

A-Engrossed
House Bill 3613

Ordered by the House April 27
Including House Amendments dated April 27

Sponsored by Representatives BENTZ, SCHAUFLEER; Representatives CONGER, GARRARD, MCLANE

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.

Provides that State Department of Agriculture water quality management plans and supporting rules and programs of department are exclusive public body means to protect and improve water quality through agricultural [*practice*] **activity** regulations regarding nonpoint sources of pollution on [*agricultural and rural*] lands **located outside urban growth boundary**.

A BILL FOR AN ACT

1
2 Relating to the regulation of agricultural practices affecting water quality; amending ORS 468B.105,
3 561.191 and 568.930.

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

5 **SECTION 1.** ORS 468B.105 is amended to read:

6 468B.105. (1) Upon request of the State Board of Forestry, the Environmental Quality Commis-
7 sion shall review any water quality standard that affects forest operations on forestlands. The
8 [*commission's*] review **by the commission** may be limited to or coordinated with the triennial or
9 any other regularly scheduled review of [*the*] **this** state's water quality standards, consistent with
10 ORS 468B.048 and 468B.110 and applicable federal law.

11 **(2) Upon request of the Director of Agriculture, the commission shall review any water**
12 **quality standard that affects agricultural activities on agricultural lands. The review by the**
13 **commission may be limited to or coordinated with the triennial or any other regularly**
14 **scheduled review of this state's water quality standards, consistent with ORS 468B.048 and**
15 **468B.110 and applicable federal law.**

16 **SECTION 2.** ORS 561.191 is amended to read:

17 561.191. (1) The State Department of Agriculture shall develop and implement [*any program or*
18 *rules that directly regulate farming practices, as defined in ORS 30.930, that are for the purpose of*
19 *protecting water quality and that are applicable to areas of the state designated as exclusive farm use*
20 *zones under ORS 215.203 or other agricultural lands in Oregon,*] **programs and adopt rules for the**
21 **protection of water quality from nonpoint sources of pollution associated with agricultural**
22 **activities on agricultural lands, including but not limited to rules related to:**

23 (a) Protection of the quality of surface or ground water;

24 (b) Wellhead protection areas;

25 (c) Coastal zone management areas;

26 (d) Areas of ground water concern; [*and*]

27 (e) Ground water management areas[.]; **and**

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 **(f) Activities prohibited under ORS 468B.025.**

2 *[(2) Any program or rules adopted by the State Department of Agriculture under subsection (1) of*
3 *this section shall be designed to assure achievement and maintenance of water quality standards*
4 *adopted by the Environmental Quality Commission.]*

5 **(2) The State Department of Agriculture shall design any programs or rules described in**
6 **subsection (1) of this section to achieve and maintain the water quality standards adopted**
7 **by the Environmental Quality Commission by reducing, to the maximum extent practicable,**
8 **the level of pollution resulting from nonpoint sources of pollution associated with agricul-**
9 **tural activities on agricultural lands. The department shall implement the programs and**
10 **rules developed and adopted by the department under this section using the procedures es-**
11 **tablished under ORS 568.900 to 568.933.**

12 **(3) Except as required by the Federal Water Pollution Control Act, the Environmental**
13 **Quality Commission and the Department of Environmental Quality may not adopt or enforce**
14 **any management practices regarding, or control measures for, nonpoint sources of pollution**
15 **associated with agricultural activities on agricultural lands. The programs, rules and plans**
16 **developed and adopted by the State Department of Agriculture under ORS 568.900 to 568.933**
17 **are the exclusive programs, rules, plans and regulations of any public body to protect and**
18 **improve water quality with regard to nonpoint sources of pollution associated with agricul-**
19 **tural activities on lands located outside an urban growth boundary. As used in this sub-**
20 **section, “public body” has the meaning given that term in ORS 174.109.**

21 *[(3)]* **(4)** If two or more state agencies are required to adopt rules under ORS 468B.150 to
22 468B.190, the agencies:

- 23 (a) Shall consult with one another and coordinate the rules; and
24 (b) May consolidate the rulemaking proceedings.

25 **(5) Subsection (3) of this section does not change or reduce the authority of the Envi-**
26 **ronmental Quality Commission or the Department of Environmental Quality under ORS**
27 **468B.110 (1) to adopt a total maximum daily load that includes load allocations for nonpoint**
28 **sources of pollution associated with agricultural activities on agricultural lands.**

29 *[(4)]* **(6)** *[Nothing in this section is intended to]* **This section does not** change or reduce the au-
30 **thority of the Water Resources Commission or the Water Resources Department under ORS chapters**
31 **536 to [543] 543A.**

32 **SECTION 3.** ORS 568.930 is amended to read:

33 568.930. (1) Landowners shall conduct all agricultural activities on agricultural lands within the
34 boundaries of an area subject to a water quality management plan in full compliance with the rules
35 implementing the plan. *[and with all the rules and standards of the Environmental Quality Commis-*
36 *sion relating to water pollution control. In addition to any other remedy provided by law, any violation*
37 *of those rules or standards shall be subject to all remedies and sanctions available to the Department*
38 *of Environmental Quality or the Environmental Quality Commission.]*

39 (2) The State Department of Agriculture and the State Board of Agriculture shall consult with
40 the Department of Environmental Quality or the Environmental Quality Commission in the adoption
41 and review of water quality management plans and in the adoption of rules to implement the plans.

42 (3)(a) The Environmental Quality Commission may petition the State Department of Agriculture
43 for a review of part or all of any water quality management plan and rules implementing the plan.
44 The petition must allege with reasonable specificity that the plan or the rules are not adequate to
45 achieve compliance with applicable state and federal water quality standards.

1 (b) The State Department of Agriculture, in consultation with the State Board of Agriculture,
2 shall complete its review of a petition submitted under paragraph (a) of this subsection within 90
3 days of the date of the filing of the petition for review. The State Department of Agriculture may
4 not terminate the review without the concurrence of the Environmental Quality Commission unless
5 the department initiates revisions to the rules implementing the water quality management plan that
6 address the issues raised by the Environmental Quality Commission. If the State Department of
7 Agriculture adopts any revisions in response to a petition by the Environmental Quality Commis-
8 sion, the department shall adopt the revisions not later than two years from the date the Environ-
9 mental Quality Commission submits the petition, unless the department, with the concurrence of the
10 Environmental Quality Commission, finds that special circumstances require additional time.

11 (4) A water quality management plan and rules implementing the plan that pertain to a ground
12 water management area shall be subject to the coordination requirements of ORS 468B.162.

13