

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 and 3 of this 2019 Act are added to and
4 made 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 (3)(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) For purposes of paragraph (a) of this subsection, authorized
29 water use may not include a temporary authorization or supply. This
30 paragraph does not prohibit a feeding operation that has a confined

1 animal feeding operation permit or concentrated animal feeding oper-
2 ation permit issued under ORS 468B.050 from using a temporary au-
3 thorization in addition to an authorized water use described in
4 paragraph (a) of this subsection.

5 “(5) Except as provided in ORS 468B.215, the Department of Envi-
6 ronmental Quality or the State Department of Agriculture may charge
7 a fee for granting preliminary or final approval under this section. The
8 amount that the Department of Environmental Quality or the State
9 Department of Agriculture charges a feeding operation for approvals
10 described in subsection (3) of this section may not total more than the
11 maximum fee allowed under ORS 561.255 for a single large confined
12 animal feeding operation permit.

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

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

20 “(b) The operator of the feeding operation facility does not clean the
21 facility site or properly decommission the waste treatment works of
22 the feeding operation facility in a manner consistent with the terms
23 of the feeding operation permit prior to abandoning or vacating the
24 site;

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

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

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

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

9 “(b) Recover from any responsible party any reasonable expenses
10 incurred or authorized to carry out the activities and processes de-
11 scribed 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
14 holding a permit from [*the Director of*] the Department of Environmental
15 Quality or the State Department of Agriculture, which permit shall specify
16 applicable effluent limitations, a person may not:

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

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

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

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

30 “(e) Construct or use any new outlet for the discharge of any wastes into

1 the waters of the state.

2 “(2) **Except as provided in section 2 of this 2019 Act**, the Department
3 of Environmental Quality or the State Department of Agriculture may issue
4 a permit under this section as an individual, general or watershed permit.
5 A permit may be issued to a class of persons using the procedures for issu-
6 ance of an order or for the adoption of a rule. Notwithstanding the definition
7 of ‘order’ or ‘rule’ provided in ORS 183.310, in issuing a general or watershed
8 permit by order pursuant to this section, the State Department of Agricul-
9 ture or Department of Environmental Quality:

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

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

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

19 **“SECTION 5. (1) Section 2 (2) of this 2019 Act and the amendments**
20 **to ORS 468B.050 by section 4 of this 2019 Act apply to:**

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

23 **“(b) Permits initially issued before the effective date of this 2019**
24 **Act pursuant to an application originally filed on or after January 1,**
25 **2019. The Legislative Assembly expressly intends that this paragraph**
26 **operates retroactively and that any permit described in this paragraph**
27 **that does not conform to section 2 (2) of this 2019 Act be brought into**
28 **conformance with that requirement or canceled.**

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

1 **of this 2019 Act.**

2 **“(3) Section 3 of this 2019 Act applies to large confined animal**
3 **feeding operation and large concentrated animal feeding operation fa-**
4 **cilities that an operator vacates or abandons on or after the effective**
5 **date of this 2019 Act.”.**

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