

Senate Bill 941

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

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**.

Modifies provisions related to imposition of civil penalties by Water Resources Commission, Department of State Lands, State Department of Fish and Wildlife, State Department of Geology and Mineral Industries, Parks and Recreation Department, State Department of Energy and Department of Environmental Quality. Dedicates certain penalties to Department of Justice Protection and Education Revolving Account.

Repeals provision requiring notice of violation related to sewage.

Modifies definition of "generator" for purposes of laws related to hazardous waste.

Requires that fine imposed in certain environmental crimes cases be in form of compensatory fine. Directs court to forward compensatory fine payments to Department of Justice for deposit in Department of Justice Protection and Education Revolving Account. Modifies scope of phrase "state and federal environmental laws" for purposes of account.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the environment; creating new provisions; amending ORS 137.101, 137.295, 180.095,
3 196.890, 196.895, 222.900, 390.674, 390.992, 448.405, 454.505, 454.525, 454.655, 454.725, 465.992,
4 466.005, 468.005, 468.015, 468.035, 468.065, 468.070, 468.090, 468.095, 468.100, 468.120, 468.135,
5 468.140, 468.956, 468.997, 468A.015, 468A.030, 468A.040, 468A.055, 468A.165, 468A.405, 468B.005,
6 468B.010, 468B.080, 469.085, 496.303, 506.995, 517.992 and 536.905; repealing ORS 454.635; and
7 declaring an emergency.

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

WATER RESOURCES

9
10
11
12 **SECTION 1.** ORS 536.905 is amended to read:

13 536.905. (1)(a) Any civil penalty under ORS 536.900 shall be imposed as provided in ORS 183.745.

14 **(b) In lieu of imposing a civil penalty under ORS 536.900, the Water Resources Depart-**
15 **ment may bring a civil action to recover a penalty in amounts equal to those provided in ORS**
16 **536.910.**

17 (2) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 10 days
18 from the date of service of the notice in which to make written application for a hearing before the
19 commission.

20 **(3) Any penalty recovered in a civil action under this section shall be deposited in the**
21 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
22 **180.095.**

23 **SECTION 2.** ORS 496.303 is amended to read:

24 496.303. (1) The Fish and Wildlife Account is established in the State Treasury, separate and
25 distinct from the General Fund. All moneys in the account are continuously appropriated to the

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

1 State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in
2 its various subaccounts and any moneys transferred to the account by the Legislative Assembly.
3 Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the
4 State Treasury and credited to the State Wildlife Fund.

5 (2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The sub-
6 account shall consist of:

7 (A) All penalties recovered under ORS 536.900 to 536.920, **except as provided in ORS 536.905**
8 **(3)**.

9 (B) All moneys received pursuant to ORS 498.306.

10 (C) All gifts, grants and other moneys from whatever source that may be used to carry out the
11 provisions of ORS 498.306.

12 (D) All moneys received from the surcharge on angling licenses imposed by ORS 497.124.

13 (b) All moneys in the subaccount shall be used to carry out the provisions of ORS 315.138,
14 498.306 and 509.620. However, moneys received from the surcharge on angling licenses imposed by
15 ORS 497.124 shall be expended only to carry out the provisions of law relating to the screening of
16 water diversions.

17 (3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The sub-
18 account shall consist of transfers of moneys authorized by the Legislative Assembly from the State
19 Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the
20 expense of maintaining fish hatcheries operated by the department.

21 (4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All
22 moneys received by the commission from the sale of art works and prints related to the migratory
23 waterfowl stamp shall be deposited in the subaccount. Moneys in the subaccount may be expended
24 only for activities that promote the propagation, conservation and recreational uses of migratory
25 waterfowl and for activities related to the design, production, issuance and arrangements for sale
26 of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the
27 subaccount may be made within this state, in other states or in foreign countries, in such amounts
28 as the commission determines appropriate. Expenditures in other states and foreign countries shall
29 be on such terms and conditions as the commission determines will benefit most directly the mi-
30 gratory waterfowl resources of this state.

31 (5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on
32 the annual number of recreational halibut anglers, a portion of the moneys derived from the sale
33 of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited
34 to the subaccount. Moneys in the subaccount may be expended only for halibut population studies
35 and other research.

36 (6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys
37 received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the
38 sale of any art works and prints related to the upland bird stamp and from private hunting preserve
39 permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only
40 for promoting the propagation and conservation of upland birds and the acquisition, development,
41 management, enhancement, sale or exchange of upland bird habitat, and for activities related to the
42 design, production, issuance and arrangements for sale of the upland bird stamps and related art
43 works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of pro-
44 grams within this state in such amounts and at such times as the commission determines appropriate
45 to most directly benefit the upland bird resources of the state.

1 (7)(a) The Fish and Wildlife Deferred Maintenance Subaccount is established in the Fish and
2 Wildlife Account. Interest earnings on moneys in the subaccount shall be credited to the subaccount.
3 The subaccount shall consist of moneys authorized by the Legislative Assembly from the State
4 Wildlife Fund and moneys obtained by gift, grant, bequest or donation from any other public or
5 private source.

6 (b) The principal in the subaccount may be utilized only as provided in paragraph (c) of this
7 subsection. Interest earnings on the moneys in the subaccount may be expended only for the main-
8 tenance of fish hatcheries and State Department of Fish and Wildlife facilities other than adminis-
9 trative facilities located in Salem.

10 (c) The department may borrow funds from the principal of the subaccount to maintain adequate
11 cash flow requirements. However, moneys borrowed from the principal must be repaid to the sub-
12 account:

13 (A) Within six months from the date on which the moneys were borrowed.

14 (B) With interest at the standard rate that the State Treasurer charges to state agencies for
15 other loans. Interest paid under this subparagraph shall be paid to the subaccount.

16 (d) For purposes of this subsection, "principal" means moneys authorized by the Legislative
17 Assembly for transfer to the subaccount from the State Wildlife Fund, including any assignment of
18 earnings on moneys in the fund and other moneys obtained by gift, grant, bequest or donation de-
19 posited into the subaccount.

20 (8) The Access and Habitat Board Subaccount is established in the Fish and Wildlife Account.
21 The subaccount shall consist of moneys transferred to the subaccount pursuant to ORS 496.242.
22 Moneys in the subaccount may be used for the purposes specified in ORS 496.242.

23 (9) The Marine Shellfish Subaccount is established in the Fish and Wildlife Account. Interest
24 earnings on moneys in the subaccount shall be credited to the subaccount. All moneys received by
25 the commission from the sale of resident and nonresident shellfish licenses pursuant to ORS 497.121
26 shall be deposited in the subaccount. Moneys in the subaccount shall be used for the protection and
27 enhancement of shellfish for recreational purposes, including shellfish sanitation costs and the cost
28 of enforcement of wildlife laws pertaining to the taking of shellfish. The State Fish and Wildlife
29 Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent of State
30 Police, or a designee, shall jointly make a recommendation to the Governor for inclusion in the
31 Governor's budget beginning July 1 of each odd-numbered year.

32 (10)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, con-
33 sisting of moneys collected under ORS 497.112 (2)(a) to (c).

34 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
35 sheep, for research, development, management, enhancement and sale or exchange of mountain
36 sheep habitat and for programs within the state that in the discretion of the commission most di-
37 rectly benefit mountain sheep resources of this state.

38 (11)(a) The Antelope Subaccount is established in the Fish and Wildlife Account, consisting of
39 moneys collected under ORS 497.112 (2)(a) to (c).

40 (b) All moneys in the subaccount shall be used for the propagation and conservation of antelope,
41 for research, development, management, enhancement and sale or exchange of antelope habitat and
42 for programs within the state that in the discretion of the commission most directly benefit antelope
43 resources of this state.

44 (12)(a) The Mountain Goat Subaccount is established in the Fish and Wildlife Account, consist-
45 ing of moneys collected under ORS 497.112 (2)(a) to (c).

1 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
2 goats for research, development, management, enhancement and sale or exchange of mountain goat
3 habitat and for programs within the state that in the discretion of the commission most directly
4 benefit mountain goat resources of this state.

5 (13)(a) The commission shall keep a record of all moneys deposited in the Fish and Wildlife
6 Account. The record shall indicate by separate cumulative accounts the sources from which the
7 moneys are derived and the individual activity or programs against which each withdrawal is
8 charged.

9 (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall
10 report, in the budget documents submitted to the Legislative Assembly, on the application of in-
11 vestment and interest earnings to the maintenance of fish hatcheries and other State Department
12 of Fish and Wildlife facilities.

13 **SECTION 3.** ORS 496.303, as amended by section 14, chapter 625, Oregon Laws 2007, is
14 amended to read:

15 496.303. (1) The Fish and Wildlife Account is established in the State Treasury, separate and
16 distinct from the General Fund. All moneys in the account are continuously appropriated to the
17 State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in
18 its various subaccounts and any moneys transferred to the account by the Legislative Assembly.
19 Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the
20 State Treasury and credited to the State Wildlife Fund.

21 (2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The sub-
22 account shall consist of:

23 (A) All penalties recovered under ORS 536.900 to 536.920, **except as provided in ORS 536.905**
24 **(3)**.

25 (B) All moneys received pursuant to ORS 498.306.

26 (C) All gifts, grants and other moneys from whatever source that may be used to carry out the
27 provisions of ORS 498.306.

28 (D) All moneys received from the surcharge on angling licenses imposed by ORS 497.124.

29 (b) All moneys in the subaccount shall be used to carry out the provisions of ORS 498.306 and
30 509.620. However, moneys received from the surcharge on angling licenses imposed by ORS 497.124
31 shall be expended only to carry out the provisions of law relating to the screening of water diver-
32 sions.

33 (3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The sub-
34 account shall consist of transfers of moneys authorized by the Legislative Assembly from the State
35 Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the
36 expense of maintaining fish hatcheries operated by the department.

37 (4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All
38 moneys received by the commission from the sale of art works and prints related to the migratory
39 waterfowl stamp shall be deposited in the subaccount. Moneys in the subaccount may be expended
40 only for activities that promote the propagation, conservation and recreational uses of migratory
41 waterfowl and for activities related to the design, production, issuance and arrangements for sale
42 of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the
43 subaccount may be made within this state, in other states or in foreign countries, in such amounts
44 as the commission determines appropriate. Expenditures in other states and foreign countries shall
45 be on such terms and conditions as the commission determines will benefit most directly the mi-

1 gratory waterfowl resources of this state.

2 (5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on
3 the annual number of recreational halibut anglers, a portion of the moneys derived from the sale
4 of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited
5 to the subaccount. Moneys in the subaccount may be expended only for halibut population studies
6 and other research.

7 (6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys
8 received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the
9 sale of any art works and prints related to the upland bird stamp and from private hunting preserve
10 permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only
11 for promoting the propagation and conservation of upland birds and the acquisition, development,
12 management, enhancement, sale or exchange of upland bird habitat, and for activities related to the
13 design, production, issuance and arrangements for sale of the upland bird stamps and related art
14 works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of pro-
15 grams within this state in such amounts and at such times as the commission determines appropriate
16 to most directly benefit the upland bird resources of the state.

17 (7)(a) The Fish and Wildlife Deferred Maintenance Subaccount is established in the Fish and
18 Wildlife Account. Interest earnings on moneys in the subaccount shall be credited to the subaccount.
19 The subaccount shall consist of moneys authorized by the Legislative Assembly from the State
20 Wildlife Fund and moneys obtained by gift, grant, bequest or donation from any other public or
21 private source.

22 (b) The principal in the subaccount may be utilized only as provided in paragraph (c) of this
23 subsection. Interest earnings on the moneys in the subaccount may be expended only for the main-
24 tenance of fish hatcheries and State Department of Fish and Wildlife facilities other than adminis-
25 trative facilities located in Salem.

26 (c) The department may borrow funds from the principal of the subaccount to maintain adequate
27 cash flow requirements. However, moneys borrowed from the principal must be repaid to the sub-
28 account:

29 (A) Within six months from the date on which the moneys were borrowed.

30 (B) With interest at the standard rate that the State Treasurer charges to state agencies for
31 other loans. Interest paid under this subparagraph shall be paid to the subaccount.

32 (d) For purposes of this subsection, "principal" means moneys authorized by the Legislative
33 Assembly for transfer to the subaccount from the State Wildlife Fund, including any assignment of
34 earnings on moneys in the fund and other moneys obtained by gift, grant, bequest or donation de-
35 posited into the subaccount.

36 (8) The Access and Habitat Board Subaccount (8) 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 (9) 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 Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent of State

1 Police, or a designee, shall jointly make a recommendation to the Governor for inclusion in the
 2 Governor's budget beginning July 1 of each odd-numbered year.

3 (10)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, con-
 4 sisting 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 (11)(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 (12)(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 (13)(a) The commission shall keep a record of all moneys deposited in the Fish and Wildlife
 22 Account. The record shall indicate by separate cumulative accounts the sources from which the
 23 moneys are derived and the individual activity or programs against which each withdrawal is
 24 charged.

25 (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall
 26 report, in the budget documents submitted to the Legislative Assembly, on the application of in-
 27 vestment and interest earnings to the maintenance of fish hatcheries and other State Department
 28 of Fish and Wildlife facilities.

29
 30 **DEPARTMENT OF STATE LANDS**

31
 32 **SECTION 4.** ORS 196.890 is amended to read:

33 196.890. Any person who violates any provision of ORS 196.600 to 196.905 or any rule, order or
 34 permit adopted or issued under ORS 196.600 to 196.905 shall be subject to a:

35 (1) Civil penalty in an amount to be determined by the Director of the Department of State
 36 Lands of not more than \$10,000 per day of violation.

37 **(2) Penalty of not more than \$10,000 per day in a civil action under ORS 196.895.**

38 **SECTION 5.** ORS 196.895 is amended to read:

39 196.895. (1)(a) Civil penalties under ORS 196.890 shall be imposed as provided in ORS 183.745.

40 **(b) In lieu of imposing a civil penalty under ORS 196.890, the Department of State Lands**
 41 **may bring a civil action to recover a penalty in amounts equal to those provided in ORS**
 42 **196.890 (2).**

43 (2) The provisions of this section are in addition to and not in lieu of any other penalty or
 44 sanction provided by law. An action taken by the Director of the Department of State Lands under
 45 this section may be joined by the director with any other action taken against the same person

1 under ORS 196.860 (1)(f).

2 (3)(a) Any civil penalty recovered under this section shall be deposited in the Common School
 3 Fund for use by the Department of State Lands in administration of ORS 196.600 to 196.905, 196.990
 4 and 541.990 and as otherwise required by law.

5 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 6 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 7 **180.095.**

8 **SECTION 6.** ORS 196.895, as amended by section 5, chapter 516, Oregon Laws 2001, is amended
 9 to read:

10 196.895. (1)(a) Except as provided in subsection (4) of this section, civil penalties under ORS
 11 196.890 shall be imposed as provided in ORS 183.745.

12 **(b) In lieu of imposing a civil penalty under ORS 196.890, the Department of State Lands**
 13 **may bring a civil action to recover a penalty in amounts equal to those provided in ORS**
 14 **196.890 (2).**

15 (2) The provisions of this section are in addition to and not in lieu of any other penalty or
 16 sanction provided by law. An action taken by the Director of the Department of State Lands under
 17 this section may be joined by the director with any other action taken against the same person
 18 under ORS 196.860 (1)(f).

19 (3)(a) Any civil penalty recovered under this section shall be deposited in the Common School
 20 Fund for use by the Department of State Lands in administration of ORS 196.600 to 196.905, 196.990
 21 and 541.990 and as otherwise required by law.

22 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 23 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 24 **180.095.**

25 (4) Notwithstanding any provision of ORS 183.745, any person having an interest that is ad-
 26 versely affected or aggrieved by an alleged violation for which civil penalties are imposed under
 27 ORS 196.890 may intervene in a contested case proceeding pertaining to the imposition of civil
 28 penalties under this section.

29
 30 **STATE DEPARTMENT OF FISH AND WILDLIFE**

31
 32 **SECTION 7.** ORS 506.995 is amended to read:

33 506.995. (1) As used in this section, “gain” means the amount of money and the value of any
 34 property derived from the violation.

35 (2) In addition to any other sanction imposed by law, if a person derives a gain of at least \$5,000
 36 from violating any commercial fishing law or rule promulgated pursuant to such laws, the person
 37 shall be subject to a civil penalty that is equal to twice the amount of the gain.

38 (3)(a) Civil penalties under **subsection (2) of** this section shall be imposed pursuant to ORS
 39 183.745.

40 **(b) In lieu of imposing a civil penalty under subsection (2) of this section, the State De-**
 41 **partment of Fish and Wildlife may bring a civil action to recover a penalty in amounts equal**
 42 **to those provided in subsection (2) of this section.**

43 (4)(a) Any civil penalty received by the State Department of Fish and Wildlife under this section
 44 shall be deposited in the Commercial Fisheries Fund.

45 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**

1 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 2 **180.095.**

3
 4 **STATE DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES**

5
 6 **SECTION 8.** ORS 517.992 is amended to read:

7 517.992. (1) In addition to any other sanction authorized by law, the governing board of the State
 8 Department of Geology and Mineral Industries may impose a civil penalty of not less than \$200 per
 9 day and not more than \$50,000 per day for any violation of ORS 517.702 to 517.989 related to a
 10 chemical process mine, of any rules adopted under those provisions related to a chemical process
 11 mine, of any orders issued under those provisions related to a chemical process mine or of any
 12 conditions of a permit issued under those provisions related to a chemical process mine. A penalty
 13 may be imposed under this section without regard to whether the violation occurs on property
 14 covered by a permit issued under ORS 517.702 to 517.989.

15 (2)(a) In addition to any other sanction authorized by law, and subject to the limitations of
 16 paragraph (b) of this subsection, the governing board of the State Department of Geology and Min-
 17 eral Industries may impose a civil penalty of not more than \$10,000 per day for any violation of ORS
 18 517.702 to 517.740, 517.750 to 517.901 and 517.905 to 517.951 not related to a chemical process mine,
 19 of any rules adopted under those provisions not related to a chemical process mine, of any orders
 20 issued under those provisions not related to a chemical process mine or of any conditions of a per-
 21 mit issued under those provisions not related to a chemical process mine.

22 (b) A penalty may be imposed under this subsection only if a landowner or operator fails to
 23 complete erosion stabilization as required by ORS 517.775 or board rules adopted to implement that
 24 section, if the operator has failed to comply with an order issued under ORS 517.860 or 517.880, if
 25 the operation is being conducted in violation of conditions imposed on an operating permit or rec-
 26 lamation plan pursuant to ORS 517.835 or if the operation is being conducted:

27 (A) Without a permit;

28 (B) Outside the permit boundary; or

29 (C) Outside a permit condition regarding boundaries, setbacks, buffers or the placement of sur-
 30 face mining refuse.

31 (3)(a) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

32 **(b) In lieu of imposing a civil penalty under this section, the State Department of Geology**
 33 **and Mineral Industries may bring a civil action to recover a penalty in amounts equal to**
 34 **those provided in the rules adopted under subsection (8) of this section.**

35 (4) Failure to pay a civil penalty that has become final under this section shall be grounds for
 36 revocation of any permit issued under ORS 517.702 to 517.989 to the person against whom the pen-
 37 alty has been assessed.

38 (5)(a) Any civil penalty received by the State Treasurer under this section shall be deposited in
 39 the General Fund to the credit of the Geology and Mineral Industries Account and is continuously
 40 appropriated to the State Department of Geology and Mineral Industries to the extent necessary for
 41 the administration and enforcement of the laws, rules and orders under which the penalty was as-
 42 sessed.

43 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 44 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 45 **180.095.**

1 (6) A reclamation fund shall be established into which funds not used as described in subsection
 2 (5) of this section shall be deposited. This money shall be used by the State Department of Geology
 3 and Mineral Industries for the purpose of the reclamation of abandoned mine and drill sites.

4 (7) When a single incident violates statutes, rules, board orders or permit conditions adminis-
 5 tered by more than one agency, the department shall coordinate with the other agencies having civil
 6 penalty authority before imposing a civil penalty.

7 (8) In implementing this section, the department shall adopt rules that provide civil penalties
 8 that are commensurate with the severity of violations.

9 (9) A civil penalty may be imposed against the board of directors and high managerial agents
 10 of a corporation if those persons engage in, authorize, solicit, request, command or knowingly tol-
 11 erate the conduct for which the penalty is to be imposed. As used in this subsection, “agent” and
 12 “high managerial agent” have the meanings given those terms in ORS 161.170.

13
 14 **STATE PARKS AND RECREATION DEPARTMENT**

15
 16 **SECTION 9.** ORS 390.674 is amended to read:

17 390.674. (1)(a) Civil penalties under ORS 390.992 shall be imposed as provided in ORS 183.745.

18 **(b) In lieu of imposing a civil penalty under ORS 390.992, the State Parks and Recreation**
 19 **Department may bring a civil action to recover a penalty in amounts equal to those provided**
 20 **for in ORS 390.992 (1)(b).**

21 (2) The provisions of this section are in addition to and not in lieu of any other penalty or
 22 sanction provided by law. An action taken by the State Parks and Recreation Director under this
 23 section may be joined by the director with any other action taken against the same person under
 24 ORS 390.995 (1).

25 (3)(a) Any civil penalty recovered under this section shall be deposited into an account of the
 26 State Parks and Recreation Department for use by the department in administration of the ocean
 27 shore program.

28 **(b) Any penalty recovered in a civil action under ORS 390.992 shall be deposited in the**
 29 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 30 **180.095.**

31 **SECTION 10.** ORS 390.992 is amended to read:

32 390.992. (1) Any person who violates any provision of ORS 390.610, 390.620 to 390.676, 390.690
 33 and 390.705 to 390.770 or any rule, order or permit adopted or issued under ORS 390.610, 390.620 to
 34 390.676, 390.690 and 390.705 to 390.770 shall be subject to a:

35 **(a)** Civil penalty in an amount to be determined by the State Parks and Recreation Director of
 36 not more than \$10,000 per day of violation;

37 **(b) Penalty of not more than \$10,000 per day in a civil action under ORS 390.674.**

38 (2) In addition to any other penalties provided under subsection (1) of this section, the State
 39 Parks and Recreation Department is vested with power to obtain injunctions and other appropriate
 40 relief against a person who violates any provisions of ORS 390.610, 390.620 to 390.676, 390.690 and
 41 390.705 to 390.770 or any rule, order or permit adopted or issued under ORS 390.610, 390.620 to
 42 390.676, 390.690 and 390.705 to 390.770.

43
 44 **STATE DEPARTMENT OF ENERGY**

1 **SECTION 11.** ORS 469.085 is amended to read:

2 469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall
3 be imposed as provided in ORS 183.745.

4 (2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is
5 to be imposed shall reflect a complete statement of the consideration given to the factors listed in
6 subsection (7) of this section. The notice may be served by either the Director of the State Depart-
7 ment of Energy or the Energy Facility Siting Council.

8 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a
9 hearing fails to appear, a final order shall be entered upon a prima facie case made on the record
10 of the agency.

11 (4) The provisions of this section are in addition to and not in lieu of any other penalty or
12 sanction provided by law. An action taken by the director or the council under this section may be
13 joined by the director or the council with any other action against the same person under this
14 chapter.

15 (5) Any civil penalty recovered under this section shall be paid into the General Fund.

16 (6) The director or the council shall adopt by rule a schedule of the amount of civil penalty that
17 may be imposed for a particular violation.

18 (7) In imposing a penalty under ORS 469.992, the director or the council shall consider:

19 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
20 necessary or appropriate to correct or prevent any violation;

21 (b) Any prior violations of ORS chapter 469 or rules, orders or permits relating to the alleged
22 violation;

23 (c) The impact of the violation on public health and safety or public interests in fishery, navi-
24 gation and recreation;

25 (d) Any other factors determined by the director or the council to be relevant; and

26 (e) The alleged violator's cooperativeness and effort to correct the violation.

27 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and
28 conditions as the director or council determines to be proper. Upon the request of the person in-
29 curring the penalty, the director or council shall consider evidence of the economic and financial
30 condition of the person in determining whether a penalty shall be remitted or mitigated.

31 **(9)(a) Notwithstanding any other provision of this section and in lieu of imposing civil**
32 **penalties under ORS 469.992, the State Department of Energy may bring a civil action to**
33 **recover a penalty in amounts equal to those provided in ORS 469.992.**

34 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
35 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
36 **180.095.**

37
38 **DEPARTMENT OF ENVIRONMENTAL QUALITY**
39

40 **SECTION 12. ORS 454.635 is repealed.**

41 **SECTION 13.** ORS 454.655 is amended to read:

42 454.655. (1) Except as otherwise provided in ORS 454.675, without first obtaining a permit from
43 the Department of Environmental Quality, no person shall construct or install a subsurface sewage
44 disposal system, alternative sewage disposal system or part thereof. However, a person may under-
45 take emergency repairs limited to replacing minor broken components of the system without first

1 obtaining a permit.

2 (2) A permit required by subsection (1) of this section shall be issued only in the name of an
3 owner or contract purchaser in possession of the land. However, a permit issued to an owner or
4 contract purchaser carries the condition that the owner or purchaser or regular employees or a
5 person licensed under ORS 454.695 perform all labor in connection with the construction of the
6 subsurface or alternative sewage disposal system.

7 (3) The applications for a permit required by this section must be accompanied by the permit
8 fees prescribed in ORS 454.745.

9 (4) After receipt of an application and all requisite fees, subject to ORS 454.685, the department
10 shall issue a permit if it finds that the proposed construction will be in accordance with the rules
11 of the Environmental Quality Commission. A permit may not be issued if a community or area-wide
12 sewerage system is available which will satisfactorily accommodate the proposed sewage discharge.
13 The prohibition on the issuance of a permit in this subsection does not apply to a public agency as
14 defined in ORS 454.430.

15 (5)(a) Unless weather conditions or distance and unavailability of transportation prevent the is-
16 suance of a permit within 20 days of the receipt of the application and fees by the department, the
17 department shall issue or deny the permit within 20 days after such date. If such conditions prevent
18 issuance or denial within 20 days, the department shall notify the applicant in writing of the reason
19 for the delay and shall issue or deny the permit within 60 days after such notification.

20 (b) If within 20 days of the date of the application the department fails to issue or deny the
21 permit or to give notice of conditions preventing such issuance or denial, the permit shall be con-
22 sidered to have been issued.

23 (c) If within 60 days of the date of the notification referred to in paragraph (a) of this subsection,
24 the department fails to issue or deny the permit, the permit shall be considered to have been issued.

25 (6) Upon request of any person, the department may issue a report, described in ORS 454.755 (1),
26 of evaluation of site suitability for installation of a subsurface or alternative sewage disposal system
27 or nonwater-carried sewage disposal facility. The application for such report must be accompanied
28 by the fees prescribed in ORS 454.755.

29 (7) With respect to an application for a permit for the construction and installation of a septic
30 tank and necessary effluent sewer and absorption facility for a single family residence or for a farm
31 related activity on a parcel of 10 acres or more described in the application by the owner or con-
32 tract purchaser of the parcel, the Department of Environmental Quality:

33 (a) Within the period allowed by subsection (5)(a) of this section after receipt by it of the ap-
34 plication, shall issue the permit or deliver to the applicant a notice of intent to deny the issuance
35 of the permit;

36 (b) In any notice of intent to deny an application, shall specify the reasons for the intended de-
37 nial based upon the rules of the Environmental Quality Commission for the construction and in-
38 stallation of a septic tank and necessary effluent sewer and absorption facility or based upon the
39 factors included in ORS 454.685 (2)(a) to (j);

40 (c) Upon request of the applicant, shall conduct a **contested case** hearing in the manner pro-
41 vided in ORS [454.635 (4) and (5)] **chapter 183** on the reasons specified in a notice of intent to deny
42 the application with the burden of proof upon the department to justify the reasons specified; and

43 (d) In the case of issuance of a permit, may include as a condition of the permit that no other
44 permit for a subsurface sewage disposal system or alternative sewage disposal system shall be issued
45 for use on the described parcel while the approved septic tank, effluent sewer and absorption facility

1 are in use on the described parcel.

2 **SECTION 14.** ORS 454.725 is amended to read:

3 454.725. (1) The Department of Environmental Quality may enter into agreements with local
4 units of government for the local units to perform the duties of the department under ORS
5 [454.635,] 454.655, 454.665 and 454.755.

6 (2) The Department of Environmental Quality may enter into an agreement with a local unit of
7 government when the local unit of government requests to perform the variance duties of the de-
8 partment under ORS 454.657 and 454.660 subject to variance criteria specified in the agreement by
9 the department. Each local unit of government performing variance duties under an agreement may
10 set and collect a variance application fee as provided in ORS 454.662. A fee collected by a local unit
11 of government under this subsection shall not exceed the cost to the local unit of government of
12 performing the variance duties of the department.

13 **SECTION 15.** ORS 465.992 is amended to read:

14 465.992. [(1)] Any dry cleaning operator who fails to pay a fee required under ORS 465.517,
15 465.520 or 465.523 shall incur a civil penalty of not more than \$5,000. The penalty shall be [recovered
16 as provided in subsection (2) of this section] **imposed in the manner provided by ORS 468.135.**

17 [(2) Any person against whom a penalty is assessed under subsection (1) of this section may appeal
18 to the tax court as provided in ORS 305.404 to 305.560. If the penalty is not paid within 10 days after
19 the order of the tax court becomes final, the Department of Revenue may record the order and collect
20 the amount assessed in the same manner as income tax deficiencies are recorded and collected under
21 ORS 314.430.]

22 **SECTION 16.** ORS 466.005 is amended to read:

23 466.005. As used in ORS 453.635 and 466.005 to 466.385 and 466.992, unless the context requires
24 otherwise:

25 (1) "Commission" means the Environmental Quality Commission.

26 (2) "Department" means the Department of Environmental Quality.

27 (3) "Director" means the Director of the Department of Environmental Quality.

28 (4) "Dispose" or "disposal" means the discharge, deposit, injection, dumping, spilling, leaking or
29 placing of any hazardous waste into or on any land or water so that the hazardous waste or any
30 hazardous constituent thereof may enter the environment or be emitted into the air or discharged
31 into any waters of the state as defined in ORS 468B.005.

32 (5) "Facility" means all contiguous land, structures, other appurtenances and improvements on
33 the land used for treating, storing or disposing of hazardous waste. "Facility" may consist of one
34 or more treatment, storage or disposal operational units.

35 (6) "Generator" means [*the person, who by virtue of ownership, management or control, is re-*
36 *sponsible for causing or allowing to be caused the creation of a hazardous waste*] **any person, by site,**
37 **whose act or process produces hazardous waste, or whose act or process first causes haz-**
38 **ardous waste to become subject to regulation under ORS 466.005 to 466.385.**

39 (7) "Hazardous waste" does not include radioactive material or the radioactively contaminated
40 containers and receptacles used in the transportation, storage, use or application of radioactive
41 waste, unless the material, container or receptacle is classified as hazardous waste under paragraph
42 (a), (b) or (c) of this subsection on some basis other than the radioactivity of the material, container
43 or receptacle. Hazardous waste [*does include*] **includes** all of the following [*which are not*] **unless**
44 declassified by the commission under ORS 466.015 (3):

45 (a) Discarded, useless or unwanted materials or residues resulting from any substance or com-

1 bination of substances intended for the purpose of defoliating plants or for the preventing, destroy-
 2 ing, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including but not
 3 limited to defoliant, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides.

4 (b) Residues resulting from any process of industry, manufacturing, trade or business or gov-
 5 ernment or from the development or recovery of any natural resources, if such residues are classi-
 6 fied as hazardous by order of the commission, after notice and public hearing. For purposes of
 7 classification, the commission must find that the residue, because of its quantity, concentration, or
 8 physical, chemical or infectious characteristics may:

9 (A) Cause or significantly contribute to an increase in mortality or an increase in serious irre-
 10 versible or incapacitating reversible illness; or

11 (B) Pose a substantial present or potential hazard to human health or the environment when
 12 improperly treated, stored, transported, or disposed of, or otherwise managed.

13 (c) Discarded, useless or unwanted containers and receptacles used in the transportation, stor-
 14 age, use or application of the substances described in paragraphs (a) and (b) of this subsection.

15 (8) "Hazardous waste disposal site" means a geographical site in which or upon which hazardous
 16 waste is disposed.

17 (9) "Hazardous waste storage site" means the geographical site upon which hazardous waste is
 18 stored.

19 (10) "Hazardous waste treatment site" means the geographical site upon which or a facility in
 20 which hazardous waste is treated.

21 (11) "Manifest" means the form used for identifying the quantity, composition, and the origin,
 22 routing and destination of hazardous waste during its transportation from the point of generation
 23 to the point of disposal, treatment or storage.

24 (12) "PCB" has the meaning given that term in ORS 466.505.

25 (13) "Person" means the United States, the state or a public or private corporation, local gov-
 26 ernment unit, public agency, individual, partnership, association, firm, trust, estate or any other le-
 27 gal entity.

28 (14) "Store" or "storage" means the containment of hazardous waste either on a temporary basis
 29 or for a period of years, in a manner that does not constitute disposal of the hazardous waste.

30 (15) "Transporter" means any person engaged in the transportation of hazardous waste by any
 31 means.

32 (16) "Treat" or "treatment" means any method, technique, activity or process, including but not
 33 limited to neutralization, designed to change the physical, chemical, or biological character or
 34 composition of any hazardous waste so as to neutralize the waste or so as to render the waste
 35 nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in vol-
 36 ume.

37 **SECTION 17.** ORS 468.065 is amended to read:

38 468.065. Subject to any specific requirements imposed by ORS [448.305,] **448.410 to 448.430,**
 39 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800,**
 40 **459A.552 to 459A.599 and 468B.095** and ORS chapters **459, 459A, 465, 466, 467,** 468, 468A and 468B:

41 (1) Applications for all permits **or certifications** authorized or required by ORS [448.305,]
 42 **448.410 to 448.430,** 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
 43 **454.782 to 454.800, 459A.552 to 459A.599 and 468B.095** and ORS chapters **459, 459A, 465, 466, 467,**
 44 468, 468A and 468B shall be made in a form prescribed by the Department of Environmental Quality.
 45 Any permit **or certification** issued by the department shall specify its duration, and the conditions

1 for compliance with the rules and standards, if any, adopted by the Environmental Quality Com-
2 mission pursuant to ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505
3 to 454.535, 454.605 to 454.755, **454.782 to 454.800, 459A.552 to 459A.599 and 468B.095** and ORS
4 chapters **459, 459A, 465, 466, 467**, 468, 468A and 468B.

5 (2) By rule and after hearing, the commission may establish a schedule of fees for permits issued
6 pursuant to ORS 468A.040, 468A.045, 468A.155 and 468B.050. Except as provided in ORS 468A.315
7 and 468B.051, the fees contained in the schedule shall be based upon the anticipated cost of filing
8 and investigating the application, of carrying out applicable requirements of Title V, of issuing or
9 denying the requested permit, and of an inspection program to determine compliance or noncompli-
10 ance with the permit. The fee shall accompany the application for the permit. The fees for a permit
11 issued under ORS 468A.040 or 468B.050 may be imposed on an annual basis.

12 (3) An applicant for certification of a project under ORS 468B.040 or 468B.045, and any person
13 submitting a notice of intent to seek reauthorization, a preliminary application or an application for
14 reauthorization of a water right for a hydroelectric project under ORS 543A.030, 543A.035, 543A.075,
15 543A.080 or 543A.095 shall pay as a fee all expenses incurred by the commission and department
16 related to the review and decision of the Director of the Department of Environmental Quality and
17 commission. These expenses may include legal expenses, expenses incurred in evaluating the project,
18 issuing or denying certification and expenses of commissioning an independent study by a contractor
19 of any aspect of the proposed project. These expenses shall not include the costs incurred in de-
20 fending a decision of either the director or the commission against appeals or legal challenges. The
21 department shall bill applicants for costs incurred on a monthly basis, and shall provide a biennial
22 report describing how the moneys were spent. An applicant may arrange with the department to pay
23 the fee on a quarterly basis. The department shall not charge a fee under the fee authority in this
24 subsection if the holder is being charged a fee under ORS 543.088 and 543.090 or 543A.405. In no
25 event shall the department assess fees under this section and under ORS 543A.405 for performance
26 of the same work.

27 (4) The department may require the submission of plans, specifications and corrections and re-
28 visions thereto and such other reasonable information as it considers necessary to determine the
29 eligibility of the applicant for the permit.

30 (5) The department may require periodic reports from persons who hold permits **or certifi-**
31 **ications** under ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.225, 454.505 to
32 454.535, 454.605 to 454.755, **454.782 to 454.800, 459A.552 to 459A.599 and 468B.095** and ORS chap-
33 ters **459, 459A, 465, 466, 467**, 468, 468A and 468B. The report shall be in a form prescribed by the
34 department and shall contain such information as to the amount and nature or common description
35 of the pollutant, contaminant or waste and such other information as the department may require.

36 (6) Any fee collected under a schedule of fees established pursuant to this section or ORS
37 468A.315 shall be deposited in the State Treasury to the credit of an account of the department. The
38 fees are continuously appropriated to meet the expenses of the program for which they are collected,
39 except as follows:

40 (a) The federal operating permit program shall include a commensurate amount of the fee for
41 any permit specified in this section for which the department incurs costs associated with the re-
42 quirements of Title V and any fees collected under ORS 468A.315. Fees collected for the federal
43 operating permit program in any biennium that exceed the legislatively approved budget, including
44 amounts authorized by the Emergency Board for the federal operating permit program for such
45 biennium, shall be credited toward the federal operating permit program budget for the following

1 biennium.

2 (b) Fees collected for permits issued under ORS 468B.050 to authorize the discharge of wastes
3 into the waters of the state may be used to pay the expenses of any of the programs associated with
4 the issuance of permits under ORS 468B.050 to authorize the discharge of wastes into the waters
5 of the state.

6 (c) The fees collected under a schedule of fees established pursuant to this section or ORS
7 468A.315 by a regional air pollution control authority pursuant to a permit program authorized by
8 the commission shall be retained by and shall be income to the regional authority except as provided
9 in ORS 468A.155 (2)(c). Such fees shall be accounted for and expended in the same manner as are
10 other funds of the regional authority. However, if the department finds after hearing that the permit
11 program administered by the regional authority does not conform to the requirements of the permit
12 program approved by the commission pursuant to ORS 468A.155, such fees shall be deposited and
13 expended as are permit fees submitted to the department.

14 (7) As used in this section, "Title V" has the meaning given in ORS 468A.300.

15 **SECTION 18.** ORS 468.090 is amended to read:

16 468.090. *[(1)]* In case any written substantiated complaint is filed with the Department of Envi-
17 ronmental Quality which it has cause to believe, or in case the department itself has cause to be-
18 lieve, that any person is violating any rule or standard adopted by the Environmental Quality
19 Commission or any permit issued by the department by causing or permitting water pollution or air
20 pollution or air contamination, the department shall cause an investigation thereof to be made. If
21 it finds after such investigation that such a violation of any rule or standard of the commission or
22 of any permit issued by the department exists, it:

23 (1) Shall by conference, conciliation and persuasion endeavor to eliminate the source or cause
24 of the pollution or contamination which resulted in such violation[.]; **and**

25 *[(2) In case of failure to remedy the violation, the department shall]*

26 (2)(a) **May** commence enforcement proceedings pursuant to the procedures set forth in ORS
27 chapter 183 for a contested case and in ORS 468B.032; **or**

28 (b) **May commence civil action as provided in ORS 468.100.**

29 **SECTION 19.** ORS 468.095 is amended to read:

30 468.095. (1) The Department of Environmental Quality shall have the power to enter upon and
31 inspect, at any reasonable time, any public or private property, premises or place for the purpose
32 of investigating either an actual or suspected source of water pollution or air pollution or air con-
33 tamination or to ascertain compliance or noncompliance with **any provision of or** any rule or
34 standard adopted or **any order, [or] permit or certification** issued pursuant to ORS *[448.305,]*
35 **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
36 **454.782 to 454.800, 459.900, 459A.552 to 459A.599, 459A.695, 468A.655, 468B.095 and 468B.165** and
37 ORS chapters **459, 459A, 465, 466, 467**, 468, 468A and 468B. The Environmental Quality Commission
38 shall also have access to any pertinent records relating to such property, including but not limited
39 to blueprints, operation and maintenance records and logs, operating rules and procedures.

40 (2) Unless classified by the Director of the Department of Environmental Quality as confidential,
41 any records, reports or information obtained under ORS *[448.305,]* **448.410 to 448.430**, 454.010 to
42 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800, 459.900,**
43 **459A.552 to 459A.599, 459A.695, 468A.655, 468B.095 and 468B.165** and ORS chapters **459, 459A,**
44 **465, 466, 467**, 468, 468A and 468B shall be available to the public. Upon a showing satisfactory to
45 the director by any person that records, reports or information, or particular parts thereof, other

1 than emission data, if made public, would divulge a secret process, device or method of manufac-
 2 turing or production entitled to protection as trade secrets of such person, the director shall classify
 3 such record, report or information, or particular part thereof, other than emission data, confidential
 4 and such confidential record, report or information, or particular part thereof, other than emission
 5 data, shall not be made a part of any public record or used in any public hearing unless it is de-
 6 termined by a circuit court that evidence thereof is necessary to the determination of an issue or
 7 issues being decided at a public hearing.

8 **SECTION 20.** ORS 468.100 is amended to read:

9 468.100. (1) Whenever the [*Environmental Quality Commission*] **Department of Environmental**
 10 **Quality** has good cause to believe that any person **has engaged**, is engaged or is about to engage
 11 in any acts or practices which constitute a violation of ORS [*448.305,*] **448.410 to 448.430**, 454.010
 12 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800, 459.900,**
 13 **459A.552 to 459A.599, 459A.695, 459A.780, 468A.655, 468B.095, 468B.165 and 783.625 to 783.640**
 14 and ORS chapters **459, 459A, 465, 466, 467**, 468, 468A and 468B, or any rule, standard or order
 15 adopted or entered pursuant thereto, or of any permit **or certificate** issued pursuant to ORS
 16 [*448.305,*] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
 17 454.755, **454.782 to 454.800, 459A.552 to 459A.599 and 468B.095** and ORS chapters **459, 459A, 465,**
 18 **466, 467**, 468, 468A and 468B, the [*commission*] **department** may institute **a civil action** [*actions or*
 19 *proceedings*] for legal or equitable remedies **and recover a penalty in amounts equal to those**
 20 **provided for under ORS 468.140 and 783.992** to enforce compliance thereto or to restrain further
 21 violations.

22 (2) The proceedings authorized by subsection (1) of this section may be instituted without the
 23 necessity of prior agency notice, hearing and order, or during said agency hearing if it has been
 24 initially commenced by the [*commission*] **department**.

25 (3) A regional authority formed under ORS 468A.105 may exercise the same functions as are
 26 vested in the [*commission*] **department** by this section insofar as such functions relate to air pol-
 27 lution control and are applicable to the conditions and situations of the territory within the regional
 28 authority. The regional authority shall carry out these functions in the manner provided for the
 29 [*commission*] **department** to carry out the same functions.

30 (4) The provisions of this section are in addition to and not in substitution of any other civil
 31 or criminal enforcement provisions available to the [*commission*] **department** or a regional author-
 32 ity. The provisions of this section shall not prevent the maintenance of actions for legal or equitable
 33 remedies relating to private or public nuisances brought by any other person, or by the state on
 34 relation of any person without prior order of the [*commission*] **department**.

35 **SECTION 21.** ORS 468.120 is amended to read:

36 468.120. (1) The Environmental Quality Commission, its members or a person designated by and
 37 acting for the commission may:

38 (a) Conduct public hearings.

39 (b) Issue subpoenas for the attendance of witnesses and the production of books, records and
 40 documents relating to matters before the commission.

41 (c) Administer oaths.

42 (d) Take or cause to be taken depositions and receive such pertinent and relevant proof as may
 43 be considered necessary or proper to carry out duties of the commission and Department of Envi-
 44 ronmental Quality pursuant to ORS [*448.305,*] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to
 45 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800, 459.900, 459A.552 to 459A.599,**

1 **459A.695, 459A.780, 459A.785, 468A.655, 468B.095, 468B.165 and 783.625 to 783.640** and ORS
2 chapters **459, 459A, 465, 466, 467, 468, 468A and 468B.**

3 (2) Subpoenas authorized by this section may be served by any person authorized by the person
4 issuing the subpoena. Witnesses who are subpoenaed shall receive the fees and mileage provided in
5 ORS 44.415 (2).

6 **SECTION 22.** ORS 468.135 is amended to read:

7 468.135. (1)(a) Any civil penalty under ORS 468.140 shall be imposed in the manner provided in
8 ORS 183.745.

9 **(b) In lieu of imposing a civil penalty under ORS 468.140, the Department of Environ-**
10 **mental Quality may institute a civil action to recover a penalty in amounts equal to those**
11 **provided in ORS 468.140.**

12 (2) **Except as otherwise provided by law and by subsection (3) of this section,** all penalties
13 recovered under ORS 468.140 shall be paid into the State Treasury and credited to the General
14 Fund, or in the event the penalty is recovered by a regional air quality control authority, it shall
15 be paid into the county treasury of the county in which the violation occurred.

16 **(3) Any penalty recovered in a civil action under this section shall be deposited in the**
17 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
18 **180.095.**

19 **SECTION 23.** ORS 468.140, as amended by section 9, chapter 267, Oregon Laws 2009, is
20 amended to read:

21 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
22 following shall incur a civil penalty for each day of violation in the amount prescribed by the
23 schedule adopted under ORS 468.130:

24 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
25 partment of Environmental Quality or a regional air quality control authority.

26 (b) Any provision of ORS 164.785, [448.305,] **448.410 to 448.430,** 454.010 to 454.040, 454.205 to
27 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800, 459.900, 459A.552 to 459A.599,**
28 **459A.695, 459A.780, 468A.655, 468B.095, 468B.165** and 783.625 to 783.640 and [ORS chapter 467
29 and] ORS chapters **459, 459A, 465, 466, 467, 468, 468A and 468B.**

30 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued
31 pursuant to ORS [448.305,] **448.410 to 448.430,** 454.010 to 454.040, 454.205 to 454.255, 454.505 to
32 454.535, 454.605 to 454.755, **454.782 to 454.800, 459A.552 to 459A.599, 459A.785, 468B.095, 468B.165**
33 and 783.625 to 783.640 and [ORS chapter 467 and] ORS chapters **459, 459A, 465, 466, 467, 468, 468A**
34 and 468B.

35 (d) Any term or condition of a variance granted by the commission or department pursuant to
36 ORS 467.060.

37 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
38 ORS 468A.135.

39 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
40 to the financial assurance requirement under ORS 468B.390.

41 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

42 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
43 negligently causes or permits the discharge of oil or hazardous material into the waters of the state
44 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into
45 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the

1 amount of \$100,000 for each violation.

2 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
3 penalty not to exceed the amount of \$25,000 for each day of violation:

4 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
5 into the air or waters of the state.

6 (B) Any person who violates any law, rule, order or standard in ORS [448.305,] **448.410 to**
7 **448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to**
8 **454.800**, **459.900**, **459A.552 to 459A.599**, **459A.695**, **459A.780**, **468A.655**, **468B.095**, **468B.165** and
9 783.625 to 783.640 and ORS chapters **459**, **459A**, **465**, **466**, **467**, 468, 468A and 468B relating to air
10 or water pollution.

11 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS
12 459A.590.

13 (4) In addition to any other penalty provided by law, any person who violates the provisions of
14 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-
15 lation.

16 (5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission
17 standards which are not violations of standards for control of noise emissions.

18 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
19 by law, any person who intentionally or negligently causes or permits open field burning contrary
20 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed
21 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.
22 Any fines collected by the department pursuant to this subsection shall be deposited with the State
23 Treasurer to the credit of the General Fund and shall be available for general governmental ex-
24 pense. As used in this subsection, "open field burning" does not include propane flaming of mint
25 stubble.

26 **SECTION 24.** ORS 468A.030 is amended to read:

27 468A.030. The several liabilities which may be imposed pursuant to ORS [448.305,] 454.010 to
28 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and
29 468B upon persons violating the provisions of any rule, standard or order of the Environmental
30 Quality Commission pertaining to air pollution shall not be so construed as to include any violation
31 which was caused by an act of God, war, strife, riot or other **similar** condition [*as to which any*
32 *negligence or willful misconduct on the part of such person was not the proximate cause*].

33 **SECTION 25.** ORS 468A.040 is amended to read:

34 468A.040. (1) By rule the Environmental Quality Commission may require permits for air con-
35 tamination sources classified by type of air contaminants, by type of air contamination source or
36 by area of the state. The permits shall be issued as provided in ORS 468.065. A permit subject to
37 the federal operating permit program shall be issued in accordance with the rules adopted under
38 ORS 468A.310.

39 (2) If a request for review of the final Department of Environmental Quality action, or any part
40 thereof, is made on an application for a permit issued under the federal operating permit program
41 established under ORS 468A.310 in accordance with the rules adopted by the commission, the effect
42 of the contested conditions and any conditions that are not severable from those contested shall be
43 stayed upon a showing that compliance with the contested conditions during the pendency of the
44 appeal would require substantial expenditures or losses that would not be incurred if the permittee
45 prevails on the merits of the review and there exists a reasonable likelihood of success on the

1 merits. The department may require that the contested conditions not be stayed if the department
 2 finds that substantial endangerment of public health or welfare would result from the staying of the
 3 conditions.

4 (3) Any source under an existing permit shall:

5 (a) Comply with the conditions of the existing permit **at all times including** during any mod-
 6 ification or reissuance proceeding; and

7 (b) To the extent conditions of any new or modified permit are stayed under subsection (2) of
 8 this section, comply with the conditions of the existing permit that correspond to the stayed condi-
 9 tions, unless compliance would be technologically incompatible with compliance with other condi-
 10 tions of the new or modified permit that have not been stayed.

11 (4) For purposes of this section, a small scale local energy project, as defined in ORS 470.050
 12 (27)(a), located in a maintenance area or nonattainment area, and any infrastructure related to that
 13 project located in the same area, is considered to provide a net air quality benefit to the extent
 14 required by this chapter if the project provides reductions in each air contaminant in the mainte-
 15 nance area or nonattainment area equal to the ratio specified in rules adopted by the commission,
 16 unless the department determines that the project will pose a material threat to compliance with
 17 air quality standards in the maintenance area or nonattainment area.

18 (5) As used in this section:

19 (a) "Maintenance area" has the meaning given that term in rules adopted by the commission.

20 (b) "Nonattainment area" has the meaning given that term in rules adopted by the commission.

21 **SECTION 26.** (1) **ORS 465.992 is added to and made a part of ORS chapter 465.**

22 **(2) ORS 468A.550 is added to and made a part of ORS 468A.555 to 468A.620.**

23 **SECTION 27.** ORS 222.900 is amended to read:

24 222.900. (1) Subject to subsection (2) of this section, upon receipt of the certified copy of the
 25 finding as provided in ORS 222.880 (2) or (3) and certification of approval of plans under ORS
 26 222.898, the city council shall adopt an ordinance which shall:

27 (a) Contain the legal description of the territory annexed;

28 (b) Contain the terms of the annexation, if any, made under ORS 222.111;

29 (c) Adopt the plans, specifications and time schedule as approved by the Oregon Health Au-
 30 thority or Environmental Quality Commission; and

31 (d) Declare the territory annexed to the city in accordance with ORS 222.840 to 222.915.

32 (2) An ordinance shall not be enacted as provided in subsection (1) of this section until the ex-
 33 piration of the time for appeal under the provisions of ORS 222.896 and, in the event an appeal is
 34 filed, following the determination of that appeal.

35 (3) If the authority makes its finding under ORS 222.880 (3), the city shall not annex a greater
 36 area than that described in the finding. The recorder, or other officer performing the duties of the
 37 recorder, shall transmit a transcript to the Secretary of State, including certified copies of the re-
 38 solution required in ORS 222.860, the finding of the Director of the Oregon Health Authority, and
 39 the ordinance proclaiming annexation of the territory.

40 (4) If the city council adopts the ordinance of annexation as provided in subsection (1) of this
 41 section, it shall within one year thereafter prepare plans and specifications for the sanitary, water
 42 or other facilities proposed to be provided in the annexed area, in compliance with ORS 448.115 to
 43 448.285 or 468B.055 and shall then proceed in accordance with the time schedule to construct or
 44 install these facilities. The commission shall use its powers of enforcement under ORS [448.305,]
 45 **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, and

1 ORS chapters 468, 468A and 468B to insure that the facilities are constructed or installed in con-
 2 formance with the approved plans and schedule. The manner of financing the cost of the facilities
 3 shall be determined by the city council.

4 **SECTION 28.** ORS 454.505 is amended to read:

5 454.505. As used in ORS 454.505 to 454.535, unless the context requires otherwise:

6 (1) "Construction" means the erection, building, acquisition, alteration, reconstruction, im-
 7 provement or extension of sewage treatment works, preliminary planning to determine the economic
 8 and engineering feasibility of sewage treatment works, the engineering, architectural, legal, fiscal
 9 and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifi-
 10 cations, procedures, and other action necessary in the construction of sewage treatment works, and
 11 the inspection and supervision of the construction of sewage treatment works.

12 (2) "Eligible project" means a project for construction of sewage treatment works:

13 (a) For which the approval of the Department of Environmental Quality is required under ORS
 14 [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
 15 454.755 and ORS chapters 468, 468A and 468B;

16 (b) Which is, in the judgment of the Environmental Quality Commission eligible for federal pol-
 17 lution abatement assistance, whether or not federal funds are then available therefor;

18 (c) Which conforms with applicable rules of the commission; and

19 (d) Which is, in the judgment of the commission, necessary for the accomplishment of the state's
 20 policy of water purity as stated in ORS 468B.015.

21 (3) "Federal pollution abatement assistance" means funds available to a municipality, either di-
 22 rectly or through allocation by the state, from the federal government as grants for construction
 23 of sewage treatment works pursuant to the Federal Water Pollution Control Act of 1956 (P.L. 84-660)
 24 as amended, or pursuant to any other federal act or program.

25 (4) "Municipality" means any county, city, special service district or other governmental entity
 26 having authority to dispose of sewage, industrial wastes or other wastes, any Indian tribe or au-
 27 thorized Indian tribal organization, or any combination of two or more of the foregoing acting
 28 jointly, in connection with an eligible project.

29 (5) "Sewage treatment works" means any facility for the purpose of treating, neutralizing or
 30 stabilizing sewage or industrial wastes of a liquid nature, including treatment or disposal plants, the
 31 necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers,
 32 equipment and furnishings thereof and their appurtenances.

33 **SECTION 29.** ORS 454.525 is amended to read:

34 454.525. (1) The Environmental Quality Commission and any municipality may enter into con-
 35 tracts with each other concerning eligible projects. Any such contract may include such provisions
 36 as may be agreed upon by the parties thereto, and shall include the following provisions:

37 (a) An estimate of the reasonable cost of the eligible project as determined by the commission.

38 (b) An agreement by the municipality:

39 (A) To proceed expeditiously with, and complete, the project in accordance with plans approved
 40 by the Department of Environmental Quality;

41 (B) To commence operation of the sewage treatment works on completion of the project, and
 42 not to discontinue operation or dispose of the sewage treatment works without the approval of the
 43 commission;

44 (C) To operate and maintain the sewage treatment works in accordance with applicable pro-
 45 visions of ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535,

1 454.605 to 454.755 and ORS chapters 468, 468A and 468B and with the rules of the commission;

2 (D) To secure approval of the commission before applying for federal assistance for pollution
 3 abatement, in order to maximize the amounts of such assistance received or to be received for all
 4 projects in Oregon; and

5 (E) To provide for the payment of the municipality's share of the cost of the project.

6 (2) The commission may adopt rules necessary for making and enforcing contracts hereunder
 7 and establishing procedures to be followed in applying for state grants authorized by ORS 454.515
 8 as shall be necessary for the effective administration of ORS 454.505 to 454.535.

9 (3) All contracts entered into pursuant to this section shall be subject to approval by the At-
 10 torney General as to form. All payments by the state pursuant to such contracts shall be made after
 11 audit and upon warrant on vouchers approved by the commission.

12 **SECTION 30.** ORS 468.005 is amended to read:

13 468.005. As used in ORS [448.305,] 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535,
 14 454.605 to 454.755 and ORS chapters 468, 468A and 468B, unless the context requires otherwise:

15 (1) "Commission" means the Environmental Quality Commission.

16 (2) "Department" means the Department of Environmental Quality.

17 (3) "Director" means the Director of the Department of Environmental Quality.

18 (4) "Order" has the same meaning as given in ORS 183.310.

19 (5) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock
 20 companies, public and municipal corporations, political subdivisions, the state and any agencies
 21 thereof, and the federal government and any agencies thereof.

22 (6) "Rule" has the same meaning as given in ORS 183.310.

23 (7) "Standard" or "standards" means such measure of quality or purity for air or for any waters
 24 in relation to their reasonable or necessary use as may be established by the commission pursuant
 25 to ORS [448.305,] 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and
 26 ORS chapters 468, 468A and 468B.

27 **SECTION 31.** ORS 468.015 is amended to read:

28 468.015. It is the function of the Environmental Quality Commission to establish the policies for
 29 the operation of the Department of Environmental Quality in a manner consistent with the policies
 30 and purposes of ORS [448.305,] ~~448.410 to 448.430~~, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
 31 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B. In addition, the commission shall
 32 perform any other duty vested in it by law.

33 **SECTION 32.** ORS 468.035 is amended to read:

34 468.035. (1) Subject to policy direction by the Environmental Quality Commission, the Depart-
 35 ment of Environmental Quality:

36 (a) Shall encourage voluntary cooperation by the people, municipalities, counties, industries,
 37 agriculture, and other pursuits, in restoring and preserving the quality and purity of the air and the
 38 waters of the state in accordance with rules and standards established by the commission.

39 (b) May conduct and prepare, independently or in cooperation with others, studies, investi-
 40 gations, research and programs pertaining to the quality and purity of the air or the waters of the
 41 state and to the treatment and disposal of wastes.

42 (c) Shall advise, consult, and cooperate with other agencies of the state, political subdivisions,
 43 other states or the federal government, in respect to any proceedings and all matters pertaining to
 44 control of air or water pollution or for the formation and submission to the legislature of interstate
 45 pollution control compacts or agreements.

1 (d) May employ personnel, including specialists and consultants, purchase materials and sup-
2 plies, and enter into contracts necessary to carry out the purposes set forth in ORS [448.305,]
3 **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and
4 ORS chapters 468, 468A and 468B.

5 (e) Shall conduct and supervise programs of air and water pollution control education, including
6 the preparation and distribution of information regarding air and water pollution sources and con-
7 trol.

8 (f) Shall provide advisory technical consultation and services to units of local government and
9 to state agencies.

10 (g) Shall develop and conduct demonstration programs in cooperation with units of local gov-
11 ernment.

12 (h) Shall serve as the agency of the state for receipt of moneys from the federal government or
13 other public or private agencies for the purposes of air and water pollution control, studies or re-
14 search and to expend moneys after appropriation thereof for the purposes given.

15 (i) Shall make such determination of priority of air or water pollution control projects as may
16 be necessary under terms of statutes enacted by the Congress of the United States.

17 (j) Shall seek enforcement of the air and water pollution laws of the state.

18 (k) Shall institute or cause to be instituted in a court of competent jurisdiction, proceedings to
19 compel compliance with any rule or standard adopted or any order or permit **or certification**, or
20 condition thereof, issued pursuant to ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205
21 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B.

22 (L) Shall encourage the formulation and execution of plans in conjunction with air and water
23 pollution control agencies or with associations of counties, cities, industries and other persons who
24 severally or jointly are or may be the source of air or water pollution, for the prevention and
25 abatement of pollution.

26 (m) May determine, by means of field studies and sampling, the degree of air or water pollution
27 in various regions of the state.

28 (n) May perform such other and further acts as may be necessary, proper or desirable to carry
29 out effectively the duties, powers and responsibilities of the department as set forth in ORS
30 [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
31 454.755 and ORS chapters 468, 468A and 468B.

32 (o) Shall coordinate any activities of the department related to a watershed enhancement project
33 approved by the Oregon Watershed Enhancement Board under ORS 541.375 with activities of other
34 cooperating state and federal agencies participating in the project.

35 (2) Nothing in this section shall affect the authority of the Oregon Health Authority to make
36 and enforce rules:

37 (a) Regarding the quality of water for human or animal consumption pursuant to ORS 448.115
38 to 448.325, 624.010 to 624.121 and 624.310 to 624.430; and

39 (b) Regarding the quality of water for public swimming places pursuant to ORS 431.110.

40 (3) Nothing in this section shall prevent the State Department of Agriculture or the State
41 Forestry Department from independently receiving moneys from a public or private agency for the
42 purposes of preventing or controlling air or water pollution resulting from agricultural or
43 silvicultural activities or soil erosion, or for research related to such purposes.

44 (4)(a) In awarding a public contract under ORS 279.835 to 279.855 or ORS chapter 279A, 279B
45 or 279C for a removal or remedial action pursuant to ORS 465.200 to 465.545, a corrective action

1 or cleanup action pursuant to ORS 466.005 to 466.385, 466.605 to 466.680 or 466.706 to 466.882 or a
 2 removal pursuant to ORS 468B.005 to 468B.030, 468B.035, 468B.048 to 468B.085, 468B.090, 468B.093,
 3 468B.095 and 468B.300 to 468B.500, the department, and the Oregon Department of Administrative
 4 Services, when administering the establishment of such a contract on behalf of the Department of
 5 Environmental Quality under ORS 279A.050 and 279A.140, shall subtract from the amount of any bid
 6 or proposal the hazardous waste management fees and solid waste fees that would be required by
 7 law to be paid to the department for waste that would be disposed of at a solid waste disposal site
 8 or a hazardous waste or PCB disposal facility, based on the bid or proposal. The amount to be
 9 subtracted shall be established on the basis of reasonable preprocurement estimates of the amount
 10 of waste that would be disposed of under the contract and that would be subject to those fees.

11 (b) The subtraction for fees under paragraph (a) of this subsection shall apply only to a contract
 12 reasonably anticipated to involve the disposal of no less than 50 tons of hazardous waste or no less
 13 than 500 tons of solid waste. The Legislative Assembly finds that making accurate advance estimates
 14 of amounts of waste that would be disposed of in projects of this character is technically challenging
 15 and requires the application of professional discretion. Therefore, no award of a contract under this
 16 subsection shall be subject to challenge, under ORS 279B.410, 279B.415 or 279C.460 or otherwise,
 17 on the ground of the inaccuracy or claimed inaccuracy of any such estimate.

18 (c) The subtraction for fees under paragraph (a) of this subsection shall not apply to the estab-
 19 lishment, by or on behalf of the department, of master contracts by which the department engages
 20 the services of a contractor over a period of time for the purpose of issuing work orders for the
 21 performance of environmental activities on a project or projects for which the amounts of waste to
 22 be disposed of were not reasonably identified at the inception of the master contracts. However, the
 23 department shall require any contractor under a master contract to apply the subtraction for fees
 24 under paragraph (a) of this subsection in the selection of any subcontractor to perform the removal
 25 of waste in amounts equaling or exceeding the amounts set forth in paragraph (b) of this subsection.
 26 Nothing in this subsection shall be construed to prohibit the department or the Oregon Department
 27 of Administrative Services from establishing contracts pursuant to this section through contracting
 28 procedures authorized by ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C that do
 29 not require the solicitation of bids or proposals.

30 **SECTION 33.** ORS 468.070 is amended to read:

31 468.070. (1) At any time, the Department of Environmental Quality may refuse to issue, modify,
 32 suspend, revoke or refuse to renew any permit issued pursuant to ORS 468.065 if it finds:

33 (a) A material misrepresentation or false statement in the application for the permit.

34 (b) Failure to comply with the conditions of the permit.

35 (c) Violation of any applicable provisions of ORS 466.605 to 466.680, 466.990 (3) and (4) and
 36 466.995 (2) or ORS chapters 468, 468A and 468B.

37 (d) Violation of any applicable rule, standard or order of the Environmental Quality Commission.

38 (2) The department may modify any permit **or certification** issued pursuant to ORS 468.065 if
 39 it finds that modification is necessary for the proper administration, implementation or enforcement
 40 of the provisions of ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505
 41 to 454.535, 454.605 to 454.755, 466.605 to 466.680 and ORS chapters 468, 468A and 468B.

42 (3) The procedure for modification, suspension, revocation or refusal to issue or renew shall be
 43 the procedure for a contested case as provided in ORS chapter 183.

44 **SECTION 34.** ORS 468.956 is amended to read:

45 468.956. Refusal, without good cause, to produce books, papers or information subpoenaed by the

1 Environmental Quality Commission, the Department of Environmental Quality or the regional air
2 quality control authority or any report required by law or by the commission, the department or a
3 regional authority pursuant to ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to
4 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B is a Class A
5 misdemeanor.

6 **SECTION 35.** ORS 468.997 is amended to read:

7 468.997. Where any provision of ORS [448.305,] **448.410 to 448.430, 448.992**, 454.010 to 454.040,
8 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B
9 provides that each day of violation of ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205
10 to 454.255, 454.505 to 454.535, 454.605 to 454.755 or a section of ORS chapters 468, 468A and 468B
11 constitutes a separate offense, violations of that section that occur within the same court jurisdic-
12 tion may be joined in one indictment, or complaint, or information, in several counts.

13 **SECTION 36.** ORS 468A.015 is amended to read:

14 468A.015. It is the purpose of the air pollution laws contained in ORS [448.305,] 454.010 to
15 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and
16 468B to safeguard the air resources of the state by controlling, abating and preventing air pollution
17 under a program which shall be consistent with the declaration of policy in this section and with
18 ORS 468A.010.

19 **SECTION 37.** ORS 468A.055 is amended to read:

20 468A.055. (1) The Environmental Quality Commission may require notice prior to the con-
21 struction of new air contamination sources specified by class or classes in its rules or standards
22 relating to air pollution.

23 (2) Within 30 days of receipt of such notice, the commission may require, as a condition
24 precedent to approval of the construction, the submission of plans and specifications. After exam-
25 ination thereof, the commission may request corrections and revisions to the plans and specifica-
26 tions. The commission may also require any other information concerning air contaminant emissions
27 as is necessary to determine whether the proposed construction is in accordance with the provisions
28 of ORS [448.305,] 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and
29 ORS chapters 468, 468A and 468B and applicable rules or standards adopted pursuant thereto.

30 (3) If the commission determines that the proposed construction is in accordance with the pro-
31 visions of ORS [448.305,] 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755
32 and ORS chapters 468, 468A and 468B and applicable rules or standards adopted pursuant thereto,
33 it shall enter an order approving such construction. If the commission determines that the con-
34 struction does not comply with the provisions of ORS [448.305,] 454.010 to 454.040, 454.205 to 454.255,
35 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B and applicable rules or
36 standards adopted pursuant thereto, it shall notify the applicant and enter an order prohibiting the
37 construction.

38 (4) If within 60 days of the receipt of plans, specifications or any subsequently requested re-
39 visions or corrections to the plans and specifications or any other information required pursuant to
40 this section, the commission fails to issue an order, the failure shall be considered a determination
41 that the construction may proceed except where prohibited by federal law. The construction must
42 comply with the plans, specifications and any corrections or revisions thereto or other information,
43 if any, previously submitted.

44 (5) Any person against whom the order is directed may, within 20 days from the date of mailing
45 of the order, demand a hearing. The demand shall be in writing, shall state the grounds for hearing

1 and shall be mailed to the Director of the Department of Environmental Quality. The hearing shall
2 be conducted pursuant to the applicable provisions of ORS chapter 183.

3 (6) The commission may delegate its duties under subsections (2) to (4) of this section to the
4 Director of the Department of Environmental Quality. If the commission delegates its duties under
5 this section, any person against whom an order of the director is directed may demand a hearing
6 before the commission as provided in subsection (5) of this section.

7 (7) For the purposes of this section, "construction" includes installation and establishment of
8 new air contamination sources. Addition to or enlargement or replacement of an air contamination
9 source, or any major alteration or modification therein that significantly affects the emission of air
10 contaminants shall be considered as construction of a new air contamination source.

11 **SECTION 38.** ORS 468A.165 is amended to read:

12 468A.165. (1) The Environmental Quality Commission may require that necessary corrective
13 measures be undertaken within a reasonable time if, after hearing, it finds that:

14 (a) A regional authority has failed to establish an adequate air quality control program within
15 a reasonable time after its formation; or

16 (b) An air quality control program in force in the territory of a regional authority is being ad-
17 ministered in a manner inconsistent with the requirements of ORS [448.305,] 454.010 to 454.040,
18 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B.

19 (2) Notice of the hearing required under subsection (1) of this section shall be sent to the re-
20 gional authority not less than 30 days prior to the hearing.

21 (3) If the regional authority fails to take the necessary corrective measures within the time re-
22 quired, the commission shall undertake a program of administration and enforcement of the air
23 quality control program in the territory of the regional authority. The program instituted by the
24 commission shall supersede all rules, standards and orders of the regional authority.

25 (4) If, in the judgment of the commission, a regional authority is able to requalify to exercise
26 the functions authorized in ORS 468A.135, the commission shall restore those functions to the re-
27 gional authority and shall not exercise the same functions in the territory of the regional authority.

28 **SECTION 39.** ORS 468A.405 is amended to read:

29 468A.405. The Environmental Quality Commission and regional air pollution control authorities
30 organized pursuant to ORS [448.305,] 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535,
31 454.605 to 454.755 and ORS chapters 468, 468A and 468B by rule may regulate, limit, control or
32 prohibit motor vehicle operation and traffic as necessary for the control of air pollution which pre-
33 sents an imminent and substantial endangerment to the health of persons.

34 **SECTION 40.** ORS 468B.005 is amended to read:

35 468B.005. As used in the laws relating to water pollution, unless the context requires otherwise:

36 (1) "Disposal system" means a system for disposing of wastes, either by surface or underground
37 methods and includes municipal sewerage systems, domestic sewerage systems, treatment works,
38 disposal wells and other systems.

39 (2) "Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a
40 combination thereof resulting from any process of industry, manufacturing, trade or business, or
41 from the development or recovery of any natural resources.

42 (3) "Nonpoint source" means any source of pollution other than a point source.

43 (4) "Point source" means any discernible, confined and discrete conveyance, including but not
44 limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,
45 concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or

1 may be discharged. "Point source" does not include agricultural storm water discharges and return
2 flows from irrigated agriculture.

3 (5) "Pollution" or "water pollution" means such alteration of the physical, chemical or biological
4 properties of any waters of the state, including change in temperature, taste, color, turbidity, silt
5 or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance
6 into any waters of the state, which will or tends to, either by itself or in connection with any other
7 substance, create a public nuisance or which will or tends to render such waters harmful, detri-
8 mental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agri-
9 cultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other
10 aquatic life or the habitat thereof.

11 (6) "Sewage" means the water-carried human or animal waste from residences, buildings, indus-
12 trial establishments or other places, together with such ground water infiltration and surface water
13 as may be present. The admixture with sewage of wastes or industrial wastes shall also be consid-
14 ered "sewage" within the meaning of ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205
15 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B.

16 (7) "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all
17 other structures, devices, appurtenances and facilities used for collecting or conducting wastes to
18 an ultimate point for treatment or disposal.

19 (8) "Treatment works" means any plant or other works used for the purpose of treating, stabi-
20 lizing or holding wastes.

21 (9) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive
22 or other substances which will or may cause pollution or tend to cause pollution of any waters of
23 the state.

24 (10) "Water" or "the waters of the state" include lakes, bays, ponds, impounding reservoirs,
25 springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the
26 territorial limits of the State of Oregon and all other bodies of surface or underground waters, na-
27 tural or artificial, inland or coastal, fresh or salt, public or private (except those private waters
28 which do not combine or effect a junction with natural surface or underground waters), which are
29 wholly or partially within or bordering the state or within its jurisdiction.

30 **SECTION 41.** ORS 468B.010 is amended to read:

31 468B.010. (1) Except as otherwise provided in ORS 469.300 to 469.563, 469.590 to 469.619 and
32 469.930, insofar as the authority of the Environmental Quality Commission over water pollution
33 granted by ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.225, 454.505 to
34 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and 468B is inconsistent with any other law,
35 or authority granted to any other state agency, the authority of the commission shall be controlling.

36 (2) The water pollution control laws of this state shall be liberally construed for the accom-
37 plishment of the purposes set forth in ORS 468B.015.

38 **SECTION 42.** ORS 468B.080 is amended to read:

39 468B.080. (1) No garbage or sewage shall be discharged into or in any other manner be allowed
40 to enter the waters of the state from any building or structure unless such garbage or sewage has
41 been treated or otherwise disposed of in a manner approved by the Department of Environmental
42 Quality. All plumbing fixtures in buildings or structures, including prior existing plumbing fixtures
43 from which waste water or sewage is or may be discharged, shall be connected to and all waste
44 water or sewage from such fixtures in buildings or structures shall be discharged into a sewerage
45 system, septic tank system or other disposal system:

1 (a) Approved by the department pursuant to ORS [448.305,] 454.010 to 454.040, 454.205 to
 2 454.255, (1973 Replacement Part), 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A
 3 and 468B; or

4 (b) That must be supervised by an operator certified pursuant to ORS 448.410.

5 (2) The department may extend the time of compliance for any person, class of persons,
 6 municipalities or businesses upon such conditions as it may deem necessary to protect the public
 7 health and welfare if it is found that strict compliance would be unreasonable, unduly burdensome
 8 or impractical due to special physical conditions or cause or because no other alternative facility
 9 or method of handling is yet available.

10 **SECTION 43.** ORS 448.405 is amended to read:

11 448.405. As used in ORS 448.405 to 448.465:

12 (1) "Commission" means the Environmental Quality Commission.

13 (2) "Department" means the Department of Environmental Quality.

14 (3) "Director" means the Director of the Department of Environmental Quality.

15 (4) "Operator" means a person responsible for the operation of a potable water treatment plant,
 16 water distribution system or sewage treatment works.

17 (5) "Person" means any individual, partnership, firm, association, joint venture, public or private
 18 corporation, trust, estate, commission, board, public or private institution, utility, cooperative,
 19 municipality or any other political subdivision of this state, any interstate body or any other legal
 20 entity.

21 (6) "Potable water treatment plant" means that portion of a water system that in some way al-
 22 ters the physical, chemical or bacteriological quality of the water being treated.

23 (7) "Sewage treatment works" means any structure, equipment or process required to collect,
 24 carry away and treat domestic waste and dispose of sewage as defined in ORS [454.010] **468B.005**.

25 (8) "Supervise" means to operate or to be responsible for directing employees that are respon-
 26 sible for the operation of a water system.

27 (9) "Water distribution system" means that portion of the water system in which water is stored
 28 and conveyed from the potable water treatment plant or other supply point to the premises of a
 29 consumer.

30 (10) "Water system" means potable water treatment plants and water distribution systems:

31 (a) That have 15 or more service connections used by year-round residents or that regularly
 32 serve 25 or more year-round residents; or

33 (b) That regularly serve at least 25 of the same persons for more than six months per year.

34
 35 **DEPARTMENT OF JUSTICE PROTECTION AND**
 36 **EDUCATION REVOLVING ACCOUNT, COMPENSATORY FINES,**
 37 **AND CATEGORIES OF MONETARY OBLIGATIONS**
 38

39 **SECTION 44.** ORS 137.101 is amended to read:

40 137.101. (1) [Whenever] **When** the court imposes a fine as penalty for the commission of a crime
 41 resulting in injury for which the person injured by the act constituting the crime has a remedy by
 42 civil action, unless the issue of punitive damages has been previously decided on a civil case arising
 43 out of the same act and transaction, the court may order that the defendant pay any portion of the
 44 fine separately to [the clerk of] the court as compensatory fines in the case. The [clerk] **court** shall
 45 pay over to the injured victim or victims, as directed in the court's order, moneys paid to the court

1 as compensatory fines under this subsection. [*This section shall be liberally construed in favor of*
 2 *victims.*]

3 **(2) When the court imposes a fine as penalty for the commission of a crime described in**
 4 **ORS 180.095 (1)(c)(C), the court shall order the defendant to pay separately to the court, as**
 5 **a compensatory fine in the case, any portion of the fine that is not ordered paid under sub-**
 6 **section (1) of this section. The court shall pay to the Department of Justice, for deposit in**
 7 **the Department of Justice Protection and Education Revolving Account, moneys paid to the**
 8 **court as a compensatory fine under this subsection.**

9 [(2)] **(3)** Compensatory fines may be awarded in addition to restitution awarded under ORS
 10 137.103 to 137.109.

11 [(3)] **(4)** Nothing in this section limits or impairs the right of a person injured by a defendant's
 12 criminal acts to sue and recover damages from the defendant in a civil action. Evidence that the
 13 defendant has paid or been ordered to pay compensatory fines under this section may not be intro-
 14 duced in any civil action arising out of the facts or events which were the basis for the
 15 compensatory fine. However, the court in such civil action shall credit any compensatory fine paid
 16 by the defendant to a victim against any judgment for punitive damages in favor of the victim in the
 17 civil action.

18 **(5) This section shall be liberally construed in favor of victims.**

19 **SECTION 45.** ORS 180.095 is amended to read:

20 180.095. (1) The Department of Justice Protection and Education Revolving Account is created
 21 in the General Fund. **Subject to subsection (3)(b) of this section,** all moneys in the account are
 22 continuously appropriated to the Department of Justice and may be used to pay for only the fol-
 23 lowing activities:

24 (a) Restitution and refunds in proceedings described in paragraph (c) of this subsection;

25 (b) Consumer and business education relating to the laws governing antitrust, unlawful trade
 26 practices and the environment; and

27 (c) Personal services, travel, meals, lodging and all other costs and expenses incurred by the
 28 department in investigating, preparing, commencing and prosecuting the following actions and suits,
 29 and enforcing judgments, settlements, compromises and assurances of voluntary compliance arising
 30 out of the following actions and suits:

31 (A) Actions and suits under the state and federal antitrust laws;

32 (B) Actions and suits under ORS 646.605 to 646.656;

33 (C) Criminal prosecutions under state and federal environmental laws, **including but not lim-**
 34 **ited to prosecutions for conduct made criminal under ORS 164.775, 164.785, 164.805, 273.990,**
 35 **274.990, 390.995, 448.992, 448.994, 453.990, 459.992, 466.995, 467.990, 468.922, 468.926, 468.929,**
 36 **468.931, 468.936, 468.939, 468.943, 468.946, 468.951, 468.953, 468.956, 468A.595, 468A.655, 468A.990,**
 37 **496.992, 498.222, 506.991, 517.990, 520.991, 522.990, 526.990, 527.990, 537.990, 540.990, 561.990 (2),**
 38 **564.994, 596.990, 600.990, 609.992, 634.992, 783.990 (8) and 824.992 (7) and (8);**

39 (D) Actions commenced under ORS 59.331; [*and*]

40 (E) Actions and suits under ORS 180.750 to 180.785[.]; **and**

41 **(F) Civil actions under state or federal environmental laws, including but not limited to**
 42 **actions under ORS 196.870, 196.895, 390.663 (1)(f) and (6), 390.674, 468.100, 468.135, 469.085,**
 43 **469.563, 506.995, 509.910, 517.880 (3), 517.992, 536.905, 540.740 and 540.750.**

44 (2) Moneys in the Department of Justice Protection and Education Revolving Account are not
 45 subject to allotment. Upon request of the Attorney General, the State Treasurer shall create sub-

1 accounts within the account for the purposes of managing moneys in the account and allocating
2 those moneys to the activities described in subsection (1) of this section.

3 (3)(a) Except as otherwise provided by law, all sums of money received by the Department of
4 Justice under a judgment, settlement, compromise or assurance of voluntary compliance, including
5 damages, **compensatory fines**, restitution, refunds, attorney fees, costs, disbursements, **penalties**
6 and other recoveries, but excluding civil penalties under ORS 646.642, in proceedings described in
7 subsection (1)(c) of this section shall, upon receipt, be deposited with the State Treasurer to the
8 credit of the Department of Justice Protection and Education Revolving Account. However, if the
9 action or suit was based on an expenditure or loss from a public body or a dedicated fund, the
10 amount of such expenditure or loss, after deduction of attorney fees and expenses awarded to the
11 department by the court or agreed to by the parties, if any, shall be credited to the public body or
12 dedicated fund and the remainder thereof credited to the Department of Justice Protection and Ed-
13 ucation Revolving Account.

14 (b) **In the case of civil actions described in subsection (1)(c)(F) of this section, after**
15 **payment of the costs and expenses specified in subsection (1)(c) of this section, any remain-**
16 **ing moneys shall be deposited as follows:**

17 (A) **From a civil action under ORS 196.895, one-half of the moneys shall be deposited into**
18 **the Common School Fund for use by the Department of State Lands as provided in ORS**
19 **196.895 (3)(a), and one-half shall remain in the Department of Justice Protection and Educa-**
20 **tion Revolving Account.**

21 (B) **From a civil action under ORS 390.674, one-half of the moneys shall be deposited into**
22 **an account of the State Parks and Recreation Department as provided in ORS 390.674 (3)(a),**
23 **and one-half shall remain in the Department of Justice Protection and Education Revolving**
24 **Account.**

25 (C) **From a civil action under ORS 468.135, one-half of the moneys shall be deposited into**
26 **the General Fund as provided in ORS 468.135, and one-half shall remain in the Department**
27 **of Justice Protection and Education Revolving Account.**

28 (D) **From a civil action under ORS 469.085, one-half of the moneys shall be deposited into**
29 **the General Fund as provided in ORS 469.085 (5), and one-half shall remain in the Department**
30 **of Justice Protection and Education Revolving Account.**

31 (E) **From a civil action under ORS 506.995, one-half of the moneys shall be deposited in**
32 **the Commercial Fisheries Fund as provided in ORS 506.995 (4)(a), and one-half shall remain**
33 **in the Department of Justice Protection and Education Revolving Account.**

34 (F) **From a civil action under ORS 517.992, one-half of the moneys shall be deposited in**
35 **the General Fund to the credit of the Geology and Mineral Industries Account as provided**
36 **in ORS 517.992 (5), and one-half shall remain in the Department of Justice Protection and**
37 **Education Revolving Account.**

38 (G) **From a civil action under ORS 536.905, one-half of the moneys shall be deposited in**
39 **the Fish Screening Subaccount as provided in ORS 496.303 (2)(a), and one-half shall remain**
40 **in the Department of Justice Protection and Education Revolving Account.**

41 (4) If the Department of Justice recovers restitution or refunds in a proceeding described in
42 subsection (1)(c) of this section, and the department cannot determine the persons to whom the
43 restitution or refunds should be paid or the amount of the restitution or refund payable to individual
44 claimants is de minimis, the restitution or refunds may not be deposited in the Department of Justice
45 Protection and Education Revolving Account and shall be deposited in the General Fund.

1 (5) Before April 1 of each odd-numbered year, the Department of Justice shall report to the Joint
2 Committee on Ways and Means:

3 (a) The department's projection of the balance in the Department of Justice Protection and Ed-
4 ucation Revolving Account at the end of the biennium in which the report is made and at the end
5 of the following biennium;

6 (b) The amount of the balance held for restitution and refunds; and

7 (c) An estimate of the department's anticipated costs and expenses under subsection (1)(b) and
8 (c) of this section for the biennium in which the report is made and for the following biennium.

9 (6) The Joint Committee on Ways and Means, after consideration of recommendations made by
10 the Department of Justice, shall use the information reported under subsection (5) of this section to
11 determine an appropriate balance for the revolving account.

12 **SECTION 46.** ORS 137.295 is amended to read:

13 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-
14 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against
15 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute
16 the payment as provided in this section.

17 (2) There are four categories of monetary obligations. The categories are as follows:

18 (a) Category 1 consists of compensatory fines under ORS 137.101 (1).

19 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
20 419C.450 and a monetary obligation imposed under ORS 811.706.

21 (c) Category 3 consists of the unitary assessment imposed under ORS 137.290, **compensatory**
22 **fines under ORS 137.101 (2)**, costs imposed under ORS 151.505 or 161.665 and those fines, costs,
23 forfeited security amounts and other monetary obligations payable to the state or to the General
24 Fund of the state in criminal and quasi-criminal cases for which moneys the law does not expressly
25 provide other disposition.

26 (d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the
27 conviction, but which do not fall under category 1, category 2 or category 3 of the obligation cate-
28 gories. These include, but are not limited to, fines and other monetary obligations that the law ex-
29 pressly directs be paid to an agency, person or political subdivision of the state, and any other
30 obligation to reimburse for payment of a reward under ORS 131.897. Notwithstanding paragraph (c)
31 of this subsection, the portion of assessments collected as required by ORS 137.290 (2)(c) and (d)
32 shall be considered category 4 obligations.

33 (3) As long as there remains unpaid any obligation under category 1, the clerk shall credit to-
34 ward category 1 all of each payment received.

35 (4) After the total obligation has been credited under category 1, then as long as there remains
36 unpaid any obligation under both categories 2 and 3, the clerk shall credit toward each such cate-
37 gory 50 percent of each payment received.

38 [(5)] (5)(a) The clerk shall monthly transfer the moneys credited under category 1 and under
39 category 2 to the victims for whose benefit moneys under that category were ordered paid. If there
40 are multiple victims for whose benefit moneys have been ordered paid under category 2, the clerk
41 shall first transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a).
42 When the moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk
43 shall transfer moneys credited under category 2 to the Criminal Injuries Compensation Account if
44 moneys have been ordered paid to the account under category 2. When the moneys due the account
45 have been fully paid, the clerk shall transfer moneys credited under category 2 to any other victims,

1 as defined in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered
2 paid in proportion to the amounts ordered.

3 **(b) As long as there remains unpaid any obligation under category 3 resulting from a**
4 **compensatory fine under ORS 137.101 (2), the clerk shall monthly transfer the moneys cred-**
5 **ited under category 3 to the Department of Justice for deposit in the Department of Justice**
6 **Protection and Education Revolving Account. When the moneys due the Department of**
7 **Justice have been fully paid:**

8 **(A)** The clerk of a circuit court shall monthly transfer the **remaining** moneys credited under
9 category 3 as directed by the State Court Administrator for deposit in the State Treasury to the
10 credit of the Criminal Fine and Assessment Account established under ORS 137.300.

11 **(B)** The clerk of a justice or municipal court shall monthly transfer the **remaining** moneys
12 credited under category 3 to the Department of Revenue as provided in ORS 305.830.

13 (6) When the entire amount owing for purposes of either category 2 or category 3 has been
14 credited, further payments by the defendant shall be credited by the clerk entirely to the unpaid
15 balance of whichever of those categories remains unpaid, until both category 2 and category 3 have
16 been entirely paid.

17 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-
18 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-
19 ligations under category 4 and shall monthly transfer the moneys so received to the appropriate
20 recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions
21 in justice and municipal courts and giving last priority to persons entitled to moneys as reimburse-
22 ment for reward under ORS 131.897. The clerk shall monthly transfer the portion of assessments
23 collected as required by ORS 137.290 (2)(c) and (d) to the county for administration of substance
24 abuse treatment programs described in ORS 430.420.

25 (8) Notwithstanding subsection (5) of this section, the clerk of a circuit court shall monthly
26 transfer the moneys attributable to parking violations to the State Treasurer for deposit in the
27 General Fund.

28 (9) The clerk of a justice or municipal court must make the transfers required by this section
29 not later than the last day of the month immediately following the month in which a payment is
30 made.

31 MISCELLANEOUS

32 **SECTION 47. (1) The amendments to ORS 196.895, 390.674, 469.085, 506.995, 517.992 and**
33 **536.905 by sections 1, 5 to 9 and 11 of this 2011 Act and the repeal of ORS 454.635 by section**
34 **12 of this 2011 Act apply to violations occurring on or after the effective date of this 2011**
35 **Act.**

36 **(2) The amendments to ORS 454.655 by section 13 of this 2011 Act apply to requests for**
37 **hearings made on or after the effective date of this 2011 Act.**

38 **(3) The amendments to ORS 465.992 by section 15 of this 2011 Act apply to failure to pay**
39 **fees that are required under ORS 465.517, 465.520 or 465.523 on or after the effective date of**
40 **this 2011 Act.**

41 **(4) The amendments to ORS 466.005 by section 16 of this 2011 Act apply to the provisions**
42 **of ORS 30.505, 459.415, 466.005 to 466.385 and 466.992 on and after the effective date of this**
43 **2011 Act.**

1 (5) The amendments to ORS 468.090 by section 18 of this 2011 Act apply to complaints
2 filed with the Department of Environmental Quality on or after the effective date of this 2011
3 Act.

4 (6) Any enforcement actions taken by the Environmental Quality Commission or the
5 Department of Environmental Quality pursuant to ORS 468.065, 468.095, 468.100, 468.120 or
6 468.140 before the effective date of this 2011 Act related to ORS 448.410 to 448.430, 454.782 to
7 454.800, 459.900, 459A.552 to 459A.599, 459A.695, 459A.780, 468A.612, 468A.655, 468B.095, 468B.165
8 and 783.625 to 783.640 and ORS chapters 459, 459A, 465, 466 and 467 are validated.

9 (7) The amendments to ORS 468.135 and 468A.030 by sections 22 and 24 of this 2011 Act
10 apply to violations occurring on or after the effective date of this 2011 Act.

11 (8) The amendments to ORS 454.505 by section 28 of this 2011 Act apply to sewage treat-
12 ments works for which an operator was certified pursuant to ORS 448.410 before, on or after
13 the effective date of this 2011 Act.

14 (9) The amendments to ORS 468.956 by section 34 of this 2011 Act apply to acts or conduct
15 occurring on or after the effective date of this 2011 Act.

16 (10) The amendments to ORS 468.997 by section 35 of this 2011 Act apply to violations
17 occurring on or after the effective date of this 2011 Act.

18 (11) The amendments to ORS 468B.080 by section 42 of this 2011 Act apply to discharges
19 occurring on or after the effective date of this 2011 Act.

20 (12) The amendments to ORS 137.101 and 137.295 by sections 44 and 46 of this 2011 Act
21 apply to crimes committed on or after the effective date of this 2011 Act.

22 SECTION 48. The unit captions used in this 2011 Act are provided only for the conven-
23 ience of the reader and do not become part of the statutory law of this state or express any
24 legislative intent in the enactment of this 2011 Act.

25 SECTION 49. This 2011 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
27 on its passage.