

Requested by Representative KENY-GUYER

**PROPOSED AMENDMENTS TO
HOUSE BILL 3182**

1 On page 1 of the printed bill, line 2, after “systems;” insert “creating new
2 provisions; amending ORS 468.005, 468.015, 468.035, 468.065, 468.070, 468.095,
3 468.100, 468.120, 468.140, 468.956, 468.997 and 537.132;”.

4 Delete lines 4 through 28 and delete page 2 and insert:

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

6 **“(a) ‘Alternate water source’ includes roof runoff, stormwater from**
7 **precipitation that accumulates on an artificial impervious surface,**
8 **municipal sewage, gray water and any other source of nonpotable**
9 **water from a building as identified by the Environmental Quality**
10 **Commission by rule.**

11 **“(b) ‘Nonpotable end use’ means the use of nonpotable water for**
12 **toilet or urinal supply water, clothes washing, irrigation, mechanical**
13 **cooling, p-trap priming, dust suppression or any other use authorized**
14 **by the commission by rule.**

15 **“(c) ‘Onsite nonpotable water’ means water that has been collected**
16 **from an alternate water source and treated such that the water is**
17 **suitable for direct beneficial use.**

18 **“(d) ‘Onsite nonpotable water system’ means a treatment works as**
19 **that term is defined in ORS 454.010 that is a system for the collection**
20 **of water from alternate water sources within or surrounding a build-**
21 **ing, the treatment of the water into onsite nonpotable water and the**

1 use of the resulting onsite nonpotable water for nonpotable end uses
2 onsite or in a local area.

3 “(2)(a) Except as provided in subsection (3) of this section, a person
4 may not construct, install or operate an onsite nonpotable water sys-
5 tem without first obtaining a permit from the Department of Envi-
6 ronmental Quality.

7 “(b) An onsite nonpotable water system for which a permit has been
8 issued under this section is exempt from the requirements of ORS
9 454.610 and 454.655.

10 “(3) A person who constructs, installs or operates a gray water re-
11 use and disposal system that meets the requirements adopted by rule
12 under subsection (4) of this section for an onsite nonpotable water
13 system may choose to obtain a permit under either this section or ORS
14 454.610.

15 “(4) The Environmental Quality Commission, in consultation with
16 the Building Codes Division of the Department of Consumer and
17 Business Services, shall adopt rules to implement the provisions of
18 this section. Rules adopted by the commission must include risk-based
19 water quality standards for onsite nonpotable water systems. In
20 adopting rules under this subsection, the commission shall address,
21 at a minimum:

22 “(a) Risk-based log reduction targets for the removal of pathogens
23 such as enteric viruses, parasitic protozoa and enteric bacteria from
24 water collected from alternate water sources, such that the resulting
25 onsite nonpotable water may be safely reused for nonpotable end uses;

26 “(b) Water quality monitoring requirements;

27 “(c) Reporting requirements related to water quality monitoring
28 results;

29 “(d) Notification and public information requirements;

30 “(e) Cross-connection controls; and

1 **“(f) Permit requirements.**

2 **“SECTION 2.** ORS 537.132 is amended to read:

3 “537.132. (1) The provisions of ORS 537.130 requiring application for a
4 permit to appropriate water shall not apply to the use of reclaimed water,
5 if:

6 “(a) The use of reclaimed water is authorized by the national pollutant
7 discharge elimination system or water pollution control facilities permit is-
8 sued pursuant to ORS 468B.050 or 468B.053 **or an onsite nonpotable water**
9 **system permit issued under section 1 of this 2019 Act;**

10 “(b) The Department of Environmental Quality, in reviewing an applica-
11 tion for a permit pursuant to ORS 468B.050 or 468B.053 **or section 1 of this**
12 **2019 Act**, has consulted with the State Department of Fish and Wildlife on
13 the impact to fish and wildlife to determine that the application of reclaimed
14 water under ORS 537.130, 537.131, 537.132, 540.510 and 540.610 shall not have
15 a significant negative impact on fish and wildlife; and

16 “(c) The Department of Environmental Quality has determined the use of
17 reclaimed water is intended to improve the water quality of the receiving
18 stream.

19 “(2) Any person using or intending to use reclaimed water shall file with
20 the Water Resources Department a reclaimed water registration form setting
21 forth the following:

22 “(a) Name and mailing address of the registrant;

23 “(b) The date the use of reclaimed water is initiated;

24 “(c) Source of reclaimed water supply, including a description of the lo-
25 cation of the reclaimed water treatment facility and the name and mailing
26 address of the owner and operator of the facility;

27 “(d) Nature of the use of the reclaimed water;

28 “(e) Amount of reclaimed water used or proposed to be used;

29 “(f) Location and description of the ditch, canal, pipeline or any other
30 conduction facility used or to be used to transport the reclaimed water from

1 the treatment facility to the place of use;

2 “(g) A statement declaring the existence of a written contract or agree-
3 ment to provide reclaimed water including the name and address of the re-
4 claimed water provider and the date and terms of such contract or
5 agreement;

6 “(h) A description of the season of use and the place of use of the re-
7 claimed water, and any restrictions applicable to the use of the reclaimed
8 water; and

9 “(i) If the reclaimed water is used in lieu of using water under an existing
10 water right, the application, permit and certificate number of such right, or
11 if the right is granted pursuant to a decree of circuit court, the volume and
12 page number setting forth the right.

13 “(3) If a municipality has discharged waste water into a natural
14 watercourse for five or more years, and the discharge represents more than
15 50 percent of the total average flow of the natural watercourse and if such
16 discharge would cease as a result of the use of reclaimed water in accordance
17 with the provisions of ORS 540.510 (3) and this section, the director of the
18 department shall notify any persons who, according to the department re-
19 cords, have a water right that may be affected by the cessation of the dis-
20 charge by the municipality.

21 “(4) If a person holding an affected water right demonstrates to the de-
22 partment that the cessation of discharge by the municipality substantially
23 impairs the ability to satisfy a water right, the person shall be entitled to
24 a preference to the use of the reclaimed water. However, the delivery of the
25 reclaimed water to the person claiming such preference shall be accom-
26 plished through a conveyance facility or channel other than a natural
27 watercourse.

28 “(5) If a municipality has a less expensive alternative for the disposal and
29 distribution of the reclaimed water, the municipality shall not be obligated
30 to incur expenses or cost beyond the expenses or costs of such alternative.

1 “(6) The Water Resources Commission shall adopt rules to implement the
2 notice and preference provisions and impairment evaluation standards of this
3 section.

4 **“SECTION 3.** ORS 468.005 is amended to read:

5 “468.005. As used in ORS 448.305, 454.010 to 454.040, 454.205 to 454.255,
6 454.505 to 454.535, 454.605 to 454.755, **section 1 of this 2019 Act** and ORS
7 chapters 468, 468A and 468B, unless the context requires otherwise:

8 “(1) ‘Commission’ means the Environmental Quality Commission.

9 “(2) ‘Department’ means the Department of Environmental Quality.

10 “(3) ‘Director’ means the Director of the Department of Environmental
11 Quality.

12 “(4) ‘Order’ has the same meaning as given in ORS 183.310.

13 “(5) ‘Person’ includes individuals, corporations, associations, firms, part-
14 nerships, joint stock companies, public and municipal corporations, political
15 subdivisions, the state and any agencies thereof, and the federal government
16 and any agencies thereof.

17 “(6) ‘Rule’ has the same meaning as given in ORS 183.310.

18 “(7) ‘Standard’ or ‘standards’ means such measure of quality or purity for
19 air or for any waters in relation to their reasonable or necessary use as may
20 be established by the commission pursuant to ORS 448.305, 454.010 to 454.040,
21 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468,
22 468A and 468B.

23 **“SECTION 4.** ORS 468.015 is amended to read:

24 “468.015. It is the function of the Environmental Quality Commission to
25 establish the policies for the operation of the Department of Environmental
26 Quality in a manner consistent with the policies and purposes of ORS
27 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
28 454.755, **section 1 of this 2019 Act** and ORS chapters 468, 468A and 468B.
29 In addition, the commission shall perform any other duty vested in it by law.

30 **“SECTION 5.** ORS 468.035 is amended to read:

1 “468.035. (1) Subject to policy direction by the Environmental Quality
2 Commission, the Department of Environmental Quality:

3 “(a) Shall encourage voluntary cooperation by the people, municipalities,
4 counties, industries, agriculture, and other pursuits, in restoring and pre-
5 serving the quality and purity of the air and the waters of the state in ac-
6 cordance with rules and standards established by the commission.

7 “(b) May conduct and prepare, independently or in cooperation with oth-
8 ers, studies, investigations, research and programs pertaining to the quality
9 and purity of the air or the waters of the state and to the treatment and
10 disposal of wastes.

11 “(c) Shall advise, consult, and cooperate with other agencies of the state,
12 political subdivisions, other states or the federal government, in respect to
13 any proceedings and all matters pertaining to control of air or water pol-
14 lution or for the formation and submission to the legislature of interstate
15 pollution control compacts or agreements.

16 “(d) May employ personnel, including specialists and consultants, pur-
17 chase materials and supplies, and enter into contracts necessary to carry out
18 the purposes set forth in ORS 448.305, 454.010 to 454.040, 454.205 to 454.255,
19 454.505 to 454.535, 454.605 to 454.755, **section 1 of this 2019 Act** and ORS
20 chapters 468, 468A and 468B.

21 “(e) Shall conduct and supervise programs of air and water pollution
22 control education, including the preparation and distribution of information
23 regarding air and water pollution sources and control.

24 “(f) Shall provide advisory technical consultation and services to units
25 of local government and to state agencies.

26 “(g) Shall develop and conduct demonstration programs in cooperation
27 with units of local government.

28 “(h) Shall serve as the agency of the state for receipt of moneys from the
29 federal government or other public or private agencies for the purposes of
30 air and water pollution control, studies or research and to expend moneys

1 after appropriation thereof for the purposes given.

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

5 “(j) Shall seek enforcement of the air and water pollution laws of the
6 state.

7 “(k) Shall institute or cause to be instituted in a court of competent ju-
8 risdiction, proceedings to compel compliance with any rule or standard
9 adopted or any order or permit, or condition thereof, issued pursuant to ORS
10 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
11 454.755, **section 1 of this 2019 Act** and ORS chapters 468, 468A and 468B.

12 “(L) Shall encourage the formulation and execution of plans in conjunc-
13 tion with air and water pollution control agencies or with associations of
14 counties, cities, industries and other persons who severally or jointly are or
15 may be the source of air or water pollution, for the prevention and abate-
16 ment of pollution.

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

19 “(n) May perform such other and further acts as may be necessary, proper
20 or desirable to carry out effectively the duties, powers and responsibilities
21 of the department as set forth in ORS 448.305, 454.010 to 454.040, 454.205 to
22 454.255, 454.505 to 454.535, 454.605 to 454.755, **section 1 of this 2019 Act** and
23 ORS chapters 468, 468A and 468B.

24 “(o) Shall coordinate any activities of the department related to a
25 watershed enhancement project approved by the Oregon Watershed En-
26 hancement Board under ORS 541.932 with activities of other cooperating
27 state and federal agencies participating in the project.

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

30 “(a) Regarding the quality of water for human or animal consumption

1 pursuant to ORS 448.115 to 448.325, 624.010 to 624.121 and 624.310 to 624.430;
2 and

3 “(b) Regarding the quality of water for public swimming places pursuant
4 to ORS 431.001 to 431.550 and 431.990.

5 “(3) Nothing in this section shall prevent the State Department of Agri-
6 culture or the State Forestry Department from independently receiving
7 moneys from a public or private agency for the purposes of preventing or
8 controlling air or water pollution resulting from agricultural or silvicultural
9 activities or soil erosion, or for research related to such purposes.

10 “(4)(a) In awarding a public contract under ORS 279.835 to 279.855 or ORS
11 chapter 279A, 279B or 279C for a removal or remedial action pursuant to
12 ORS 465.200 to 465.545, a corrective action or cleanup action pursuant to
13 ORS 466.005 to 466.385, 466.605 to 466.680 or 466.706 to 466.882 or a removal
14 pursuant to ORS 468B.005 to 468B.030, 468B.035, 468B.048 to 468B.085,
15 468B.090, 468B.093, 468B.095 and 468B.300 to 468B.500, the department, and
16 the Oregon Department of Administrative Services, when administering the
17 establishment of such a contract on behalf of the Department of Environ-
18 mental Quality under ORS 279A.050 and 279A.140, shall subtract from the
19 amount of any bid or proposal the hazardous waste management fees and
20 solid waste fees that would be required by law to be paid to the department
21 for waste that would be disposed of at a solid waste disposal site or a haz-
22 ardous waste or PCB disposal facility, based on the bid or proposal. The
23 amount to be subtracted shall be established on the basis of reasonable pre-
24 procurement estimates of the amount of waste that would be disposed of
25 under the contract and that would be subject to those fees.

26 “(b) The subtraction for fees under paragraph (a) of this subsection shall
27 apply only to a contract reasonably anticipated to involve the disposal of
28 no less than 50 tons of hazardous waste or no less than 500 tons of solid
29 waste. The Legislative Assembly finds that making accurate advance esti-
30 mates of amounts of waste that would be disposed of in projects of this

1 character is technically challenging and requires the application of profes-
2 sional discretion. Therefore, no award of a contract under this subsection
3 shall be subject to challenge, under ORS 279B.410, 279B.415 or 279C.460 or
4 otherwise, on the ground of the inaccuracy or claimed inaccuracy of any
5 such estimate.

6 “(c) The subtraction for fees under paragraph (a) of this subsection shall
7 not apply to the establishment, by or on behalf of the department, of master
8 contracts by which the department engages the services of a contractor over
9 a period of time for the purpose of issuing work orders for the performance
10 of environmental activities on a project or projects for which the amounts
11 of waste to be disposed of were not reasonably identified at the inception of
12 the master contracts. However, the department shall require any contractor
13 under a master contract to apply the subtraction for fees under paragraph
14 (a) of this subsection in the selection of any subcontractor to perform the
15 removal of waste in amounts equaling or exceeding the amounts set forth in
16 paragraph (b) of this subsection. Nothing in this subsection shall be con-
17 strued to prohibit the department or the Oregon Department of Administra-
18 tive Services from establishing contracts pursuant to this section through
19 contracting procedures authorized by ORS 279.835 to 279.855 and ORS chap-
20 ters 279A, 279B and 279C that do not require the solicitation of bids or pro-
21 posals.

22 **“SECTION 6.** ORS 468.065, as amended by section 18, chapter 102, Oregon
23 Laws 2018, is amended to read:

24 “468.065. Subject to any specific requirements imposed by ORS 448.305,
25 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
26 **section 1 of this 2019 Act** and ORS chapters 468, 468A and 468B:

27 “(1) Applications for all permits authorized or required by ORS 448.305,
28 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
29 **section 1 of this 2019 Act** and ORS chapters 468, 468A and 468B shall be
30 made in a form prescribed by the Department of Environmental Quality. Any

1 permit issued by the department shall specify its duration, and the conditions
2 for compliance with the rules and standards, if any, adopted by the Envi-
3 ronmental Quality Commission pursuant to ORS 448.305, 454.010 to 454.040,
4 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **section 1 of this**
5 **2019 Act** and ORS chapters 468, 468A and 468B.

6 “(2) By rule and after hearing, the commission may establish a schedule
7 of fees for permits issued pursuant to ORS 468A.040, 468A.045, 468A.155 and
8 468B.050. Except as provided in ORS 468A.315 and 468B.051 and section 13,
9 chapter 102, Oregon Laws 2018, the fees contained in the schedule shall be
10 based upon the anticipated cost of filing and investigating the application,
11 of carrying out applicable requirements of Title V, of issuing or denying the
12 requested permit, and of an inspection program to determine compliance or
13 noncompliance with the permit. The fee shall accompany the application for
14 the permit. The fees for a permit issued under ORS 468A.040 or 468B.050 may
15 be imposed on an annual basis.

16 “(3) An applicant for certification of a project under ORS 468B.040 or
17 468B.045, and any person submitting a notice of intent to seek reauthori-
18 zation, a preliminary application or an application for reauthorization of a
19 water right for a hydroelectric project under ORS 543A.030, 543A.035,
20 543A.075, 543A.080 or 543A.095 shall pay as a fee all expenses incurred by the
21 commission and department related to the review and decision of the Direc-
22 tor of the Department of Environmental Quality and commission. These ex-
23 penses may include legal expenses, expenses incurred in evaluating the
24 project, issuing or denying certification and expenses of commissioning an
25 independent study by a contractor of any aspect of the proposed project.
26 These expenses shall not include the costs incurred in defending a decision
27 of either the director or the commission against appeals or legal challenges.
28 The department shall bill applicants for costs incurred on a monthly basis,
29 and shall provide a biennial report describing how the moneys were spent.
30 An applicant may arrange with the department to pay the fee on a quarterly

1 basis. The department shall not charge a fee under the fee authority in this
2 subsection if the holder is being charged a fee under ORS 543.088 and 543.090
3 or 543A.405. In no event shall the department assess fees under this section
4 and under ORS 543A.405 for performance of the same work.

5 “(4) The department may require the submission of plans, specifications
6 and corrections and revisions thereto and such other reasonable information
7 as it considers necessary to determine the eligibility of the applicant for the
8 permit.

9 “(5) The department may require periodic reports from persons who hold
10 permits under ORS 448.305, 454.010 to 454.040, 454.205 to 454.225, 454.505 to
11 454.535, 454.605 to 454.755, **section 1 of this 2019 Act** and ORS chapters 468,
12 468A and 468B. The report shall be in a form prescribed by the department
13 and shall contain such information as to the amount and nature or common
14 description of the pollutant, contaminant or waste and such other informa-
15 tion as the department may require.

16 “(6) Any fee collected under a schedule of fees established pursuant to
17 this section or ORS 468A.315 or section 13, chapter 102, Oregon Laws 2018,
18 shall be deposited in the State Treasury to the credit of an account of the
19 department. The fees are continuously appropriated to meet the expenses of
20 the program for which they are collected, except as follows:

21 “(a) The federal operating permit program shall include a commensurate
22 amount of the fee for any permit specified in this section for which the de-
23 partment incurs costs associated with the requirements of Title V and any
24 fees collected under ORS 468A.315. Fees collected for the federal operating
25 permit program in any biennium that exceed the legislatively approved
26 budget, including amounts authorized by the Emergency Board for the fed-
27 eral operating permit program for such biennium, shall be credited toward
28 the federal operating permit program budget for the following biennium.

29 “(b) Fees collected for permits issued under ORS 468B.050 to authorize the
30 discharge of wastes into the waters of the state may be used to pay the ex-

1 penses of any of the programs associated with the issuance of permits under
2 ORS 468B.050 to authorize the discharge of wastes into the waters of the
3 state.

4 “(c) The fees collected under a schedule of fees established pursuant to
5 this section or ORS 468A.315 or section 13, chapter 102, Oregon Laws 2018,
6 by a regional air pollution control authority pursuant to a permit program
7 authorized by the commission shall be retained by and shall be income to the
8 regional authority except as provided in ORS 468A.155 (2)(c). Such fees shall
9 be accounted for and expended in the same manner as are other funds of the
10 regional authority. However, if the department finds after hearing that the
11 permit program administered by the regional authority does not conform to
12 the requirements of the permit program approved by the commission pursu-
13 ant to ORS 468A.155, such fees shall be deposited and expended as are permit
14 fees submitted to the department.

15 “(7) As used in this section, “Title V” has the meaning given in ORS
16 468A.300.

17 **“SECTION 7.** ORS 468.070 is amended to read:

18 “468.070. (1) At any time, the Department of Environmental Quality may
19 refuse to issue, modify, suspend, revoke or refuse to renew any permit issued
20 pursuant to ORS 468.065 if it finds:

21 “(a) A material misrepresentation or false statement in the application for
22 the permit.

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

24 “(c) Violation of any applicable provisions of ORS 466.605 to 466.680,
25 466.990 (3) and (4) and 466.995 (2) or ORS chapters 468, 468A and 468B.

26 “(d) Violation of any applicable rule, standard or order of the Environ-
27 mental Quality Commission.

28 “(2) The department may modify any permit issued pursuant to ORS
29 468.065 if it finds that modification is necessary for the proper adminis-
30 tration, implementation or enforcement of the provisions of ORS 448.305,

1 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755,
2 466.605 to 466.680, **section 1 of this 2019 Act** and ORS chapters 468, 468A
3 and 468B.

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

7 **“SECTION 8.** ORS 468.095 is amended to read:

8 “468.095. (1) The Department of Environmental Quality shall have the
9 power to enter upon and inspect, at any reasonable time, any public or pri-
10 vate property, premises or place for the purpose of investigating either an
11 actual or suspected source of water pollution or air pollution or air con-
12 tamination or to ascertain compliance or noncompliance with any rule or
13 standard adopted or order or permit issued pursuant to ORS 448.305, 454.010
14 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **section**
15 **1 of this 2019 Act** and ORS chapters 468, 468A and 468B. The Environmental
16 Quality Commission shall also have access to any pertinent records relating
17 to such property, including but not limited to blueprints, operation and
18 maintenance records and logs, operating rules and procedures.

19 “(2) Unless classified by the Director of the Department of Environmental
20 Quality as confidential, any records, reports or information obtained under
21 ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605
22 to 454.755, **section 1 of this 2019 Act** and ORS chapters 468, 468A and 468B
23 shall be available to the public. Upon a showing satisfactory to the director
24 by any person that records, reports or information, or particular parts
25 thereof, other than emission data, if made public, would divulge a secret
26 process, device or method of manufacturing or production entitled to pro-
27 tection as trade secrets of such person, the director shall classify such re-
28 cord, report or information, or particular part thereof, other than emission
29 data, confidential and such confidential record, report or information, or
30 particular part thereof, other than emission data, shall not be made a part

1 of any public record or used in any public hearing unless it is determined
2 by a circuit court that evidence thereof is necessary to the determination of
3 an issue or issues being decided at a public hearing.

4 **“SECTION 9.** ORS 468.100 is amended to read:

5 “468.100. (1) Whenever the Environmental Quality Commission has good
6 cause to believe that any person is engaged or is about to engage in any acts
7 or practices which constitute a violation of ORS 448.305, 454.010 to 454.040,
8 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **section 1 of this**
9 **2019 Act** and ORS chapters 468, 468A and 468B, or any rule, standard or
10 order adopted or entered pursuant thereto, or of any permit issued pursuant
11 to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535,
12 454.605 to 454.755, **section 1 of this 2019 Act** and ORS chapters 468, 468A
13 and 468B, the commission may institute actions or proceedings for legal or
14 equitable remedies to enforce compliance thereto or to restrain further vio-
15 lations.

16 “(2) The proceedings authorized by subsection (1) of this section may be
17 instituted without the necessity of prior agency notice, hearing and order,
18 or during said agency hearing if it has been initially commenced by the
19 commission.

20 “(3) A regional authority formed under ORS 468A.105 may exercise the
21 same functions as are vested in the commission by this section insofar as
22 such functions relate to air pollution control and are applicable to the con-
23 ditions and situations of the territory within the regional authority. The
24 regional authority shall carry out these functions in the manner provided for
25 the commission to carry out the same functions.

26 “(4) The provisions of this section are in addition to and not in substi-
27 tution of any other civil or criminal enforcement provisions available to the
28 commission or a regional authority. The provisions of this section shall not
29 prevent the maintenance of actions for legal or equitable remedies relating
30 to private or public nuisances brought by any other person, or by the state

1 on relation of any person without prior order of the commission.

2 **“SECTION 10.** ORS 468.120 is amended to read:

3 “468.120. (1) The Environmental Quality Commission, its members or a
4 person designated by and acting for the commission may:

5 “(a) Conduct public hearings.

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

8 “(c) Administer oaths.

9 “(d) Take or cause to be taken depositions and receive such pertinent and
10 relevant proof as may be considered necessary or proper to carry out duties
11 of the commission and Department of Environmental Quality pursuant to
12 ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605
13 to 454.755, **section 1 of this 2019 Act** and ORS chapters 468, 468A and 468B.

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

17 **“SECTION 11.** ORS 468.140 is amended to read:

18 “468.140. (1) In addition to any other penalty provided by law, any person
19 who violates any of the following shall incur a civil penalty for each day
20 of violation in the amount prescribed by the schedule adopted under ORS
21 468.130:

22 “(a) The terms or conditions of any permit required or authorized by law
23 and issued by the Department of Environmental Quality or a regional air
24 quality control authority.

25 “(b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to
26 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640, **section**
27 **1 of this 2019 Act** and ORS chapter 467 and ORS chapters 468, 468A and
28 468B.

29 “(c) Any rule or standard or order of the Environmental Quality Com-
30 mission adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205

1 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640, **sec-**
2 **tion 1 of this 2019 Act** and ORS chapter 467 and ORS chapters 468, 468A
3 and 468B.

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

6 “(e) Any rule or standard or order of a regional authority adopted or is-
7 sued under authority of ORS 468A.135.

8 “(f) The financial assurance requirement under ORS 468B.390 and
9 468B.485 or any rule related to the financial assurance requirement under
10 ORS 468B.390.

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

13 “(3)(a) In addition to any other penalty provided by law, any person who
14 intentionally or negligently causes or permits the discharge of oil or haz-
15 ardous material into the waters of the state or intentionally or negligently
16 fails to clean up a spill or release of oil or hazardous material into the wa-
17 ters of the state as required by ORS 466.645 shall incur a civil penalty not
18 to exceed the amount of \$100,000 for each violation.

19 “(b) In addition to any other penalty provided by law, the following per-
20 sons shall incur a civil penalty not to exceed the amount of \$25,000 for each
21 day of violation:

22 “(A) Any person who violates the terms or conditions of a permit au-
23 thorizing waste discharge into the air or waters of the state.

24 “(B) Any person who violates any law, rule, order or standard in ORS
25 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
26 454.755 and 783.625 to 783.640, **section 1 of this 2019 Act** and ORS chapters
27 468, 468A and 468B relating to air or water pollution.

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

30 “(4) In addition to any other penalty provided by law, any person who

1 violates the provisions of ORS 468B.130 shall incur a civil penalty not to
2 exceed the amount of \$1,000 for each day of violation.

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

6 “(6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any
7 other penalty provided by law, any person who intentionally or negligently
8 causes or permits open field burning contrary to the provisions of ORS
9 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by
10 the department a civil penalty of at least \$20 but not more than \$40 for each
11 acre so burned. Any amounts collected by the department pursuant to this
12 subsection shall be deposited with the State Treasurer to the credit of the
13 General Fund and shall be available for general governmental expense. As
14 used in this subsection, ‘open field burning’ does not include propane flaming
15 of mint stubble.

16 **“SECTION 12.** ORS 468.956 is amended to read:

17 “468.956. Refusal, without good cause, to produce books, papers or infor-
18 mation subpoenaed by the Environmental Quality Commission, the Depart-
19 ment of Environmental Quality or the regional air quality control authority
20 or any report required by law or by the commission, the department or a
21 regional authority pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to
22 454.255, 454.505 to 454.535, 454.605 to 454.755, **section 1 of this 2019 Act** and
23 ORS chapters 468, 468A and 468B is a Class A misdemeanor.

24 **“SECTION 13.** ORS 468.997 is amended to read:

25 “468.997. Where any provision of ORS 448.305, 454.010 to 454.040, 454.205
26 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **section 1 of this 2019 Act**
27 and ORS chapters 468, 468A and 468B provides that each day of violation of
28 ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605
29 to 454.755 or a section of ORS chapters 468, 468A and 468B constitutes a
30 separate offense, violations of that section that occur within the same court

1 jurisdiction may be joined in one indictment, or complaint, or information,
2 in several counts.

3 **“SECTION 14. (1) Section 1 of this 2019 Act and the amendments to**
4 **statutes by sections 2 to 13 of this 2019 Act become operative on Jan-**
5 **uary 1, 2020.**

6 **“(2) The Environmental Quality Commission may adopt rules or**
7 **take any actions before the operative date specified in subsection (1)**
8 **of this section that are necessary to enable the commission and the**
9 **Department of Environmental Quality, on and after the operative date**
10 **specified in subsection (1) of this section, to carry out the provisions**
11 **of section 1 of this 2019 Act and the amendments to statutes by**
12 **sections 2 to 13 of this 2019 Act. Rules adopted pursuant to this section**
13 **may not become operative before January 1, 2020.**

14 **“SECTION 15. This 2019 Act being necessary for the immediate**
15 **preservation of the public peace, health and safety, an emergency is**
16 **declared to exist, and this 2019 Act takes effect on its passage.”.**

17
