

Requested by SENATE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**PROPOSED AMENDMENTS TO  
SENATE BILL 876**

1 On page 1 of the printed bill, delete lines 4 through 20 and delete pages  
2 2 through 4 and insert:

3 **“SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made**  
4 **a part of ORS 468B.048 to 468B.085.**

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

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

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

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

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

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

10       “(3) The Department of Environmental Quality or the State De-  
11       partment of Agriculture shall include the following terms and condi-  
12       tions for a feeding operation permit issued under ORS 468B.050:

13       “(a) A person may not construct or install the feeding operation  
14       unless the permit holder obtains preliminary approval for the con-  
15       struction or installation from the Department of Environmental  
16       Quality or the State Department of Agriculture; and

17       “(b) A person may not operate or conduct the feeding operation,  
18       including but not limited to populating the feeding operation, unless  
19       the permit holder obtains final approval for the construction or in-  
20       stallation from the Department of Environmental Quality or the State  
21       Department of Agriculture.

22       “(4)(a) Prior to the Department of Environmental Quality or the  
23       State Department of Agriculture granting final approval under sub-  
24       section (4)(b) of this section, the State Department of Agriculture shall  
25       consult with the Water Resources Department to ensure that the use  
26       of water for supplying the needs of the feeding operation at the level  
27       described in the feeding operation permit is legally authorized.

28       “(b) Except as provided in this paragraph, if water use referred to  
29       in paragraph (a) of this subsection includes water from a source that  
30       is exempt under ORS 537.545, the exempt source may not be in an area

1 where the Water Resources Commission has restricted ground water  
2 use by rule or order due to water supply concerns. This paragraph  
3 applies to new feeding operation facilities and to existing feeding op-  
4 erations that undergo significant expansion. This paragraph does not  
5 prohibit the continued use by an existing feeding operation of an ex-  
6 empt source at existing levels.

7 “(c) For purposes of paragraph (a) of this subsection, authorized  
8 water use may not include a temporary authorization or supply. This  
9 paragraph does not prohibit a feeding operation that has a confined  
10 animal feeding operation permit or concentrated animal feeding oper-  
11 ation permit issued under ORS 468B.050 from using a temporary au-  
12 thorization in addition to an authorized water use described in  
13 paragraph (a) of this subsection.

14 “(5) Except as provided in ORS 468B.215, the Department of Envi-  
15 ronmental Quality or the State Department of Agriculture may charge  
16 a fee for granting preliminary or final approval under this section. The  
17 amount that the Department of Environmental Quality or the State  
18 Department of Agriculture charges a feeding operation for approvals  
19 described in subsection (4) of this section may not total more than the  
20 maximum fee allowed under ORS 561.255 for a single large confined  
21 animal feeding operation permit.

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

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

29 “(b) The operator of the feeding operation facility does not clean the  
30 facility site or properly decommission the waste treatment works of

1 the feeding operation facility in a manner consistent with the terms  
2 of the feeding operation permit prior to abandoning or vacating the  
3 site;

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

7 “(d) The Department of Environmental Quality or the State De-  
8 partment of Agriculture believes that there is a potential or imminent  
9 threat to the waters of this state from the facility.

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

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

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

21 **“SECTION 4.** In addition to any other available remedy, the De-  
22 partment of Justice may bring an action to recover the amount of any  
23 legal or administrative costs that the Department of Environmental  
24 Quality or the State Department of Agriculture incurs due to gross  
25 negligence, willful misconduct or the failure of a permit holder to  
26 comply with department orders, encountered during an investigation  
27 or proceeding concerning a large confined animal feeding operations  
28 or large concentrated animal feeding operations violation of ORS  
29 chapter 468 or 468B, a rule adopted under ORS chapter 468 or 468B or  
30 a term or condition of a permit issued under ORS chapter 468 or 468B.

1        **“SECTION 5.** ORS 468B.050 is amended to read:

2        “468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without  
3 holding a permit from [*the Director of*] the Department of Environmental  
4 Quality or the State Department of Agriculture, which permit shall specify  
5 applicable effluent limitations, a person may not:

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

8        “(b) Construct, install, modify or operate any disposal system or part  
9 thereof or any extension or addition thereto.

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

12       “(d) Construct, install, operate or conduct any industrial, commercial,  
13 confined animal feeding operation, **concentrated animal feeding operation**  
14 or other establishment or activity or any extension or modification thereof  
15 or addition thereto, the operation or conduct of which would cause an in-  
16 crease in the discharge of wastes into the waters of the state or which would  
17 otherwise alter the physical, chemical or biological properties of any waters  
18 of the state in any manner not already lawfully authorized.

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

21       “(2) **Except as provided in section 2 of this 2019 Act,** the Department  
22 of Environmental Quality or the State Department of Agriculture may issue  
23 a permit under this section as an individual, general or watershed permit.  
24 A permit may be issued to a class of persons using the procedures for issu-  
25 ance of an order or for the adoption of a rule. Notwithstanding the definition  
26 of ‘order’ or ‘rule’ provided in ORS 183.310, in issuing a general or watershed  
27 permit by order pursuant to this section, the State Department of Agricul-  
28 ture or Department of Environmental Quality:

29       “(a) Is not required to direct the order to a named person or named per-  
30 sons; and

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

4 “(3) The [*State Department of Agriculture or the*] Department of Environ-  
5 mental Quality **and the State Department of Agriculture** may define  
6 ‘confined animal feeding operation’ **and ‘concentrated animal feeding op-**  
7 **eration’** by rule for purposes of implementing this section.

8 **“SECTION 6. (1) Section 2 (2) of this 2019 Act and the amendments**  
9 **to ORS 468B.050 by section 5 of this 2019 Act apply to:**

10 **“(a) Permits for which initial issuance occurs on or after the ef-**  
11 **fective date of this 2019 Act; and**

12 **“(b) Permits initially issued before the effective date of this 2019**  
13 **Act pursuant to an application originally filed on or after January 1,**  
14 **2019. The Legislative Assembly expressly intends that this paragraph**  
15 **operates retroactively and that any permit described in this paragraph**  
16 **that does not conform to section 2 (2) of this 2019 Act be brought into**  
17 **conformance with that requirement or cancelled.**

18 **“(2) Except as provided in subsection (1) of this section, section 2**  
19 **of this 2019 Act applies to permits issued on or after the effective date**  
20 **of this 2019 Act.**

21 **“(3) Section 3 of this 2019 Act applies to large confined animal**  
22 **feeding operation and large concentrated animal feeding operation fa-**  
23 **ilities that an operator vacates before, on or after the effective date**  
24 **of this 2019 Act.**

25 **“(4) Section 4 of this 2019 Act applies to costs incurred due to**  
26 **negligence or misconduct occurring on or after the effective date of**  
27 **this 2019 Act or failure to comply on or after the effective date of this**  
28 **2019 Act.”**

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