

DRAFT

SUMMARY

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
3 468B.050.

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**
6 **a part of ORS 468B.048 to 468B.085.**

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

- 1 (a) 2,500 or more mature dairy cows;
- 2 (b) 3,500 or more veal calves;
- 3 (c) 3,500 or more cattle;
- 4 (d) 8,000 or more swine that exceed 55 pounds in weight;
- 5 (e) 30,000 or more swine that are 55 pounds or less in weight;
- 6 (f) 1,500 or more horses;
- 7 (g) 40,000 or more sheep or lambs, or a combination thereof;
- 8 (h) 200,000 or more turkeys;
- 9 (i) 125,000 or more chickens of any type, if using a wet waste
- 10 treatment works;
- 11 (j) 300,000 or more laying hens, if using a dry waste treatment
- 12 works;
- 13 (k) 350,000 broiler chickens, if using a dry waste treatment works;
- 14 (L) 20,000 or more ducks, if using a wet waste treatment works; or
- 15 (m) 125,000 or more ducks, if using a dry waste treatment works.

16 (2) If a feeding operation is located in a ground water management
17 area declared under ORS 468B.180 and animal waste from the feeding
18 operation is applied to land in the area, a permit that the Department
19 of Environmental Quality or the State Department of Agriculture is-
20 sues under ORS 468B.050 for the feeding operation must be issued as
21 an individual permit.

22 (3) The Department of Environmental Quality or the State Depart-
23 ment of Agriculture shall include the following terms and conditions
24 for a feeding operation permit issued under ORS 468B.050:

25 (a) A person may not construct or install the feeding operation
26 unless the permit holder obtains preliminary approval for the con-
27 struction or installation from the Department of Environmental
28 Quality or the State Department of Agriculture; and

29 (b) A person may not operate or conduct the feeding operation, in-
30 cluding but not limited to populating the feeding operation, unless the
31 permit holder obtains final approval for the construction or installa-

1 tion from the Department of Environmental Quality or the State De-
2 partment of Agriculture.

3 (4) Prior to the Department of Environmental Quality or the State
4 Department of Agriculture granting final approval under subsection
5 (3)(b) of this section, the State Department of Agriculture shall de-
6 termine, in consultation with the Water Resources Department, that,
7 for supplying the needs of the feeding operation at the level and du-
8 ration described in the proposed feeding operation permit:

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

10 (b) The water supply is reliable.

11 (5) To make a determination under subsection (4) of this section,
12 in addition to information provided by the Water Resources Depart-
13 ment, the State Department of Agriculture may consider other infor-
14 mation, including information provided in a certified water right
15 examiner report submitted by an applicant or information provided in
16 public comments.

17 (6) Except as provided in ORS 468B.215, the Department of Envi-
18 ronmental Quality or the State Department of Agriculture may charge
19 a fee for granting preliminary or final approval under this section. The
20 amount that the Department of Environmental Quality or the State
21 Department of Agriculture charges a feeding operation for approvals
22 described in subsection (3) of this section may not total more than the
23 maximum fee allowed under ORS 561.255 for a single large confined
24 animal feeding operation permit.

25 SECTION 3. (1) In addition to any other authority of the Depart-
26 ment of Environmental Quality or the State Department of Agricul-
27 ture, those departments may take actions described in subsection (2)
28 of this section if:

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

1 (b) The operator of the feeding operation facility does not clean the
2 facility site or properly decommission the waste treatment works of
3 the feeding operation facility in a manner consistent with the terms
4 of the feeding operation permit prior to abandoning or vacating the
5 site;

6 (c) There is no person or entity responsible for the financial or op-
7 erational management of the feeding operation facility that can suffi-
8 ciently comply with the terms of the permit; and

9 (d) The Department of Environmental Quality or the State Depart-
10 ment of Agriculture believes that there is a potential or imminent
11 threat to the waters of this state from the facility.

12 (2) Subject to subsection (1) of this section, the Department of En-
13 vironmental Quality or the State Department of Agriculture may:

14 (a) Independently or jointly clean, repurpose or decommission the
15 feeding operation waste treatment works through processes that may
16 include, but need not be limited to, the use of analysis, assessment,
17 construction, contracting, designing, engineering, inspection, investi-
18 gation, maintenance, monitoring, operation, planning, sampling,
19 studying, surveying, testing and training; and

20 (b) Recover from any responsible party any reasonable expenses
21 incurred or authorized to carry out the activities and processes de-
22 scribed in this subsection.

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

24 468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without
25 holding a permit from [*the Director of*] the Department of Environmental
26 Quality or the State Department of Agriculture, which permit shall specify
27 applicable effluent limitations, a person may not:

28 (a) Discharge any wastes into the waters of the state from any industrial
29 or commercial establishment or activity or any disposal system.

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

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

3 (d) Construct, install, operate or conduct any industrial, commercial,
4 confined animal feeding operation, **concentrated animal feeding operation**
5 or other establishment or activity or any extension or modification thereof
6 or addition thereto, the operation or conduct of which would cause an in-
7 crease in the discharge of wastes into the waters of the state or which would
8 otherwise alter the physical, chemical or biological properties of any waters
9 of the state in any manner not already lawfully authorized.

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

12 (2) **Except as provided in section 2 of this 2019 Act**, the Department
13 of Environmental Quality or the State Department of Agriculture may issue
14 a permit under this section as an individual, general or watershed permit.
15 A permit may be issued to a class of persons using the procedures for issu-
16 ance of an order or for the adoption of a rule. Notwithstanding the definition
17 of “order” or “rule” provided in ORS 183.310, in issuing a general or
18 watershed permit by order pursuant to this section, the State Department
19 of Agriculture or Department of Environmental Quality:

20 (a) Is not required to direct the order to a named person or named per-
21 sons; and

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

25 (3) The [*State Department of Agriculture or the*] Department of Environ-
26 mental Quality **or the State Department of Agriculture** may define “con-
27 fined animal feeding operation” **and “concentrated animal feeding**
28 **operation”** by rule for purposes of implementing this section.

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

31 (a) **Permits for which initial issuance occurs on or after the effec-**

1 **tive date of this 2020 Act; and**

2 **(b) Permits initially issued before the effective date of this 2020 Act**
3 **pursuant to an application originally filed on or after January 1, 2020.**
4 **The Legislative Assembly expressly intends that this paragraph oper-**
5 **ates retroactively and that any permit described in this paragraph that**
6 **does not conform to section 2 (2) of this 2020 Act be brought into**
7 **conformance with that requirement or canceled.**

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

11 **(3) Section 3 of this 2020 Act applies to large confined animal feed-**
12 **ing operation facilities and large concentrated animal feeding opera-**
13 **tion facilities that an operator vacates or abandons on or after the**
14 **effective date of this 2020 Act.**

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