forest Resource Trust programs and irretrievably lost to insects,
10 disease, fire, storm, flood or other natural destruction through no fault of the landowner.

11 (8) Secure provisions for access to the land by the State Forester.

12 (9) Give consideration to conservation plans or strategies adopted by [*the State Department of*
13 *Fish and Wildlife*] **Oregon Fish and Game** when setting priorities for Forest Resource Trust pro-
14 grams.

15 **SECTION 258.** ORS 526.786 is amended to read:

16 526.786. (1) The State Board of Forestry may develop administrative rules that define principles
17 and standards relating to the creation, measurement, accounting, marketing, verifying, registering,
18 transferring and selling of forestry carbon offsets from nonfederal forestlands.

19 (2) Rules adopted by the board under this section shall set standards to ensure that in order to
20 be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of
21 forest management activities that:

22 (a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon
23 offset accounting system;

24 (b) Would not otherwise occur but for the carbon storage objective; and

25 (c) Provide environmental, social and economic benefits for Oregon and its citizens, including
26 but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife
27 habitat and water quality.

28 (3) Rules adopted by the board under this section shall establish principles to ensure that the
29 forestry carbon offset accounting system shall:

30 (a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage
31 or sequestration;

32 (b) Account for the duration and permanence of the carbon dioxide storage or emission re-
33 ductions;

34 (c) Include provisions for establishing the appropriate baseline for projects, practices, rotation
35 ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and
36 credits for carbon storage or sequestration are made;

37 (d) Account for other relevant and measurable greenhouse gas consequences, specifically credits
38 and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or oth-
39 erwise as appropriate;

40 (e) Account for the specific forest management practices used on-site and include provisions for
41 monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the
42 implementation of specific practices;

43 (f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or
44 sequestration, based on the end product use of harvested biomass;

45 (g) Account for environmental, social and economic benefits of forestry carbon offsets and en-

1 sure that practices with unsustainable, long term consequences are not used to create forestry car-
2 bon offsets;

3 (h) Allow for public access to information in monitoring reports; and

4 (i) Encourage third-party verification of forestry carbon offsets.

5 (4) Rules adopted by the board under this section may address qualifications for persons and
6 agencies that provide third-party verification and registration of forestry carbon offsets.

7 (5) Rules adopted by the board under this section shall be developed with the assistance of an
8 advisory committee appointed by the board. The advisory committee shall consist of at least nine
9 persons and shall contain:

10 (a) Persons from businesses, governmental agencies and nongovernmental organizations with
11 knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;

12 (b) At least one person from a nongovernmental forestry conservation organization;

13 (c) At least one nonindustrial private forest landowner or a representative of an organization
14 that represents nonindustrial private forest landowners;

15 (d) One representative of the State Department of Energy;

16 (e) One representative of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**,
17 or a designee of [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**;

18 (f) One representative of the Department of Environmental Quality, or a designee of the De-
19 partment of Environmental Quality;

20 (g) At least one representative from a qualified organization, as defined in ORS 469.503; and

21 (h) At least one representative from the State Forestry Department who shall serve as the sec-
22 retary to the advisory committee.

23 **SECTION 259.** ORS 526.905 is amended to read:

24 526.905. (1) Pursuant to its authority to improve the efficient and effective use of state re-
25 sources, the Oregon Department of Administrative Services shall coordinate with [*the State Depart-*
26 *ment of Fish and Wildlife,*] the State Parks and Recreation Department, the State Forestry
27 Department, the Department of State Lands and any other state agency that has oversight respon-
28 sibilities for state forestlands to adopt forest management plans or policies that:

29 (a) Establish forest health programs and management strategies designed to reduce the risk of
30 catastrophic loss of forest resources from disease and insect infestation.

31 (b) Establish goals and strategies for managing forest fuel accumulation in order to reduce the
32 risk of catastrophic fires in areas historically subject to frequent, periodic fires.

33 (2) To the extent that a state agency with oversight responsibilities for state forestlands has,
34 as of January 1, 2004, policies, approved forest management plans or other strategies designed to
35 address forest health and forest fuels management, those policies, plans and strategies may be in-
36 corporated into the plans and policies developed by the Oregon Department of Administrative Ser-
37 vices.

38 (3) The Oregon Department of Administrative Services may develop forest fuel reduction and
39 forest health restoration projects that may be implemented by state agencies. Such projects may
40 include procedures for:

41 (a) Identifying forests that are at high risk of loss due to fuel accumulation, disease or insect
42 infestation.

43 (b) Cooperating with local governments to identify locations where the urban-forest interface
44 poses the greatest risk of contributing to damage or loss during a fire.

45 (c) Establishing priority areas for the projects due to natural, economic or scenic values.

1 **SECTION 260.** ORS 527.678 is amended to read:

2 527.678. (1) As used in this section:

3 (a) “Forest tree species” has the meaning given that term in ORS 527.620.

4 (b) “Small forestland” means forestland as defined in ORS 527.620 that:

5 (A) Has an owner that owns or holds common ownership interest in at least 10 acres of Oregon
6 forestland but less than 5,000 acres of Oregon forestland; and

7 (B) Constitutes all forestland within a single tax lot and all forestland within contiguous parcels
8 owned or held in common ownership by the owner.

9 (c) “Wildlife food plot” means a small forestland area that, instead of being used for growing
10 and harvesting a forest tree species, is planted in vegetation capable of substantially contributing
11 to wildlife nutrition.

12 (2) The owner of a small forestland that is subject to reforestation requirements under ORS
13 527.610 to 527.770 may, notwithstanding any contrary provision of the reforestation requirements for
14 the forestland, establish wildlife food plots within the boundaries of the small forestland. The com-
15 bined size of the wildlife food plots described in this subsection may not exceed:

16 (a) 2.5 percent of the small forestland, if the small forestland is 500 acres or less in size;

17 (b) 2.0 percent of the small forestland, if the small forestland is more than 500 acres but not
18 more than 1,000 acres in size; or

19 (c) 1.0 percent of the small forestland, if the small forestland is more than 1,000 acres in size.

20 (3)(a) The State Board of Forestry shall adopt rules for carrying out this section. The board shall
21 consult with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** to identify vege-
22 tation capable of substantially contributing to wildlife nutrition.

23 (b) The establishment of a wildlife food plot as provided by board rules is a forest practice
24 providing for the overall maintenance of forestland resources as described in ORS 527.710 and su-
25 persedes any contrary reforestation requirement under ORS 527.610 to 527.770 for the wildlife food
26 plot.

27 (c) Notwithstanding ORS 527.670 (1), the establishment or relocation of a wildlife food plot, and
28 the reforestation of a location that ceases to be a wildlife food plot, are forest operations requiring
29 notice to the State Forester under ORS 527.670.

30 **SECTION 261.** ORS 527.710 is amended to read:

31 527.710. (1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the
32 State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183,
33 rules to be administered by the State Forester establishing standards for forest practices in each
34 region or subregion.

35 (2) The rules shall ensure the continuous growing and harvesting of forest tree species. Con-
36 sistent with ORS 527.630, the rules shall provide for the overall maintenance of the following re-
37 sources:

38 (a) Air quality;

39 (b) Water resources, including but not limited to sources of domestic drinking water;

40 (c) Soil productivity; and

41 (d) Fish and wildlife.

42 (3)(a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board
43 shall collect and analyze the best available information and establish inventories of the following
44 resource sites needing protection:

45 (A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by

1 rule, by the [*State Fish and Wildlife Commission*] **Oregon Watershed Enhancement Board** or are
2 federally listed under the Endangered Species Act of 1973 as amended;

3 (B) Sensitive bird nesting, roosting and watering sites;

4 (C) Biological sites that are ecologically and scientifically significant; and

5 (D) Significant wetlands.

6 (b) The **State Board of Forestry** shall determine whether forest practices would conflict with
7 resource sites in the inventories required by paragraph (a) of this subsection. If the board deter-
8 mines that one or more forest practices would conflict with resource sites in the inventory, the
9 board shall consider the consequences of the conflicting uses and determine appropriate levels of
10 protection.

11 (c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the
12 policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the in-
13 ventories required by paragraph (a) of this subsection.

14 (4) Before adopting rules under subsection (1) of this section, the board shall consult with other
15 agencies of this state or any of its political subdivisions that have functions with respect to the
16 purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs
17 subject to consultation under this subsection include, but are not limited to:

18 (a) Air and water pollution programs administered by the Department of Environmental Quality
19 under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;

20 (b) Mining operation programs administered by the Department of Geology and Mineral Indus-
21 tries under ORS 516.010 to 516.130 and ORS chapter 517;

22 (c) Game fish and wildlife, commercial fishing, licensing and wildlife and bird refuge tax incen-
23 tive programs administered by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
24 under ORS 272.060 and ORS chapters 496, 498, 501, 506 and 509;

25 (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs ad-
26 ministered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to
27 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;

28 (e) The programs administered by the Columbia River Gorge Commission under Public Law
29 99-663 and ORS 196.110 and 196.150;

30 (f) Removal and fill programs administered by the Department of State Lands under ORS 196.800
31 to 196.900;

32 (g) Federal Safe Drinking Water Act programs administered by the Oregon Health Authority
33 under ORS 448.273 to 448.990;

34 (h) Conservation and conservation tax incentive programs administered by the State Parks and
35 Recreation Department under ORS 273.563 to 273.591;

36 (i) Open space land tax incentive programs administered by cities and counties under ORS
37 308A.300 to 308A.330;

38 (j) Water resources programs administered by the Water Resources Department under ORS
39 536.220 to 536.540; and

40 (k) Pesticide control programs administered by the State Department of Agriculture under ORS
41 chapter 634.

42 (5) In carrying out the provisions of subsection (4) of this section, the board shall consider and
43 accommodate the rules and programs of other agencies to the extent deemed by the board to be
44 appropriate and consistent with the purposes of ORS 527.630.

45 (6) The board shall adopt rules to meet the purposes of another agency's regulatory program

1 where it is the intent of the board to administer the other agency's program on forestland and where
 2 the other agency concurs by rule. An operation performed in compliance with the board's rules shall
 3 be deemed to comply with the other agency's program.

4 (7)(a) The board may enter into cooperative agreements or contracts necessary in carrying out
 5 the purposes specified in ORS 527.630.

6 (b) The State Forestry Department shall enter into agreements with appropriate state agencies
 7 for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and
 8 water quality.

9 (8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws
 10 1991, the board determines that additional rules are necessary to protect forest resources pursuant
 11 to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the
 12 adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity,
 13 fish and wildlife resources and watersheds. Such rules shall include a process for determining areas
 14 where adverse impacts from cumulative effects have occurred or are likely to occur, and may re-
 15 quire that a written plan be submitted for harvests in such areas.

16 (9)(a) The State Forester, in cooperation with [*the State Department of Fish and Wildlife*] **Oregon**
 17 **Fish and Game**, shall identify streams for which restoration of habitat would be environmentally
 18 beneficial. The State Forester shall select as a priority those streams where restoration efforts will
 19 provide the greatest benefits to fish and wildlife, and to streambank and streambed stability.

20 (b) For those streams identified in paragraph (a) of this subsection, the State Forester shall en-
 21 courage landowners to enter into cooperative agreements with appropriate state agencies for con-
 22 duct of restoration activities.

23 (c) The board, in consultation with appropriate state agencies, shall study and identify methods
 24 for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of
 25 sites beneficial to fish and wildlife.

26 (d) The board shall adopt rules to implement the findings of this subsection.

27 (10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall
 28 adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide
 29 directly related to forest practices. The rules shall consider the exposure of the public to these
 30 safety risks and shall include appropriate practices designed to reduce the occurrence, timing or
 31 effects of rapidly moving landslides. As used in this subsection, "rapidly moving landslide" has the
 32 meaning given that term in ORS 195.250.

33 **SECTION 262.** ORS 536.015 is amended to read:

34 536.015. (1) The Water Resources Department Hydroelectric Fund is established separate and
 35 distinct from the General Fund of the State Treasury. Except as provided in subsections (4) to (6)
 36 of this section, of the moneys in the Water Resources Department Hydroelectric Fund:

37 (a) A portion equal to 67 percent of the total moneys received each year shall be transferred to
 38 the fund created under ORS 496.835;

39 (b) A portion equal to 10.3 percent of the total moneys received each year shall be transferred
 40 to an account of the Department of Environmental Quality to be used to review applications for
 41 certification of hydroelectric projects under ORS 468B.040 and 468B.045; and

42 (c) All of the remaining moneys received each year are continuously appropriated to the Water
 43 Resources Commission and the Water Resources Department to provide for the payment of the ad-
 44 ministrative expenses of the commission and the department in carrying out their responsibilities
 45 related to the issuance of permits, licenses or water right certificates for hydroelectric projects.

1 (2) The following shall be deposited into the State Treasury and credited to the Water Resources
2 Department Hydroelectric Fund:

3 (a) Fees received by the Water Resources Department for hydroelectric projects under ORS
4 536.050, 543.078 to 543.092, 543.210, 543.280, 543.300, 543.710, 543A.405 and 543A.415; and

5 (b) All moneys received on behalf of this account by gift, grant or appropriation from whatever
6 source.

7 (3) All interest, if any, from moneys credited to the Water Resources Department Hydroelectric
8 Fund shall be credited to the fund and shall inure to the benefit of the Water Resources Department
9 Hydroelectric Fund.

10 (4) Application fees received under ORS 543A.405 shall be disbursed to the various agencies in
11 the amounts specified in the cost reimbursement agreement executed with each reauthorization ap-
12 plicant.

13 (5) Four cents of each 28 cents paid as a reauthorization fee under ORS 543A.415 shall be paid
14 to the Department of Environmental Quality.

15 (6) Annual fees paid under ORS 543.078 shall be disbursed to state agencies pursuant to a
16 memorandum of agreement developed by the Department of Environmental Quality, [*the State De-*
17 *partment of Fish and Wildlife*] **Oregon Fish and Game** and the Water Resources Department.

18 **SECTION 263.** ORS 536.017 is amended to read:

19 536.017. The Water Resources Commission and [*the State Department of Fish and Wildlife*]
20 **Oregon Fish and Game** shall maintain records of expenditures from the Water Resources Depart-
21 ment Hydroelectric Fund established under ORS 536.015. The records shall account for costs im-
22 posed against specific operating hydroelectric projects and against projects in the process of
23 obtaining a state or federal hydroelectric permit, certificate or license.

24 **SECTION 264.** ORS 536.050 is amended to read:

25 536.050. (1) The Water Resources Department may collect the following fees in advance:

26 (a) For examining an application for a permit:

27 (A) To appropriate water, except as provided under ORS 543.280 for an application for a hy-
28 droelectric project:

29 (i) A base fee of \$930 for an appropriation of water through a single use, point of diversion or
30 point of appropriation;

31 (ii) \$350 for the first second-foot or fraction thereof appropriated under the permit;

32 (iii) \$350 for each additional second-foot or fraction thereof appropriated under the permit;

33 (iv) \$350 for each additional use, point of diversion or point of appropriation included in the
34 application;

35 (v) If appropriating stored water, \$35 for the first acre-foot or fraction thereof up to 20 acre-feet,
36 plus \$1.20 for each additional acre-foot or fraction thereof; and

37 (vi) If appropriating ground water, in addition to any other fees, \$410 for each application filed.

38 (B) To store water under ORS 537.400 or 537.534 (4):

39 (i) A base fee of \$930;

40 (ii) \$35 for the first acre-foot or fraction thereof up to 20 acre-feet, plus \$1.20 for each additional
41 acre-foot or fraction thereof; and

42 (iii) \$140 for each additional storage location.

43 (C) To exclusively appropriate stored water:

44 (i) A base fee of \$520; and

45 (ii) \$35 for the first acre-foot or fraction thereof up to 20 acre-feet, plus \$1.20 for each additional

1 acre-foot or fraction thereof.

2 (b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to appropriate or store
3 water:

4 (A) A base fee of \$520 for recording the permit; and

5 (B) An additional fee of \$670 if the permit is issued pursuant to a final order that contains
6 provisions requested by the applicant for mitigating impacts to the proposed water source.

7 (c) For filing and recording the assignment or partial assignment of a water right application,
8 permit or license under ORS 537.220 or 537.635, \$100.

9 (d) For copying records in the department, \$2.30 for the first page and 60 cents for each addi-
10 tional page.

11 (e) For certifying copies, documents, records or maps, \$12 for each certificate.

12 (f) For a blueprint copy of any map or drawing, the actual cost of the work.

13 (g) For a computer-generated map, the actual cost of the work.

14 (h) For examining an application for approval of a change to an existing water right or permit:

15 (A) A base fee of \$1,160 for a change to a single water right or permit;

16 (B) \$930 for each additional type of change requested;

17 (C) For a request for a change in place of use or type of use or for a water exchange under ORS
18 540.533, \$350 for each second-foot or fraction thereof requested beyond the first second-foot;

19 (D) \$520 for each additional water right or permit included in the application; and

20 (E) An additional fee of \$410 per application, if the application is for an additional point of ap-
21 propriation, a change in a point of appropriation or a change from surface water to ground water
22 or for substitution as described in ORS 540.524.

23 (i) For examining an application for a temporary change in place of use under ORS 540.523, for
24 a temporary transfer under ORS 540.585 or for a temporary change in place of use, a change in the
25 point of diversion to allow for the appropriation of ground water or a change of a primary right to
26 a supplemental right under ORS 540.570, a base fee of \$810 for the first water right or permit, plus
27 \$260 for each additional water right or permit included in the application and:

28 (A) For nonirrigation uses, \$200 for each second-foot or fraction thereof requested beyond the
29 first second-foot; or

30 (B) For irrigation uses, \$2.30 per acre of land irrigated or, if the application and required map
31 are submitted to the department in a department-approved digital format, 60 cents per acre of land
32 irrigated.

33 (j) For submitting a protest to the department:

34 (A) \$810 if the protest is by a nonapplicant; and

35 (B) \$410 if the protest is by an applicant.

36 (k) For filing an application for extension of time within which irrigation or other works shall
37 be completed or a water right perfected, \$670.

38 (L) For a limited license under ORS 537.143 or 537.534 (2), the fee established by rule by the
39 Water Resources Commission.

40 (m) For filing, examining and certifying a petition under ORS 541.329, \$410 plus 10 cents per
41 acre of water involved in the application. For purposes of computing this fee, when any acreage
42 within a quarter quarter of a section is involved, the 10 cents per acre shall apply to all acres in
43 that quarter quarter of a section. Notwithstanding the fee amount established in this paragraph, a
44 district notifying the department under ORS 541.327 (4) shall pay the actual cost of filing, examining
45 and certifying the petition.

- 1 (n) For requesting standing under ORS 537.153, 537.621 or 543A.120, \$230.
- 2 (o) For participating in a contested case proceeding under ORS 537.170, 537.622 or 543A.130,
3 \$580.
- 4 (p) Except for an applicant, for obtaining a copy of both a proposed final order and a final order
5 for a water right application under ORS 537.140 to 537.252, 537.505 to 537.795 or 543A.005 to
6 543A.300 or an extension issued under ORS 537.230, 537.248 or 537.630, \$30.
- 7 (q) For examining an application to store water under ORS 537.409:
- 8 (A) A base fee of \$410; and
9 (B) \$35 for each acre-foot or fraction thereof.
- 10 (r) For submitting a notice of intent under ORS 543A.030 or 543A.075, the amount established
11 by the Water Resources Director under ORS 543A.410.
- 12 (s) For examining an application for a substitution made under ORS 540.524:
- 13 (A) A base fee of \$840 for the first well substitution; and
14 (B) A fee of \$410 for each additional well substitution.
- 15 (t) For examining an application for an allocation of conserved water under ORS 537.455 to
16 537.500:
- 17 (A) A base fee of \$1,160 for the first water right that is part of the allocation; and
18 (B) An additional fee of \$410 for each water right that is part of the allocation beyond the first
19 water right.
- 20 (u) For submitting a water management and conservation plan pursuant to rules of the com-
21 mission:
- 22 (A) \$580, if the plan is submitted by an agricultural water supplier;
23 (B) \$1,040, if the plan is submitted by a municipal water supplier serving a population of 1,000
24 or fewer persons; or
25 (C) \$2,090, if the plan is submitted by a municipal water supplier serving a population of more
26 than 1,000 persons.
- 27 (v) For examining a new application for an in-stream water right lease under ORS 537.348:
- 28 (A) \$520 for an application for a lease with four or more landowners or four or more water
29 rights; or
30 (B) \$350 for all other applications.
- 31 (w) For examining an application for an in-stream water right lease renewal, \$130.
- 32 (x) For submitting a claim of beneficial use under a permit or transfer having a priority date
33 of July 9, 1987, or later, \$200.
- 34 (y) For submitting a request no later than 60 days after cancellation of a permit under ORS
35 537.260 to reinstate the permit, \$520.
- 36 (z) For submitting a request for a basin program exception under ORS 536.295, \$670.
- 37 (aa) For processing an application under ORS 537.225 for an assignment of water right to one
38 or more landowners and issuance of replacement water right permits, the actual cost of the work.
- 39 (2)(a) The department may charge a dam owner an annual fee based upon the dam's hazard
40 rating as determined by the department. The fees the department may charge the dam owner are:
- 41 (A) \$100 for a dam with a low hazard rating.
42 (B) \$200 for a dam with a significant hazard rating.
43 (C) \$670 for a dam with a high hazard rating.
44 (D) If the dam owner fails to pay an annual fee on or before six months after the billing date,
45 a late fee of \$120.

1 (b) If a dam owner fails to pay an annual fee or a late fee charged by the department, the de-
2 partment may, after giving the dam owner notice by certified mail, place a lien on the real property
3 where the dam is located for the fees owed by the dam owner.

4 (3) Notwithstanding the fees established under subsection (1) of this section, the commission may
5 establish lower examination and permit fees by rule for:

6 (a) The right to appropriate water for a storage project of five acre-feet or less; or

7 (b) The right to appropriate water for the purpose of allowing the applicant to water livestock
8 outside of a riparian area, as that term is defined in ORS 541.890.

9 (4)(a) The director may refund all or part of a fee paid to the department under this section if
10 the director determines that a refund of the fee is appropriate in the interests of fairness to the
11 public or necessary to correct an error of the department.

12 (b) The director may refund all or part of the protest fee described in subsection (1)(j) of this
13 section to the legal owner or occupant who filed a protest under ORS 540.641 if an order of the
14 Water Resources Commission establishes that all or part of a water right has not been canceled or
15 modified under ORS 540.610 to 540.650.

16 (5) The director may waive all or part of a fee for a change to a water right permit under ORS
17 537.211 (4), a change to a water right subject to transfer under ORS 540.520 or 540.523 or an allo-
18 cation of conserved water under ORS 537.470, if the change or allocation of conserved water is:

19 (a) Made pursuant to ORS 537.348;

20 (b) Necessary to complete a project funded under ORS 541.932; or

21 (c) Approved by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** as a change
22 or allocation of conserved water that will result in a net benefit to fish and wildlife habitat.

23 (6) Notwithstanding the fees established pursuant to this section, the commission may adopt by
24 rule reduced fees for persons submitting materials to the department in a digital format approved
25 by the department.

26 (7) All moneys received under this section, less any amounts refunded under subsection (4) of
27 this section, shall be deposited in the Water Resources Department Water Right Operating Fund.

28 (8) Notwithstanding subsection (7) of this section, all fees received by the department for power
29 purposes under ORS 543.280 shall be deposited in the Water Resources Department Hydroelectric
30 Fund established by ORS 536.015.

31 **SECTION 265.** ORS 536.220 is amended to read:

32 536.220. (1) The Legislative Assembly recognizes and declares that:

33 (a) The maintenance of the present level of the economic and general welfare of the people of
34 this state and the future growth and development of this state for the increased economic and gen-
35 eral welfare of the people thereof are in large part dependent upon a proper utilization and control
36 of the water resources of this state, and such use and control is therefore a matter of greatest
37 concern and highest priority.

38 (b) A proper utilization and control of the water resources of this state can be achieved only
39 through a coordinated, integrated state water resources policy, through plans and programs for the
40 development of such water resources and through other activities designed to encourage, promote
41 and secure the maximum beneficial use and control of such water resources, all carried out by a
42 single state agency.

43 (c) The economic and general welfare of the people of this state have been seriously impaired
44 and are in danger of further impairment by the exercise of some single-purpose power or influence
45 over the water resources of this state or portions thereof by each of a large number of public au-

1 thorities, and by an equally large number of legislative declarations by statute of single-purpose
2 policies with regard to such water resources, resulting in friction and duplication of activity among
3 such public authorities, in confusion as to what is primary and what is secondary beneficial use or
4 control of such water resources and in a consequent failure to utilize and control such water re-
5 sources for multiple purposes for the maximum beneficial use and control possible and necessary.

6 (2) The Legislative Assembly, therefore, finds that:

7 (a) It is in the interest of the public welfare that a coordinated, integrated state water resources
8 policy be formulated and means provided for its enforcement, that plans and programs for the de-
9 velopment and enlargement of the water resources of this state be devised and promoted and that
10 other activities designed to encourage, promote and secure the maximum beneficial use and control
11 of such water resources and the development of additional water supplies be carried out by a single
12 state agency that, in carrying out its functions, shall give proper and adequate consideration to the
13 multiple aspects of the beneficial use and control of such water resources with an impartiality of
14 interest except that designed to best protect and promote the public welfare generally.

15 (b) The state water resources policy shall be consistent with the goal set forth in ORS 468B.155.

16 (3)(a) The Water Resources Department shall develop an integrated state water resources
17 strategy to implement the state water resources policy specified in subsection (2) of this section.
18 The department shall design the strategy to meet Oregon's in-stream and out-of-stream water needs.

19 (b) The Water Resources Department shall work in close cooperation with the Department of
20 Environmental Quality and [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** to
21 develop the integrated state water resources strategy in consultation with other state, local and
22 federal agencies, with other states, with Indian tribes, with stakeholders and with the public.

23 (c) The Water Resources Department, in close cooperation with the Department of Environ-
24 mental Quality and [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, shall de-
25 velop data on an ongoing basis to forecast Oregon's in-stream and out-of-stream water needs,
26 including but not limited to in-stream, underground water, human consumption and water supply
27 needs, for the purpose of developing and updating the integrated state water resources strategy.

28 (d) The integrated state water resources strategy shall describe the following:

29 (A) Oregon's in-stream and out-of-stream water needs, including but not limited to ecosystem
30 services, water quality and water supply needs.

31 (B) Objectives of the strategy.

32 (C) Actions that are designed to achieve the objectives of the strategy.

33 (D) Plans related to the challenges presented by climate change.

34 (E) Provisions to ensure communication and partnership with key stakeholders.

35 (F) Specific functions and roles to be played by state agencies, including but not limited to the
36 State Department of Agriculture, the State Forestry Department, the Department of Human Ser-
37 vices, the Oregon Business Development Department, the Department of Land Conservation and
38 Development, the Oregon Watershed Enhancement Board, the State Parks and Recreation Depart-
39 ment, the Department of State Lands and other relevant state agencies.

40 (G) Public policy options and recommendations.

41 (H) Relevant strategy factors, including but not limited to population growth and land use
42 change.

43 (I) Recommendations of the Water Resources Department regarding the continuous monitoring
44 of climate change effects on Oregon's water supply and regarding water user actions that are nec-
45 essary to address climate change.

1 (e)(A) The Water Resources Commission shall give the Environmental Quality Commission, the
2 State Department of Agriculture and [*the State Department of Fish and Wildlife*] **Oregon Fish and**
3 **Game** notice of the integrated state water resources strategy prior to adoption of the strategy. The
4 strategy shall take effect upon adoption by the Water Resources Commission.

5 (B) The Water Resources Commission shall review and update the integrated state water re-
6 sources strategy every five years. The Water Resources Commission shall give notice to the Envi-
7 ronmental Quality Commission, the State Department of Agriculture and [*the State Department of*
8 *Fish and Wildlife*] **Oregon Fish and Game** prior to adopting any revisions of the strategy. Re-
9 visions of the strategy shall take effect upon the Water Resources Commission's adoption of the
10 revised strategy by reference in rule.

11 (4) This section does not limit the authority granted the Environmental Quality Commission or
12 the Department of Environmental Quality under ORS chapter 468B.

13 **SECTION 266.** ORS 537.132 is amended to read:

14 537.132. (1) The provisions of ORS 537.130 requiring application for a permit to appropriate
15 water shall not apply to the use of reclaimed water, if:

16 (a) The use of reclaimed water is authorized by the national pollutant discharge elimination
17 system or water pollution control facilities permit issued pursuant to ORS 468B.050 or 468B.053;

18 (b) The Department of Environmental Quality, in reviewing an application for a permit pursuant
19 to ORS 468B.050 or 468B.053, has consulted with [*the State Department of Fish and Wildlife*] **Oregon**
20 **Fish and Game** on the impact to fish and wildlife to determine that the application of reclaimed
21 water under ORS 537.130, 537.131, 537.132, 540.510 and 540.610 shall not have a significant negative
22 impact on fish and wildlife; and

23 (c) The Department of Environmental Quality has determined the use of reclaimed water is in-
24 tended to improve the water quality of the receiving stream.

25 (2) Any person using or intending to use reclaimed water shall file with the Water Resources
26 Department a reclaimed water registration form setting forth the following:

27 (a) Name and mailing address of the registrant;

28 (b) The date the use of reclaimed water is initiated;

29 (c) Source of reclaimed water supply, including a description of the location of the reclaimed
30 water treatment facility and the name and mailing address of the owner and operator of the facility;

31 (d) Nature of the use of the reclaimed water;

32 (e) Amount of reclaimed water used or proposed to be used;

33 (f) Location and description of the ditch, canal, pipeline or any other conduction facility used
34 or to be used to transport the reclaimed water from the treatment facility to the place of use;

35 (g) A statement declaring the existence of a written contract or agreement to provide reclaimed
36 water including the name and address of the reclaimed water provider and the date and terms of
37 such contract or agreement;

38 (h) A description of the season of use and the place of use of the reclaimed water, and any re-
39 strictions applicable to the use of the reclaimed water; and

40 (i) If the reclaimed water is used in lieu of using water under an existing water right, the ap-
41 plication, permit and certificate number of such right, or if the right is granted pursuant to a decree
42 of circuit court, the volume and page number setting forth the right.

43 (3) If a municipality has discharged waste water into a natural watercourse for five or more
44 years, and the discharge represents more than 50 percent of the total average flow of the natural
45 watercourse and if such discharge would cease as a result of the use of reclaimed water in accord-

1 ance with the provisions of ORS 540.510 (3) and this section, the director of the department shall
 2 notify any persons who, according to the department records, have a water right that may be af-
 3 fected by the cessation of the discharge by the municipality.

4 (4) If a person holding an affected water right demonstrates to the department that the cessation
 5 of discharge by the municipality substantially impairs the ability to satisfy a water right, the person
 6 shall be entitled to a preference to the use of the reclaimed water. However, the delivery of the
 7 reclaimed water to the person claiming such preference shall be accomplished through a conveyance
 8 facility or channel other than a natural watercourse.

9 (5) If a municipality has a less expensive alternative for the disposal and distribution of the re-
 10 claimed water, the municipality shall not be obligated to incur expenses or cost beyond the expenses
 11 or costs of such alternative.

12 (6) The Water Resources Commission shall adopt rules to implement the notice and preference
 13 provisions and impairment evaluation standards of this section.

14 **SECTION 267.** ORS 537.135 is amended to read:

15 537.135. (1) The appropriation of water for the purpose of recharging ground water basins or
 16 reservoirs is declared to be for a beneficial purpose. Permits for such appropriation may be granted
 17 by the Water Resources Department on application made therefor. Any such application shall sub-
 18 stantially comply with ORS 537.140 and shall be subject to the provisions of ORS 537.150 to 537.230,
 19 as are other applications and permits to appropriate water.

20 (2) Any person proposing to apply to a beneficial use the water stored artificially in any such
 21 ground water basin or reservoir shall file an application for permit, to be known as the secondary
 22 permit, in compliance with the provisions of ORS 537.130, 537.140, 537.142 and 537.145 to 537.230.
 23 The application shall refer to the artificially recharged ground water basin or reservoir as a supply
 24 of water and shall include the written consent of the holder of the recharge permit or certificate to
 25 appropriate the artificially recharged water.

26 (3) The Water Resources Commission shall develop standards that an applicant must meet before
 27 the department approves a permit to appropriate water for the purpose of recharging ground water.

28 (4) Before issuing a permit for the purpose of recharging ground water, the department shall
 29 determine, under ORS 537.170, whether the proposed ground water recharge project would impair
 30 or be detrimental to the public interest.

31 (5) The department shall not issue a ground water recharge permit unless the supplying stream
 32 has a minimum perennial streamflow established for the protection of aquatic and fish life. [*The*
 33 *State Department of Fish and Wildlife*] **Oregon Fish and Game** may waive this prerequisite if a
 34 minimum perennial streamflow for protection of aquatic and fish life is not required for the supply-
 35 ing stream.

36 **SECTION 268.** ORS 537.141 is amended to read:

37 537.141. (1) The following water uses do not require an application under ORS 537.130 or
 38 537.615, a water right permit under ORS 537.211 or a water right certificate under ORS 537.250:

39 (a) Emergency fire-fighting uses;

40 (b) Nonemergency fire-fighting training, provided:

41 (A) The source of the water is existing storage and the use occurs with permission of the owner
 42 of the stored water; or

43 (B) If the source of water is other than existing storage, the use occurs with the prior written
 44 approval of the watermaster in the district where the training will take place and subject to any
 45 conditions the watermaster determines are necessary to prevent injury to existing water rights and

1 to protect in-stream resources;

2 (c) Water uses that divert water to water tanks or troughs from a reservoir for a use allowed
3 under an existing water right permit or certificate for the reservoir;

4 (d) Fish screens, fishways and fish by-pass structures, as exempted by rule of the Water Re-
5 sources Commission;

6 (e) Land management practices intended to save soil and improve water quality by temporarily
7 impeding or changing the natural flow of diffuse surface water across agricultural lands when stor-
8 age of public waters is not an intended purpose. Such practices include but are not limited to:

9 (A) Terraces;

10 (B) Dikes;

11 (C) Retention dams and other temporary impoundments; and

12 (D) Agronomic practices designed to improve water quality and control surface runoff to prevent
13 erosion, such as ripping, pitting, rough tillage and cross slope farming;

14 (f) Livestock watering operations that comply with the requirements under subsections (2) and
15 (3) of this section;

16 (g) Forest management activities that require the use of water in conjunction with mixing pes-
17 ticides as defined in ORS 634.006, or in slash burning;

18 (h) The collection of precipitation water from an artificial impervious surface and the use of
19 such water;

20 (i) Land application of ground water so long as the ground water:

21 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
22 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
23 for confined animal feeding purposes;

24 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
25 reused water has never been discharged to the waters of the state; and

26 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
27 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
28 system or ORS 468B.215 to operate a confined animal feeding operation; and

29 (j) Surface mining practices that result in the removal of water from a surface mine subject to
30 an operating permit or reclamation plan approved by the State Department of Geology and Mineral
31 Industries, unless the water is used for a subsequent beneficial use.

32 (2) The use of surface water for livestock watering may be exempted under subsection (1) of this
33 section if:

34 (a) The water is diverted from a stream or other surface water source to a trough or tank
35 through an enclosed water delivery system;

36 (b) The delivery system either is equipped with an automatic shutoff or flow control mechanism
37 or includes a means for returning water to the surface water source through an enclosed delivery
38 system; and

39 (c) The operation is located on land from which the livestock would otherwise have legal access
40 to both the use and source of the surface water source.

41 (3) If the diversion system described in subsection (2) of this section is located within or above
42 a scenic waterway, the amount of water that may be used without a water right is limited to one-
43 tenth of one cubic foot per second per 1,000 head of livestock. Nothing in this section shall prevent
44 the Water Resources Commission from approving an application for a water right permit for a de-
45 livery system not qualifying under subsection (2) of this section.

1 (4) The Water Resources Department, in conjunction with local soil and water conservation
2 districts, the Oregon State University Extension Service, the State Department of Agriculture [*and*
3 *the State Department of Fish and Wildlife*], **Oregon Fish and Game** and any other organization in-
4 terested in participating, shall develop and implement a voluntary educational program on livestock
5 management techniques designed to keep livestock away from streams and riparian areas.

6 (5) To qualify for an exempt use under subsection (1)(g) of this section, the user shall:

7 (a) Submit notice of the proposed use, including the identification of the proposed water source,
8 to the Water Resources Department and to [*the State Department of Fish and Wildlife*] **Oregon Fish**
9 **and Game** at the time notice is provided to other affected agencies pursuant to ORS 527.670; and

10 (b) Comply with any restrictions imposed by the department pertaining to sources of water that
11 may not be used in conjunction with the proposed activity.

12 (6) Except for the use of water under subsection (1)(i) of this section, the Water Resources
13 Commission by rule may require any person or public agency diverting water as described in sub-
14 section (1) of this section to furnish information with regard to such water and the use thereof. For
15 a use of water described in subsection (1)(i) of this section, the Department of Environmental Qual-
16 ity or the State Department of Agriculture shall provide to the Water Resources Department a copy
17 of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground
18 water for reuse. The permit shall provide the information regarding the place of use of such water
19 and the nature of the beneficial reuse.

20 **SECTION 269.** ORS 537.142 is amended to read:

21 537.142. (1) No water right certificate or permit is required for the use of the surface waters of
22 this state if the water is to be used for a salmon and trout enhancement project certified by [*the*
23 *State Department of Fish and Wildlife*] **Oregon Fish and Game** under ORS 496.430 to 496.460.

24 (2) The use of water for a salmon and trout enhancement project under subsection (1) of this
25 section is a beneficial use and such use shall be allowed on all the waters of this state, whether or
26 not the project is located on waters of this state for which the use is restricted pursuant to any of
27 the following:

28 (a) A scenic waterway designation under ORS 390.805 to 390.925.

29 (b) A statutory withdrawal from appropriation under ORS chapter 538.

30 (c) A program adopted by the Water Resources Commission under ORS 536.300 to 536.400.

31 (d) An administrative withdrawal from appropriation by the Water Resources Director or the
32 Water Resources Commission.

33 (e) Any other statutory or administrative restriction on the use of the waters.

34 (3) If the use of the waters of this state under subsection (1) of this section conflicts with the
35 use of water under a permit issued under ORS 537.240 or a use allowed under a water right certif-
36 icate issued under ORS 537.250, the use permitted under subsection (1) of this section shall be sub-
37 ordinate.

38 **SECTION 270.** ORS 537.147 is amended to read:

39 537.147. (1) Notwithstanding the process for applying for a water right permit established in ORS
40 537.150 to 537.230, a person may, pursuant to this section, apply to the Water Resources Department
41 for a water right permit to use stored water. A person applying under this section for a water right
42 permit to use stored water shall submit:

43 (a) A fee, in the amount required by ORS 536.050 for applications to appropriate stored water.

44 (b) A completed application for a secondary permit, in a form determined by the department,
45 that contains the information required of applications under ORS 537.140 and 537.400 (1).

1 (c) Evidence that the proposed use of the stored water is one of the authorized uses under the
2 water right permit, certificate or decree that allows the storage of water.

3 (2) If an applicant provides, to the satisfaction of the department, the fee and the information
4 required by subsection (1) of this section, the department may, after public notice and a 30-day op-
5 portunity to submit comments on the application, issue a water right permit upon determining that
6 no public interest issues as identified in ORS 537.170 (8) have been raised through the comments
7 submitted.

8 (3) If the department determines that public interest issues have been identified, then the de-
9 partment shall treat the application under this section as an application under ORS 537.150 and
10 perform the public interest review required by ORS 537.153 (2).

11 (4) At a minimum, a water right permit issued by the department for use of stored water under
12 this section shall be conditioned to require:

13 (a) Fish screens and by-pass devices and fish passage as may be required by [*the State Depart-*
14 *ment of Fish and Wildlife*] **Oregon Fish and Game**; and

15 (b) A measuring device at each point of diversion authorized under the water right permit.

16 (5) Within 10 days of issuing a water right permit under this section, the department shall pro-
17 vide notice of the permit issuance in the weekly notice published by the department and to persons
18 who have submitted comments pursuant to subsection (2) of this section.

19 **SECTION 271.** ORS 537.211 is amended to read:

20 537.211. (1) The approval of an application referred to in ORS 537.140 or 537.400 shall be set
21 forth in a water right permit issued by the Water Resources Department. The permit shall specify
22 the details of the authorized use and shall set forth any terms, limitations and conditions as the
23 department considers appropriate including but not limited to any applicable condition required
24 under ORS 537.289. A copy of the permit shall be filed as a public record in the department. The
25 permit shall be mailed to the applicant, and upon receipt of the permit the permittee may proceed
26 with the construction of the necessary works and may take all action required to apply the water
27 to the designated beneficial use and to perfect the proposed appropriation.

28 (2) Except as provided in subsection (6) of this section, if an application under ORS 537.140 or
29 537.400 indicates that the applicant does not have written authorization or an easement permitting
30 access to nonowned land crossed by the proposed ditch, canal or other work, the department may
31 issue a final order approving the application if the approval includes a condition requiring the ap-
32 plicant to obtain such written authorization, or easement or ownership of such land and to provide
33 the department with a copy of the written authorization, easement or evidence of ownership.

34 (3) If an application referred to in ORS 537.140 or 537.400 is rejected, the department shall enter
35 a written order setting forth the reasons for the rejection. The applicant shall take no action toward
36 construction of the works or use of the water. The department shall mail a copy of the order to the
37 applicant.

38 (4) The holder of a water right permit may change the point of diversion, change the point of
39 appropriation, change the point of diversion to allow the appropriation of ground water or use the
40 water on land to which the right is not appurtenant if:

41 (a) The use of water on land to which the right is not appurtenant, the change of point of di-
42 version or the change in point of appropriation does not result in injury to an existing water right;

43 (b) For a proposed change in the place of use of the water, the land on which the water is to
44 be used is owned or controlled by the holder of the permit and is contiguous to the land to which
45 the permit is appurtenant;

1 (c) All other terms of the permit remain the same, including but not limited to the beneficial
2 use for which the water is used and the number of acres to which water is applied;

3 (d) Prior approval is obtained from the district if the water is transported or conveyed by an
4 irrigation district organized under ORS chapter 545, a drainage district organized under ORS chap-
5 ter 547, a water improvement district organized under ORS chapter 552, a water control district
6 organized under ORS chapter 553 or a district improvement company or a corporation organized
7 under ORS chapter 554;

8 (e) The holder of the permit provides written notice to the department at least 60 days before
9 making any changes to the lands, point of diversion or point of appropriation described in the per-
10 mit;

11 (f) The holder of the permit complies with the publication requirements of ORS 540.520 (5), if
12 applicable;

13 (g) Diversion is provided with a proper fish screen, if requested by [*the State Department of Fish*
14 *and Wildlife*] **Oregon Fish and Game**; and

15 (h) For a request to transfer the point of diversion to allow the appropriation of ground water,
16 the proposed change meets the standards set forth in ORS 540.531 (2) or (3).

17 (5) Notwithstanding the requirements of subsection (4)(b) of this section, the holder of a water
18 right permit may change the place of use of all or any portion of water under the permit to land that
19 is not contiguous to the land to which the permit is appurtenant if:

20 (a) The change to noncontiguous land is in furtherance of mitigation or conservation efforts
21 undertaken for the purposes of benefiting a species listed as sensitive, threatened or endangered
22 under ORS 496.171 to 496.192 or the federal Endangered Species Act of 1973 (16 U.S.C. 1531 to 1544),
23 as determined by the listing agency; and

24 (b) All other requirements of subsection (4) of this section are met.

25 (6) For an application made by or on behalf of a public corporation, the department may issue
26 a permit approving the application without requiring the applicant to obtain prior written authori-
27 zation or an easement permitting access to nonowned lands affected by the proposed project. How-
28 ever, nothing in this subsection shall be construed to allow any person to trespass on the lands of
29 another person.

30 (7) When the department receives notice under subsection (4)(e) of this section, the department
31 shall publish the notice in the department's weekly public notice of water right applications.

32 (8) If the use of water under the permit is for operation of a mining operation as defined in ORS
33 517.952:

34 (a) Review of the application and approval or denial of the application shall be coordinated with
35 the consolidated application process under ORS 517.952 to 517.989. However, such review and ap-
36 proval or denial shall take into consideration all policy considerations for the appropriation of water
37 as set forth in this chapter and ORS chapter 536.

38 (b) The permit may be issued for exploration under ORS 517.702 to 517.740, but the permit shall
39 be conditioned on the applicant's compliance with the consolidated application process.

40 (c) The permit shall include a condition that additional conditions may be added to the use of
41 water when a water right certificate is issued, or when the use of water is changed pursuant to ORS
42 540.520 and 540.530 to use for a mine.

43 (9) As used in this section, "contiguous" includes land separated from the land to which a water
44 right is appurtenant by roads, utility corridors, irrigation ditches or publicly owned rights of way.

45 **SECTION 272.** ORS 538.170 is amended to read:

1 538.170. (1) Except as provided in subsection (2) of this section, the waters of Johnson Creek, a
2 tributary of the Willamette River and located in Multnomah and Clackamas Counties and all
3 tributaries thereof, except flows of Crystal Springs Creek and its tributaries in excess of 10 cubic
4 feet per second measured at the mouth of Crystal Springs Creek:

5 (a) Are withdrawn from appropriation or condemnation; and

6 (b) Shall not be diverted or interrupted for any purpose whatsoever, except for the purpose of
7 protecting fish life therein by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
8 or for the purpose of developing hydroelectric power not to exceed 25 theoretical horsepower if such
9 hydroelectric development does not diminish perennial streamflow required for the maintenance of
10 fish life.

11 (2) The tributaries withdrawn from appropriation and condemnation, but not the main channel,
12 of Johnson Creek are open to appropriation and storage from December 1 to June 1 of each year.
13 Water stored during this period may be used at any time.

14 **SECTION 273.** ORS 537.230 is amended to read:

15 537.230. (1) As used in this section, “undeveloped portion” means the difference between the
16 maximum rate or duty specified in a water right permit and the maximum rate or duty diverted as
17 of the later of:

18 (a) June 29, 2005;

19 (b) The time specified in the permit to perfect the water right; or

20 (c) The time specified in the last-approved extension of time to perfect the water right.

21 (2) Except for a holder of a permit for municipal use, the holder of a water right permit shall
22 prosecute the construction of any proposed irrigation or other work with reasonable diligence and
23 complete the construction within a reasonable time, as fixed in the permit by the Water Resources
24 Department, not to exceed five years from the date of approval.

25 (3) The holder of a permit for municipal use shall commence and complete the construction of
26 any proposed works within 20 years from the date on which a permit for municipal use is issued
27 under ORS 537.211. The construction must proceed with reasonable diligence and be completed
28 within the time specified in the permit, not to exceed 20 years. However, the department may order
29 and allow an extension of time to complete construction or to perfect a water right beyond the time
30 specified in the permit under the following conditions:

31 (a) The holder shows good cause. In determining the extension, the department shall give due
32 weight to the considerations described under ORS 539.010 (5) and to whether other governmental
33 requirements relating to the project have significantly delayed completion of construction or per-
34 fection of the right;

35 (b) The extension of time is conditioned to require that the holder submit, and obtain department
36 approval of, a water management and conservation plan;

37 (c) The extension of time is conditioned to provide that the holder may divert the undeveloped
38 portion of the permit only upon approval by the department of the water management and conser-
39 vation plan; and

40 (d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before
41 November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned
42 to maintain, in the portions of waterways affected by water use under the permit, the persistence
43 of fish species listed as sensitive, threatened or endangered under state or federal law. The de-
44 partment shall base its finding on existing data and upon the advice of the [*State Department of Fish*
45 *and Wildlife*] **Oregon Watershed Enhancement Board**. An existing fish protection agreement be-

1 tween the permit holder and a state or federal agency that includes conditions to maintain the
2 persistence of any listed fish species in the affected portion of the waterway is conclusive for pur-
3 poses of the finding.

4 (4) Except as provided in ORS 537.240 and 537.248 and subsection (3) of this section, the Water
5 Resources Department, for good cause shown, shall order and allow an extension of time, including
6 an extension beyond the five-year limit established in subsection (2) of this section within which ir-
7 rigation or other works shall be completed or the right perfected. In determining the extension, the
8 department shall give due weight to the considerations described under ORS 539.010 (5) and to
9 whether other governmental requirements relating to the project have significantly delayed com-
10 pletion of construction or perfection of the right.

11 (5) Except as provided in subsection (6) of this section and ORS 537.409, upon completion of
12 beneficial use as required under this section, the holder of a permit shall hire a water right exam-
13 iner certified under ORS 537.798 to survey the appropriation. Within one year after application of
14 water to a beneficial use or the beneficial use date allowed in the permit, the holder shall submit
15 a map of the survey as required by the Water Resources Department, that shall accompany the re-
16 quest for a water right certificate submitted to the department under ORS 537.250. If any property
17 described in the permit is not included in the request for a water right certificate, the holder shall
18 state the identity of the record owner of that property.

19 (6) The Water Resources Director may waive the requirement under subsection (5) of this sec-
20 tion that a holder of a permit hire a water right examiner certified under ORS 537.798 if:

21 (a) The permit is a supplemental water right that shares the same distribution system and same
22 place of use as the primary water right; and

23 (b) The department determines that there is sufficient information in the records of the depart-
24 ment to determine proof of beneficial use.

25 (7) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under ORS
26 537.250 for a supplemental water right, the holder of a permit shall have a facility capable of han-
27 dling the full rate and duty of water requested from the supplemental source and be otherwise ready,
28 willing and able to use the amount of water requested, up to the amount of water approved in the
29 water right permit. To obtain a certificate for a supplemental water right, the holder is not required
30 to have actually used water from the supplemental source if:

31 (a) Water was available from the source of the primary water right and the primary water right
32 was used pursuant to the terms of the primary water right; or

33 (b) The nonuse of water from the supplemental source occurred during a period of time within
34 which the exercise of the supplemental water right permit was not necessary due to climatic con-
35 ditions.

36 **SECTION 274.** ORS 537.336 is amended to read:

37 537.336. (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game or the Oregon**
38 **Watershed Enhancement Board** may request the Water Resources Commission to issue water
39 right certificates for in-stream water rights on the waters of this state in which there are public
40 uses relating to the conservation, maintenance and enhancement of aquatic and fish life, wildlife and
41 fish and wildlife habitat. The request shall be for the quantity of water necessary to support those
42 public uses as recommended by [*the State Department of Fish and Wildlife*] **Oregon Fish and**
43 **Game.**

44 (2) The Department of Environmental Quality may request the Water Resources Commission to
45 issue water right certificates for in-stream water rights on the waters of this state to protect and

1 maintain water quality standards established by the Environmental Quality Commission under ORS
2 468B.048. The request shall be for the quantity of water necessary for pollution abatement as re-
3 commended by the Department of Environmental Quality.

4 (3) The State Parks and Recreation Department may request the Water Resources Commission
5 to issue water right certificates for in-stream water rights on the waters of this state in which there
6 are public uses relating to recreation and scenic attraction. The request shall be for the quantity
7 of water necessary to support those public uses as recommended by the State Parks and Recreation
8 Department.

9 (4) Any request for an in-stream water right to be supplied from stored water shall refer to the
10 reservoir for a supply of water and shall show by documentary evidence that an agreement has been
11 entered into with the owners of the reservoir for a sufficient interest in the reservoir to impound
12 enough water for the purposes set forth in the request.

13 **SECTION 275.** ORS 540.510 is amended to read:

14 540.510. (1) Except as provided in subsections (2) to (8) of this section, all water used in this
15 state for any purpose shall remain appurtenant to the premises upon which it is used and no change
16 in use or place of use of any water for any purpose may be made without compliance with the pro-
17 visions of ORS 540.520 and 540.530. However, the holder of any water use subject to transfer may,
18 upon compliance with the provisions of ORS 540.520 and 540.530, change the use and place of use,
19 the point of diversion or the use theretofore made of the water in all cases without losing priority
20 of the right theretofore established. A district may change the place of use in the manner provided
21 in ORS 540.572 to 540.580 in lieu of the method provided in ORS 540.520 and 540.530. When an ap-
22 plication for change of the use or place of use for a primary water right is submitted in accordance
23 with this section, the applicant also shall indicate whether the land described in the application has
24 an appurtenant supplemental water right or permit. If the applicant also intends to transfer the
25 supplemental water right or permit, the applicant also shall include the information required under
26 ORS 540.520 (2) for the supplemental water right or permit. If the applicant does not include the
27 supplemental water right or permit in the transfer application, the Water Resources Department
28 shall notify the applicant that the supplemental water right or permit will be canceled before the
29 department issues the order approving the transfer of the primary water right, unless within 30 days
30 the applicant modifies the application to include the supplemental water right or permit or with-
31 draws the application. The department may approve the transfer of the supplemental water right or
32 permit in accordance with the provisions of ORS 540.520 and 540.530. The department shall not ap-
33 prove the transfer of a supplemental water right or permit if the transfer would result in enlarge-
34 ment of the original water right or injury to an existing water right. If the department approves the
35 transfer of the primary water right but does not approve the transfer of the supplemental water
36 right or permit, the department shall notify the applicant of the department's intent to cancel that
37 portion of the supplemental water right or permit described in the transfer application before the
38 department issues the primary water right transfer order, unless the applicant withdraws the
39 transfer application within 90 days.

40 (2) Subject to the limitations in ORS 537.490, any right to the use of conserved water allocated
41 by the Water Resources Commission under ORS 537.470 may be severed from the land and trans-
42 ferred or sold after notice to the commission as required under ORS 537.490.

43 (3)(a) Any water used under a permit or certificate issued to a municipality, or under rights
44 conferred by ORS 538.410 to 538.450, or under the registration system set forth in ORS 537.132, may
45 be applied to beneficial use on lands to which the right is not appurtenant if:

1 (A) The water is applied to lands which are acquired by annexation or through merger, consol-
2 idation or formation of a water authority, so long as the rate and use of water allowed in the ori-
3 ginal certificate is not exceeded;

4 (B) The use continues to be for municipal purposes and would not interfere with or impair prior
5 vested water rights; or

6 (C) The use is authorized under a permit granted under ORS 468B.050 or 468B.053 and for which
7 a reclaimed water registration form has been filed under ORS 537.132.

8 (b) As used in this subsection, "municipality" means a city, a port formed under ORS 777.005 to
9 777.725, 777.915 to 777.953 and 778.010, a domestic water supply district formed under ORS chapter
10 264, a water supplier as defined in ORS 448.115 or a water authority formed under ORS chapter 450.

11 (4) Pursuant to the provisions of ORS 540.570 or 540.585, any water used under a permit or
12 certificate issued to a district may be applied to beneficial use on lands within the district to which
13 the right is not appurtenant.

14 (5) The relocation of a point of diversion as necessary to follow the movements of a naturally
15 changing stream channel does not constitute a change in point of diversion for purposes of ORS
16 540.520 if:

17 (a) The diversion point stays within 500 feet of the point of diversion on record with the Water
18 Resources Department;

19 (b) The change does not move the diversion point upstream or downstream beyond the diversion
20 point of another appropriator; and

21 (c) The diversion is provided with a proper fish screen, if requested by [*the State Department of*
22 *Fish and Wildlife*] **Oregon Fish and Game**.

23 (6) In the event that government action results in or creates a reasonable expectation of a
24 change in the surface level of a surface water source that impairs or threatens to impair access to
25 a point of diversion authorized by a water right permit, certificate or decree, the owner of the water
26 right may change the point of diversion or add an additional point of diversion in accordance with
27 the provisions of this section in lieu of complying with the requirements of ORS 540.520 and 540.530.
28 Before changing the point of diversion, the water right owner shall provide written notice of the
29 proposed change to the Water Resources Department. Within 15 days after receipt of such notice,
30 the department shall provide notice by publication in the department's public notice of water right
31 applications. Within 60 days after the department receives notice from the owner, the Water Re-
32 sources Director, by order, shall approve the change unless the director finds the changes will result
33 in injury to other existing water rights. All other terms and conditions of the water right shall re-
34 main in effect.

35 (7) The sale or lease of the right to the use of conserved water under ORS 537.490 does not
36 constitute a change of use or a change in the place of use of water for purposes of ORS 540.520.

37 (8) Ground water applied to an exempt use as set forth in ORS 537.141 or 537.545 may be sub-
38 sequently applied to land for irrigation purposes under ORS 537.141 (1)(i) or 537.545 (1)(g) without
39 application for a change in use or place of use under this section.

40 **SECTION 276.** ORS 537.409 is amended to read:

41 537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for applying for a water
42 right permit, an owner of a reservoir may submit an application to the Water Resources Department
43 to issue a water right permit under ORS 537.211 or a certificate under ORS 537.250 according to the
44 process set forth in this section if the reservoir:

45 (a) Has a storage capacity of less than 9.2 acre-feet or a dam or impoundment structure less

1 than 10 feet in height;

2 (b) Does not injure any existing water right;

3 (c) Does not pose a significant detrimental impact to existing fishery resources as determined
4 on the basis of information submitted by [*the State Department of Fish and Wildlife*] **Oregon Fish**
5 **and Game**; and

6 (d) Is not prohibited under ORS 390.835.

7 (2) An application for a water right permit for a reservoir under subsection (1) of this section
8 shall provide sufficient information to demonstrate compliance with the criteria set forth in sub-
9 section (1) of this section. The application shall:

10 (a) Include the quantity of water to be stored by the reservoir, a map indicating the location
11 of the reservoir and the source of the water used to fill the reservoir; and

12 (b) Be accompanied by the fee established in ORS 536.050 (1)(q).

13 (3) The map required under subsection (2) of this section need not be prepared by a water right
14 examiner certified under ORS 537.798. The map submitted with the application shall comply with
15 standards established by the Water Resources Commission.

16 (4) Within 60 days after receiving an application under subsection (1) of this section, the Water
17 Resources Department shall provide public notice of the application in the manner the department
18 determines to be the most appropriate.

19 (5) Within 60 days after the department provides public notice under subsection (4) of this sec-
20 tion, any person may submit detailed, legally obtained information in writing, requesting the de-
21 partment to deny the application for a permit on the basis that the reservoir:

22 (a) Would result in injury to an existing water right; or

23 (b) Would pose a significant detrimental impact to existing fishery resources.

24 (6) In accordance with rules established by the Water Resources Commission for an expedited
25 public interest review process for applications submitted under this section or in response to a re-
26 quest under subsection (5) of this section, the department shall conduct a public interest review of
27 the reservoir application. The review shall be limited to issues pertaining to:

28 (a) Water availability;

29 (b) Potential detrimental impact to existing fishery resources; and

30 (c) Potential injury to existing water rights.

31 (7) Within 180 days after the department receives an application for a permit under subsection
32 (1) of this section, the department shall issue a final order granting or denying the permit or
33 granting the permit with conditions.

34 (8) If the department issues an order under subsection (7) of this section denying the permit, the
35 applicant may request a contested case hearing, which shall be conducted in accordance with ap-
36 plicable provisions of ORS chapter 183.

37 (9) If the department does not find injury or impact under subsection (6) of this section and the
38 department issues a final order under subsection (7) of this section allowing the issuance of a permit,
39 the order shall be subject to judicial review of orders in other than contested cases as provided in
40 ORS chapter 183.

41 (10) Notwithstanding the requirement for a survey under ORS 537.230, a survey of the appro-
42 priation is not required for a reservoir that has a storage capacity of less than 9.2 acre-feet of water.
43 For a reservoir qualifying under this subsection, a permittee shall submit to the department a claim
44 of beneficial use within one year after the date of completion of construction. A claim of beneficial
45 use for a reservoir qualifying under this subsection shall require only a written affidavit signed by

1 the permittee that includes the following:

2 (a) The dimensions of the reservoir.

3 (b) The maximum capacity of the reservoir in acre-feet.

4 (c) A map identifying the location of the reservoir. The map shall comply with standards estab-
5 lished by the Water Resources Commission. The map required under this subsection need not be
6 prepared by a water right examiner certified under ORS 537.798.

7 (11) Any person applying for a secondary permit for the use of stored water from a reservoir
8 qualifying under subsection (10) of this section shall submit a survey prepared by a water right ex-
9 aminer certified under ORS 537.798. The survey required under this subsection shall apply to the
10 storage reservoir and to the secondary use of the water in the reservoir.

11 **SECTION 277.** ORS 537.630 is amended to read:

12 537.630. (1) As used in this section, "undeveloped portion" means the difference between the
13 maximum rate or duty specified in a water right permit and the maximum rate or duty appropriated
14 as of the later of:

15 (a) June 29, 2005;

16 (b) The time specified in the permit to perfect the water right; or

17 (c) The time specified in the last-approved extension of time to perfect the water right.

18 (2) Except for the holder of a permit for municipal use, the holder of a permit issued pursuant
19 to ORS 537.625 shall prosecute the construction of a well or other means of developing and securing
20 the ground water with reasonable diligence and complete the construction within a reasonable time
21 fixed in the permit by the Water Resources Department, not to exceed five years after the date of
22 approval of the application. However, the department, for good cause shown, shall order and allow
23 an extension of time, including an extension beyond the five-year period, for the completion of the
24 well or other means of developing and securing the ground water or for complete application of
25 water to beneficial use. In determining the extension, the department shall give due weight to the
26 considerations described under ORS 539.010 (5) and to whether other governmental requirements
27 relating to the project have significantly delayed completion of construction or perfection of the
28 right.

29 (3) The holder of a permit for municipal use shall commence and complete the construction of
30 any proposed works within 20 years from the date on which the permit for municipal use is issued
31 under ORS 537.625. The construction must proceed with reasonable diligence and be completed
32 within the time specified in the permit, not to exceed 20 years. However, the department may order
33 and allow an extension of time to complete construction or to perfect a water right beyond the time
34 specified in the permit under the following conditions:

35 (a) The holder shows good cause. In determining the extension, the department shall give due
36 weight to the considerations described under ORS 539.010 (5) and to whether other governmental
37 requirements relating to the project have significantly delayed completion of construction or per-
38 fection of the right;

39 (b) The extension of time is conditioned to require that the holder submit and obtain department
40 approval of a water management and conservation plan;

41 (c) The extension of time is conditioned to provide that the holder may appropriate the unde-
42 veloped portion of the permit only upon approval by the department of a water management and
43 conservation plan; and

44 (d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before
45 November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned

1 to maintain, in the portions of waterways affected by water use under the permit, the persistence
2 of fish species listed as sensitive, threatened or endangered under state or federal law. The de-
3 partment shall base its finding on existing data and upon the advice of the [*State Department of Fish*
4 *and Wildlife*] **Oregon Watershed Enhancement Board**. An existing fish protection agreement be-
5 tween the permit holder and a state or federal agency that includes conditions to maintain the
6 persistence of any listed fish species in the affected portion of the waterway is conclusive for pur-
7 poses of the finding.

8 (4) If the construction of any well or other means of developing and securing the ground water
9 is completed after the date of approval of the application for a permit under ORS 537.625, within
10 30 days after the completion, or if the construction is completed before the date of approval, within
11 30 days after the date of approval, the permit holder shall file a certificate of completion with the
12 Water Resources Department, disclosing:

13 (a) The depth to the water table;

14 (b) The depth, diameter and type of each well, and the kind and amount of the casing;

15 (c) The capacity of the well pump in gallons per minute and the drawdown thereof;

16 (d) The identity of the record owner of any property that was described in the application for
17 a permit under ORS 537.625 but is not included in the certificate of completion; and

18 (e) Any other information the department considers necessary.

19 (5) Upon completion of beneficial use necessary to secure the ground water as required under
20 this section, the permit holder shall hire a water right examiner certified under ORS 537.798 to
21 survey the appropriation. Within one year after applying the water to beneficial use or the beneficial
22 use date allowed in the permit, the permit holder shall submit the survey as required by the Water
23 Resources Department to the department along with the certificate of completion required under
24 subsection (4) of this section. If any property described in the permit is not included in the request
25 for a water right certificate, the holder of the permit shall state the identity of the record owner
26 of that property.

27 (6) After the department has received a certificate of completion and a copy of the survey as
28 required by subsections (4) and (5) of this section that show, to the satisfaction of the department,
29 that an appropriation has been perfected in accordance with the provisions of ORS 537.505 to
30 537.795 and 537.992, except as provided in subsection (7) of this section, the department shall issue
31 a ground water right certificate of the same character as that described in ORS 537.700. The cer-
32 tificate shall be recorded and transmitted to the applicant as provided in ORS 537.700.

33 (7) The department may not issue a water right certificate for municipal use under this section
34 if:

35 (a) An extension of time is required; and

36 (b) The order approving the extension of time has not become final by operation of law or on
37 appeal.

38 (8) The procedure for cancellation of a permit shall be as provided in ORS 537.260.

39 (9) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under sub-
40 section (6) of this section for a supplemental water right, the holder of a permit shall have a facility
41 capable of handling the full rate and duty of water requested from the supplemental source and be
42 otherwise ready, willing and able to use the amount of water requested, up to the amount of water
43 approved in the water right permit. To obtain a certificate for a supplemental water right, the
44 holder is not required to have actually used water from the supplemental source if:

45 (a) Water was available from the source of the primary water right and the primary water right

1 was used pursuant to the terms of the primary water right; or

2 (b) The nonuse of water from the supplemental source occurred during a period of time within
3 which the exercise of the supplemental water right permit was not necessary due to climatic con-
4 ditions.

5 **SECTION 278.** ORS 538.220 is amended to read:

6 538.220. (1) The waters described as follows are withdrawn from appropriation or condemnation,
7 and shall not be diverted or interrupted for any purpose whatsoever, except for domestic purposes
8 and protecting fish life therein by the State Fish and Wildlife Commission:

9 (a) The waters of Mill Creek, in Jackson County, beginning in section 22, township 31 south,
10 range 4 east, Willamette Meridian, running thence southwesterly through township 31 south, range
11 3 east, Willamette Meridian, and township 32 south, range 3 east, Willamette Meridian, to a junction
12 with the Rogue River in section 32, township 32 south, range 3 east, Willamette Meridian, together
13 with the tributaries of said Mill Creek; and

14 (b) Barr Creek, in Jackson County, beginning in section 1, township 32 south, range 3 east,
15 Willamette Meridian, and in section 6 and section 7, township 32 south, range 4 east, Willamette
16 Meridian, running thence in a general southwesterly direction through township 32 south, range 3
17 east, Willamette Meridian, to a junction with the Rogue River in section 32, township 3 east,
18 Willamette Meridian, together with the tributaries of said Barr Creek.

19 (2) Subsection (1) of this section shall not prevent the appropriation of the waters of Mill Creek,
20 in Jackson County, for the development of hydroelectric power not to exceed one megawatt if:

21 (a) The hydroelectric project is located on Mill Creek at a point at least two miles above the
22 confluence of Mill Creek and the Rogue River;

23 (b) All water appropriated from the stream is returned to the stream at a point at least one-half
24 mile above the confluence of Mill Creek and the Rogue River; and

25 (c) The facility will be constructed and operated in compliance with recommendations by [*the*
26 *State Department of Fish and Wildlife*] **Oregon Fish and Game** concerning fish conservation, in-
27 cluding streamflow requirements based upon biological criteria.

28 **SECTION 279.** ORS 538.251 is amended to read:

29 538.251. Except as otherwise provided in this section, the following waters, all being tributaries
30 of the Columbia River, are withdrawn from appropriation and shall not be diverted or interrupted
31 for any purpose, except for protecting fish life therein by the State Fish and Wildlife Commission:

32 (1) Clatskanie River and its tributaries, except Fall Creek in Columbia County, for purposes of
33 hydroelectric generation if the facility is constructed and operated in compliance with recommen-
34 dations by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** concerning fish
35 conservation, including streamflow requirements based upon biological criteria.

36 (2) Klaskanine River and its tributaries in Clatsop County except an unnamed tributary of the
37 South Fork Klaskanine River in Clatsop County, on which there is located an existing fish culture
38 project, for purposes of hydroelectric generation if the facility is less than 100 horsepower and the
39 electricity generated is for use in conjunction with the existing fish culture project.

40 (3) Lewis and Clark River in Clatsop County.

41 (4) Sandy River and its tributaries in Multnomah and Clackamas Counties, except:

42 (a) Beaver Creek and its tributaries.

43 (b) Buck Creek and its tributaries.

44 (c) The tributary of the Sandy River in Multnomah County which empties into the Sandy River
45 near the north quarter corner, section 10, township 1 south, range 4 east, Willamette Meridian, and

1 its tributaries, and is locally known as Big Creek.

2 (d) All tributaries, but not the main channel, of the Sandy River are open for appropriation and
3 storage from December 1 to June 1 of each year. Water stored during this period may be used at
4 any time.

5 (e) Trout Creek in Multnomah County and its tributaries.

6 (5) Scappoose Creek in Columbia County.

7 (6) Tillasqua Creek in Clatsop County.

8 **SECTION 280.** ORS 538.430 is amended to read:

9 538.430. (1) Subject to water rights existing on May 29, 1925, the City of Medford, in Jackson
10 County, is granted the exclusive right to use for municipal purposes all the waters of Big Butte
11 Creek, a tributary of Rogue River situated in Jackson County, and of the springs at the head which
12 form the creek, and of its tributaries. The City of Medford, any of its officers, and others on its
13 behalf may appropriate all the waters for these purposes and an application therefor may be made
14 for the benefit of the city, either by it in its own name, or by any of its officers or by any other
15 person on its behalf. No person shall appropriate or be granted a permit to use any of the waters
16 except as provided in this section, and for the use and benefit of the city. But the City of Medford
17 may, under this grant, divert such waters from their watershed and convey them to the city and
18 elsewhere for use by it for municipal purposes, either within or without the city limits. All of such
19 waters are withdrawn from future appropriation, except for such use and benefit of the City of
20 Medford; provided however, that the Eagle Point Irrigation District may establish and use an addi-
21 tional point of diversion below the diversion point in use on April 1, 1953, under its permit number
22 6396 which authorizes the appropriation of not to exceed 100 cubic feet per second.

23 (2) Subject to rights existing on July 21, 1953, to the use of the waters of Big Butte Creek, and
24 of the springs at the head which form the creek, and of its tributaries, including the rights granted
25 in subsection (1) of this section to the City of Medford to the use of such waters and the right of
26 future appropriation of such waters, the Eagle Point Irrigation District is granted the right to ap-
27 propriate and use up to and including 100 cubic feet per second of the waters of Big Butte Creek,
28 using the diversion site of the Eagle Point Irrigation District existing on April 1, 1953, for the pur-
29 pose of generating electric energy; provided, however, that not less than 10 cubic feet per second
30 of said waters shall be permitted to pass said diversion point and remain in the channel of said
31 stream at all times other than times when said waters are diverted for irrigation purposes. The
32 Eagle Point Irrigation District may:

33 (a) Enter into such contracts and perform such other acts as it deems necessary or desirable for
34 the generation of electric energy and the construction and maintenance of facilities for the gener-
35 ation of electric energy.

36 (b) Enter into such arrangements as it deems proper for the use, sale or distribution of the
37 electric energy which is generated.

38 (3) In performing any of the acts under subsection (2) of this section, the Eagle Point Irrigation
39 District shall not be deemed a public utility as defined in ORS 757.005.

40 (4) Subsections (1) and (2) of this section shall not prevent the appropriation of the waters of
41 Clark Creek, in Jackson County, for the development of hydroelectric power not to exceed two
42 megawatts if the facility will be constructed and operated in compliance with recommendations by
43 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** concerning fish conservation,
44 including streamflow requirements based upon biological criteria.

45 **SECTION 281.** ORS 540.520 is amended to read:

1 540.520. (1) Except when the application is made under ORS 541.327 or when an application for
2 a temporary transfer is made under ORS 540.523, if the holder of a water use subject to transfer for
3 irrigation, domestic use, manufacturing purposes, or other use, for any reason desires to change the
4 place of use, the point of diversion, or the use made of the water, an application to make such
5 change, as the case may be, shall be filed with the Water Resources Department.

6 (2) The application required under subsection (1) of this section shall include:

7 (a) The name of the owner;

8 (b) The previous use of the water;

9 (c) A description of the premises upon which the water is used;

10 (d) A description of the premises upon which it is proposed to use the water;

11 (e) The use that is proposed to be made of the water;

12 (f) The reasons for making the proposed change; and

13 (g) Evidence that the water has been used over the past five years according to the terms and
14 conditions of the owner's water right certificate or that the water right is not subject to forfeiture
15 under ORS 540.610.

16 (3) If the application required under subsection (1) of this section is necessary to allow a change
17 in a water right pursuant to ORS 537.348, is necessary to complete a project funded under ORS
18 541.932, or is approved by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** as
19 a change that will result in a net benefit to fish and wildlife habitat, the department, at the dis-
20 cretion of the Water Resources Director, may waive or assist the applicant in satisfying the re-
21 quirements of subsection (2)(c) and (d) of this section. The assistance provided by the department
22 may include, but need not be limited to, development of an application map.

23 (4) If the application is to change the point of diversion, the transfer shall include a condition
24 that the holder of the water right provide a proper fish screen at the new point of diversion, if re-
25 quested by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**.

26 (5) Upon the filing of the application the department shall give notice by publication in a
27 newspaper having general circulation in the area in which the water rights are located, for a period
28 of at least two weeks and not less than one publication each week. The notice shall include the date
29 on which the last notice by publication will occur. The cost of the publication shall be paid by the
30 applicant in advance to the department. In applications for only a change in place of use or for a
31 change in the point of diversion of less than one-fourth mile, and where there are no intervening
32 diversions between the old diversion of the applicant and the proposed new diversion, no newspaper
33 notice need be published. The department shall include notice of such applications in the weekly
34 notice published by the department.

35 (6) Within 30 days after the last publication of a newspaper notice of the proposed transfer or
36 the mailing of the department's weekly notice, whichever is later, any person may file, jointly or
37 severally, with the department, a protest against approval of the application.

38 (7) If a timely protest is filed, or in the opinion of the Water Resources Director a hearing is
39 necessary to determine whether the proposed changes as described by the application would result
40 in injury to existing water rights, the department shall hold a hearing on the matter. Notice and
41 conduct of the hearing shall be under the provisions of ORS chapter 183, pertaining to contested
42 cases, and shall be held in the area where the rights are located unless all parties and persons who
43 filed a protest under this subsection stipulate otherwise.

44 (8) An application for a change of use under this section is not required if the beneficial use
45 authorized by the water use subject to transfer is irrigation and the owner of the water right uses

1 the water for incidental agricultural, stock watering and other uses related to irrigation use, so long
2 as there is no increase in the rate, duty, total acreage benefited or season of use.

3 (9) A water right transfer under subsection (1) of this section is not required for a general in-
4 dustrial use that was not included in a water right certificate issued for a specific industrial use if:

5 (a) The quantity of water used for the general industrial use is not greater than the rate allowed
6 in the original water right and not greater than the quantity of water diverted to satisfy the au-
7 thorized specific use under the original water right;

8 (b) The location where the water is to be used for general industrial use was owned by the
9 holder of the original water right at the time the water right permit was issued; and

10 (c) The person who makes the change in water use provides the following information to the
11 Water Resources Department:

12 (A) The name and mailing address of the person using water under the water right;

13 (B) The water right certificate number;

14 (C) A description of the location of the industrial facility owned by the holder of the original
15 water right at the time the water right permit was issued; and

16 (D) A description of the general industrial use to be made of the water after the change.

17 **SECTION 282.** ORS 541.386 is amended to read:

18 541.386. (1) No person shall construct, operate or maintain, and no officer or agency of this state
19 shall issue any permit for the construction, operation or maintenance of, any dam or hydroelectric
20 facility on:

21 (a) That portion of the North Umpqua River between Soda Springs Dam and the confluence of
22 the North Umpqua River and South Umpqua River; or

23 (b) The main stem Umpqua River from the confluence of the North Umpqua River and the South
24 Umpqua River to the ocean.

25 (2) Nothing in this section applies to the repair, structural repair, maintenance or improvement
26 of any dam constructed on the North Umpqua River prior to November 1, 1981, with the approval
27 of the Water Resources Commission and [*the State Department of Fish and Wildlife*] **Oregon Fish
28 and Game**. The commission and [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**
29 shall not unreasonably withhold or delay such approval, but may withhold approval for reasonable
30 cause, including but not limited to a substantiated finding that the repairs, structural repairs,
31 maintenance or improvements:

32 (a) Fail to comply with applicable safety rules or regulations;

33 (b) Raise the height of the dam; or

34 (c) Diminish the current ability of anadromous fish to travel past the dam.

35 (3) No person shall appropriate and no officer or agency of this state shall issue or approve any
36 license, permit or certificate for the use of water for hydroelectric generation at a dam at the lo-
37 cation referred to in subsection (1) of this section.

38 **SECTION 283.** ORS 540.525 is amended to read:

39 540.525. (1) Upon receipt of an application for a change in the point of diversion under ORS
40 540.520, the Water Resources Department shall consult with [*the State Department of Fish and
41 Wildlife*] **Oregon Fish and Game** to determine whether the diversion is:

42 (a) Equipped with an appropriate fish screening or by-pass device; or

43 (b) Included on the priority list of screening projects established pursuant to section 8, chapter
44 933, Oregon Laws 1989.

45 (2) If the original point of diversion is included in the priority list of screening projects estab-

1 lished pursuant to section 8, chapter 933, Oregon Laws 1989, the department, after consulting with
2 [the State Department of Fish and Wildlife] **Oregon Fish and Game**, may require the installation
3 of an appropriate fish screening or by-pass device at the new point of diversion.

4 (3) When consulting with [the State Department of Fish and Wildlife] **Oregon Fish and Game**,
5 the department shall determine whether the installation of an appropriate fish screening or by-pass
6 device is necessary to prevent fish from leaving the body of water and entering the diversion.

7 (4) Any individual who is required to install a fish screening or by-pass device under this section
8 at a point of diversion may participate in the [State Department of Fish and Wildlife's] **Oregon Fish**
9 **and Game** cost-sharing program for the installation of screening or by-pass devices.

10 **SECTION 284.** ORS 540.530 is amended to read:

11 540.530. (1)(a) If, after hearing or examination, the Water Resources Commission finds that a
12 proposed change can be effected without injury to existing water rights, the commission shall make
13 an order approving the transfer and fixing a time limit within which the approved changes may be
14 completed.

15 (b) If, after hearing or examination, the commission finds that a proposed change in point of
16 diversion cannot be effected without injury to existing water rights, upon receipt by the commission
17 of an affidavit consenting to the change from every holder of an affected water right, the commission
18 may make an order approving the transfer and fixing a time limit within which the approved
19 changes may be completed.

20 (c) If, after hearing or examination, the commission finds that a proposed change in point of
21 diversion cannot be effected without injury to an in-stream water right granted pursuant to a re-
22 quest under ORS 537.336 or an in-stream water right created pursuant to ORS 537.346 (1), the Water
23 Resources Department may consent to the change only upon a recommendation that the department
24 do so from the agency that requested the in-stream water right. The agency that requested the in-
25 stream water right may recommend that the department consent to the change only if the change
26 will result in a net benefit to the resource consistent with the purposes of the in-stream water right.

27 (d)(A) If an in-stream water right would be injured by a proposed change under paragraph (c)
28 of this subsection, the department shall obtain a recommendation from the agency that requested the
29 in-stream water right. If the recommendation of the agency is to consent to the change, the depart-
30 ment shall provide public notice of the recommendation and, consistent with state laws regarding
31 cooperation with Indian tribes in the development and implementation of state agency programs that
32 affect tribes or rights and privileges of tribes, the department shall consult with affected Indian
33 tribes.

34 (B) The recommendation of an agency under this paragraph must be in writing and, if the rec-
35 ommendation is to consent to the change, must describe the extent of the injury to the in-stream
36 water right, the effect on the resource and the net benefit that will occur as a result of the proposed
37 change. The recommendation may include any proposed conditions that are necessary to ensure that
38 the proposed change will be consistent with the recommendation.

39 (C) In determining whether a net benefit will result from the proposed change, the recommen-
40 dation of an agency must include an analysis of the cumulative impact of any previous changes un-
41 der paragraphs (b) and (c) of this subsection that allow injury to the affected in-stream water right.

42 (D) A person may comment on the recommendation of an agency. The comment must be in
43 writing and must be received by the department within 30 days after publication of notice under this
44 paragraph. If a written comment received by the department requests a meeting on the proposed
45 change, the department and the agency that requested the in-stream water right shall hold a joint

1 public meeting within 90 days of the receipt of the comment requesting a meeting.

2 (e)(A) If, after review of public comments and consultation with the agency that requested the
3 in-stream water right, the agency that requested the in-stream water right does not withdraw its
4 recommendation to consent to the change, the department may approve the change consistent with
5 the requirements of paragraphs (b) and (c) of this subsection.

6 (B) An order approving a change under paragraph (c) of this subsection shall include written
7 findings on the extent of the injury to the in-stream water right, the effect on the resource and the
8 net benefit that will occur as a result of the change. The order shall include any conditions neces-
9 sary to ensure that the change will be consistent with the findings and ensure that the change will
10 result in a continued net benefit to the resource consistent with the purposes of the in-stream water
11 right.

12 (C) In determining whether a net benefit will result from the change, the order of the depart-
13 ment must include an analysis of the cumulative impact of any previous changes approved under
14 paragraphs (b) and (c) of this subsection that allow injury to the affected in-stream water right.

15 (f) The time allowed by the commission for completion of an authorized change under paragraphs
16 (a) to (e) of this subsection may not be used when computing a five-year period of nonuse under the
17 provisions of ORS 540.610 (1).

18 (2)(a) If a certificate covering the water right has been previously issued, the commission shall
19 cancel the previous certificate or, if for an irrigation district, the commission may modify the pre-
20 vious certificate and, when proper proof of completion of the authorized changes has been filed with
21 the commission, issue a new certificate or, if for an irrigation district, modify the previous certif-
22 icate, preserving the previously established priority of rights and covering the authorized changes.
23 If only a portion of the water right covered by the previous certificate is affected by the changes,
24 a separate new certificate may be issued to cover the unaffected portion of the water right.

25 (b) If the change authorized under subsection (1) of this section is necessary to allow a change
26 in a water right pursuant to ORS 537.348, is necessary to complete a project funded under ORS
27 541.932, or is approved by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** as
28 a change that will result in a net benefit to fish and wildlife habitat, the Water Resources Depart-
29 ment, at the discretion of the Water Resources Director, may waive or assist the applicant in sat-
30 isfying any of the proof of completion requirements of paragraph (a) of this subsection. The
31 assistance provided by the department may include, but need not be limited to, development of a
32 final proof survey map and claim of beneficial use.

33 (3) Upon receiving notification of the merger or consolidation of municipal water supply entities,
34 or the formation of a water authority under ORS chapter 450, the commission shall cancel the pre-
35 vious certificates of the entities replaced by the merger, consolidation or formation and issue a new
36 certificate to the newly formed municipality or water authority. The new certificate shall preserve
37 the previously established priority of rights of the replaced entities and shall allow beneficial use
38 of the water on any lands acquired in the merger, consolidation or formation.

39 **SECTION 285.** ORS 540.532 is amended to read:

40 540.532. (1) Notwithstanding ORS 537.797, 540.510, 540.520 and 540.530, an individual may re-
41 quest a change in the point of diversion to reflect the historical use of water at a point of diversion
42 other than that described in the water right certificate or decree if the individual complies with the
43 provisions of subsection (2) of this section.

44 (2) An individual may request a change in the point of diversion under subsection (1) of this
45 section if:

1 (a) The actual, current point of diversion has been in use for more than 10 years;

2 (b) The Water Resources Department has received no claim of injury as a result of the use of
3 water from the current point of diversion prior to the request for the change of diversion;

4 (c) The individual requesting the change provides written notice to any other affected water
5 right holder, as identified by the Water Resources Department, and the Water Resources Depart-
6 ment provides notice of the request in the department's public notice of water right applications;
7 and

8 (d) The individual provides a map of sufficient detail and clarity to identify the true point of
9 diversion including but not limited to:

10 (A) The county tax lot number, township, range and section, and to the nearest quarter-quarter
11 section or latitude and longitude as established by a global positioning system; and

12 (B) The locations of the point of diversion as specified in the water right certificate or decree
13 and the actual, current point of diversion.

14 (3) Upon receipt of a request for a change in the point of diversion under subsection (1) of this
15 section, the Water Resources Department shall consult with [*the State Department of Fish and*
16 *Wildlife*] **Oregon Fish and Game** to determine whether the historical point of diversion is:

17 (a) Equipped with an appropriate fish screening or by-pass device; or

18 (b) Included on the priority list of screening projects established pursuant to section 8, chapter
19 933, Oregon Laws 1989.

20 (4) If the historical point of diversion is included in the priority list of screening projects es-
21 tablished pursuant to section 8, chapter 933, Oregon Laws 1989, the Water Resources Department,
22 after consulting with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, may re-
23 quire the installation of an appropriate fish screening or by-pass device at the point of diversion.

24 (5) When consulting with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**,
25 the Water Resources Department shall determine whether the installation of an appropriate fish
26 screening or by-pass device is necessary to prevent fish from leaving the body of water and entering
27 the diversion.

28 (6) Any individual who is required to install a fish screening or by-pass device under this section
29 at a point of diversion may participate in the [*State Department of Fish and Wildlife's*] **Oregon Fish**
30 **and Game** cost-sharing program for the installation of screening or by-pass devices.

31 **SECTION 286.** ORS 541.669 is amended to read:

32 541.669. (1) The Water Resources Commission shall adopt rules establishing a system for scoring
33 and ranking projects to determine which projects are to be awarded loans and grants from the
34 Water Supply Development Account, including but not limited to the application of minimum criteria
35 designed to achieve the outcomes described in ORS 541.677. The criteria shall be based on the public
36 benefit categories described in ORS 541.673. The commission shall make the loan and grant funding
37 decisions once each year. Applications must be filed with the Water Resources Department. The
38 department shall accept an application for a loan or grant at any time, but shall establish a yearly
39 deadline for the consideration of a pool of applications.

40 (2) The department shall conduct a preliminary review of applications to check for completeness,
41 eligibility and minimum requirements upon receipt of each application. The department shall return
42 incomplete applications to the applicant. The department shall provide public notice by posting new
43 funding applications on the department's website for a 60-day period prior to reviewing the appli-
44 cations. The department shall provide for the receipt of public comment on the applications during
45 the 60-day period that applications are posted on the department's website.

1 (3) The department shall forward applications that have passed preliminary review, along with
2 any comments received from applicants or the public, to a technical review team consisting of rep-
3 resentatives of the Water Resources Department, the Department of Environmental Quality, [*the*
4 *State Department of Fish and Wildlife*] **Oregon Fish and Game**, the State Department of Agricul-
5 ture, the Oregon Business Development Department, affected Indian tribes, any collaborative body
6 established by the Governor to address challenges, opportunities and priorities for the region af-
7 fected by the project and additional experts as determined by the Water Resources Department. The
8 technical review team shall conduct the initial scoring and ranking for the projects described in the
9 applications, consider comments from applicants and the public and make loan and grant funding
10 recommendations to the commission. The commission shall determine the final scoring and ranking
11 of projects and make the final decision regarding which projects are awarded loans or grants from
12 the account. Before the commission makes a final decision on an application, the commission shall
13 offer one additional opportunity for public comment.

14 (4) The commission is not required to obligate all available account moneys during a funding
15 cycle. Any available account moneys that are not obligated during a funding cycle shall be carried
16 forward and be made available for projects in future funding cycles.

17 (5) The department shall document the ranking of all applications and make the application
18 ranking publicly available after the funding decisions by the commission have been published.

19 **SECTION 287.** ORS 541.686 is amended to read:

20 541.686. If a project dedicates water to in-stream use under the requirements described in ORS
21 541.681 or as allowed under ORS 541.683, the Water Resources Department shall protect the dedi-
22 cated water in-stream consistent with the priority of the dedicated water source. Dedicated water
23 from projects may come from newly developed water or from other sources and may be put in-stream
24 at other locations in the tributary if the department determines as provided under ORS 540.530 that
25 the alternate location would not injure existing water rights and, in consultation with [*the State*
26 *Department of Fish and Wildlife*] **Oregon Fish and Game**, determines that the alternate location
27 would provide greater or equal environmental benefit. The Water Resources Department, in consul-
28 tation with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, shall determine the
29 timing of the flows to maximize in-stream benefits in a manner consistent with public health and
30 safety.

31 **SECTION 288.** ORS 541.689 is amended to read:

32 541.689. (1) The Water Resources Department shall make a determination as provided under
33 subsection (2) of this section if an application for a loan or grant from the Water Supply Develop-
34 ment Account is for a project that requires a water storage or aquifer recharge permit or limited
35 license for the storage of water outside of the official irrigation season and:

36 (a) Impounds surface water on a perennial stream;

37 (b) Diverts water from a stream that supports state or federally listed sensitive, threatened or
38 endangered fish species; or

39 (c) Diverts more than 500 acre-feet of surface water annually.

40 (2) The department shall review a completed application for a project described in subsection
41 (1) of this section to determine whether the applicable seasonally varying flows have been estab-
42 lished under this section for the stream of interest. If the department determines that the applicable
43 seasonally varying flows have not previously been established, the department shall establish the
44 seasonally varying flows before issuing a loan or grant from the account. The department may use
45 account moneys to pay the cost of establishing a seasonally varying flow and to pay other costs

1 directly related to project development.

2 (3) The Water Resources Department shall establish any seasonally varying flows under sub-
3 section (2) of this section in consultation with [*the State Department of Fish and Wildlife*] **Oregon**
4 **Fish and Game** and any affected Indian tribes. The Water Resources Department may rely upon
5 existing scientific data and analysis or may fund new data and analysis. The Water Resources De-
6 partment shall establish seasonally varying flows using a methodology established by Water Re-
7 sources Commission rules.

8 (4) If the department establishes applicable seasonally varying flows for the stream of interest,
9 the department shall make the seasonally varying flows a condition of:

10 (a) The new or existing water storage or aquifer recharge permit or limited license for the
11 storage of water issued for any project described in subsection (1) of this section that receives a
12 loan or grant from the account; and

13 (b) The new or existing water storage or aquifer recharge permit or limited license for the
14 storage of water issued for any subsequent project that:

15 (A) Receives a loan or grant from the account;

16 (B) Is for the storage of water outside of the official irrigation season; and

17 (C) Has a diversion point that is subject to seasonally varying flows.

18 (5) The applicant for or holder of a permit or license described in subsection (4)(b) of this section
19 may request that the applicable seasonally varying flows established under subsection (2) of this
20 section for the stream of interest be altered based upon new information. There is, however, a
21 rebuttable presumption that existing applicable seasonally varying flows protect and maintain the
22 biological, ecological and physical functions of the stream to the extent required by commission
23 rules.

24 (6) The department shall condition a water storage permit and resulting certificate, aquifer re-
25 charge permit and resulting certificate or limited license for a project that receives a grant or loan
26 from the account and meets the other conditions described in subsection (4) of this section to protect
27 the seasonally varying flow in effect at the time the loan or grant is issued for the project.

28 (7) For purposes of any project that receives a loan or grant from the account and meets the
29 other conditions described in subsection (4) of this section, the department shall use a seasonally
30 varying flow methodology provided by commission rules in lieu of any other methodologies for de-
31 termining seasonally varying flows or any methodologies for determining peak and ecological flows
32 outside of the official irrigation season.

33 (8) Subsections (1) to (7) of this section do not eliminate or alter any applicable standard for
34 department review of an application to determine whether water is available for purposes of re-
35 viewing an application for a new water storage or aquifer recharge permit or a limited license for
36 the storage of water.

37 **SECTION 289.** ORS 541.898 is amended to read:

38 541.898. (1) As used in this section when referring to salmonid recovery:

39 (a) "Listed unit" means one population or a group of populations of a species, such as an
40 evolutionarily significant unit, that has been listed as threatened or endangered under the federal
41 Endangered Species Act of 1973 (P.L. 93-205), as amended, or under ORS 496.171 to 496.192.

42 (b) "Native fish" means a fish indigenous to Oregon and not introduced. Naturally produced fish
43 and hatchery produced fish are both native fish if the fish are indigenous to Oregon and not intro-
44 duced.

45 (c) "Naturally produced" means a fish that reproduces and completes its full life cycle in its

1 natural habitat. Naturally produced progeny of hatchery fish are naturally produced.

2 (d) "Population" means a group of fish that:

3 (A) Originates and reproduces in a particular area at a particular time;

4 (B) Does not interbreed to any substantial degree with any other group reproducing in a dif-
5 ferent area or in the same area at a different time; and

6 (C) Is composed of naturally produced fish, hatchery produced fish or a combination of both.

7 (e) "Recovery" means that a proportion of the constituent populations of naturally produced
8 native fish belonging to a listed unit are sufficiently abundant, productive and diverse in life histo-
9 ries and distribution such that the listed unit as a whole is likely to be self-sustaining into the
10 foreseeable future.

11 (f) "Self-sustaining" means having a sufficient proportion and distribution of constituent popu-
12 lations:

13 (A) Likely to survive prolonged periods of habitat, oceanic, climatic and environmental condi-
14 tions that are detrimental to a population; and

15 (B) Having habitat of sufficient quality and quantity likely to provide survival rates adequate
16 to maintain associated ecological, cultural and economic benefits.

17 (2) The Legislative Assembly finds that the efforts of many Oregonians have resulted in the
18 creation of the Oregon Plan, and recognizes that the Oregon Plan is guided by the following mission
19 and goals:

20 (a) The mission of the Oregon Plan is to restore the watersheds of Oregon and to recover the
21 fish and wildlife populations of those watersheds to productive and sustainable levels in a manner
22 that provides substantial ecological, cultural and economic benefits.

23 (b) The goals of the Oregon Plan that guide the citizens of Oregon in achieving the mission of
24 the Oregon Plan are the:

25 (A) Establishment and maintenance of an infrastructure that provides long-term continuity in
26 leadership, direction and oversight of watershed restoration and species recovery.

27 (B) Continued opportunity for a wide range of natural resource uses that are consistent with
28 watershed restoration and species recovery.

29 (C) Implementation of existing laws and environmental regulations to achieve the mission before
30 enacting new laws and environmental regulations.

31 (D) Development and maintenance of funding for programs to protect and restore watersheds.

32 (E) Development of expectations for the sustainability of interrelated natural resources that
33 accurately reflect a scientific understanding of the physical and biological constraints of the
34 ecosystem.

35 (F) Enhancement of habitat available to support healthy populations of fish and wildlife
36 throughout the state.

37 (G) Production of populations of threatened or endangered species to achieve levels of natural
38 production consistent with overall restoration goals.

39 (H) Establishment of a science-based system that supports evaluation of the Oregon Plan and
40 provides a basis for making appropriate future changes to management programs.

41 (I) Coordination of activities and programs among federal, state and local governments and other
42 entities.

43 (J) Use of voluntary and collaborative processes to achieve the mission of the Oregon Plan
44 whenever possible.

45 (3) The Oregon Plan is a comprehensive program for the protection and recovery of species and

1 for the restoration of watersheds throughout this state. The Oregon Plan combines the regulatory
2 and other actions of state and federal agencies and local governments with voluntary watershed
3 restoration by private landowners and others. The Oregon Plan includes, but is not limited to:

4 (a) Programs and policies found in the following statutes:

5 (A) ORS 196.600 to 196.905;

6 (B) ORS chapter 197;

7 (C) ORS chapter 274;

8 (D) ORS chapter 366;

9 (E) ORS chapter 390;

10 (F) ORS chapters 465, 466, 468 and 468B;

11 (G) ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992;

12 (H) ORS chapter 477;

13 (I) ORS chapters 496, 497, 498, 501, 506, 507, 508, 509 and 511;

14 (J) ORS 517.702 to 517.989;

15 (K) ORS 527.310 to 527.370, 527.610 to 527.770, 527.990 (1) and 527.992;

16 (L) ORS chapter 530;

17 (M) ORS chapters 536 to 543A;

18 (N) ORS 543A.005 to 543A.415; and

19 (O) ORS 568.210 to 568.808 and 568.900 to 568.933;

20 (b) Commitments of state agencies in the form of measures;

21 (c) Actions of local governments and federal agencies taken in coordination with the state and
22 consistent with the purposes of the Oregon Plan;

23 (d) Voluntary activities undertaken by watershed councils, soil and water conservation districts,
24 landowners and other entities and consistent with the purposes of the Oregon Plan;

25 (e) Scientific review by independent scientific review panels, and others, of the activities per-
26 formed under the Oregon Plan;

27 (f) Programs and activities identified to address a coordinated approach for the recovery of na-
28 tive salmonid populations within Oregon; and

29 (g) Programs for the restoration and enhancement of multiple species and of the habitat of those
30 species.

31 (4) The Oregon Plan is subject to modification and alteration to enhance program efforts con-
32 sistent with appropriate guidance principles developed by the Legislative Assembly.

33 (5) The purpose of the Oregon Plan is to enhance, restore and protect Oregon's native salmonid
34 populations, watersheds, fish and wildlife habitat and water quality, while sustaining a healthy
35 economy.

36 (6) The Oregon Plan shall:

37 (a) Provide for coordination of local, state, federal and tribal agency responsibilities and au-
38 thorities for native salmonid, watershed and habitat restoration throughout Oregon.

39 (b) Rely on watershed councils and soil and water conservation districts, which are directed to
40 cooperate in the development of local watershed plans that assess watershed conditions and create
41 watershed action plans and strategies for the implementation of the local watershed action plans.

42 (c) Focus state policies and resources on achieving native salmonid recovery and watershed
43 restoration while sustaining a healthy economy and environment.

44 (7) The Oregon Plan shall focus on aiding the recovery of species listed as threatened or en-
45 dangered under the federal Endangered Species Act or under ORS 496.171 to 496.192 until such time

1 as recovery is achieved. Once recovery has been achieved for any species listed as threatened or
 2 endangered under ORS 496.171 to 496.192, the Governor shall direct the [*State Fish and Wildlife*
 3 *Commission*] **Oregon Watershed Enhancement Board** to begin rulemaking, as provided in ORS
 4 496.176, to remove the species from the list created pursuant to ORS 496.172. Upon recovery, ade-
 5 quate measures pursuant to the Oregon Plan shall remain in place, as necessary, to help a species
 6 avoid a return to threatened or endangered status.

7 (8)(a) The Governor, or the Governor's designee, shall negotiate with federal officials to obtain
 8 assurances to the effect that compliance with the Oregon Plan and the programs and policies found
 9 in the statutes listed in subsection (3) of this section and implementation of related state programs
 10 and policies will satisfy federal requirements imposed by the federal Endangered Species Act. Spe-
 11 cifically, the Governor, or the Governor's designee, shall seek an exemption to the requirements of
 12 16 U.S.C. 1533(d), shall seek to enter into a cooperative agreement pursuant to 16 U.S.C. 1535(c) or
 13 shall seek to obtain a permit that allows the incidental taking of species under 16 U.S.C. 1539(a).

14 (b) State agencies responsible for implementing the programs and policies found in the statutes
 15 listed in subsection (3) of this section shall work with the Governor, or the Governor's designee, and
 16 with federal officials to provide the information necessary to obtain the exemptions, agreement or
 17 permit specified in paragraph (a) of this subsection.

18 **SECTION 290.** ORS 541.972 is amended to read:

19 541.972. (1) The Oregon Watershed Enhancement Board shall, by January 15 of each even-
 20 numbered year, submit a report to the Governor and to the appropriate committee or committees
 21 of the Legislative Assembly that assesses the implementation and effectiveness of the Oregon Plan
 22 in the state. The report shall address each drainage basin in the state and shall include, but need
 23 not be limited to:

24 (a) An assessment of data and information needs deemed critical to monitoring and evaluating
 25 watershed and habitat enhancement programs and efforts;

26 (b) An overview of state agency programs addressing watershed conditions;

27 (c) An overview of voluntary restoration activities addressing watershed conditions;

28 (d) A summary of investments made by the board from funds received under Article XV, section
 29 4b, of the Oregon Constitution, and all other sources; and

30 (e) The recommendations of the board for enhancing the effectiveness of Oregon Plan imple-
 31 mentation.

32 (2) Each natural resources agency shall provide information that the board requests for purposes
 33 of preparing the report described in subsection (1) of this section. An agency shall provide the in-
 34 formation in the format and at the times determined by the board.

35 (3) For purposes of this section, "natural resources agency" includes:

36 (a) Department of Environmental Quality;

37 (b) State Department of Agriculture;

38 (c) [*State Department of Fish and Wildlife*] **Oregon Fish and Game**;

39 (d) State Forestry Department;

40 (e) Department of State Lands;

41 (f) Water Resources Department;

42 (g) Department of Land Conservation and Development;

43 (h) State Department of Geology and Mineral Industries;

44 (i) Oregon Watershed Enhancement Board;

45 (j) Fish and Wildlife Division of the Department of State Police;

- 1 (k) Department of Transportation;
 2 (L) State Parks and Recreation Department;
 3 (m) Oregon Business Development Department;
 4 (n) State Marine Board; and

5 (o) Any other state agency that is required to manage, allocate or protect natural resources,
 6 either as the primary responsibility of the agency or in conjunction with the primary responsibilities
 7 of the agency.

8 (4) In addition to the report specified under subsection (1) of this section, the Oregon Watershed
 9 Enhancement Board shall report regularly during the interim on the implementation of the Oregon
 10 Plan to the appropriate legislative committee.

11 **SECTION 291.** ORS 541.973 is amended to read:

12 541.973. (1) As used in this section, “stewardship agreement” means an agreement voluntarily
 13 entered into and signed by a landowner, or representative of the landowner, and the State Depart-
 14 ment of Agriculture or the State Board of Forestry that sets forth the terms under which the land-
 15 owner will self-regulate to meet and exceed applicable regulatory requirements and achieve
 16 conservation, restoration and improvement of fish and wildlife habitat or water quality.

17 (2) The State Department of Agriculture and the State Board of Forestry may, individually or
 18 jointly, enter into stewardship agreements with landowners.

19 (3) The purposes of a stewardship agreement are to provide:

20 (a) An incentive for landowners to provide for conservation, restoration and improvement of fish
 21 and wildlife habitat or water quality;

22 (b) A mechanism to coordinate, facilitate and memorialize a landowner’s compliance with the
 23 requirements of state and federal regulatory schemes; and

24 (c) A mechanism to combine or coordinate multiple incentive programs among agencies and
 25 levels of government to:

26 (A) Improve the delivery of financial and technical assistance to landowners engaged in con-
 27 servation activities;

28 (B) Reduce redundancy among programs;

29 (C) Simplify application procedures;

30 (D) Leverage the investment of federal funds;

31 (E) Make more efficient use of technical assistance funds;

32 (F) Provide greater incentives for landowners;

33 (G) Foster partnerships and improve cooperation with nongovernmental organizations;

34 (H) Provide greater environmental benefits;

35 (I) Tailor and more effectively target conservation programs administered by federal, state and
 36 local governments to the unique conservation needs of, and opportunities presented by, individual
 37 parcels of eligible land; and

38 (J) Give landowners an increased level of regulatory certainty.

39 (4) The State Board of Forestry and the State Department of Agriculture, in consultation with
 40 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, shall adopt by rule procedures
 41 and criteria for stewardship agreements. The procedures and criteria shall include, but need not be
 42 limited to:

43 (a) The certification of a land management plan which shall, at a minimum, include:

44 (A) A comprehensive description and inventory of the subject property, its features and uses;
 45 and

1 (B) A prescription for the protection of resources that exceeds land management practices,
2 standards and activities otherwise required by law and that is designed to achieve conservation,
3 restoration and improvement of fish and wildlife habitat or water quality.

4 (b) A requirement that each landowner subject to a stewardship agreement demonstrate a clear
5 capability to carry out the provisions of the land management plan and have a past record of good
6 compliance with applicable laws and regulations regarding land use and management.

7 (5) Each government agency that is a party to a stewardship agreement shall conduct periodic
8 audits on lands subject to the stewardship agreement to determine whether the land management
9 plan is being implemented and whether the agreement should be continued, revised or discontinued.

10 (6) Stewardship agreements may provide benefits to landowners that include, but are not limited
11 to:

12 (a) Expedited permit processing;

13 (b) Regulatory certainty;

14 (c) Priority consideration for cost-share assistance or other financial incentives and technical
15 assistance; and

16 (d) Government certification that certain land management practices have been implemented.

17 (7) Within a stewardship agreement and on a case-by-case basis, the State Department of Agri-
18 culture or the State Board of Forestry may provide a landowner with an increased level of regula-
19 tory certainty regarding state rules. The stewardship agreement may identify specific voluntary
20 landowner actions that exceed regulatory requirements. In return, the State Department of Agri-
21 culture or the State Board of Forestry may agree to exempt the landowner from future changes to
22 a specific rule.

23 (8) The State Department of Agriculture and the State Board of Forestry may, individually or
24 jointly, make a binding determination that activities undertaken by a particular landowner, or a
25 representative of the landowner, as part of a stewardship agreement are consistent with the pur-
26 poses and policies of any relevant Safe Harbor Agreements or Candidate Conservation Agreements
27 entered into between the State of Oregon and agencies of the United States Government, pursuant
28 to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.) and federal reg-
29 ulations.

30 **SECTION 292.** ORS 543.085 is amended to read:

31 543.085. (1) The Water Resources Director shall appoint a review panel to review the amount
32 of the annual fee established under ORS 543.078 in 2003 and 2009 and every eight years thereafter.
33 The review panel shall consist of at least one representative from the following and others at the
34 director's discretion:

35 (a) The Department of Environmental Quality;

36 [(b) *The State Department of Fish and Wildlife;*]

37 [(c)] (b) The Public Utility Commission;

38 [(d)] (c) The Water Resources Department;

39 [(e)] (d) Investor owned utilities;

40 [(f)] (e) Publicly owned utilities;

41 [(g)] (f) Municipalities;

42 [(h)] (g) Environmental organizations;

43 [(i)] (h) Agricultural organizations; and

44 [(j)] (i) Nonutility owners of hydroelectric projects.

45 (2) All holders paying annual fees under ORS 543.078 shall be notified by the Water Resources

1 Department at least 60 days in advance of the meeting of the review panel established in subsection
2 (1) of this section, and provided the opportunity to submit comments to the panel.

3 (3) Any periodic review conducted under subsection (1) of this section shall evaluate each
4 agency's hydroelectric program to determine if current staffing levels, activities and funding are
5 appropriate to fulfill program objectives. There shall be a presumption that the fee should not
6 change. To overcome the presumption and alter the existing fee, the panel must find compelling
7 reasons for alteration and must reach unanimous consent on the new fee. If the presumption is
8 overcome, upon completion of the review process the director shall either adjust the annual fee as
9 recommended by the panel or elect not to adjust the fee. Any change in the annual fee as a result
10 of this section shall become effective on the January 1 following the director's action. The director
11 shall notify all holders of any change in the annual fee and the effective date of such change.

12 **SECTION 293.** ORS 543.265 is amended to read:

13 543.265. The Water Resources Department shall impose as a condition to any water right permit
14 to appropriate water for hydroelectric purposes granted under ORS 537.211 or any license granted
15 under ORS 543.260 that the person operating the hydroelectric project shall, during the operational
16 lifetime of the project, perform or allow [*the State Department of Fish and Wildlife*] **Oregon Fish
17 and Game** to perform, any tests or studies required by the department to evaluate the effectiveness
18 of measures for the protection of fish. The scope and cost of these studies will be negotiated between
19 [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the operator.

20 **SECTION 294.** ORS 543.280 is amended to read:

21 543.280. (1) Any person who applies to the Federal Energy Regulatory Commission for a pre-
22 liminary permit to operate a hydroelectric project shall, at the same time, apply for a state prelim-
23 inary permit. An applicant for a state preliminary permit for a new hydroelectric project shall
24 submit to the Water Resources Commission a complete copy of any application for the project filed
25 with the Federal Energy Regulatory Commission or other federal agency. For preliminary permits,
26 if the copy of the federal application is filed with the commission at the same time it is filed with
27 the federal agency, at the commission's discretion, such copy may fulfill the requirements of ORS
28 543.210, except for the fee requirement in ORS 543.210 (4).

29 (2) An applicant for a preliminary permit or license for a project or for a permit to appropriate
30 water for power purposes shall pay to the state a project fee based on the capacity of the project
31 to cover costs of recording, publishing notices, conducting the hearing required by ORS 543.225 and
32 making investigations necessary to determine whether a permit should be granted.

33 (3) The amount of the total project fee required under subsection (2) of this section shall be:

34 (a) For a project of less than 100 theoretical horsepower, \$1,000.

35 (b) For any project of 100 theoretical horsepower or more, an amount equal to \$5,000 plus \$1,000
36 per megawatt for each megawatt of capacity in excess of five megawatts, up to a maximum of
37 \$100,000.

38 (4) Except for projects of less than 100 theoretical horsepower, the project fee required under
39 subsection (2) of this section shall be payable in advance before each of four stages of project review
40 as established by rule by the Water Resources Commission. The payment schedule shall not require
41 the applicant to pay more than \$2,500 of the project fee at the first stage of project review or more
42 than 50 percent of the total project fee in the first two stages of the project review. For a project
43 of less than 100 theoretical horsepower, the applicant shall pay 50 percent of the fee at the time of
44 filing the application for a preliminary permit or application for a permit to appropriate water for
45 power purposes and the remaining 50 percent before the commission issues a license or a water

1 right permit. A person may withdraw an application for a hydroelectric project after any stage of
2 project review without further payment of fees under this section.

3 (5) In addition to the project fee required under subsection (2) of this section, any applicant for
4 a project to be sited at a location where anadromous fish or threatened or endangered species are
5 present shall pay a surcharge of 30 percent of the total project fee. The surcharge shall be collected
6 in conjunction with the project fee at each stage of the project review.

7 (6) The commission shall provide an applicant a statement itemizing the staff time, resources and
8 costs expended to review the application at each project stage. The statement shall include the costs
9 expended by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the Water
10 Resources Department specific to the project.

11 **SECTION 295.** ORS 543.765 is amended to read:

12 543.765. (1) Notwithstanding ORS 537.145 and ORS chapter 543, the holder of a water right may
13 apply to the Water Resources Department for a certificate to use water for hydroelectric purposes
14 within an artificial delivery system under the applicant's existing water right. If the proposed hy-
15 droelectric project meets the applicable capacity limitation under this subsection and meets either
16 the qualifications for a Federal Energy Regulatory Commission exemption from licensing or similar
17 qualifications of another federal agency responsible for authorizing the project, the applicant may
18 use the expedited application process under this section regardless of which federal agency issues
19 the authorization. To qualify under this subsection:

20 (a) For a project that is to be built as part of an existing dam, the capacity may not exceed five
21 megawatts. Subsection (5)(b) of this section does not apply to a project described in this paragraph.

22 (b) For in-conduit projects, the capacity may not exceed 15 megawatts for a nonmunicipal facil-
23 ity or 40 megawatts for a municipal facility. Projects described in this paragraph must comply with
24 subsection (5)(b) of this section.

25 (2) An application, which shall be on a form provided by the Water Resources Department, for
26 a hydroelectric certificate under this section must include:

27 (a) The certificate number, or decree reference if no confirming certificate has been issued, of
28 the applicant's existing water right associated with the proposed hydroelectric project.

29 (b) A copy of either a Federal Energy Regulatory Commission exemption application or a similar
30 application submitted to the federal agency responsible for authorizing the project, if applicable.

31 (c) A proposed schedule of annual water use and an estimate of the maximum power generation
32 of the proposed hydroelectric project.

33 (d) A statement by the applicant that the amount of water used by the proposed hydroelectric
34 project will not exceed the amount authorized and used under the applicant's existing water right
35 for beneficial use without waste.

36 (e) A statement that the applicant owns or otherwise controls the water conveyance system.

37 (f) An application processing fee of \$500. The department shall deposit fees collected under this
38 section into the Water Resources Department Hydroelectric Fund established pursuant to ORS
39 536.015.

40 (g) A map or drawing and all other data concerning the proposed hydroelectric project, as may
41 be prescribed by the department. The map or drawing must be of sufficient quality and scale to es-
42 tablish the location of the existing point of diversion and the proposed location of the hydroelectric
43 project.

44 (h) If the water to be used for the proposed hydroelectric project is delivered by a public entity
45 other than the applicant for a certificate under this section, a statement from that entity that the

1 entity will be able to deliver water as described in the application.

2 (i) Evidence that the water has been used over the past five years according to the terms and
3 conditions of the applicant's existing water right described in paragraph (a) of this subsection.

4 (3) If an applicant provides the information required by subsection (2) of this section:

5 (a) The Water Resources Department shall provide notice to both [*the State Department of Fish*
6 *and Wildlife*] **Oregon Fish and Game** and the public, and provide a 30-day period for public com-
7 ment.

8 (b) The Water Resources Department may issue a final order and certificate to use water for
9 hydroelectric purposes upon making a final determination that the proposed hydroelectric use does
10 not impair, or is not detrimental to, the public interest in the manner provided in ORS 537.170 (8).

11 (4) If the Water Resources Department determines that public interest issues have been identi-
12 fied, the department shall issue a final order denying the application. The department shall also is-
13 sue a final order denying the application if the department identifies issues related to the public
14 interest. If the applicant does not appeal the final order as provided in ORS chapter 183 and, within
15 one year of the department's final order denying the applicant's application, files an application with
16 the department for a preliminary permit to operate a hydroelectric project as provided in ORS
17 537.130 and 543.210, the applicant shall receive a credit toward the applicant's application fees in
18 the amount of \$500.

19 (5) At a minimum, a certificate issued under this section must contain the following conditions:

20 (a) Except as provided in paragraph (b) of this subsection, fish screens, by-pass devices and fish
21 passages as required by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**.

22 (b) If the application is for a hydroelectric project that is to be installed in or on a conduit de-
23 livery system, the certificate does not need to include a requirement for fish passage at the diversion
24 point for the conduit delivery system if:

25 (A) The hydroelectric generating equipment for the project is not located on a dam;

26 (B) The hydroelectric generating equipment for the project is installed within or at the end of
27 a conduit delivery system;

28 (C) The conduit delivery system is operated for the distribution of water for agricultural, mu-
29 nicipal or industrial consumption; and

30 (D) Except as provided in subsection (15) of this section, the certificate includes a condition for
31 the making of annual payments under subsection (14) of this section.

32 (c) That use of water be limited to periods when the applicant's existing water right is put to
33 beneficial use without waste and that the amount used is not greater than the quantity of water
34 diverted to satisfy the authorized specific use under the existing water right described in subsection
35 (2)(a) of this section.

36 (d) That use of water be limited by rate, duty, season and any other limitations of the applicant's
37 existing water right described in subsection (2)(a) of this section.

38 (e) That the applicant measure and report the quantity of water diverted.

39 (f) That the restrictions established in ORS 543.660 shall apply as conditions of use to a certif-
40 icate issued under this section to a district as defined in ORS 543.655.

41 (g) That a certificate issued under this section shall be invalidated upon a change in the point
42 of diversion of the existing water right described in subsection (2)(a) of this section.

43 (h) That the right to use water under a certificate issued under this section is invalidated if the
44 federal exemption or authorization related to the certificate is canceled or invalidated.

45 (i) Any other conditions the Water Resources Department deems necessary to protect the public

1 interest.

2 (6) The Water Resources Department shall conduct a review of certificates issued under this
3 section and shall issue a final order and a superseding certificate that corresponds to any changes
4 or adjustments made to the applicant's existing water right described in subsection (2)(a) of this
5 section.

6 (7) Subsection (5)(b) of this section does not affect any requirement for fish passage applicable
7 to a project that is otherwise required by law.

8 (8) Upon request, [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the
9 Water Resources Department shall arrange a preapplication meeting with a person to discuss the
10 requirements associated with the installation of a hydroelectric project in an artificial delivery
11 system.

12 (9) A certificate issued under this section may not have its own priority date. The Water Re-
13 sources Department may not regulate for or against any certificate issued under this section based
14 on the priority date of the certificate.

15 (10) A certificate issued under this section does not grant a right to divert water for hydro-
16 electric purposes.

17 (11) A certificate issued under this section may not be included in the determination of injury
18 to other water rights pursuant to ORS chapter 540.

19 (12) A certificate issued under this section is subject to review 50 years after the date of issu-
20 ance and pursuant to the terms described in this section.

21 (13) Failure to fully develop and put to use a certificate issued under this section within five
22 years of issuance invalidates the hydroelectric certificate.

23 (14)(a) If a certificate contains a condition described in subsection (5)(b) of this section for an-
24 nual payments, the payment shall be collected as provided in paragraph (c) of this subsection. Ex-
25 cept as provided in paragraph (b) of this subsection, the annual payment amount must be:

26 (A) Except as provided in subparagraph (D) of this paragraph, for the first five years, four times
27 the base hydropower fee amount assessed for the project under ORS 543.078 for the year.

28 (B) Except as provided in subparagraph (D) of this paragraph, for the 6th through 10th years,
29 eight times the base hydropower fee amount assessed for the project under ORS 543.078 for the year.

30 (C) Except as provided in subparagraph (D) of this paragraph, after the 10th year, 15 times the
31 base hydropower fee amount assessed for the project under ORS 543.078 for the year.

32 (D) \$100 for any year in which the base hydropower fee amount assessed for the project under
33 ORS 543.078 is less than \$100.

34 (b) If the certificate is for a hydroelectric project that will operate on a partial-year basis, the
35 fee shall be three-fifths of the amount established in paragraph (a) of this subsection.

36 (c) The Water Resources Department shall collect the fee on behalf of [*the State Department of*
37 *Fish and Wildlife*] **Oregon Fish and Game** and forward the fee moneys for crediting to the Fish
38 Passage Restoration Subaccount created under ORS 497.141.

39 (15)(a) Notwithstanding subsection (14) of this section, a certificate for a project to install hy-
40 droelectric generating equipment as described in subsection (5)(b) of this section may provide for the
41 termination of annual payments being made under subsection (14) of this section if, after the date
42 the project commences operation:

43 (A) The project provides for fish passages;

44 (B) There is an agreement between the applicant and [*the State Department of Fish and*
45 *Wildlife*] **Oregon Fish and Game** providing for fish passages associated with the project; or

1 (C) A waiver or exemption has been issued under ORS 509.585 for the project.

2 (b) A certificate for a project to install hydroelectric generating equipment as described in
3 subsection (5)(b) of this section does not need to include a condition for the making of annual pay-
4 ments under subsection (14) of this section if:

5 (A) There is an agreement between the applicant and [*the State Department of Fish and*
6 *Wildlife*] **Oregon Fish and Game** providing for the conduit delivery system to have fish passages
7 associated with the project; or

8 (B) A waiver or exemption has been issued under ORS 509.585 for the project.

9 (16) If a certificate under this section is issued, the certificate holder must pay fees consistent
10 with the fees described in ORS 543.078. Failure to pay a required fee invalidates a certificate issued
11 under this section.

12 (17) The Water Resources Department shall issue invoices for fees required under this section,
13 and the state shall have a preference lien for delinquent fees, as provided in ORS 543.082.

14 (18) An applicant for a certificate issued under this section must provide evidence of a Federal
15 Energy Regulatory Commission exemption or approval under a similar process by the federal agency
16 responsible for authorizing the project before a certificate can be issued, if applicable.

17 (19) Nothing in this section shall alter the preference of municipalities in ORS 543.260 (3) and
18 543.270.

19 **SECTION 296.** ORS 543A.035 is amended to read:

20 543A.035. (1) Within 60 days after submitting a notice of intent under ORS 543A.030, the appli-
21 cant shall submit to the Water Resources Department an application to reauthorize the water right
22 for the state project on a form prescribed by the department.

23 (2) The reauthorization application for a water right for the use of water for hydroelectric pur-
24 poses shall set forth:

25 (a) The name and post-office address of the applicant;

26 (b) The location of the project by county and stream and, when appropriate, by city or nearby
27 city;

28 (c) The amount of water in cubic feet per second;

29 (d) The theoretical water horsepower; and

30 (e) Any other information required in the application form.

31 (3) Upon receipt of a reauthorization application for the use of water for hydroelectric purposes,
32 the Water Resources Department shall convene the Hydroelectric Application Review Team for the
33 state project. The team shall consist of representatives of the Water Resources Department, the
34 Department of Environmental Quality and [*the State Department of Fish and Wildlife*] **Oregon Fish**
35 **and Game** and may include a representative of any other state agency that has regulatory or ad-
36 visory responsibility for the state project or a resource or hazard affected by the state project.

37 (4) Within seven days after receiving a reauthorization application under subsection (3) of this
38 section, the department shall notify any person who responded to the notice of intent and give public
39 notice of the application in the weekly notice published by the department. The notice shall include
40 a request for comments on the application and information pertaining to how an interested person
41 may obtain future notices about the application and participate in the reauthorization process.

42 (5) Within 45 days after the public notice under subsection (4) of this section, any person inter-
43 ested in the application shall request future notices about the state project and may submit written
44 comments to the department.

45 **SECTION 297.** ORS 543A.075 is amended to read:

1 543A.075. (1) Each person operating an existing federally licensed project and intending to apply
2 for reauthorization shall submit to the Water Resources Department a notice of intent to file an
3 application for reauthorization of the water right for the project. If the person intends to seek re-
4 authorization concurrently with federal relicensing, the notice of intent shall be submitted at the
5 same time the person provides the information to the department under ORS 543A.071 (3). The notice
6 of intent shall include:

7 (a) The name and post-office address of the applicant;

8 (b) The federal project number;

9 (c) The expiration date of the federal license and state water right for the project;

10 (d) An unequivocal statement of the applicant's intention to file an application for reauthori-
11 zation of the state water right;

12 (e) The location of the project by county and stream and, when appropriate, by city or nearby
13 city;

14 (f) The amount of water in cubic feet per second; and

15 (g) The project capacity.

16 (2) Upon receipt of a notice of intent under subsection (1) of this section, the department shall:

17 (a) Convene the Hydroelectric Application Review Team for the project. The team shall consist
18 of representatives of the Water Resources Department, the Department of Environmental Quality
19 and [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and may include a repre-
20 sentative of any other agency that has regulatory or advisory responsibility for the project or a
21 resource or hazard affected by the project.

22 (b) Provide public notice of the receipt of the notice of intent. The public notice shall provide
23 the date of the public scoping meeting to be conducted under ORS 543A.085 and include a de-
24 scription of the hydroelectric project, the location of the project, the expiration dates of the water
25 right for the project and the Federal Energy Regulatory Commission license for the project, and
26 information pertaining to how an interested person may obtain future notices about the application
27 and participate in the reauthorization process.

28 (3) Any person who is authorized by the Federal Energy Regulatory Commission to apply for a
29 license for a federally licensed project may apply to reauthorize a water right for the project. The
30 team shall process such applications under the standards and process set forth in ORS 543A.060 to
31 543A.300 for a federally licensed project. A nonowner applicant may obtain a water right with the
32 priority date of the expiring water right only if the applicant submits a notice of intent within six
33 months after the owner submits a preliminary application as described in ORS 543A.080, or within
34 30 days after June 30, 1997, whichever is later.

35 **SECTION 298.** ORS 564.105 is amended to read:

36 564.105. The Director of Agriculture has the responsibility to protect and conserve the native
37 plants of this state that are threatened species or endangered species. In carrying out that respon-
38 sibility, the director:

39 (1) Shall conduct investigations of plant species native to this state and determine whether any
40 such species is a threatened species or an endangered species.

41 (2) By rule, shall establish and publish, and from time to time may revise, a list of plant species
42 that are threatened species or endangered species.

43 (3) By rule, shall establish programs for the protection and conservation of plant species that
44 are threatened species or endangered species. As used in this subsection, "conservation" means the
45 use of methods and procedures necessary to bring a species to the point at which the measures

1 provided under ORS 564.105 to 564.120 are no longer necessary. The methods and procedures in-
2 clude, but are not limited to, activities associated with scientific resources management such as re-
3 search, census, law enforcement, habitat acquisition and maintenance, propagation and
4 transplantation.

5 (4) By rule, shall establish a system of permits for scientific taking of threatened species and
6 endangered species under terms and conditions that the director determines will minimize the im-
7 pact on the species taken.

8 (5) Shall cooperate with the [*State Fish and Wildlife Commission*] **Oregon Watershed En-**
9 **hancement Board** in carrying out the provisions of ORS 496.172.

10 (6) Shall adopt administrative rules to carry out the provisions of ORS 564.105 to 564.120.

11 (7) Shall set priorities for establishing programs under this section after consideration of avail-
12 able funds and the immediacy and seriousness of the threat to any listed species.

13 **SECTION 299.** ORS 570.770 is amended to read:

14 570.770. (1) The Invasive Species Council is established within the State Department of Agri-
15 culture. The council shall consist of 18 members. The State Invasive Species Coordinator appointed
16 under ORS 570.780 is a nonvoting ex officio member of the council. The following persons are voting
17 ex officio members of the council:

18 (a) The Director of Agriculture or a designated representative.

19 (b) The president of Portland State University or a designated representative.

20 (c) The State Fish and [*Wildlife*] **Game** Director or a designated representative.

21 (d) The administrative head of the Sea Grant College of Oregon State University or a designated
22 representative.

23 (e) The State Forester or a designated representative.

24 (f) The Director of the Department of Environmental Quality or a designated representative.

25 (g) The State Marine Director or a designated representative.

26 (2) The voting ex officio members of the council described in subsection (1) of this section shall
27 collectively appoint 10 voting members to the council.

28 (3) The term of office of each appointed voting member is two years, but an appointed voting
29 member serves at the pleasure of the voting ex officio members of the council. Before the expiration
30 of a term, the voting ex officio members of the council shall appoint a successor whose term begins
31 on January 1 next following. An appointed voting member may not serve more than two successive
32 terms on the council. If there is a vacancy in an appointed voting member position for any cause,
33 the voting ex officio members of the council shall make an appointment to become immediately ef-
34 fective for the unexpired term.

35 (4) In making appointments to the council, the voting ex officio members of the council shall
36 endeavor to appoint persons representative of the geographic, cultural and economic diversity of
37 this state. The voting ex officio members of the council may give consideration to nominations sub-
38 mitted by federal and state agencies, local governments, universities, industry and other groups
39 having an interest in invasive species.

40 (5) A voting appointed member of the council is not entitled to compensation under ORS 292.495.
41 A member of the council is not entitled to reimbursement for expenses. At the discretion of the
42 council, council members may be reimbursed from funds available to the council for actual and
43 necessary travel and other expenses incurred by members of the council in the performance of their
44 official duties, subject to the limits described in ORS 292.495.

45 **SECTION 300.** ORS 570.780 is amended to read:

1 570.780. (1) The Invasive Species Council shall appoint a State Invasive Species Coordinator to
2 serve at the pleasure of the voting members of the council.

3 (2) The State Department of Agriculture is responsible for ensuring payment of the administra-
4 tive expenses of the council. The State Department of Agriculture may enter into interagency
5 agreements under ORS 190.110 with [*the State Department of Fish and Wildlife*] **Oregon Fish and**
6 **Game**, the State Forestry Department, the Department of Environmental Quality, the State Marine
7 Board, Portland State University and Oregon State University for sharing the administrative ex-
8 penses of the council.

9 (3) The State Department of Agriculture shall act as the fiscal agent of the council for purposes
10 of:

11 (a) Budgeting, interagency agreements for sharing administrative expenses or other mechanisms
12 for paying the administrative and other expenses of the council;

13 (b) Drafting and processing contracts, other agreements, grant applications or other documents;

14 (c) Receiving gifts, grants, donations or other moneys on behalf of the council and ensuring the
15 appropriate crediting of those moneys to the Invasive Species Council Account or the trust account
16 described in ORS 570.800; and

17 (d) Taking all reasonable actions to ensure the council is in compliance with state financial
18 administration laws.

19 **SECTION 301.** ORS 571.620 is amended to read:

20 571.620. The Institute for Natural Resources, in consultation with the State Forestry Depart-
21 ment, the State Department of Agriculture [*and the State Department of Fish and Wildlife*] and in-
22 dividuals and organizations interested in management, marketing or research matters related to
23 western juniper harvesting, shall identify and map high quality marketable stands of western juniper
24 that can be harvested in a commercially and environmentally reasonable manner for use in manu-
25 facturing. The institute shall maximize the use of remote sensing technology to carry out the map-
26 ping and identification. To the extent practicable, the institute shall make use of information
27 developed from other state efforts to map western juniper and associated landscape scale restoration
28 and wildlife initiatives. The institute shall make the mapping and identification information available
29 without charge for use by persons engaged in the business of western juniper harvesting or of
30 manufacturing products from western juniper. The institute may periodically review and update the
31 information.

32 **SECTION 302.** ORS 610.003 is amended to read:

33 610.003. Notwithstanding any other provision of law, the State Department of Agriculture, after
34 consultation with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, may imple-
35 ment bobcat and red fox control procedures as authorized under this chapter, for a specified period
36 of time and within a specified area, if the State Department of Agriculture determines such action
37 is necessary to protect domestic mammals or birds.

38 **SECTION 303.** ORS 610.150 is amended to read:

39 610.150. (1) As used in this section:

40 (a) "Livestock" means ratites, psittacines, horses, mules, jackasses, cattle, llamas, alpacas,
41 sheep, goats, swine, bison, domesticated fowl and any fur-bearing animal bred and maintained com-
42 mercially, or otherwise, within pens, cages or hutches.

43 (b) "Working dog" means any animal of the species *Canis familiaris* used to aid in the herding
44 or guarding of livestock.

45 (2) The State Department of Agriculture shall establish and implement a wolf depredation com-

1 pensation and financial assistance grant program, using moneys in the Wolf Management Compensa-
2 tion and Proactive Trust Fund established under ORS 610.155, to provide grants to assist counties
3 to implement county programs under which:

4 (a) Compensation is paid to persons who suffer loss or injury to livestock or working dogs due
5 to wolf depredation; and

6 (b) Financial assistance is provided to persons who implement livestock management techniques
7 or nonlethal wolf deterrence techniques designed to discourage wolf depredation of livestock.

8 (3) Subject to available funding in the Wolf Management Compensation and Proactive Trust
9 Fund established under ORS 610.155, a county qualifies for a grant under the wolf depredation
10 compensation and financial assistance grant program if the county:

11 (a) Establishes a county program to:

12 (A) Compensate persons who suffer loss or injury to livestock or working dogs due to wolf
13 depredation; and

14 (B) Provide financial assistance to persons who implement livestock management techniques or
15 nonlethal wolf deterrence techniques designed to discourage wolf depredation of livestock.

16 (b) Contributes an amount of moneys equal to 10 percent of the amount necessary to implement,
17 during the calendar year, the county program.

18 (c) Establishes a procedure by which persons applying for compensation under the county pro-
19 gram provide evidence of the loss or injury to livestock or working dogs due to wolf depredation.
20 Evidence of the loss or injury must include a finding by the [*State Department of Fish and Wildlife*]
21 **department** or the department's designated agent that wolf depredation was the probable cause of
22 the loss or injury.

23 (d) Establishes a county advisory committee to oversee the county program, consisting of one
24 county commissioner, two members who own or manage livestock and two members who support
25 wolf conservation or coexistence with wolves. The county advisory committee, once established by
26 the county, shall agree upon two county business representatives to serve as additional county ad-
27 visory committee members.

28 (e) Establishes a procedure by which persons applying for financial assistance under the county
29 program provide an estimate of the potential cost of the livestock management techniques or non-
30 lethal wolf deterrence techniques designed to discourage wolf depredation.

31 (4) In accordance with the Oregon Wolf Conservation and Management Plan, the Director of
32 Agriculture shall adopt rules to implement the provisions of this section, including but not limited
33 to rules that:

34 (a) Require that livestock owners and managers experiencing above-normal loss or injury to
35 livestock or working dogs due to wolf depredation be given priority by counties for grant moneys
36 received under the wolf depredation compensation and financial assistance grant program.

37 (b) Require counties participating in the wolf depredation compensation and financial assistance
38 grant program to:

39 (A) Prepare an annual report that specifies the actions taken by, and compensation paid and
40 financial assistance provided to, counties under the wolf depredation compensation and financial
41 assistance grant program;

42 (B) Distribute grant program funds, to the extent possible, in an equal and balanced manner
43 between payments to compensate for loss or injury to livestock or working dogs due to wolf
44 depredation and payments to implement livestock management techniques or nonlethal wolf deter-
45 rence techniques designed to discourage wolf depredation of livestock, with a minimum of 30 percent

1 of grant program funds being distributed for livestock management techniques or nonlethal wolf
2 deterrence techniques designed to discourage wolf depredation of livestock; and

3 (C) Establish compensation rates for loss or injury to livestock or working dogs due to wolf
4 depredation that are based on fair market value and the recommendation of the county advisory
5 committee described in subsection (3)(d) of this section.

6 (c) Establish eligibility requirements for compensation under county programs that ensure, con-
7 tingent upon available funds, that:

8 (A) Outside an area of known wolf activity, as designated by [*the State Department of Fish and*
9 *Wildlife*] **Oregon Fish and Game**, confirmed loss or injury to livestock or working dogs shall be
10 compensated regardless of the preexistence of wolf deterrence techniques;

11 (B) Within an area of known wolf activity, as designated by [*the State Department of Fish and*
12 *Wildlife*] **Oregon Fish and Game**, confirmed loss or injury to livestock or working dogs, as well as
13 missing livestock above the level based on loss or injury attributable to causes other than wolf
14 depredation established by the county advisory committee described in subsection (3)(d) of this sec-
15 tion, shall be compensable if owners have demonstrated implementation of best management prac-
16 tices to deter wolves, including reasonable use of nonlethal methods when practicable, giving
17 priority for compensation of confirmed losses at fair market value and with other compensation
18 claims determined according to the recommendation of the county advisory committee; and

19 (C) Any compensation for loss or injury to livestock or working dogs due to wolf depredation
20 is based upon a finding by the local advisory committee that the person did not unreasonably or
21 purposefully create circumstances that attract wolves or encourage conflict between wolves and
22 livestock or working dogs.

23 (5) Each biennium the State Department of Agriculture shall prepare a report that specifies the
24 actions taken by counties, compensation paid by counties and financial assistance provided to
25 counties under the wolf depredation compensation and financial assistance grant program, and shall
26 submit the report to the Legislative Assembly and post the report on the department's website for
27 public access.

28 (6) The State Department of Agriculture may use moneys in the Wolf Management Compensation
29 and Proactive Trust Fund established under ORS 610.155 to pay expenses incurred in administering
30 the wolf depredation compensation and financial assistance grant program.

31 **SECTION 304.** ORS 619.095 is amended to read:

32 619.095. (1) Game meat donated to charitable organizations shall be inspected by the State De-
33 partment of Agriculture to determine fitness for human consumption as provided in ORS 603.045 and
34 619.031 or shall be inspected and determined fit for human consumption by employees of [*the State*
35 *Department of Fish and Wildlife*] **Oregon Fish and Game** or the Department of State Police who
36 have been trained by the State Department of Agriculture in the procedures provided in ORS 603.045
37 and 619.031, and shall be processed by an establishment approved by the State Department of Agri-
38 culture as provided in ORS 619.026 and 619.031 and may be served for human consumption by
39 charitable organizations.

40 (2) As used in subsection (1) of this section:

41 (a) "Charitable organization" means the Department of Human Services, Oregon Health Au-
42 thority, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional
43 centers, public school nutritional centers, senior nutritional centers, state hospitals and other
44 charitable organizations or public institutions approved by [*the State Department of Fish and*
45 *Wildlife*] **Oregon Fish and Game**.

1 (b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

2 **SECTION 305.** ORS 619.105 is amended to read:

3 619.105. No civil or criminal sanctions shall be imposed upon State Department of Agriculture
4 employees, [*State Department of Fish and Wildlife*] **Oregon Fish and Game** employees or Depart-
5 ment of State Police employees for the good faith inspection of game meat as provided in ORS
6 619.095.

7 **SECTION 306.** ORS 624.165 is amended to read:

8 624.165. (1) Subject to ORS 624.070, game meat that has been donated to a charitable organiza-
9 tion and has been inspected and processed as provided in ORS 619.095 may be served for human
10 consumption by that charitable organization.

11 (2) As used in subsection (1) of this section:

12 (a) "Charitable organization" means the Department of Human Services, Oregon Health Au-
13 thority, Oregon Youth Authority, Department of Corrections institutions, low-income nutritional
14 centers, public school nutritional centers, senior nutritional centers, state hospitals and other
15 charitable organizations or public institutions approved by [*the State Department of Fish and*
16 *Wildlife*] **Oregon Fish and Game**.

17 (b) "Game meat" includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

18 **SECTION 307.** ORS 634.550 is amended to read:

19 634.550. (1) There is created a Pesticide Analytical and Response Center with a governing board
20 consisting of the following members:

21 (a) The Director of Agriculture or designee.

22 (b) The State Forester or designee.

23 [(c) *The State Fish and Wildlife Director or designee.*]

24 [(d)] (c) The Director of the Department of Environmental Quality or designee.

25 [(e)] (d) The Director of the Oregon Health Authority or designee.

26 [(f)] (e) The Administrator of the Occupational Safety and Health Division or designee.

27 [(g)] (f) The State Fire Marshal or designee.

28 [(h)] (g) The Director of the Poison Control and Drug Information Program of the Oregon Health
29 and Science University or designee.

30 [(i)] (h) One citizen from the state at large appointed jointly by the Director of Agriculture and
31 the Director of the Oregon Health Authority.

32 (2) The Director of Agriculture shall appoint an administrator for the Pesticide Analytical and
33 Response Center, who shall be responsible to the board for performance of the duties of the center
34 and the board.

35 (3) The Director of Agriculture or designee and the Director of the Oregon Health Authority
36 or designee shall alternate as chairperson of the board for terms of one year each. When one is
37 serving as chairperson, the other shall serve as vice chairperson.

38 (4) The board shall seek expert consultation from the extension service toxicology program, the
39 Oregon Institute of Occupational Health Sciences and such other sources as may be needed.

40 (5) The functions of the board are to:

41 (a) Direct the activities and priorities of the administrator of the center.

42 (b) Centralize receiving of information relating to actual or alleged health and environmental
43 incidents involving pesticides.

44 (c) Mobilize expertise necessary for timely and accurate investigation of pesticide incidents and
45 analyses of associated samples.

1 (d) Identify trends and patterns of problems related to pesticide use.

2 (e) Make recommendations for action to a state agency when a majority of the board considers
3 that such action may be warranted on the basis of the findings of an incident investigation or on
4 the basis of identification of a trend or pattern of problems. Recommended actions may include, but
5 not be limited to, regulatory action, modification of administrative rules, proposal of new legislation,
6 public education and consultation to industry.

7 (f) Develop standard operating procedures for implementation by the public entities represented
8 on the board to coordinate the receipt of, and response to, pesticide-related complaints indicating
9 possible health or environmental effects.

10 (g) Report biennially to the Legislative Assembly, or to an interim committee dealing with na-
11 tural resource issues, regarding activities during the reporting period by the board and by public
12 entities represented on the board regarding the development, implementation, amendment or opera-
13 tion of standard operating procedures described in paragraph (f) of this subsection.

14 (h) Report in a standardized format the results of the investigations of pesticide incidents.

15 (i) Establish by consensus, procedures for carrying out its responsibilities within the limits of
16 available resources.

17 (j) Prepare and submit to each odd-numbered year regular session of the Legislative Assembly
18 a report of the activities of the center that includes a record of recommendations made by the board
19 and the actions resulting from the board's work.

20 (6) Upon receipt of a recommendation from the board, a state agency shall respond in a timely
21 manner to inform the board of actions taken or the reasons for taking no action on the recommen-
22 dation.

23 (7) Any medical information received by a member of the board or by a staff member of the
24 center in the course of carrying out the duties of the center or the board shall be held confidential
25 as provided in ORS 192.553 to 192.581 and 433.008.

26 (8) The functions of the board do not supersede the regulatory authority of any agency and are
27 not in lieu of the regulatory authority of any agency.

28 **SECTION 308.** ORS 634.660 is amended to read:

29 634.660. Each of the following state agencies or public universities shall implement integrated
30 pest management practices when carrying out duties of the agency or public university related to
31 pest control:

32 (1) State Department of Agriculture.

33 (2) [*State Department of Fish and Wildlife*] **Oregon Fish and Game.**

34 (3) Department of Transportation.

35 (4) State Parks and Recreation Department.

36 (5) State Forestry Department.

37 (6) Department of Corrections.

38 (7) Oregon Department of Administrative Services.

39 (8) Department of State Lands.

40 (9) Department of Environmental Quality.

41 (10) Oregon Health Authority.

42 (11) Each public university listed in ORS 352.002, for the public university's own building and
43 grounds maintenance.

44 **SECTION 309.** ORS 686.040 is amended to read:

45 686.040. (1) ORS 686.020 (1)(a) does not apply to commissioned veterinary officers of the United

1 States Army, or those in the employ of other United States Government agencies while engaged in
2 their official capacity, unless they enter into a private practice.

3 (2) Nothing in ORS 686.020 (1)(a) shall be so construed as to prevent any person or the agent
4 or employee of the person from practicing veterinary medicine and surgery or dentistry in a humane
5 manner on any animal belonging to the person, agent or employee or for gratuitous services or from
6 dehorning and vaccinating cattle for the person, agent or employee.

7 (3) Nothing in ORS 686.020 (1)(a) shall be so construed as to prevent the selling of veterinary
8 remedies and instruments by a licensed pharmacist at the regular place of business of the licensed
9 pharmacist.

10 (4) A practitioner of allied health methods may practice that method on animals without vio-
11 lating ORS 686.020 (1)(a), as long as the practice is in conformance with laws and rules governing
12 the practitioner's practice and the practice is upon referral from a licensed veterinarian for treat-
13 ment or therapy specified by the veterinarian.

14 (5) ORS 686.020 (1)(a) does not apply to the lay testing of poultry by the whole blood
15 agglutination test.

16 (6) A certified euthanasia technician holding an active, current certificate may inject sodium
17 pentobarbital, and any other euthanasia substance approved by the Oregon State Veterinary Med-
18 ical Examining Board without violating ORS 686.020 (1)(a).

19 (7) The board by rule may specify circumstances under which unlicensed persons may give
20 vaccinations, administer an anesthetic or otherwise assist in the practice of veterinary medicine.

21 (8) Any individual licensed as a veterinarian in another state may be used in consultation in this
22 state with a person licensed to practice veterinary medicine in this state provided the consultation
23 does not exceed 30 days in any 365 consecutive days.

24 (9) ORS 686.020 (1)(a) does not apply to authorized representatives of the State Department of
25 Agriculture in the discharge of any duty authorized by the department.

26 (10) ORS 686.020 (1)(a) does not apply to an unlicensed representative of a livestock association,
27 cow-testing association, or poultry association who, for the benefit of the association, takes blood
28 samples for laboratory tests for the diagnosis of livestock or poultry diseases, but only if this person
29 has received authorization from the State Department of Agriculture following a written request to
30 the department.

31 (11) ORS 686.020 (1)(a) does not apply to persons permitted by [*the State Department of Fish and*
32 *Wildlife*] **Oregon Fish and Game** to rehabilitate orphaned, sick or injured wildlife, as defined in
33 ORS 496.004, for the purpose of restoring the animals to the wild.

34 (12) ORS 686.020 (1)(a) does not apply to students, agents or employees of public or private ed-
35 ucational or medical research institutions involved in educational or research activities under the
36 auspices of those institutions.

37 (13) ORS 686.020 (1)(a) does not apply to:

38 (a) Veterinarians employed by Oregon State University;

39 (b) Instructors of veterinary courses; or

40 (c) Students of veterinary science who participate in the diagnosis and treatment of animals if
41 the students:

42 (A) Are participating in the diagnosis and treatment of animals while engaged in an educational
43 program approved by the board or a college of veterinary medicine accredited by the American
44 Veterinary Medical Association; and

45 (B) Are under the direct supervision of an Oregon licensed veterinarian or a veterinarian ap-

1 proved by the board or Oregon State University to supervise students in the educational program.

2 **SECTION 310.** ORS 811.560 is amended to read:

3 811.560. This section provides exemptions from ORS 811.550 and 811.555. The following ex-
4 emptions are applicable as provided under ORS 811.550:

5 (1) When applicable, this subsection exempts school buses or worker transport buses stopped on
6 a roadway to load or unload workers or children, providing that the flashing school bus safety lights
7 on the bus are operating.

8 (2) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily
9 to pick up or discharge a passenger.

10 (3) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily
11 for the purpose of and while actually engaged in loading or unloading property or passengers.

12 (4) When applicable, this subsection exempts vehicles owned or operated by the state, a county
13 or city when stopping, standing or parking is necessary to perform maintenance or repair work on
14 the roadway.

15 (5) When applicable, this subsection exempts vehicles from the prohibitions and penalties when
16 the driver's disregard of the prohibitions is necessary to avoid conflict with other traffic.

17 (6) When applicable, this subsection exempts vehicles acting in compliance with law or at the
18 direction of a police officer or a traffic control device.

19 (7) When applicable, this subsection exempts the driver of a vehicle that is disabled in such
20 manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled
21 vehicle in a prohibited position.

22 (8) When applicable, this subsection exempts vehicles owned or operated by [*the State Depart-*
23 *ment of Fish and Wildlife*] **Oregon Fish and Game** when stopping, standing or parking is necessary
24 to enable employees to release fish.

25 (9) When applicable, this subsection exempts vehicles momentarily stopped to allow oncoming
26 traffic to pass before making a right-hand or left-hand turn or momentarily stopped in preparation
27 for or while negotiating an exit from the road.

28 (10) When applicable, this subsection exempts commercial vehicles that are stopped, standing
29 or parked when stopping, standing or parking is necessary to engage in any activity associated with
30 the collection of solid waste, recyclable material or yard debris, as those terms are defined in ORS
31 459.005.

32 **SECTION 311.** ORS 830.185 is amended to read:

33 830.185. (1) A person may not operate a boat with an outboard or inboard motor at a speed in
34 excess of 10 miles per hour during those hours of the day and on those days of the year that it is
35 lawful to fish, on East Lake, Paulina Lake and Elk Lake in Deschutes County; Magone Lake in
36 Grant County; Timothy Lake in Clackamas County; and Davis Lake in Deschutes and Klamath
37 Counties.

38 (2) A person may not operate a boat with an outboard or inboard motor at a speed in excess
39 of 10 miles per hour on the following named waters of this state located in the counties named:

<u>Counties</u>	<u>Lakes and Reservoirs</u>
44 Clackamas	On that portion of the waters of the reservoir known as North Fork Reservoir which 45 lies upstream from a line drawn across the reservoir at right angles to the thread

- 1 of the stream at a point 2.3 miles upstream from the North Fork Dam measured along
 - 2 the thread of the stream
 - 3
 - 4 Deschutes Hosmer, Lava, Little Cultus, Little Lava, Sparks Lakes and Crane Prairie Reservoir
 - 5
 - 6 Jefferson On that portion of the waters behind Pelton Dam, known as Lake Simtustus, which
 - 7 lies upstream from a line drawn across the lake at right angles to the thread of the
 - 8 stream at a point 0.85 miles upstream from the Pelton Dam measured along the
 - 9 thread of the stream
 - 10
 - 11 Klamath That portion of Upper Klamath Lake that lies west of a line beginning at a point on
 - 12 the north shore of Pelican Bay one-quarter mile east of Crystal Creek and extending
 - 13 due south to the opposite shore of the lake; any stream, creek or canal that leads into
 - 14 the portion of Upper Klamath Lake described above including Crystal Creek, Recre-
 - 15 ation Creek and Four-Mile Creek, also known as Harriman Creek
 - 16
 - 17 Linn Smith and Trailbridge Reservoirs
 - 18
 - 19 Wasco Clear Lake
 - 20
-

21

22 (3)(a) The State Marine Board shall establish an appropriate decibel rating and speed restriction

23 on Diamond Lake in Douglas County to allow recreational boating that is not limited to fishing.

24 Recreational boating does not include operating a jet ski or similar personal watercraft. The speed

25 established by the board:

- 26 (A) May not exceed 45 miles per hour between the hours of 9 a.m. and 6 p.m.;
- 27 (B) May not exceed 10 miles per hour between the hours of 6 p.m. and 9 a.m.; and
- 28 (C) Shall be restricted to 10 miles per hour at all times in any area within 200 yards of any boat
- 29 ramp, boat dock, swimming area, inlet or outlet of the lake, designated campground or summer
- 30 home.

31 (b) The board shall reduce the speed restriction on Diamond Lake to 10 miles per hour at all

32 hours when the State Fish and [Wildlife] **Game** Director determines that the health of Diamond

33 Lake is restored and the lake can be restocked for fishing.

34 **SECTION 312.** ORS 830.589 is amended to read:

35 830.589. (1) [The State Department of Fish and Wildlife] **Oregon Fish and Game**, the State Ma-

36 rine Board or the State Department of Agriculture may require a person transporting a recreational

37 or commercial watercraft to stop at a check station to inspect the watercraft for the presence of

38 aquatic invasive species. The purpose of the administrative search authorized under this section is

39 to prevent and limit the spread of aquatic invasive species within Oregon.

40 (2) [The State Department of Fish and Wildlife] **Oregon Fish and Game**, the State Marine Board

41 or the State Department of Agriculture may decontaminate, or recommend decontamination of, any

42 recreational or commercial watercraft that the agency inspects at a check station operated under

43 authority of this section.

44 (3) All check stations operated under authority of this section must be plainly marked by signs

45 that comply with all state and federal laws and must be staffed by at least one uniformed employee

1 of *[the State Department of Fish and Wildlife]* **Oregon Fish and Game**, the State Marine Board or
 2 the State Department of Agriculture trained in inspection and decontamination of recreational or
 3 commercial watercraft.

4 (4) An agency that operates a check station under this section shall require all persons trans-
 5 porting recreational or commercial watercraft to stop at the check station, and the agency shall
 6 inspect every recreational or commercial watercraft that goes through the check station.

7 (5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft
 8 who stops at a check station for inspection and who cooperates in the decontamination process is
 9 not subject to criminal sanctions for possessing or transporting aquatic invasive species.

10 (6) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game**, the State Marine Board
 11 and the State Department of Agriculture may adopt rules to carry out the provisions of this section.

12 **SECTION 313.** ORS 830.594 is amended to read:

13 830.594. (1) *[The State Department of Fish and Wildlife]* **Oregon Fish and Game**, after consul-
 14 tation with the State Marine Board, the State Department of Agriculture and the Department of
 15 State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic
 16 invasive species from entering this state and may include in the report suggested legislation neces-
 17 sary to more effectively prevent aquatic invasive species from entering this state.

18 (2) Reports to the Legislative Assembly required under this section must be made in accordance
 19 with ORS 192.245.

20 **SECTION 314.** ORS 830.998 is amended to read:

21 830.998. (1) A person who is transporting a recreational or commercial watercraft and fails to
 22 stop and submit to an inspection at an aquatic invasive species check station operated by *[the State*
 23 *Department of Fish and Wildlife]* **Oregon Fish and Game**, the State Marine Board or the State
 24 Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

25 (2) Notwithstanding ORS 153.042, an enforcement officer may issue a citation under subsection
 26 (1) of this section when the conduct alleged to constitute a violation has not taken place in the
 27 presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that
 28 the conduct constitutes a violation on the basis of information received from an employee of an
 29 agency authorized to operate an aquatic invasive species check station who observed the violation.

30 **SECTION 315.** ORS 830.999 is amended to read:

31 830.999. (1) A person is subject to a civil penalty in an amount to be determined by the State
 32 Fish and *[Wildlife]* **Game** Director of not more than \$6,250 if the person knowingly transports
 33 aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent
 34 violation of this subsection within a five-year period shall result in a civil penalty in an amount not
 35 less than \$5,000 and not more than \$15,000.

36 (2) Subsection (1) of this section does not apply to:

37 (a) A person who transports aquatic invasive species in ballast water.

38 (b) A person who complies with all instructions for the proper decontamination of the recre-
 39 ational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect
 40 recreational or commercial watercraft.

41 (c) A person who transports aquatic invasive species to *[the State Department of Fish and*
 42 *Wildlife]* **Oregon Fish and Game** or the State Department of Agriculture, or to another destination
 43 designated by the State Fish and Wildlife Commission by rule, in a manner designated by the com-
 44 mission for purposes of identifying or reporting an aquatic invasive species.

45 (3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745.

1 Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The
2 commission by rule shall adopt the formula the State Fish and [Wildlife] **Game** Director shall use
3 in determining the amount of civil penalties under this section.

4 **SECTION 316.** Section 2, chapter 460, Oregon Laws 1995, as amended by section 1, chapter 227,
5 Oregon Laws 2001, section 1, chapter 349, Oregon Laws 2009, section 2a, chapter 832, Oregon Laws
6 2009, section 1, chapter 363, Oregon Laws 2013, and section 10, chapter 779, Oregon Laws 2015, is
7 amended to read:

8 **Sec. 2.** Notwithstanding any other provision of the wildlife laws, during the period beginning
9 January 1, 1996, and ending January 2, 2022, the following provisions apply with regard to the is-
10 suance and use of landowner preference tags referred to in ORS 496.146 (4):

11 (1) Landowner preference tags shall be issued for the hunting of deer, elk or antelope.

12 (2) Landowner preference tags may be used only for hunting on the landowner's property.

13 (3) Subject to subsection (6) of this section, landowner preference tags for the hunting of deer
14 or elk may be transferred to any person of the landowner's choosing and shall be used for the taking
15 of antlerless animals.

16 (4) Landowner preference tags for the hunting of antelope are not transferable and may not be
17 used for the taking of buck antelope.

18 (5) Each landowner preference tag for the hunting of deer may be used to take two antlerless
19 animals before, during or after the hunting season for which the tags are valid for the purpose of
20 alleviating damage that is presently occurring to the landowner's property, in accordance with such
21 rules as the State Fish and Wildlife Commission may adopt.

22 (6) Landowner preference tags for the hunting of deer or elk may be transferred to a person of
23 the landowner's choosing as follows:

24 (a) A landowner who is issued only one tag may not transfer that tag.

25 (b) A landowner who is issued two or more tags may transfer not more than 50 percent of the
26 tags to a person who is not an immediate family member, as defined in ORS 496.146 (4). If the cal-
27 culation of the number of tags eligible for transfer under the provisions of this paragraph results in
28 a fraction, the commission shall round up the number of tags to the next whole number.

29 (7)(a) As specified pursuant to a formula determined by the commission by rule, the number of
30 landowner preference tags issued for mule deer must be based upon the management, research and
31 habitat needs set forth in the wildlife management plan for mule deer.

32 (b) If the population of mule deer in a wildlife management unit is greater than the goal speci-
33 fied in the wildlife management plan for mule deer, a landowner who is issued a landowner prefer-
34 ence tag is eligible, pursuant to criteria established by rule of the commission, for the number of
35 tags that corresponds to the number of acres that landowner has registered with [*the State Depart-*
36 *ment of Fish and Wildlife*] **Oregon Fish and Game** for participation in the program.

37 (c) The commission may specify by rule a formula for determining the number of landowner
38 preference tags that are available for controlled hunts for mule deer in a wildlife management unit
39 in which the population of mule deer is less than the goal specified for that wildlife management
40 unit in the wildlife management plan for mule deer.

41 (8) Landowners shall pay the applicable fee under the fee schedule in [*section 2 of this 2015*
42 *Act*] **ORS 497.061** to register for participation in the program.

43 (9) A landowner shall pay the applicable fee under the fee schedule in [*section 2 of this 2015*
44 *Act*] **ORS 497.061** to modify the landowner's tag distribution.

45 **SECTION 317.** Section 6, chapter 1059, Oregon Laws 1999, as amended by section 1154, chapter

1 595, Oregon Laws 2009, is amended to read:

2 **Sec. 6.** In carrying out its responsibilities under sections 2 to 9, chapter 1059, Oregon Laws
3 1999, the State Department of Agriculture shall seek technical assistance as appropriate from at
4 least the following entities:

5 (1) Oregon Department of Administrative Services;

6 (2) Department of Environmental Quality;

7 [(3) *State Department of Fish and Wildlife;*]

8 [(4)] (3) State Forestry Department;

9 [(5)] (4) Occupational Safety and Health Division of the Department of Consumer and Business
10 Services;

11 [(6)] (5) Oregon Health Authority;

12 [(7)] (6) Oregon Poison Center;

13 [(8)] (7) Pesticide Analytical and Response Center; and

14 [(9)] (8) Office of the State Fire Marshal.

15 **SECTION 318.** Section 3, chapter 499, Oregon Laws 2001, is amended to read:

16 **Sec. 3.** In order to make recommendations to better achieve the objectives and enhance the ef-
17 fectiveness of the Oregon Scenic Waterways System, the State Parks and Recreation Department
18 shall complete a review of the system administered under ORS 390.805 to 390.925, including a review
19 of the studies pertaining to the effects of recreational placer mining within scenic waterways. At the
20 request of the State Parks and Recreation Department, the Department of State Lands, the Water
21 Resources Department, [*the State Department of Fish and Wildlife,*] the State Marine Board and the
22 Department of Environmental Quality shall assist in the review. The State Parks and Recreation
23 Department may also request interested public parties to assist in the review.

24 **SECTION 319.** Section 9, chapter 636, Oregon Laws 2009, as amended by section 4, chapter 888,
25 Oregon Laws 2009, is amended to read:

26 **Sec. 9.** (1) As used in this section:

27 (a) "Community forestlands" has the meaning given that term in ORS 530.600.

28 (b) "Skyline Forest" means that certain real property consisting of approximately 33,000 con-
29 tiguous acres in Deschutes County owned on June 1, 2009, by Cascade Timberlands (Oregon) LLC
30 and located within sections 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and
31 36, township 16 south, range 10 east; sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23,
32 24, 25, 26, 27, 35 and 36, township 17 south, range 10 east; and sections 6, 7, 8, 9, 17, 18, 19, 20, 29,
33 30, 31, 32 and 33, township 17 south, range 11 east.

34 (c) "Skyline Forest Sustainable Development Area" means a portion of up to 3,000 contiguous
35 acres of the tract known as the Skyline Forest that is located in township 16 south, range 10 east,
36 Deschutes County: portions of the northwest quarter, southwest quarter, southeast quarter, north-
37 east quarter of section 7; portions of the northwest quarter, southwest quarter, southeast quarter
38 of section 8; portions of the southwest quarter of section 16; portions of the northwest quarter,
39 southwest quarter, southeast quarter, northeast quarter of section 17; portions of the northwest
40 quarter, southwest quarter, southeast quarter, northeast quarter of section 18; section 19; portions
41 of the northwest quarter, southwest quarter, northeast quarter of section 20; portions of the north-
42 west quarter of section 21; portions of the northwest quarter of section 29; and portions of the north
43 half of section 30.

44 (d) "Skyline Conservation Tract" means the portion of the Skyline Forest consisting of approx-
45 imately 30,000 contiguous acres that is not included within the Skyline Forest Sustainable Develop-

1 ment Area.

2 (e) "Southern Conservation Tract" means that certain real property consisting of approximately
3 34,700 acres in Deschutes and Klamath Counties owned on June 1, 2009, by Cascade Timberlands
4 (Oregon) LLC and located within one of the following areas:

5 (A) "Area one" consists of approximately 14,000 acres of land located within sections 1, 2, 3, 10,
6 11, 12, 13, 14, 15, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34 and 35 of township 22 south, range 9 east,
7 Deschutes County; and sections 5, 6, 7, 8, 17, 18, 30 and 31 of township 22 south, range 10 east,
8 Deschutes County;

9 (B) "Area two" consists of approximately 9,700 acres of land located within sections 2, 3, 4, 5,
10 9, 10, 11, 14, 15, 17, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33 and 34 of township 23 south, range 9
11 east, Klamath County and the portion of Parcel 3, Partition Plat No. 34-08 located in township 23
12 south, range 9 east, Klamath County; and

13 (C) "Area three" consists of approximately 11,000 acres of land located within sections 14, 23,
14 24, 25, 26, 34 and 35 of township 23 south, range 9 east; sections 3, 4, 8, 9 and 17 of township 24
15 south, range 9 east; section 1 of township 25 south, range 7 east; sections 1, 2, 3, 4, 9, 10, 12, 13, 14,
16 15, 16 and 17 of township 25 south, range 8 east; Parcel 1, Partition Plat No. 34-08 located in
17 township 24 south, ranges 7 and 8 east, and township 25 south, range 8 east, Klamath County; and
18 the portion of Parcel 3, Partition Plat No. 34-08 located in township 24 south, ranges 8 and 9 east,
19 Klamath County and lying west of U.S. Route 97.

20 (f) "Land trust" means the Deschutes Land Trust, an Oregon nonprofit corporation or another
21 nonprofit conservation organization that is either accredited by the Land Trust Accreditation Com-
22 mission or is nationally recognized as a land conservation organization, the primary mission of
23 which is land conservation.

24 (2) Contingent upon satisfaction of the requirements of subsection (3) of this section, the Skyline
25 Forest Sustainable Development Area may be developed and used for the following purposes:

26 (a) The Skyline Forest Sustainable Development Area may contain up to 282 residential units,
27 a caretaker's residence, a restaurant, a small community store, a small-scale community conference
28 center, an equestrian facility, small-scale recreational, commercial and basic service uses, and all
29 utility, maintenance and security facilities necessary to support the development. The residential
30 units may be permanent residences, rental units or lodging units. The specific number of residential
31 units allowed within the Skyline Forest Sustainable Development Area, up to a maximum of 282, is
32 dependent upon the number of acres of the Skyline Conservation Tract and the Southern Conser-
33 vation Tract conveyed to a land trust or a federal or state agency pursuant to this section. Up to:

34 (A) 137 residential units shall be allowed within the Skyline Forest Sustainable Development
35 Area in exchange for the conveyance of the Skyline Conservation Tract to a land trust;

36 (B) 183 residential units shall be allowed within the Skyline Forest Sustainable Development
37 Area in exchange for the conveyance of the Skyline Conservation Tract and area one of the South-
38 ern Conservation Tract to a land trust or to a federal or state agency;

39 (C) 224 residential units shall be allowed within the Skyline Forest Sustainable Development
40 Area in exchange for the conveyance of the Skyline Conservation Tract, area one and area two of
41 the Southern Conservation Tract to a land trust or to a federal or state agency; or

42 (D) 282 residential units shall be allowed within the Skyline Forest Sustainable Development
43 Area in exchange for the conveyance of the Skyline Conservation Tract, area one, area two and
44 area three of the Southern Conservation Tract to a land trust or to a federal or state agency.

45 (b) The Skyline Forest Sustainable Development Area may not contain a golf course or golf-

1 related facilities.

2 (c) All development, not including access roads and utility lines to the Skyline Forest
3 Sustainable Development Area and up to five acres for maintenance and security facilities, shall be
4 located on 1,200 contiguous acres within the Skyline Forest Sustainable Development Area. The
5 owner shall use the remaining undeveloped 1,800 acres of the Skyline Forest Sustainable Develop-
6 ment Area for the primary purposes of minimizing the risk of wildfire and maintaining wildlife
7 habitat value. However, an equestrian facility may be located within the otherwise undeveloped
8 1,800 acres if the facility is located on no more than 40 acres contiguous to the developed portion
9 of the Skyline Forest Sustainable Development Area. The owner shall cause a conservation ease-
10 ment pursuant to ORS 271.715 to 271.795 to be recorded on the entirety of the undeveloped 1,800
11 acres prohibiting partitions and development, but allowing access roads, utility lines, maintenance
12 and security facilities and recreational uses, such as picnic grounds, trails, the equestrian facility
13 and restrooms. The conservation easement must be held by a land trust and shall contain terms
14 agreed to by [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** and the State
15 Forestry Department.

16 (d) Roads, utility corridors and all utility facilities necessary to serve the Skyline Forest
17 Sustainable Development Area shall be allowed as outright permitted uses within the Skyline Forest
18 Sustainable Development Area, the Skyline Forest and on nearby lands regardless of the compre-
19 hensive plan or zoning designation of the lands.

20 (e) The uses allowed by this subsection shall be allowed only upon approval of a master plan
21 as provided by subsection (5) of this section. The master plan shall contain design criteria and
22 standards to ensure that sustainability principles will be incorporated into the development and
23 operation of uses within the Skyline Forest Sustainable Development Area. The design criteria and
24 standards shall promote sustainable building design, water conservation and energy conservation.

25 (f) The master plan described in subsection (5) of this section shall incorporate design criteria
26 and standards to ensure that there will be negligible visual impacts under normal daylight viewing
27 conditions from Awbrey Butte and the Plainview scenic turnout located on the McKenzie-Bend
28 Highway No. 17, also known as U.S. Route 20, near milepost 9. The design criteria and standards
29 shall also require all outdoor lighting to be downward facing, to the extent practicable.

30 (g) The Skyline Forest Sustainable Development Area shall be served by one primary access
31 route and by one or more emergency and secondary access routes that use existing roads as much
32 as practicable. The access routes may be private or public roads, including roads managed by the
33 United States Forest Service. The primary access route shall intersect the McKenzie-Bend Highway
34 No. 17, also known as U.S. Route 20, between mileposts 3 and 6 to provide access from the eastern
35 boundary of the Skyline Forest Sustainable Development Area to the referenced highway.

36 (h) The Skyline Forest Sustainable Development Area, including all access roads, must be de-
37 veloped in consultation with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** to
38 minimize impacts on wildlife, particularly deer and elk populations.

39 (i) The Skyline Forest Sustainable Development Area, including all access roads, must be de-
40 veloped in consultation with the State Forestry Department and the United States Forest Service
41 to minimize wildfire risks.

42 (j) The owner of the Skyline Forest Sustainable Development Area shall provide adequate
43 firefighting facilities and services to address the needs of the development. All structures shall be
44 designed and maintained consistent with the default wildfire safety standards of the Oregon
45 Forestland-Urban Interface Fire Protection Act of 1997, as set forth in administrative rules of the

1 State Forestry Department.

2 (k) Any wells used to provide water for uses within the Skyline Forest Sustainable Development
3 Area shall be sited to minimize impacts of groundwater use on Whychus Creek and Melvin Springs.

4 (3) The land uses described in subsection (2) of this section shall be allowed within the Skyline
5 Forest Sustainable Development Area upon the satisfaction of the following conditions:

6 (a) The owner of the Skyline Forest and the Southern Conservation Tract transfers:

7 (A) The Skyline Conservation Tract to a land trust for the purpose of creating community
8 forestlands; and

9 (B) The Southern Conservation Tract, whether to a single buyer or multiple buyers, to a land
10 trust for the purpose of creating community forestlands or to a federal or state agency. However,
11 the owner may choose to retain all or a portion of the Southern Conservation Tract, in which case
12 the number of residential units allowed within the Skyline Forest Sustainable Development Area
13 shall be limited as set forth in subsection (2)(a) of this section.

14 (b) The consideration for any transfer does not exceed the fair market value of the property as
15 established by an appraisal based on the hypothetical condition or assumption that all development
16 rights on the properties, whether actual or potential, have been extinguished as contemplated by
17 subsection (7) of this section. The appraisal must comply with the Uniform Standards of Professional
18 Appraisal Practice. The appraisal shall comply with the Uniform Appraisal Standards for Federal
19 Land Acquisitions if:

20 (A) The land trust or state agency proposes, in part or in whole, to use federal funds to purchase
21 the property and has demonstrated a reasonable likelihood that federal funds will be secured for the
22 purchase; or

23 (B) The property is being conveyed to a federal agency.

24 (c) The Skyline Conservation Tract and the Southern Conservation Tract will be managed so
25 that wildlife and recreational values are safeguarded and the overall forest health, including
26 sustainable timber production and wildfire prevention, is maintained over the long term.

27 (d) The owner of the Skyline Forest Sustainable Development Area obtains the land use ap-
28 provals required by subsection (5) of this section.

29 (4) The uses authorized by subsection (2) of this section shall be allowed as outright permitted
30 uses by Deschutes County, following approval of the master plan required by subsection (5) of this
31 section by Deschutes County. The uses allowed by subsection (2) of this section are allowed
32 notwithstanding those provisions of ORS 215.700 to 215.780 relating to lot size and dwelling stan-
33 dards on forestlands, those statewide land use planning goals relating to agricultural lands,
34 forestlands, public facilities and services, transportation and urbanization and those provisions of
35 Deschutes County's comprehensive plan and land use regulations limiting uses of forestlands. Ap-
36 proval of the master plan and land division applications required by subsection (5) of this section
37 for the development and use of the Skyline Forest Sustainable Development Area and all associated
38 road and utility corridors does not require exceptions to any statewide planning goal or amendment
39 of any local comprehensive plan or land use regulation. Deschutes County shall apply only the
40 provisions of this section as standards and criteria for an application for, or amendment to, a master
41 plan or land division application or other development permit applications submitted pursuant to
42 this section.

43 (5) The owner of the Skyline Forest Sustainable Development Area may submit an application
44 to Deschutes County for approval of a master plan for the development and use of the area. The
45 application must be submitted within five years after *[the effective date of chapter 636, Oregon Laws*

1 2009] **June 29, 2009**, subject to the following:

2 (a) The master plan shall demonstrate compliance with subsection (2) of this section and include
3 a tentative land division application to create the lots within the Skyline Forest Sustainable Devel-
4 opment Area.

5 (b) Deschutes County shall process the master plan and all land division applications pursuant
6 to the procedural review provisions of its local land use regulations. However, Deschutes County
7 shall approve the master plan and any tentative or final land division applications if the applications
8 are consistent with subsections (2) and (3) of this section. No additional land use or land division
9 standards shall apply to the approval and development of the Skyline Forest Sustainable Develop-
10 ment Area.

11 (c) Deschutes County shall condition final approval of the master plan and land division appli-
12 cations on the execution of an agreement to record a conservation easement in accordance with
13 subsection (2)(c) of this section, an agreement to transfer the Skyline Conservation Tract to a land
14 trust for the purpose of creating community forestlands and, if applicable, an agreement to transfer
15 all or a portion of the Southern Conservation Tract either to a land trust for the purpose of creating
16 community forestland or to a federal or state agency. The agreements shall specify that recordation
17 of the conservation easement, transfer of the Skyline Conservation Tract and transfer of all or a
18 portion of the Southern Conservation Tract shall be contingent upon the following terms:

19 (A) The owner of the Skyline Forest Sustainable Development Area shall obtain all federal, state
20 and local licenses, permits, rights and other entitlements necessary for development of the Skyline
21 Forest Sustainable Development Area, each of which shall be final and no longer subject to appeal;

22 (B) The land trust or the federal or state agencies, as applicable, shall obtain adequate funding
23 to purchase the Skyline Conservation Tract or the Southern Conservation Tract, as applicable, in
24 accordance with subsection (3)(b) of this section; and

25 (C) The land trust or the federal or state agencies shall develop and implement management
26 standards that provide reasonable assurance to the owner of the Skyline Forest Sustainable Devel-
27 opment Area that the Skyline Conservation Tract and the Southern Conservation Tract will be
28 managed to establish forest health, manage wildfire risk and maintain compatibility with the Skyline
29 Forest Sustainable Development Area.

30 (d) The master plan and all associated land division plans shall govern development of the Sky-
31 line Forest Sustainable Development Area in perpetuity and shall not expire. Regulations requiring
32 the submittal of final plats within a specified time period following tentative plan approval shall not
33 apply to the Skyline Forest Sustainable Development Area. The master plan may be amended at any
34 time following an administrative review by Deschutes County. Deschutes County shall approve the
35 amendments if the amended master plan remains consistent with subsections (2) and (3) of this sec-
36 tion.

37 (6) The Deschutes Land Trust, an Oregon nonprofit corporation, shall have a right of first op-
38 portunity to purchase the Skyline Conservation Tract and the Southern Conservation Tract, and any
39 purchase agreement shall provide a minimum of three years for the Deschutes Land Trust to obtain
40 funding for any purchase. If at any time after two years from the date of any purchase agreement
41 or the date of filing of a master plan under subsection (5) of this section, whichever is later, the
42 Deschutes Land Trust has failed to demonstrate a reasonable likelihood it will be able to obtain the
43 funds necessary to complete the purchase, the owner of the Skyline Conservation Tract and the
44 Southern Conservation Tract may seek alternative buyers for any property that is the subject of a
45 purchase agreement under this subsection. The Deschutes Land Trust will in good faith notify the

1 owner of the Skyline Conservation Tract and the Southern Conservation Tract if at any time during
 2 the period of any purchase agreement the Deschutes Land Trust concludes it does not wish to
 3 complete the purchase or will be unable to obtain the necessary funding to complete the purchase.

4 (7) Development and construction of uses within the Skyline Forest Sustainable Development
 5 Area may proceed according to the approved master plan once the transfer of fee title of the Skyline
 6 Conservation Tract and, as applicable, all or a portion of the Southern Conservation Tract, is com-
 7 plete. Following transfer of fee title of the Skyline Conservation Tract and, as applicable, all or a
 8 portion of the Southern Conservation Tract, all development rights on the conveyed lands are ex-
 9 tinguished and the conveyed lands shall be thereafter managed as community forestlands or as fed-
 10 eral or state forestlands.

11 (8) At any time within five years after [*the effective date of chapter 636, Oregon Laws 2009*] **June**
 12 **29, 2009**, the owner of the Skyline Forest Sustainable Development Area may either file an appli-
 13 cation for a master plan pursuant to subsection (5) of this section, or submit written notice to
 14 Deschutes County and the Deschutes Land Trust stating the owner's intent to relinquish the devel-
 15 opment opportunities authorized by this section. Until the owner of the Skyline Forest Sustainable
 16 Development Area files a master plan application or submits a notice of relinquishment under this
 17 subsection, the owner may not divide, develop, obtain a lot of record determination or prohibit
 18 public access to any portion of the Skyline Forest. If the owner of the Skyline Forest Sustainable
 19 Development Area submits a notice of relinquishment under this subsection, or the owner allows the
 20 five-year time period to elapse without taking any action under this subsection, the development
 21 opportunities authorized by this section shall expire and the owner may divide, develop and prohibit
 22 public access to any portion of Skyline Forest pursuant to the laws in effect at that time.

23 (9) If the owner of the Skyline Forest Sustainable Development Area does not file a master plan
 24 within five years of [*the effective date of chapter 636, Oregon Laws 2009*] **June 29, 2009**, or if
 25 Deschutes County does not approve a master plan as provided in subsection (5) of this section within
 26 10 years of [*the effective date of chapter 636, Oregon Laws 2009*] **June 29, 2009**, then the provisions
 27 of subsection (2) of this section shall cease to have any force or effect.

28 (10) The development opportunities provided by this section are fully transferable and will run
 29 with the land in the event of a change of ownership of the Skyline Forest or all or a portion of the
 30 Southern Conservation Tract.

31 **SECTION 320.** Section 11, chapter 913, Oregon Laws 2009, as amended, by section 18a, chapter
 32 730, Oregon Laws 2011, and section 34, chapter 610, Oregon Laws 2017, is amended to read:

33 **Sec. 11.** [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** may not issue a
 34 preliminary certificate of approval under ORS 315.138 after January 1, 2024.

35 **SECTION 321.** Section 2, chapter 686, Oregon Laws 2011, is amended to read:

36 **Sec. 2.** (1) As used in this section:

37 (a) "Associated property" means real property, and improvements, that is contiguous to and in
 38 common ownership with the development area.

39 (b) "Development area" means certain property containing a guest ranch and consisting of ap-
 40 proximately 5,000 acres in common ownership that are located in township 17 south, range 31 east
 41 and township 17 south, range 32 east, Grant County.

42 (2) Subject to approval of a master plan submitted to Grant County, the guest ranch may be
 43 expanded in the development area in one or more phases to include the uses authorized under this
 44 section if Grant County finds that the master plan for the development area meets the standards set
 45 forth in subsections (4), (5) and (6) of this section, notwithstanding:

- 1 (a) Sections 2 and 3, chapter 84, Oregon Laws 2010.
- 2 (b) Statewide land use planning goals and rules implementing the goals and without taking an
- 3 exception under ORS 197.732 to a goal.
- 4 (c) The lot size and dwelling standards of ORS 215.700 to 215.780.
- 5 (d) Provisions of the acknowledged comprehensive plan or land use regulations of Grant County
- 6 except as:
 - 7 (A) Provided otherwise in this section; or
 - 8 (B) Necessary to protect the public health and safety.
 - 9 (3) The development area may:
 - 10 (a) Contain up to 575 units of overnight accommodations, including but not limited to lodging
 - 11 units, cabins, townhomes and fractional ownerships. Overnight accommodations that are not lodging
 - 12 units, timeshares or fractional ownerships must be subject to deed restrictions that limit use of the
 - 13 accommodations to use as overnight accommodations.
 - 14 (b) Include restaurants, meeting and conference facilities and commercial uses to meet the needs
 - 15 of visitors to the development area and associated property.
 - 16 (c) Include developed recreational facilities including, but not limited to, tennis courts, spa fa-
 - 17 cilities, equestrian facilities, swimming pools and bicycle paths.
 - 18 (d) Not include sites for new residential dwellings unless otherwise permitted under existing law
 - 19 or developed for employees of the guest ranch or other uses allowed in the development area.
 - 20 (4) The uses authorized by this section that are to be developed on or after January 1, 2010,
 - 21 must be constructed in the development area.
 - 22 (5) Roads, utility corridors and utility facilities necessary to serve the development area are
 - 23 authorized uses. Roads in the development area:
 - 24 (a) Must be all-weather roads.
 - 25 (b) Must remain unpaved to the greatest extent practicable to discourage car use in most parts
 - 26 of the development area.
 - 27 (c) Must be wide enough to accommodate emergency equipment.
 - 28 (6) Upon receipt of an application for approval of a master plan for the development and use
 - 29 of the development area, Grant County shall approve the master plan if the county finds that the
 - 30 master plan:
 - 31 (a) Demonstrates that the important natural features of the development area and associated
 - 32 property, including but not limited to habitat of threatened or endangered species, streams, rivers
 - 33 and significant wetlands, will be retained. Grant County may authorize alteration of important na-
 - 34 tural features, including the placement of structures that maintain the overall values of the natural
 - 35 features, under the county's applicable acknowledged comprehensive plan and land use regulations.
 - 36 (b) Demonstrates that the development area and associated property will be managed to provide
 - 37 significant public benefits in the form of:
 - 38 (A) Wildlife and aquatic habitat improvements, including tree planting, enhancement of riparian
 - 39 areas and restoration of meadows for wildlife; and
 - 40 (B) Training and education programs.
 - 41 (c) Demonstrates that the development area and associated property will be managed to provide
 - 42 a significant number of permanent jobs in Grant and Harney Counties, to encourage the growth of
 - 43 ancillary and support businesses in Grant and Harney Counties, to encourage expansion of tourism
 - 44 opportunities for Grant and Harney Counties, and to provide opportunities to educate the public
 - 45 about sustainable ranching and wildlife rehabilitation in conjunction with Oregon State University

1 or another educational institution in the State of Oregon.

2 (d) Contains design criteria and standards that promote sustainability in the development area.
3 The criteria and standards must promote energy and water conservation, reduce, based on consul-
4 tation with [*the State Department of Fish and Wildlife*] **Oregon Fish and Game**, adverse impacts of
5 development on wildlife and reduce, based on consultation with the State Forestry Department,
6 wildfire risk.

7 (e) Demonstrates that overnight accommodations will be clustered to minimize adverse impacts
8 on fish and wildlife.

9 (f) Includes a proposed plat to create lots for the first phase of development in the development
10 area.

11 (7) The planning director of Grant County may:

12 (a) Approve by administrative review an amendment to an approved master plan or an associ-
13 ated land division plan; or

14 (b) If the planning director determines that the proposed change may impact the findings made
15 pursuant to subsection (6) of this section, refer the amendment to the Grant County Court for re-
16 view. If the planning director refers a proposed amendment to the court, the court shall approve the
17 proposed change if the master plan, as amended, or the associated land division plan, as amended,
18 remains consistent with the requirements of this section.

19 (8) Grant County shall:

20 (a) Apply only the provisions of this section and the master plan as standards and criteria for
21 approval or amendment of the master plan and associated land division applications and develop-
22 ment permit applications submitted pursuant to this section.

23 (b) Process the master plan and associated land division applications pursuant to the procedural
24 review provisions of the acknowledged comprehensive plan and land use regulations.

25 **SECTION 322.** Section 3, chapter 363, Oregon Laws 2013, is amended to read:

26 **Sec. 3.** Notwithstanding any other provision of the wildlife laws, [*the State Department of Fish*
27 *and Wildlife*] **Oregon Fish and Game** shall create and implement an Oregon Landowner Damage
28 Program that:

29 (1) Addresses damage caused by elk on privately owned lands in Oregon.

30 (2) Provides landowner damage tags only for areas where elk are currently causing damage,
31 where there has been a history of elk damage coupled with actions to alleviate elk damage or where
32 the department has designated the area as an elk deemphasis area.

33 (3) Limits the use of damage tags to taking antlerless elk.

34 (4) Limits the use of damage tags to taking elk on property owned, leased or rented by the
35 landowner complaining of elk damage or on property owned, leased or rented by a business entity
36 that includes the landowner as a principal partner or shareholder.

37 (5) Allows exchange of unused general season elk tags or controlled hunt elk tags for landowner
38 damage tags.

39 (6) Does not impose a limit on the number of total damage tags available for each landowner,
40 except that no more than five damage tags may be valid at any one time.

41 (7) Does not impose a minimum acreage requirement for landowner participation.

42 (8) Allows landowners to register for participation in the program at any time prior to the is-
43 suance of damage tags.

44 (9) Establishes a \$30 fee for landowners to register for participation in the program.

45 (10) Establishes a \$15 fee for landowners to modify the landowner's damage tag distribution.

1 (11) Authorizes department biologists to sell and exchange damage tags.

2 (12) Authorizes department biologists to establish the period of validity for damage tags through
3 negotiation with landowners.

4 (13) Requires landowners to record the number of elk taken and, within 10 days after the end
5 of a designated hunt period, to report to the local department biologist the number of elk taken.

6 **SECTION 323.** Section 1, chapter 734, Oregon Laws 2015, as amended by section 1, chapter 120,
7 Oregon Laws 2017, is amended to read:

8 **Sec. 1.** (1) The Oregon Hatchery Research Center Fund is established in the State Treasury,
9 separate and distinct from the General Fund. Interest earned by the Oregon Hatchery Research
10 Center Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to [*the*
11 *State Department of Fish and Wildlife*] **Oregon Fish and Game**. The fund shall consist of:

12 (a) All moneys received from the surcharge on angling licenses imposed by section 3, chapter
13 734, Oregon Laws 2015; and

14 (b) All moneys received from the ad valorem fee imposed by section 4, chapter 734, Oregon Laws
15 2015.

16 (2) Moneys in the fund may be expended only on research projects recommended by the Oregon
17 Hatchery Research Center Board.

18 **SECTION 324.** Section 7, chapter 734, Oregon Laws 2015, is amended to read:

19 **Sec. 7.** (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall provide a
20 financial report quarterly to the Oregon Hatchery Research Center Board showing all revenues and
21 deposits to and transfers and expenditures from the Oregon Hatchery Research Center Fund.

22 (2) The department shall provide a financial report annually to the interim committees of the
23 Legislative Assembly related to the environment and natural resources showing all revenues and
24 deposits to and transfers and expenditures from the Oregon Hatchery Research Center Fund.

25 **SECTION 325.** Section 2, chapter 330, Oregon Laws 2017, is amended to read:

26 **Sec. 2.** (1) The State Fish and Wildlife Commission shall adopt rules for the issuance of wildlife
27 salvage permits to persons desiring to recover, possess, use or transport, for the purpose of salvag-
28 ing game meat for human consumption, deer or elk that have been accidentally killed as a result
29 of a vehicle collision. The rules shall prescribe:

30 (a) The form and method for applying for and receiving a wildlife salvage permit; and

31 (b) Terms and conditions for the recovery, possession, use and transport of deer or elk pursuant
32 to a wildlife salvage permit.

33 (2) A person who recovers, possesses, uses or transports deer or elk pursuant to a wildlife sal-
34 vage permit shall promptly surrender the antlers of the deer or elk to [*the State Department of Fish*
35 *and Wildlife*] **Oregon Fish and Game**.

36 (3) A wildlife salvage permit may not be issued for the recovery, possession, use or transport
37 of crippled or helpless deer or elk killed pursuant to ORS 498.016, unless the person seeking the
38 wildlife salvage permit accidentally rendered the deer or elk crippled or helpless as the driver of a
39 motor vehicle involved in a collision with the deer or elk.

40 (4) The State of Oregon is not liable for any loss or damage arising out of the recovery, pos-
41 session, use, transport or consumption of deer or elk pursuant to a wildlife salvage permit.

42 **SECTION 326.** Section 3, chapter 330, Oregon Laws 2017, is amended to read:

43 **Sec. 3.** (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall first make
44 wildlife salvage permits available for issuance no later than January 1, 2019.

45 (2) The department shall prepare and submit a report on the implementation of wildlife salvage

1 permit rules adopted under section 2, **chapter 330, Oregon Laws 2017** [of this 2017 Act], that may
2 include recommendations on legislation, to the committees related to the environment and natural
3 resources during the 2023 regular session of the Legislative Assembly. This report shall be made in
4 the manner provided by ORS 192.245.

5 **SECTION 327.** Section 1, chapter 331, Oregon Laws 2017, is amended to read:

6 **Sec. 1.** (1) As used in this section, “food bank or other charitable organization” has the meaning
7 given that term in ORS 315.154.

8 (2) The State Fish and Wildlife Commission shall develop and adopt by rule a pilot program for
9 urban deer population control that:

10 (a) Following the passage by a city of an ordinance, resolution or order declaring that deer
11 populations have risen to levels that constitute a public nuisance, allows the city to petition [*the*
12 *State Department of Fish and Wildlife*] **Oregon Fish and Game** for assistance in reducing deer
13 population levels within city limits; and

14 (b) In cities where the department determines that deer populations do constitute a public nui-
15 sance, allows a local government body or an appropriate agent to take deer for the purpose of re-
16 ducing deer population levels.

17 (3) To implement the pilot program under this section, the department shall consult with:

18 (a) The governing bodies of cities where high urban deer populations are a concern; and

19 (b) Food banks or other charitable organizations that serve the governing bodies described in
20 paragraph (a) of this subsection.

21 (4) Rules for the pilot program adopted by the commission must include, but need not be limited
22 to:

23 (a) Provisions for the means and manner by which deer may be taken under the pilot program,
24 which must include a prohibition on taking deer by dart or lethal injection;

25 (b) Provisions for ensuring, to the extent feasible, that the edible portions of any deer taken
26 under the pilot program are distributed, at the expense of the local government, to a local food bank
27 or other charitable organization;

28 (c) A requirement that, if the hides and antlers of a deer taken under the program are not sold
29 by the local government to persons licensed under ORS 498.019, that the antlers must be surren-
30 dered to the department; and

31 (d) Provisions for ensuring that the number of deer taken under the pilot program do not exceed
32 the number necessary to be taken to reduce the deer population to a level that no longer constitutes
33 a public nuisance.

34 (5) Prior to exercising any power granted by the pilot program adopted under this section, the
35 governing body of a city shall adopt by ordinance restrictions on placing, depositing, distributing,
36 storing or scattering food, garbage or any other attractant so as to knowingly constitute a lure,
37 attractant or enticement for deer.

38 **SECTION 328.** Section 2, chapter 331, Oregon Laws 2017, is amended to read:

39 **Sec. 2.** (1) [*The State Department of Fish and Wildlife*] **Oregon Fish and Game** shall first allow
40 a local government to engage in activities pursuant to the pilot program adopted under section 1,
41 **chapter 331, Oregon Laws 2017**, [of this 2017 Act] no later than January 1, 2019.

42 (2) The department shall prepare and submit a report in the manner provided in ORS 192.245
43 on the implementation of the urban deer population control pilot program, that may include recom-
44 mendations for legislation, to the committees of the Legislative Assembly related to the environment
45 and natural resources during the 2027 regular session of the Legislative Assembly.

1 **SECTION 329.** Section 1, chapter 96, Oregon Laws 2018, is amended to read:

2 **Sec. 1.** (1) As used in this section:

3 (a) “Additive” means an increase in the pace, scale and quality of forest, rangeland and water
4 restoration services on federal lands within Oregon, including but not limited to services to produce
5 timber harvest volumes that exceed outputs that would be produced by federal land management
6 agencies alone.

7 (b) “Federal land management agencies” means the United States Forest Service and the Bureau
8 of Land Management.

9 (c) “Forest, rangeland and water restoration services” means activities that:

10 (A) Treat insect-infested or disease-infected trees;

11 (B) Reduce hazardous fuels; or

12 (C) Restore or improve forest, rangeland or watershed health, including but not limited to fish
13 or wildlife habitat health.

14 (d) “Good Neighbor Authority Agreement” means the Good Neighbor Authority Agreement that
15 the Governor, the State Forester and the State Fish and [*Wildlife*] **Game** Director entered into with
16 the United States Forest Service on March 29, 2016.

17 (2) It is the policy of the state to pursue projects under the Good Neighbor Authority Agreement
18 that increase timber harvest volume, contribute to job creation, reduce wildfire risks to all lands,
19 improve wildlife habitat and watershed health and stimulate local economies. To the extent allowed
20 by the agreement, state agencies that are signatories to the agreement shall work with federal land
21 management agencies to give priority to projects that:

22 (a) Consist of additive activities;

23 (b) Maximize economic benefit to this state; and

24 (c) Recover the state agency costs of implementing the projects.

25 **SECTION 330.** Section 2, chapter 100, Oregon Laws 2018, is amended to read:

26 **Sec. 2.** (1) As used in this section:

27 (a) “Disabled veteran” and “veteran” have the meanings given those terms in ORS 408.225.

28 (b) “Organization” means a nonprofit organization that is exempt from taxation under section
29 501(c)(3) of the Internal Revenue Code and has the principal purpose of granting hunting and fishing
30 adventures for disabled veterans.

31 (c) “Qualified veteran” means a disabled veteran who is sponsored by an organization and who
32 provides [*the State Department of Fish and Wildlife*] **Oregon Fish and Game** with documentation
33 demonstrating that the veteran is a disabled veteran.

34 (2) Annually upon approval by the State Fish and [*Wildlife*] **Game** Director, notwithstanding
35 ORS 497.112, the department may issue big game tags free of charge to organizations for use by
36 qualified veterans. Tags issued under this section must be for black bear, deer, elk or pronghorn
37 antelope.

38 (3)(a) Except as provided in subsection (4)(a) of this section, the department may not issue more
39 than 20 tags annually under this section.

40 (b) The department may not issue an organization a total of more than five tags annually under
41 this section. However, tags for black bear do not count toward the annual tag limit for an organ-
42 ization. An organization is limited to two tags for black bear annually.

43 (4)(a) If any tags made available under ORS 496.146 (19) to sponsors of hunting trips for
44 terminally ill children have not been requested by a sponsor 30 days prior to the relevant open
45 season, the department may make the unrequested tags available for issuance under this section. If

1 any tags made available under this section have not been requested by an organization 30 days prior
2 to the relevant open season, the department may make the unrequested tags available to sponsors
3 described in ORS 496.146 (19).

4 (b) Not more than 10 of the total tags issued under this section and ORS 496.146 (19) in a year
5 may be for hunting black bear. Not more than 10 of the total tags issued under this section and ORS
6 496.146 (19) in a year may be for hunting deer. Not more than 10 of the total tags issued under this
7 section and ORS 496.146 (19) in a year may be for hunting elk. Not more than five of the total tags
8 issued under this section and ORS 496.146 (19) in a year may be for hunting pronghorn antelope.

9 (5) A qualified veteran may obtain only one tag under this section annually. A tag issued under
10 this section authorizes the taking of a single animal. A qualified veteran need not be a resident of
11 this state.

12 (6) A qualified veteran may use a tag issued under this section to hunt within any wildlife
13 management unit except specific area closures identified in department rules regulating the hunting
14 of big game animals, Hart Mountain National Antelope Refuge and the Starkey Experimental Forest
15 enclosure.

16 (7) A tag issued under this section does not exempt a qualified veteran from any requirement
17 to:

- 18 (a) Comply with department rules regarding hunting hours;
- 19 (b) Hold a valid Oregon hunting license; and
- 20 (c) Use a lawful weapon to hunt the species for which the tag is issued.

21 **SECTION 331.** Section 2, chapter 104, Oregon Laws 2018, is amended to read:

22 **Sec. 2.** (1) In addition to any other authority under the commercial fishing laws, and except as
23 provided in this subsection, the State Fish and Wildlife Commission may adopt record keeping re-
24 quirements for a person that engages in taking, landing, buying or selling food fish for commercial
25 purposes or otherwise deals in food fish for commercial purposes. Records that the commission may
26 require under this section include, but need not be limited to, records sufficient to show the source
27 and disposition of food fish and any other information the commission deems necessary for tracing
28 the chain of possession for food fish. The commission may not make record keeping requirements
29 under this section applicable to tribal members exercising the treaty-reserved rights of an Indian
30 tribe.

31 (2) A person that the commission makes subject to a record keeping requirement under this
32 section shall make the records available for inspection by the commission, [*the State Department of*
33 *Fish and Wildlife*] **Oregon Fish and Game** or the State Department of Agriculture, or by a designee
34 of the commission, [*State Department of Fish and Wildlife*] **Oregon Fish and Game** or **the** State
35 Department of Agriculture. The State Department of Agriculture may request copies of, or infor-
36 mation from, the records for the purpose of programs under ORS chapter 616 or other food safety
37 law programs administered or enforced by the department. The State Department of Agriculture
38 may, as part of a general pattern of administering and enforcing programs under ORS chapter 616
39 or other food safety law programs, during normal business hours enter premises where records de-
40 scribed in this section are kept.

41 (3) A person may keep records required by the commission under this section in electronic form
42 and may satisfy a request for inspection of the records by supplying a copy of the records in elec-
43 tronic form to the requester. If the records are not supplied to the requester in electronic form, the
44 person shall allow inspection of the records upon request during normal business hours.

45 **SECTION 332.** (1) **The amendments to ORS 137.138, 166.220, 166.291, 166.660, 181A.265,**

1 181A.275, 182.535, 183.700, 184.668, 196.408, 196.438, 196.540, 196.542, 196.545, 196.550, 196.555,
2 196.572, 196.573, 196.635, 196.810, 196.820, 196.850, 196.905, 196.910, 197.770, 244.050, 270.100,
3 274.755, 274.780, 274.860, 279A.050, 284.752, 308A.350, 308A.356, 308A.359, 308A.360, 308A.362,
4 308A.365, 308A.368, 308A.374, 308A.383, 308A.406, 308A.409, 308A.412, 308A.424, 308A.430,
5 308A.743, 315.138, 315.174, 352.829, 390.565, 390.725, 390.835, 390.855, 390.930, 401.054, 466.135,
6 466.280, 468B.060, 468B.090, 468B.365, 468B.400, 468B.450, 469.350, 469.373, 469.840, 477.747,
7 496.004, 496.080, 496.085, 496.112, 496.116, 496.118, 496.121, 496.124, 496.138, 496.141, 496.146,
8 496.164, 496.167, 496.168, 496.169, 496.172, 496.176, 496.182, 496.201, 496.206, 496.211, 496.228,
9 496.232, 496.236, 496.242, 496.246, 496.270, 496.275, 496.286, 496.289, 496.291, 496.300, 496.303,
10 496.306, 496.350, 496.375, 496.390, 496.445, 496.460, 496.470, 496.480, 496.490, 496.605, 496.731,
11 496.815, 496.820, 496.825, 496.830, 496.835, 497.022, 497.136, 497.139, 497.141, 497.228, 497.248,
12 497.249, 497.252, 497.258, 497.400, 497.655, 497.660, 498.012, 498.014, 498.022, 498.126, 498.128,
13 498.166, 498.182, 498.257, 498.279, 498.306, 498.321, 498.326, 498.341, 498.500, 498.502, 498.825,
14 498.827, 498.833, 506.006, 506.154, 506.214, 506.226, 506.231, 506.462, 506.465, 506.521, 506.526,
15 506.620, 506.720, 506.995, 507.050, 508.030, 508.035, 508.111, 508.116, 508.316, 508.406, 508.410,
16 508.415, 508.445, 508.450, 508.470, 508.485, 508.490, 508.495, 508.500, 508.502, 508.505, 508.515,
17 508.520, 508.535, 508.540, 508.715, 508.718, 508.730, 508.755, 508.762, 508.765, 508.781, 508.784,
18 508.790, 508.792, 508.793, 508.796, 508.807, 508.808, 508.810, 508.816, 508.819, 508.822, 508.825,
19 508.828, 508.852, 508.861, 508.867, 508.883, 508.892, 508.895, 508.901, 508.904, 508.910, 508.915,
20 508.936, 508.943, 508.947, 508.949, 508.951, 508.953, 508.960, 509.015, 509.110, 509.120, 509.160,
21 509.245, 509.580, 509.585, 509.590, 509.592, 509.595, 509.610, 509.620, 509.625, 509.630, 509.645,
22 517.750, 517.956, 517.988, 522.125, 526.271, 526.274, 526.280, 526.710, 526.786, 526.905, 527.678,
23 527.710, 536.015, 536.017, 536.050, 536.220, 537.132, 537.135, 537.141, 537.142, 537.147, 537.211,
24 537.230, 537.336, 537.409, 537.630, 538.170, 538.220, 538.251, 538.430, 540.510, 540.520, 540.525,
25 540.530, 540.532, 541.386, 541.669, 541.686, 541.689, 541.898, 541.972, 541.973, 543.085, 543.265,
26 543.280, 543.765, 543A.035, 543A.075, 564.105, 570.770, 570.780, 571.620, 610.003, 610.150, 619.095,
27 619.105, 624.165, 634.550, 634.660, 686.040, 811.560, 830.185, 830.589, 830.594, 830.998 and 830.999
28 and section 2, chapter 460, Oregon Laws 1995, section 6, chapter 1059, Oregon Laws 1999,
29 section 3, chapter 499, Oregon Laws 2001, section 9, chapter 636, Oregon Laws 2009, section
30 11, chapter 913, Oregon Laws 2009, section 2, chapter 686, Oregon Laws 2011, section 3,
31 chapter 363, Oregon Laws 2013, sections 1 and 7, chapter 734, Oregon Laws 2015, sections 2
32 and 3, chapter 330, Oregon Laws 2017, sections 1 and 2, chapter 331, Oregon Laws 2017, sec-
33 tion 1, chapter 96, Oregon Laws 2018, section 2, chapter 100, Oregon Laws 2018, and section
34 2, chapter 104, Oregon Laws 2018, by sections 16 to 331 of this 2019 Act are intended to
35 change the name of the State Department of Fish and Wildlife to Oregon Fish and Game, to
36 change the name of the department's Wildlife Division to Game Division and to change the
37 title of State Fish and Wildlife Director to the title of State Fish and Game Director.

38 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
39 may substitute for words designating the State Department of Fish and Wildlife, the Wildlife
40 Division of the department or the State Fish and Wildlife Director, wherever they occur in
41 Oregon Revised Statutes, other words designating respectively Oregon Fish and Game, the
42 Game Division of the department or the State Fish and Game Director.

43 **SECTION 333.** The unit captions used in this 2019 Act are provided only for the conven-
44 ience of the reader and do not become part of the statutory law of this state or express any
45 legislative intent in the enactment of this 2019 Act.

