

B-Engrossed
Senate Bill 463

Ordered by the House May 24
Including Senate Amendments dated May 4 and House Amendments dated
May 24

Sponsored by Senator HARPER (at the request of Oregon Dry Cleaners Association)

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.

Specifies \$1 million as amount of fund established for cleanup of dry cleaning chemicals.

Excludes dry cleaning owner or operator from protection against cleanup liability if release was caused by gross negligence of owner or operator and in other specified situations. Requires dry cleaning operators to manage wastewater from perchloroethylene dry cleaning machines according to waste minimization guidelines developed by Environmental Quality Commission. Allows penalties assessed to be placed in Dry Cleaner Environmental Response Account. Prohibits Department of Environmental Quality from expending moneys in account on remedial action at dry cleaning facilities where owner or operator failed to comply with waste minimization requirements and failure to comply contributed to release. Changes fees. Requires Department of Environmental Quality to create list of inactive dry cleaning facilities eligible to receive funding from Dry Cleaner Environmental Response Account. Specifies requirements to be on list.

Sunsets fee structure and Dry Cleaner Environmental Response Account program on January 1, 2006.

A BILL FOR AN ACT

1
2 Relating to environmental cleanup of dry cleaners; creating new provisions; amending ORS 465.200,
3 465.500, 465.503, 465.505, 465.507, 465.510, 465.515, 465.517, 465.520, 465.527, 465.533, 465.535,
4 465.537, 465.545, 465.548 and 468.035; and repealing ORS 465.500, 465.503, 465.505, 465.507,
5 465.510, 465.515, 465.517, 465.520, 465.523, 465.525, 465.527, 465.530, 465.533, 465.535, 465.537,
6 465.540, 465.543, 465.545, 465.546, 465.548 and 465.992.

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

8 **SECTION 1.** ORS 465.500 is amended to read:

9 465.500. (1) The purposes of ORS 465.503 to 465.540 are:

10 (a) To create a **\$1 million** cleanup fund paid for solely by the dry cleaning industry, and to
11 otherwise exempt dry cleaning owners and dry cleaning operators from cleanup liability; and

12 (b) To ensure the cleanup of contamination resulting from dry cleaning facilities.

13 (2) The provisions of ORS 465.200 to 465.510 and 465.900, and rules and programs adopted
14 thereto, shall continue to apply to the cleanup of releases of hazardous substances from dry cleaning
15 facilities, including but not limited to provisions and programs for:

16 (a) Listing of facilities having a confirmed release of dry cleaning solvents;

17 (b) Prioritizing dry cleaning facilities with confirmed releases for removal or remedial action;

18 (c) Applying standards and methods for removal and remedial actions selected or approved by
19 the Department of Environmental Quality; and

20 (d) Enforcing or undertaking removal and remedial actions.

21 **SECTION 2.** ORS 465.503 is amended to read:

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.

1 465.503. (1) Except as provided under subsections (3), (4) and (5) of this section, no dry cleaning
2 owner or dry cleaning operator shall be subject to any administrative or judicial action to compel
3 a removal or remedial action or to recover remedial action costs caused by the release or threat-
4 ened release of dry cleaning solvent from an active or inactive dry cleaning facility, whether the
5 action is brought under ORS 465.200 to 465.510 and 465.900 or any other statute or regulation.

6 (2) Except as provided under subsections (3), (4) and (5) of this section, no dry cleaning owner
7 or dry cleaning operator shall be liable under statutory, common or administrative law for damage
8 to real or personal property or to natural resources if the damage is caused by the release or
9 threatened release of dry cleaning solvent from an active or inactive dry cleaning facility, except
10 upon proof that the release of dry cleaning solvent was caused by the failure of the dry cleaning
11 owner or dry cleaning operator to exercise due care. Compliance with applicable federal, state and
12 local laws and regulations [*shall be*], **including waste minimization requirements, is** prima facie
13 evidence that the dry cleaning owner or dry cleaning operator exercised due care.

14 (3) **Notwithstanding the date on which the release occurred**, the provisions of subsections
15 (1) and (2) of this section do not apply to a dry cleaning [*owner or dry cleaning*] operator if:

16 (a) The release was caused by gross negligence of the dry cleaning owner or dry cleaning op-
17 erator;

18 [*(b) The release resulted from a violation of federal or state laws in effect at the time of the release,*
19 *including but not limited to waste minimization requirements imposed under ORS 465.505;*]

20 **(b) The release resulted from an action or omission that was a violation by the dry**
21 **cleaning owner or dry cleaning operator of federal or state laws in effect at the time of the**
22 **release, including but not limited to waste minimization requirements imposed under ORS**
23 **465.505;**

24 (c) The dry cleaning owner or dry cleaning operator willfully concealed a release of dry cleaning
25 solvent contrary to laws and regulations in effect at the time of the release or did not comply with
26 release reporting requirements applicable at the time of the release;

27 (d) The dry cleaning owner or dry cleaning operator denies access or unreasonably hinders or
28 delays removal or remedial action necessary at the facility; or

29 (e) The dry cleaning operator of the facility where the release occurred has failed to pay fees
30 under ORS 465.517 to 465.523 in relation to dry cleaning activity at any dry cleaning facility.

31 [*(4) The provisions of subsections (1) and (2) of this section do not apply to a dry cleaning owner*
32 *if the dry cleaning facility has been an inactive dry cleaning facility for a period of 90 days or more*
33 *immediately preceding June 30, 1995.*]

34 **(4) Notwithstanding the date on which the release occurred, subsections (1) and (2) of**
35 **this section do not apply to a dry cleaning owner if:**

36 **(a) The release was caused by gross negligence of the dry cleaning owner or dry cleaning**
37 **operator;**

38 **(b) The release resulted from a violation by the dry cleaning owner or dry cleaning op-**
39 **erator of federal or state laws in effect at the time of the release, including but not limited**
40 **to waste minimization requirements imposed by ORS 465.505;**

41 **(c) The dry cleaning owner or dry cleaning operator willfully concealed a release of dry**
42 **cleaning solvent contrary to laws and regulations in effect at the time of the release or did**
43 **not comply with the release reporting requirements applicable at the time of release;**

44 **(d) The dry cleaning owner or dry cleaning operator denies access or unreasonably**
45 **hinders or delays removal or remedial action necessary at the facility;**

1 **(e) The dry cleaning operator of the facility where the release occurred has failed to pay**
2 **fees under ORS 465.517 to 465.523 in relation to dry cleaning activity at the facility; or**

3 **(f) The dry cleaning facility has been an inactive dry cleaning facility for a period of 90**
4 **days or more immediately preceding June 30, 1995.**

5 (5) If hazardous substances are released as a result of both the release of dry cleaning solvent
6 from dry cleaning operations and other activities, the exemptions from liability provided under this
7 section shall apply only to that portion of the removal or remedial action or damage caused by the
8 release or threatened release of dry cleaning solvent from the dry cleaning facility.

9 **SECTION 3.** ORS 465.505 is amended to read:

10 465.505. (1) In addition to any other applicable federal or state law and regulation, the following
11 waste minimization [*measures*] **requirements** shall apply to dry cleaning facilities:

12 (a) All wastes **meeting the state and federal criteria for hazardous waste**, excluding
13 wastewater, generated at any dry cleaning facility and containing dry cleaning solvents, including
14 residues and filters, shall be managed **and disposed of**, regardless of quantity generated, as haz-
15 arduous wastes in accordance with federal and state laws otherwise applicable to management of
16 hazardous wastes, except that, as to the cleanup of releases of dry cleaning solvents, ORS 465.503
17 shall apply rather than ORS 466.205;

18 **[(b) Wastewater from dry cleaning machines shall not be discharged to any sanitary sewer or septic**
19 **tank or to the waters of this state;]**

20 **[(c) No dry cleaning facility shall include operation of transfer-type dry cleaning equipment using**
21 **perchloroethylene;]**

22 **[(d) All newly installed dry cleaning systems using perchloroethylene shall be of the dry-to-dry type**
23 **and be equipped with integral refrigerated condensers for the control of perchloroethylene emissions;]**

24 **[(e) All existing dry cleaning systems using perchloroethylene shall install refrigerated condensers**
25 **or an equivalent;]**

26 **[(f) Every dry cleaning facility shall install containment tanks capable of containing any leak, spill**
27 **or release of dry cleaning solvent under and around each machine or item of equipment in which any**
28 **dry cleaning solvent is used; and]**

29 **(b) Wastewater contaminated with dry cleaning solvents from the water separation pro-**
30 **cess of dry cleaning machines may not be discharged into any sanitary sewer or septic tank**
31 **or into the waters of this state;**

32 **(c) Dry cleaning operators shall manage solvent contaminated wastewater generated in**
33 **the water separation process in accordance with rules adopted by the Environmental Quality**
34 **Commission;**

35 **(d) A dry cleaning facility may not include operation of transfer-type dry cleaning**
36 **equipment using perchloroethylene;**

37 **(e) All newly installed dry cleaning systems using perchloroethylene shall be of the dry-**
38 **to-dry type and be equipped with integral refrigerated condensers with an outlet temperature**
39 **sensor for the control of perchloroethylene emissions;**

40 **(f) All existing dry cleaning systems using perchloroethylene shall install refrigerated**
41 **condensers, or an equivalent;**

42 **(g) Every dry cleaning facility shall install secondary containment systems capable of**
43 **containing dry cleaning solvent under and around each machine or item of equipment in**
44 **which any dry cleaning solvent is used, treated or stored; and**

45 **[(g)] (h) All perchloroethylene dry cleaning solvent shall be delivered to dry cleaning facilities**

1 by means of closed, direct-coupled delivery systems.

2 (2) The Department of Environmental Quality may authorize the use of alternative measures at
3 a dry cleaning facility in lieu of one or more of the measures described under subsection (1) of this
4 section upon proof satisfactory to the department that the alternative measures can provide equiv-
5 alent protection for public health and the environment, can achieve equivalent waste minimization
6 and are consistent with other applicable laws and regulations.

7 (3) *[Annually on March 1, every dry cleaning operator shall provide to the department,]* **Every**
8 **dry cleaning and dry store operator shall provide annually to the department** on forms to be
9 supplied by the department, information regarding compliance with the waste minimization *[meas-*
10 *ures]* **requirements** set forth in subsection (1) of this section and any other information as the de-
11 partment considers necessary for carrying out the purposes of ORS 465.200 and 465.500 to *[465.545]*
12 **465.548.**

13 (4) Notwithstanding any law to the contrary, *[any release of dry cleaning solvents exceeding one*
14 *pound shall be immediately reported to the department by the dry cleaning operator for the facility*
15 *having the release]* **a dry cleaning operator for a facility having a release of dry cleaning sol-**
16 **vents shall immediately report any release exceeding one pound to the notification system**
17 **managed by the Office of Emergency Management pursuant to ORS 401.275.**

18 (5) The Environmental Quality Commission *[is authorized to]* **shall** adopt rules necessary to im-
19 plement ORS 465.200 and 465.500 to *[465.545]* **465.548**, including but not limited to rules implement-
20 ing the recommendations of the advisory group established under ORS 465.507 or requiring the
21 implementation of new waste minimization technologies.

22 **SECTION 4.** ORS 465.507 is amended to read:

23 465.507. (1) The Director of the Department of Environmental Quality shall appoint an advisory
24 group comprised of members representing a balance of at least the following interests:

25 (a) Dry cleaning operators;

26 **(b) Dry cleaning owners;**

27 *[(b)]* **(c)** Dry cleaning industry members other than **owners and** operators;

28 *[(c)]* **(d)** Citizens;

29 *[(d)]* **(e)** Environmental organizations; and

30 *[(e)]* **(f)** Local governments.

31 (2) The advisory group shall meet periodically to review and advise the Department of Envi-
32 ronmental Quality regarding:

33 (a) Methods and standards for removal and remedial actions as applied by the department at dry
34 cleaning facilities;

35 (b) Waste minimization **rules, guidelines** and *[other]* requirements as applied to dry cleaning
36 facilities, including new technologies and industry practices;

37 (c) The department's use of the Dry Cleaner Environmental Response Account, including use at
38 multiple-source sites;

39 (d) The adequacy of revenue generated by fees assessed under ORS 465.517 to 465.523 for
40 meeting the costs of removal and remedial actions at dry cleaning facilities; and

41 (e) Any other matters pertinent to the purposes of ORS 465.200 and 465.500 to *[465.545]*
42 **465.548.**

43 **SECTION 5.** ORS 465.510 is amended to read:

44 465.510. (1) The Dry Cleaner Environmental Response Account is established separate and dis-
45 tinct from the General Fund in the State Treasury. All moneys collected under ORS 465.517 to

1 465.523, all account expenditures recovered or otherwise received, **penalties assessed under ORS**
2 **465.992** and all interest earned on moneys in the account shall be credited to the account.

3 (2) All moneys in the Dry Cleaner Environmental Response Account are continuously appropri-
4 ated to the Department of Environmental Quality and, except as provided under this section,
5 *[shall]* **may** be expended solely for the following purposes:

6 (a) Remedial action costs incurred by the department as a result of a release at or from a dry
7 cleaning facility;

8 (b) Preapproved remedial action costs incurred by a person performing removal or remedial
9 action as a result of a release at or from a dry cleaning facility under a department order or
10 agreement expressly authorizing reimbursement from the account;

11 (c) The department's costs of program development, administration, enforcement and cost re-
12 covery; and

13 (d) The department's indirect costs attributable to removal or remedial action due to a release
14 at or from a dry cleaning facility.

15 (3) The department may expend Dry Cleaner Environmental Response Account moneys only for
16 those remedial action costs defined in ORS 465.200 (23) that are reasonable in the department's
17 judgment. The department shall consider at least the following factors, to the extent relevant in-
18 formation is available, in determining the order in which removals or remedial actions shall receive
19 funding and the amount of funding:

20 (a) The dry cleaning facility's risk to public health and the environment. Each facility's risk
21 shall be evaluated relative to the risk posed by other facilities.

22 (b) The need for removal or remedial action at the dry cleaning facility relative to account
23 availability and the need for removal or remedial actions at other facilities.

24 (c) The nature of the activities for which expenditures are necessary, in the following order of
25 preference:

26 (A) Direct cost of cleanup, provided that adequate technical investigation has been completed;

27 (B) Direct cost of technical investigation and remedy evaluation;

28 (C) Administrative and indirect costs; and

29 (D) Enforcement, cost recovery and legal costs.

30 (4) If the department takes action at a facility, location or area where hazardous substances
31 have been released as a result of both dry cleaning operations and other activities, including but
32 not limited to laundry operations, account moneys *[shall]* **may** be used only for that portion of the
33 removal or remedial action determined by the department to be necessitated by the release of dry
34 cleaning solvent by the dry cleaning facility.

35 *[(5) Beginning October 1, 1998, and annually thereafter, the retail sale or transfer fee otherwise*
36 *applicable for that year under ORS 465.520 shall be increased by \$4 if fees paid under ORS 465.517*
37 *to 465.523 fail to generate \$1 million or more during the preceding 12-month period.]*

38 *[(6)]* (5) Moneys in the account expended for remedial action costs *[shall]* **may** be expended
39 solely for costs in excess of the following deductible amounts:

40 (a) For a release from a dry cleaning facility employing *[four]* **five** or fewer individuals at the
41 time of release, including any dry cleaning owner, dry cleaning operator or *[part-time]* **full-time**
42 employee, \$5,000; *[and]*

43 (b) For a release from a dry cleaning facility employing more than *[four]* **five** individuals at the
44 time of release, including any dry cleaning owner, dry cleaning operator or *[part-time]* **full-time**
45 employee, **\$1,000 per owner, operator or full-time employee up to \$10,000; and**

1 **(c) For a release from an inactive site, \$10,000.**

2 [(7)] **(6)** The dry cleaning owner or dry cleaning operator of the facility shall be responsible for
3 paying the deductible amount. The department may bring a civil action to recover any moneys ex-
4 pended from the account in payment of costs properly payable under this subsection by the dry
5 cleaning owner or dry cleaning operator.

6 [(8)] **(7)** *[No moneys shall be expended]* **The department may not expend moneys** out of the
7 Dry Cleaner Environmental Response Account:

8 **(a)** For the payment of any claim or judgment against the state or its agencies for loss of busi-
9 ness, damage or destruction of property or personal injury arising from removal or remedial action
10 undertaken under ORS 465.500 to 465.510.

11 **(b) For remedial action and other costs under this section if the dry cleaning owner or**
12 **dry cleaning operator failed to comply with the waste minimization requirements under ORS**
13 **465.505, and the failure to comply with the requirements is determined by the department to**
14 **be a contributing factor in the release.**

15 **SECTION 6.** ORS 465.515 is amended to read:

16 465.515. As used in ORS 465.517 to 465.548 and 465.992:

17 (1) "Department" means the Department of Revenue.

18 (2) "Director" means the Director of the Department of Revenue.

19 (3) "Dry Cleaner Environmental Response Account" has the meaning given under ORS 465.200.

20 (4) "Dry cleaning facility" has the meaning given under ORS 465.200.

21 (5) "Dry cleaning operator" has the meaning given under ORS 465.200.

22 **(6) "Dry cleaning owner" has the meaning given under ORS 465.200.**

23 [(6)] **(7)** "Dry cleaning solvent" has the meaning given in ORS 465.200.

24 [(7)] **(8)** "Dry store" has the meaning given in ORS 465.200.

25 [(8)] **(9)** "Facility" has the meaning given in ORS 465.200.

26 [(9)] **(10)** "Person" has the meaning given in ORS 465.200.

27 [(10)] **(11)** "Release" has the meaning given in ORS 465.200.

28 [(11)] **(12)** "Remedial action" has the meaning given in ORS 465.200.

29 [(12)] **(13)** "Retail sale or transfer" has the meaning given in ORS 465.200.

30 **SECTION 7.** ORS 465.517 is amended to read:

31 465.517. (1) In addition to any other tax or fee imposed by law, there is imposed on the privilege
32 of operating an active dry cleaning facility within this state *[an]* **a base** annual fee of:

33 (a) *[\$500]* **\$250** for each dry store *[selling \$50,000 or more of dry cleaning services annually]* **plus,**
34 **if a dry cleaning solvent was ever used at the dry store, an additional fee equal to the larger**
35 **of the following:**

36 **(A) \$200, if perchloroethylene was ever used at the dry store; or**

37 **(B) \$100, if any other dry cleaning solvent was ever used at the dry store; and**

38 (b) *[\$1,000]* **\$500** for each dry cleaning facility.

39 **(2) In addition to any other tax or fee imposed by law, there is assessed on an active dry**
40 **cleaning facility the following annual risk fees:**

41 **(a) \$100, for using a solvent other than perchloroethylene at the facility during the fee**
42 **period;**

43 **(b) \$200, for using perchloroethylene at the facility at any time prior to, but not during,**
44 **the fee period; and**

45 **(c) \$400, for using perchloroethylene at the facility during the fee period.**

1 **(3) In addition to any other tax or fee imposed by law, there is assessed on an active dry**
2 **cleaning facility an environmental fee based on the amount of gross revenue of dry cleaning**
3 **services the facility generates, in the following amounts:**

4 **(a) For facilities with less than \$100,000 in gross revenue, \$250.**

5 **(b) For facilities with gross revenues between \$100,000 and \$199,999, \$500.**

6 **(c) For facilities with gross revenues between \$200,000 and \$299,999, \$750.**

7 **(d) For facilities with gross revenues between \$300,000 and \$399,999, \$1,000.**

8 **(e) For facilities with gross revenues of \$400,000 or more, \$1,250.**

9 [(2)] **(4) The [fee] fees assessed** shall be due on the first day of each calendar year that the fa-
10 cility operates as a dry cleaning facility and shall be prorated for partial year operation.

11 [(3)] **(5) [The fee] A dry cleaning owner or dry cleaning operator shall pay the fees** imposed
12 under this section [*may be paid*] in a single payment, payable on January 1[, or in four installments
13 payable on January 1, April 1, July 1 and October 1. For installment payments, the Department of
14 Revenue may establish by rule an additional fee to recover the costs to the department of processing
15 the installment payments].

16 **(6) Beginning January 1, 2003, and annually thereafter, the risk and environmental fees**
17 **specified in this section shall be increased by 25 percent if the fees and deductibles paid under**
18 **ORS 465.500 to 465.548 failed to generate \$1 million or more during the preceding calendar**
19 **year.**

20 **SECTION 8.** ORS 465.527 is amended to read:

21 465.527. (1) [*The fees imposed by ORS 465.520 and 465.523 in any calendar quarter shall be due*
22 *and payable on the 20th day of the month following the end of the calendar quarter.*] The fees imposed
23 by ORS 465.517 to 465.523 shall be reported on forms supplied by the Department of Revenue.

24 (2) The department for good cause may extend for not to exceed 30 days the time for [*making*
25 *any report or*] paying any fee required under ORS 465.517 to 465.523. The extension may be granted
26 at any time if a request therefor is filed with the department on or before the due date of the [*report*
27 *or*] fee payment.

28 (3) Any person to whom an extension is granted shall pay, in addition to the fee, interest at the
29 rate established under ORS 305.220 for each month, or fraction thereof, from the date on which the
30 fee would have been due without the extension to the date of payment.

31 **SECTION 9.** ORS 465.533 is amended to read:

32 465.533. (1) If the Department of Revenue believes that the collection of any fee required to be
33 paid by any person under ORS 465.517 to 465.523 will be jeopardized by delay, it shall thereupon
34 make a determination of the fee, noting that fact in the determination. The amount determined is
35 immediately due and payable, with interest and penalty as provided in ORS 465.527 and 465.530.

36 (2) If the fee, interest and penalty specified in the jeopardy determination is not paid within 20
37 days after service upon the person of notice of the determination, the determination becomes final,
38 unless a petition for redetermination is filed within the 20 days.

39 (3) The person against whom a jeopardy determination is made may petition for the redetermi-
40 nation thereof. The person shall, however, file the petition for redetermination with the department
41 within 20 days after the service upon the person of notice of the determination.

42 (4) The person shall at the time of filing the petition for redetermination deposit with the de-
43 partment any security as it may deem necessary to ensure compliance with this section and ORS
44 465.517 to 465.523, 465.527 and 465.530. The security may be sold by the department at public sale,
45 if necessary, in order to recover any amount due. Notice of the sale may be served upon the person

1 who deposited the security personally or by mail. Upon sale, **the department shall return** the
2 surplus, if any, above the amount due under this section and ORS 465.517 to 465.523, 465.527 and
3 465.530 [*shall be returned*] to the person who deposited the security.

4 **SECTION 10.** ORS 465.535 is amended to read:

5 465.535. Unless the context requires otherwise, the provisions of ORS chapters 305 and 314
6 pertaining to the audit and examination of returns, periods of limitations, determination of and no-
7 tices of deficiencies, assessments, warrants, liens, delinquencies, claims for refund and refunds, con-
8 ferences, appeals to the Director of the Department of Revenue, appeals to the Oregon Tax Court,
9 stay of collection pending appeal, confidentiality of returns and the penalties and procedures related
10 thereto shall apply to the determinations of fees, penalties and interest under ORS 465.200 and
11 465.500 to [*465.545*] **465.548**.

12 **SECTION 11.** ORS 465.537 is amended to read:

13 465.537. All moneys received by the Department of Revenue under ORS 465.200 and 465.500 to
14 [*465.545*] **465.548** and moneys collected from civil penalties imposed under ORS 465.992 shall be de-
15 posited in the State Treasury and credited to a suspense account established under ORS 293.445.
16 After payment of administrative expenses incurred by the department in the administration of ORS
17 465.200 and 465.500 to [*465.545*] **465.548** and of refunds or credits arising from erroneous overpay-
18 ments, the balance of the moneys shall be credited to the Dry Cleaner Environmental Response
19 Account.

20 **SECTION 12.** ORS 465.545 is amended to read:

21 465.545. (1) Upon a determination by the Director of the Department of Environmental Quality
22 that necessary removal and remedial action is completed and paid for at all dry cleaning facilities
23 having a confirmed release of dry cleaning solvent, the director shall report to the next following
24 session of the Legislative Assembly with a recommendation for the [*repeal*] **suspension** of the fees,
25 **other than the annual license fee**, imposed under ORS 465.517 to 465.523 [*and for repeal of the*
26 *immunity granted under ORS 465.503 for any release occurring or discovered after the date of*
27 *repeal*].

28 (2) The Director of the Department of Environmental Quality shall give notice of the intent to
29 make the recommendation described under subsection (1) of this section at least one year prior to
30 the date recommended by the director as the date of [*repeal*] **suspension**.

31 (3) The provisions of ORS 465.500 to 465.510 shall apply retroactively to releases of dry cleaning
32 solvents occurring before June 30, 1995.

33 **SECTION 13.** ORS 465.548 is amended to read:

34 465.548. [*Annually,*] The Department of Revenue shall make available to the Department of En-
35 vironmental Quality and other interested parties a list of all dry cleaning facilities [*to which*] **cer-**
36 **tified by** the Department of Revenue [*has issued a certificate*] under ORS 465.546 [*for the preceding*
37 *year*], evidencing payment by the dry cleaning facility to the Department of Revenue of the annual
38 fee required under ORS 465.517. Notwithstanding ORS 465.535, the provisions of ORS chapters 305
39 and 314 pertaining to confidentiality of returns shall not apply to the disclosure of the list under this
40 section.

41 **SECTION 14.** ORS 465.520 is amended to read:

42 465.520. (1) In addition to any other tax or fee imposed by law, a fee is imposed on the retail
43 sale or transfer within this state of dry cleaning solvent on or after January 1, 1996. The fee shall
44 be paid by the seller or transferor.

45 (2) The fee on each gallon of dry cleaning solvent is the result obtained from multiplying the

1 solvent factor of the dry cleaning solvent by [*the following rate:*]

2 [*(a) \$12 for any retail sale or transfer in 1996.*]

3 [*(b) For any retail sale or transfer after 1996, 103 percent of the sale or transfer fee rate applicable*
 4 *for the prior year, rounded to the nearest cent. However, if the rate applicable to the prior year was*
 5 *increased by \$4 under ORS 465.510 (5), the 103 percent shall be calculated based upon the rate that*
 6 *would have applied without the \$4 increase]* **\$10.**

7 (3) The solvent factor for each dry cleaning solvent is the amount listed in the following table:

8

9

<u>Dry Cleaning Solvent</u>	<u>Solvent Factor</u>
Perchloroethylene	1.00
Any other solvent	0.20

12

13

14 (4) Notwithstanding subsections (1) and (2) of this section, no fee shall be imposed on the retail
 15 sale or transfer of any dry cleaning solvent if, prior to the retail sale or transfer, the purchaser or
 16 transferee provides the seller or transferor with a certificate stating that:

17 (a) The dry cleaning solvent will not be used in a dry cleaning facility; or

18 (b) The purchaser or transferee does not operate a dry cleaning facility.

19 **SECTION 15. Section 16 of this 2001 Act is added to and made a part of ORS 465.500 to**
 20 **465.548.**

21 **SECTION 16. (1) The Department of Environmental Quality shall create a list of inactive**
 22 **dry cleaning facilities eligible to receive funding from the Dry Cleaner Environmental Re-**
 23 **sponse Account. The current or former owner or operator of an inactive dry cleaning facility,**
 24 **or a representative of the current or former owner or operator, may apply to the department**
 25 **to place the facility on the list. In order to be placed on the list, a fee of \$250 must be sub-**
 26 **mitted with the application and:**

27 **(a)(A) The facility must have been an inactive dry cleaning facility eligible to receive**
 28 **funding from the account as of December 31, 2001; and**

29 **(B) The application must be received by the department on or before January 1, 2003; or**

30 **(b) The facility must have been an active facility on or after January 1, 2002, and the**
 31 **application must be received by the department within 180 days of becoming an inactive dry**
 32 **cleaning facility.**

33 **(2) In order to remain on the list created by the department pursuant to this section, a**
 34 **current or former owner or operator, or a representative of a current or former owner or**
 35 **operator, must submit an annual fee of \$250 to the department.**

36 **(3) In order to receive funding from the account, an inactive dry cleaning facility must**
 37 **be on the list created by the department pursuant to this section.**

38 **(4) Beginning January 1, 2003, and annually thereafter, the fees specified in this section**
 39 **shall be increased by 25 percent if the fees and deductibles paid under ORS 465.500 to 465.548**
 40 **failed to generate \$1 million or more during the preceding calendar year.**

41 **SECTION 17. ORS 468.035 is amended to read:**

42 468.035. (1) Subject to policy direction by the Environmental Quality Commission, the Depart-
 43 ment of Environmental Quality:

44 (a) Shall encourage voluntary cooperation by the people, municipalities, counties, industries,
 45 agriculture, and other pursuits, in restoring and preserving the quality and purity of the air and the

1 waters of the state in accordance with rules and standards established by the commission.

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

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

9 (d) May employ personnel, including specialists and consultants, purchase materials and sup-
10 plies, and enter into contracts necessary to carry out the purposes set forth in ORS 448.305, 454.010
11 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468, 468A and
12 468B.

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

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

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

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

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

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

26 (k) Shall institute or cause to be instituted in a court of competent jurisdiction, proceedings to
27 compel compliance with any rule or standard adopted or any order or permit, or condition thereof,
28 issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
29 454.755 and ORS chapters 468, 468A and 468B.

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

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

36 (n) May perform such other and further acts as may be necessary, proper or desirable to carry
37 out effectively the duties, powers and responsibilities of the department as set forth in ORS 448.305,
38 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468,
39 468A and 468B.

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

43 (2) Nothing in this section shall affect the authority of the Health Division to make and enforce
44 rules:

45 (a) Regarding the quality of water for human or animal consumption pursuant to ORS 448.115

1 to 448.325, 624.010 to 624.120 and 624.310 to 624.440; and

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

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

7 (4)(a) In awarding a public contract under ORS chapter 279 for a removal or remedial action
8 pursuant to ORS 465.200 to 465.510, [465.517 to 465.548 and 465.992,] a corrective action or cleanup
9 action pursuant to ORS 466.005 to 466.385, 466.605 to 466.680 or 466.706 to 466.882 or a removal
10 pursuant to ORS 468B.005 to 468B.030, 468B.035, 468B.048 to 468B.085, 468B.090, 468B.093, 468B.095
11 and 468B.300 to 468B.500, the department, and the Oregon Department of Administrative Services,
12 when administering the establishment of such a contract on behalf of the Department of Environ-
13 mental Quality under ORS 279.712, shall subtract from the amount of any bid or proposal the haz-
14 ardous waste management fees and solid waste fees that would be required by law to be paid to the
15 department for waste that would be disposed of at a solid waste disposal site or a hazardous waste
16 or PCB disposal facility, based on the bid or proposal. The amount to be subtracted shall be estab-
17 lished on the basis of reasonable preprocurement estimates of the amount of waste that would be
18 disposed of under the contract and that would be subject to those fees.

19 (b) The subtraction for fees under paragraph (a) of this subsection shall apply only to a contract
20 reasonably anticipated to involve the disposal of no less than 50 tons of hazardous waste or no less
21 than 500 tons of solid waste. The Legislative Assembly finds that making accurate advance estimates
22 of amounts of waste that would be disposed of in projects of this character is technically challenging
23 and requires the application of professional discretion. Therefore, no award of a contract under this
24 subsection shall be subject to challenge, under ORS 279.067 or otherwise, on the ground of the in-
25 accuracy or claimed inaccuracy of any such estimate.

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

37 **SECTION 18.** ORS 468.035, as amended by section 103, chapter 849, Oregon Laws 1999, is
38 amended to read:

39 468.035. (1) Subject to policy direction by the Environmental Quality Commission, the Depart-
40 ment of Environmental Quality:

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

44 (b) May conduct and prepare, independently or in cooperation with others, studies, investi-
45 gations, research and programs pertaining to the quality and purity of the air or the waters of the

1 state and to the treatment and disposal of wastes.

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

6 (d) May employ personnel, including specialists, consultants and hearing officers, purchase ma-
7 terials and supplies, and enter into contracts necessary to carry out the purposes set forth in ORS
8 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chap-
9 ters 468, 468A and 468B.

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

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

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

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

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

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

23 (k) Shall institute or cause to be instituted in a court of competent jurisdiction, proceedings to
24 compel compliance with any rule or standard adopted or any order or permit, or condition thereof,
25 issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
26 454.755 and ORS chapters 468, 468A and 468B.

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

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

33 (n) May perform such other and further acts as may be necessary, proper or desirable to carry
34 out effectively the duties, powers and responsibilities of the department as set forth in ORS 448.305,
35 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and ORS chapters 468,
36 468A and 468B.

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

40 (2) Nothing in this section shall affect the authority of the Health Division to make and enforce
41 rules:

42 (a) Regarding the quality of water for human or animal consumption pursuant to ORS 448.115
43 to 448.325, 624.010 to 624.120 and 624.310 to 624.440; and

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

45 (3) Nothing in this section shall prevent the State Department of Agriculture or the State

1 Forestry Department from independently receiving moneys from a public or private agency for the
2 purposes of preventing or controlling air or water pollution resulting from agricultural or
3 silvicultural activities or soil erosion, or for research related to such purposes.

4 (4)(a) In awarding a public contract under ORS chapter 279 for a removal or remedial action
5 pursuant to ORS 465.200 to 465.510, [465.517 to 465.548 and 465.992,] a corrective action or cleanup
6 action pursuant to ORS 466.005 to 466.385, 466.605 to 466.680 or 466.706 to 466.882 or a removal
7 pursuant to ORS 468B.005 to 468B.030, 468B.035, 468B.048 to 468B.085, 468B.090, 468B.093, 468B.095
8 and 468B.300 to 468B.500, the department, and the Oregon Department of Administrative Services,
9 when administering the establishment of such a contract on behalf of the Department of Environ-
10 mental Quality under ORS 279.712, shall subtract from the amount of any bid or proposal the haz-
11 ardous waste management fees and solid waste fees that would be required by law to be paid to the
12 department for waste that would be disposed of at a solid waste disposal site or a hazardous waste
13 or PCB disposal facility, based on the bid or proposal. The amount to be subtracted shall be estab-
14 lished on the basis of reasonable preprocurement estimates of the amount of waste that would be
15 disposed of under the contract and that would be subject to those fees.

16 (b) The subtraction for fees under paragraph (a) of this subsection shall apply only to a contract
17 reasonably anticipated to involve the disposal of no less than 50 tons of hazardous waste or no less
18 than 500 tons of solid waste. The Legislative Assembly finds that making accurate advance estimates
19 of amounts of waste that would be disposed of in projects of this character is technically challenging
20 and requires the application of professional discretion. Therefore, no award of a contract under this
21 subsection shall be subject to challenge, under ORS 279.067 or otherwise, on the ground of the in-
22 accuracy or claimed inaccuracy of any such estimate.

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

34 **SECTION 19.** ORS 465.200 is amended to read:

35 465.200. As used in ORS 465.200 to 465.510 and 465.900:

36 (1) "Claim" means a demand in writing for a sum certain.

37 (2) "Commission" means the Environmental Quality Commission.

38 (3) "Department" means the Department of Environmental Quality.

39 (4) "Director" means the Director of the Department of Environmental Quality.

40 [(5) "Dry Cleaner Environmental Response Account" means the account created under ORS
41 465.510.]

42 [(6)] (5) "Dry cleaning facility" means any active or inactive facility located in this state that
43 is or was engaged in dry cleaning apparel and household fabrics for the general public, and dry
44 stores, other than a:

45 (a) Facility located on a United States military base;

1 (b) Uniform service or linen supply facility;

2 (c) Prison or other penal institution; or

3 (d) Facility engaged in dry cleaning operations only as a dry store and selling less than \$50,000
4 per year of dry cleaning services.

5 [(7)] (6) "Dry cleaning operator" means a person who has, or had, a business license to operate
6 a dry cleaning facility or a business operation that a dry cleaning facility is a part of. If a dry
7 cleaning facility is operated without a business license, both the dry cleaning owner and any person
8 directing the operations shall be considered the dry cleaning operator and shall be jointly and se-
9 verally liable for the fees and duties imposed on dry cleaning operators.

10 [(8)] (7) "Dry cleaning owner" means a person who owns or owned the real property underlying
11 a dry cleaning facility.

12 [(9)] (8) "Dry cleaning solvent" means any nonaqueous solvent for use in the cleaning of gar-
13 ments or other fabrics at a dry cleaning facility, including but not limited to perchloroethylene and
14 petroleum based solvents and the products into which dry cleaning solvents degrade.

15 [(10)] (9) "Dry store" means a facility that does not include machinery using dry cleaning sol-
16 vents, including but not limited to a pickup store, dropoff store, call station, agency for dry cleaning,
17 press shop, and pickup and delivery service not otherwise operated by a dry cleaning facility.

18 [(11)] (10) "Environment" includes the waters of the state, any drinking water supply, any land
19 surface and subsurface strata and ambient air.

20 [(12)] (11) "Facility" means any building, structure, installation, equipment, pipe or pipeline in-
21 cluding any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon,
22 impoundment, ditch, landfill, storage container, above ground tank, underground storage tank, motor
23 vehicle, rolling stock, aircraft, or any site or area where a hazardous substance has been deposited,
24 stored, disposed of, or placed, or otherwise come to be located and where a release has occurred
25 or where there is a threat of a release, but does not include any consumer product in consumer use
26 or any vessel.

27 [(13)] (12) "Fund" means the Hazardous Substance Remedial Action Fund established by ORS
28 465.381.

29 [(14)] (13) "Guarantor" means any person, other than the owner or operator, who provides evi-
30 dence of financial responsibility for an owner or operator under ORS 465.200 to 465.510 and 465.900.

31 [(15)] (14) "Hazardous substance" means:

32 (a) Hazardous waste as defined in ORS 466.005.

33 (b) Any substance defined as a hazardous substance pursuant to section 101(14) of the federal
34 Comprehensive Environmental Response, Compensation and Liability Act, P.L. 96-510, as amended,
35 and P.L. 99-499.

36 (c) Oil.

37 (d) Any substance designated by the commission under ORS 465.400.

38 [(16)] (15) "Inactive dry cleaning facility" means property formerly used, but not currently used,
39 for providing dry cleaning services.

40 [(17)] (16) "Natural resources" includes but is not limited to land, fish, wildlife, biota, air, sur-
41 face water, ground water, drinking water supplies and any other resource owned, managed, held in
42 trust or otherwise controlled by the State of Oregon or a political subdivision of the state.

43 [(18)] (17) "Oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge or re-
44 fuse and any other petroleum-related product, or waste or fraction thereof that is liquid at a tem-
45 perature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute.

1 [(19)] **(18)** “Owner or operator” means any person who owned, leased, operated, controlled or
2 exercised significant control over the operation of a facility. “Owner or operator” does not include
3 a person, who, without participating in the management of a facility, holds indicia of ownership
4 primarily to protect a security interest in the facility.

5 [(20)] **(19)** “Person” means an individual, trust, firm, joint stock company, joint venture, consor-
6 tium, commercial entity, partnership, association, corporation, commission, state and any agency
7 thereof, political subdivision of the state, interstate body or the federal government including any
8 agency thereof.

9 [(21)] **(20)** “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, dis-
10 charging, injecting, escaping, leaching, dumping or disposing into the environment including the
11 abandonment or discarding of barrels, containers and other closed receptacles containing any haz-
12 ardous substance, or threat thereof, but excludes:

13 (a) Any release that results in exposure to a person solely within a workplace, with respect to
14 a claim that the person may assert against the person’s employer under ORS chapter 656;

15 (b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipe-
16 line pumping station engine;

17 (c) Any release of source, by-product or special nuclear material from a nuclear incident, as
18 those terms are defined in the Atomic Energy Act of 1954, as amended, if the release is subject to
19 requirements with respect to financial protection established by the Nuclear Regulatory Commission
20 under section 170 of the Atomic Energy Act of 1954, as amended, or, for the purposes of ORS 465.260
21 or any other removal or remedial action, any release of source by-product or special nuclear mate-
22 rial from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill
23 Tailings Radiation Control Act of 1978; and

24 (d) The normal application of fertilizer.

25 [(22)] **(21)** “Remedial action” means those actions consistent with a permanent remedial action
26 taken instead of or in addition to removal actions in the event of a release or threatened release
27 of a hazardous substance into the environment, to prevent or minimize the release of a hazardous
28 substance so that it does not migrate to cause substantial danger to present or future public health,
29 safety, welfare or the environment. “Remedial action” includes, but is not limited to:

30 (a) Such actions at the location of the release as storage, confinement, perimeter protection us-
31 ing dikes, trenches or ditches, clay cover, neutralization, cleanup of released hazardous substances
32 and associated contaminated materials, recycling or reuse, diversion, destruction, segregation of re-
33 active wastes, dredging or excavations, repair or replacement of leaking containers, collection of
34 leachate and runoff, on-site treatment or incineration, provision of alternative drinking and house-
35 hold water supplies, and any monitoring reasonably required to assure that the actions protect the
36 public health, safety, welfare and the environment.

37 (b) Offsite transport and offsite storage, treatment, destruction or secure disposition of hazard-
38 ous substances and associated, contaminated materials.

39 (c) Such actions as may be necessary to monitor, assess, evaluate or investigate a release or
40 threat of release.

41 [(23)] **(22)** “Remedial action costs” means reasonable costs which are attributable to or associ-
42 ated with a removal or remedial action at a facility, including but not limited to the costs of ad-
43 ministration, investigation, legal or enforcement activities, contracts and health studies.

44 [(24)] **(23)** “Removal” means the cleanup or removal of a released hazardous substance from the
45 environment, such actions as may be necessary taken in the event of the threat of release of a

1 hazardous substance into the environment, such actions as may be necessary to monitor, assess and
2 evaluate the release or threat of release of a hazardous substance, the disposal of removed material,
3 or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage
4 to the public health, safety, welfare or to the environment, that may otherwise result from a release
5 or threat of release. "Removal" also includes but is not limited to security fencing or other measures
6 to limit access, provision of alternative drinking and household water supplies, temporary evacu-
7 ation and housing of threatened individuals and action taken under ORS 465.260.

8 [(25)] **(24)** "Retail sale or transfer" means a transfer of title or possession, exchange or barter,
9 conditional or otherwise, for a purpose other than resale in the ordinary course of business.

10 [(26)] **(25)** "Transport" means the movement of a hazardous substance by any mode, including
11 pipeline and in the case of a hazardous substance that has been accepted for transportation by a
12 common or contract carrier, the term "transport" shall include any stoppage in transit that is tem-
13 porary, incidental to the transportation movement, and at the ordinary operating convenience of a
14 common or contract carrier, and any such stoppage shall be considered as a continuity of movement
15 and not as the storage of a hazardous substance.

16 [(27)] **(26)** "Underground storage tank" has the meaning given that term in ORS 466.706.

17 [(28)] **(27)** "Waters of the state" has the meaning given that term in ORS 468B.005.

18 **SECTION 20. ORS 465.500, 465.503, 465.505, 465.507, 465.510, 465.515, 465.517, 465.520,**
19 **465.523, 465.525, 465.527, 465.530, 465.533, 465.535, 465.537, 465.540, 465.543, 465.545, 465.546,**
20 **465.548 and 465.992 and section 16 of this 2001 Act are repealed on January 1, 2006.**

21 **SECTION 21. The amendments to ORS 465.200 and 468.035 by sections 17 to 19 of this 2001**
22 **Act become operative January 1, 2006.**

23