

Senate Bill 1513

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SUMMARY

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

Requires Department of Environmental Quality or State Department of Agriculture approval as prerequisite to construction, installation, operation or maintenance of large confined animal feeding operation or large concentrated animal feeding operation. Requires State Department of Agriculture confirmation of water supply legal authorization and reliability prior to issuance of final approval of feeding 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 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 operation.

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

A BILL FOR AN ACT

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

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

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

6 **SECTION 2. (1) This section applies only to a large confined animal feeding operation or**
7 **a large concentrated animal feeding operation, both as defined by the State Department of**
8 **Agriculture by rule, that houses:**

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

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

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

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

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

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

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

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

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

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

19 (k) **350,000 broiler chickens, if using a dry waste treatment works;**

20 (L) **20,000 or more ducks, if using a wet waste treatment works; or**

21 (m) **125,000 or more ducks, if using a dry waste treatment works.**

22 (2) **If a feeding operation is located in a ground water management area declared under**
23 **ORS 468B.180 and animal waste from the feeding operation is applied to land in the area, a**

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 permit that the Department of Environmental Quality or the State Department of Agricul-
2 ture issues under ORS 468B.050 for the feeding operation must be issued as an individual
3 permit.

4 (3) The Department of Environmental Quality or the State Department of Agriculture
5 shall include the following terms and conditions for a feeding operation permit issued under
6 ORS 468B.050:

7 (a) A person may not construct or install the feeding operation unless the permit holder
8 obtains preliminary approval for the construction or installation from the Department of
9 Environmental Quality or the State Department of Agriculture; and

10 (b) A person may not operate or conduct the feeding operation, including but not limited
11 to populating the feeding operation, unless the permit holder obtains final approval for the
12 construction or installation from the Department of Environmental Quality or the State
13 Department of Agriculture.

14 (4) Prior to the Department of Environmental Quality or the State Department of Agri-
15 culture granting final approval under subsection (3)(b) of this section, the State Department
16 of Agriculture shall determine, in consultation with the Water Resources Department, that,
17 for supplying the needs of the feeding operation at the level and duration described in the
18 proposed feeding operation permit:

19 (a) The use of the water is legally authorized; and

20 (b) The water supply is reliable.

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

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

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

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

36 (b) The operator of the feeding operation facility does not clean the facility site or prop-
37 erly decommission the waste treatment works of the feeding operation facility in a manner
38 consistent with the terms of the feeding operation permit prior to abandoning or vacating
39 the site;

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

43 (d) The Department of Environmental Quality or the State Department of Agriculture
44 believes that there is a potential or imminent threat to the waters of this state from the
45 facility.

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

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

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

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

11 468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without holding a permit from
 12 [*the Director of*] the Department of Environmental Quality or the State Department of Agriculture,
 13 which permit shall specify applicable effluent limitations, a person may not:

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

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

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

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

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

27 **(2) Except as provided in section 2 of this 2019 Act,** the Department of Environmental Quality
 28 or the State Department of Agriculture may issue a permit under this section as an individual,
 29 general or watershed permit. A permit may be issued to a class of persons using the procedures for
 30 issuance of an order or for the adoption of a rule. Notwithstanding the definition of “order” or
 31 “rule” provided in ORS 183.310, in issuing a general or watershed permit by order pursuant to this
 32 section, the State Department of Agriculture or Department of Environmental Quality:

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

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

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

39 **SECTION 5.** (1) **Section 2 (2) of this 2020 Act and the amendments to ORS 468B.050 by**
 40 **section 4 of this 2020 Act apply to:**

41 **(a) Permits for which initial issuance occurs on or after the effective date of this 2020**
 42 **Act; and**

43 **(b) Permits initially issued before the effective date of this 2020 Act pursuant to an ap-**
 44 **plication originally filed on or after January 1, 2020. The Legislative Assembly expressly in-**
 45 **tends that this paragraph operates retroactively and that any permit described in this**

1 paragraph that does not conform to section 2 (2) of this 2020 Act be brought into conform-
2 ance with that requirement or canceled.

3 (2) Except as provided in subsection (1) of this section, section 2 of this 2020 Act applies
4 to permits issued on or after the effective date of this 2020 Act.

5 (3) Section 3 of this 2020 Act applies to large confined animal feeding operation facilities
6 and large concentrated animal feeding operation facilities that an operator vacates or aban-
7 dons on or after the effective date of this 2020 Act.

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