

A-Engrossed
Senate Bill 1513

Ordered by the Senate February 14
Including Senate Amendments dated February 14

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

SUMMARY

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

Requires Department of Environmental Quality or State Department of Agriculture approval as prerequisite to [*construction, installation, operation or maintenance*] **construction or installation** of [*large confined animal feeding operation or large concentrated animal feeding*] **qualifying** operation. Requires State Department of Agriculture confirmation of water supply legal authorization [*and reliability*] prior to issuance of final approval of [*feeding*] **qualifying** operation by department or Department of Environmental Quality. Limits fees for approvals.

Requires that permit for [*large confined animal feeding operation or large concentrated animal feeding*] **qualifying** operation located in ground water management area and applying animal waste to land be issued as individual permit.

Authorizes Department of Environmental Quality and State Department of Agriculture to clean, repurpose or decommission vacated, abandoned or unpermitted [*large confined animal feeding operation or large concentrated animal feeding*] **qualifying** operation.

Specifies that permit requirement for activities increasing effluent in manner not already lawfully authorized applies to [*large*] concentrated animal feeding operations.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to livestock operations; creating new provisions; amending ORS 468B.050; and declaring an
3 emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2020 Act are added to and made a part of ORS**
6 **468B.048 to 468B.085.**

7 **SECTION 2. (1) As used in sections 2 and 3 of this 2020 Act, "qualifying operation" means**
8 **a large confined animal feeding operation or a large concentrated animal feeding operation,**
9 **both as defined by the State Department of Agriculture by rule, that houses:**

10 (a) **2,500 or more mature dairy cows;**

11 (b) **3,500 or more veal calves;**

12 (c) **3,500 or more cattle;**

13 (d) **8,000 or more swine that exceed 55 pounds in weight;**

14 (e) **30,000 or more swine that are 55 pounds or less in weight;**

15 (f) **1,500 or more horses;**

16 (g) **40,000 or more sheep or lambs, or a combination thereof;**

17 (h) **200,000 or more turkeys;**

18 (i) **125,000 or more chickens of any type, if using a wet waste treatment works;**

19 (j) **300,000 or more laying hens, if using a dry waste treatment works;**

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 (k) 350,000 broiler chickens, if using a dry waste treatment works;
- 2 (L) 20,000 or more ducks, if using a wet waste treatment works; or
- 3 (m) 125,000 or more ducks, if using a dry waste treatment works.

4 (2) If a qualifying operation is located in a ground water management area declared under
5 ORS 468B.180 and animal waste from the qualifying operation is applied to land in the area,
6 a permit that the Department of Environmental Quality or the State Department of Agri-
7 culture issues under ORS 468B.050 for the qualifying operation must be issued as an indi-
8 vidual permit.

9 (3) The Department of Environmental Quality or the State Department of Agriculture
10 shall include the following terms and conditions for a qualifying operation permit issued un-
11 der ORS 468B.050:

12 (a) A person may not construct or install the qualifying operation unless the permit
13 holder obtains preliminary approval for the construction or installation from the Department
14 of Environmental Quality or the State Department of Agriculture; and

15 (b) A person may not populate a qualifying operation unless the permit holder obtains
16 final approval for the construction or installation from the Department of Environmental
17 Quality or the State Department of Agriculture.

18 (4) Prior to the Department of Environmental Quality or the State Department of Agri-
19 culture granting final approval under subsection (3)(b) of this section, the State Department
20 of Agriculture shall determine, in consultation with the Water Resources Department, that
21 the use of water for supplying the needs of the qualifying operation at the level and duration
22 described in the proposed qualifying operation permit is legally authorized.

23 (5) To make a determination under subsection (4) of this section, in addition to informa-
24 tion provided by the Water Resources Department, the State Department of Agriculture may
25 consider other information, including information provided in a certified water right exam-
26 iner report submitted by an applicant or information provided in public comments.

27 (6) Except as provided in ORS 468B.215, the Department of Environmental Quality or the
28 State Department of Agriculture may charge a fee for granting preliminary or final approval
29 under this section. The amount that the Department of Environmental Quality or the State
30 Department of Agriculture charges a qualifying operation for approvals described in sub-
31 section (3) of this section may not total more than the maximum fee allowed under ORS
32 561.255 for a single large confined animal feeding operation permit.

33 **SECTION 3.** (1) In addition to any other authority of the Department of Environmental
34 Quality or the State Department of Agriculture, those departments may take actions de-
35 scribed in subsection (2) of this section if:

36 (a) A qualifying operation facility is vacated or abandoned, or no longer holds a valid
37 permit under ORS 468B.050 to operate or conduct the qualifying operation;

38 (b) The operator of the qualifying operation facility does not clean the facility site or
39 properly decommission the waste treatment works of the qualifying operation facility in a
40 manner consistent with the terms of the qualifying operation permit prior to abandoning or
41 vacating the site;

42 (c) There is no person or entity responsible for the financial or operational management
43 of the qualifying operation facility that can sufficiently comply with the terms of the permit;
44 and

45 (d) The Department of Environmental Quality or the State Department of Agriculture

1 **believes that there is a potential or imminent threat to the waters of this state from the**
2 **facility.**

3 **(2) Subject to subsection (1) of this section, the Department of Environmental Quality**
4 **or the State Department of Agriculture may:**

5 **(a) Independently or jointly clean, repurpose or decommission the qualifying operation**
6 **waste treatment works through processes that may include, but need not be limited to, the**
7 **use of analysis, assessment, construction, contracting, designing, engineering, inspection,**
8 **investigation, maintenance, monitoring, operation, planning, sampling, studying, surveying,**
9 **testing and training; and**

10 **(b) Recover from any responsible party any reasonable expenses incurred or authorized**
11 **to carry out the activities and processes described in this subsection.**

12 **SECTION 4.** ORS 468B.050 is amended to read:

13 468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from
14 [*the Director of*] the Department of Environmental Quality or the State Department of Agriculture,
15 which permit shall specify applicable effluent limitations, a person may not:

16 (a) Discharge any wastes into the waters of the state from any industrial or commercial estab-
17 lishment or activity or any disposal system.

18 (b) Construct, install, modify or operate any disposal system or part thereof or any extension
19 or addition thereto.

20 (c) Increase in volume or strength any wastes in excess of the permissive discharges specified
21 under an existing permit.

22 (d) Construct, install, operate or conduct any industrial, commercial, confined animal feeding
23 operation, **concentrated animal feeding operation** or other establishment or activity or any ex-
24 tension or modification thereof or addition thereto, the operation or conduct of which would cause
25 an increase in the discharge of wastes into the waters of the state or which would otherwise alter
26 the physical, chemical or biological properties of any waters of the state in any manner not already
27 lawfully authorized.

28 (e) Construct or use any new outlet for the discharge of any wastes into the waters of the state.

29 **(2) Except as provided in section 2 of this 2020 Act,** the Department of Environmental Quality
30 or the State Department of Agriculture may issue a permit under this section as an individual,
31 general or watershed permit. A permit may be issued to a class of persons using the procedures for
32 issuance of an order or for the adoption of a rule. Notwithstanding the definition of “order” or
33 “rule” provided in ORS 183.310, in issuing a general or watershed permit by order pursuant to this
34 section, the State Department of Agriculture or Department of Environmental Quality:

35 (a) Is not required to direct the order to a named person or named persons; and

36 (b) May include in the order agency directives, standards, regulations and statements of general
37 applicability that implement, interpret or prescribe law or policy.

38 (3) The [*State Department of Agriculture or the*] Department of Environmental Quality **or the**
39 **State Department of Agriculture** may define “confined animal feeding operation” **and “concentrated animal feeding operation”** by rule for purposes of implementing this section.

40 **SECTION 5.** (1) **Section 2 of this 2020 Act and the amendments to ORS 468B.050 by sec-**
41 **tion 4 of this 2020 Act apply to permits first issued on or after the effective date of this 2020**
42 **Act.**

43 **(2) Section 3 of this 2020 Act applies to qualifying operation facilities that an operator**
44 **vacates or abandons on or after the effective date of this 2020 Act.**
45

1 **SECTION 6. This 2020 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2020 Act takes effect**
3 **on its passage.**

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