Senate Bill 47
Sponsored by Senator FINDLEY (at the request of Representative Kevin Mannix) (Presession filed.)

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.

Directs Environmental Quality Commission and State Department of Agriculture to enter into memorandum of understanding to allow department to exercise exclusive jurisdiction over air quality laws, water quality laws and land quality laws that apply to agricultural lands, operations and equipment. Requires department to assume exclusive jurisdiction no later than January 1, 2026.

Directs Department of Environmental Quality and State Department of Agriculture to report progress to interim committees of Legislative Assembly related to agriculture no later than September 15, 2024.

A BILL FOR AN ACT
Relating to environmental quality; creating new provisions; amending ORS 468A.020; and repealing ORS 468A.790.

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

SECTION 1. (1) The Environmental Quality Commission and the State Department of Agriculture shall enter into a memorandum of understanding that addresses the administration and enforcement of air quality laws, water quality laws and land quality laws contained in ORS 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535 and 454.605 to 454.755 and ORS chapters 459, 459A, 465, 466, 468, 468A and 468B that apply to agricultural lands, operations and equipment.

(2) Subject to the terms of the memorandum of understanding, the State Department of Agriculture:

(a) Shall have exclusive jurisdiction over the administration and enforcement of air quality laws, water quality laws and land quality laws that apply to agricultural lands, operations and equipment; and

(b) May perform any function of the Department of Environmental Quality under ORS 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535 and 454.605 to 454.755 and ORS chapters 459, 459A, 465, 466, 468, 468A and 468B, including but not limited to the issuance of permits, establishment of fees, entry and inspection of premises and assessment of civil penalties.

(3) The terms of the memorandum of understanding must be consistent with the obligations of this state under federal environmental law, as defined in ORS 468.149, or any other federal laws or regulations related to air quality, water quality or land quality, to ensure the continued state implementation of federally required air quality, water quality and land quality programs.

(4) The Environmental Quality Commission and the State Department of Agriculture shall consider the following when entering into a memorandum of understanding under this section:

(a) Cooperation with private and public entities associated with agriculture in program

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted.
New sections are in boldfaced type.

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research, development and implementation.

(b) Program flexibility.

c) The use of voluntary measures, including education, demonstration projects and incentives, if practicable and reasonably expected to be effective in helping to carry out regulatory requirements.

d) The diverse nature of agricultural operations and the importance of, and public interest in, the agricultural production of food, fiber and other products.

e) The desirability of having the State Department of Agriculture serve as the lead agency responsible for the administration of programs relating to agriculture.

(f) The importance of, and public interest in, the protection of human health and the environment, including the protection of natural resources in special areas of this state designated for their outstanding scenery and historical and cultural importance.

5) The memorandum of understanding under this section is in addition to the memorandums of understanding between the Environmental Quality Commission and the State Department of Agriculture under ORS 468A.585 and 468B.217.

6) In adopting rules subject to the memorandum of understanding required by this section, the Environmental Quality Commission and the State Department of Agriculture shall consult with each other.

SECTION 2. (1) The State Department of Agriculture shall assume exclusive jurisdiction over the administration and enforcement of air quality laws, water quality laws and land quality laws that apply to agricultural lands, operations and equipment pursuant to the memorandum of understanding under section 1 of this 2023 Act no later than January 1, 2026.

(2)(a) The Department of Environmental Quality and the State Department of Agriculture shall jointly submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to agriculture no later than September 15, 2024.

(b) The report required under this subsection shall describe the progress made by the State Department of Agriculture and the Environmental Quality Commission on entering into and implementing the memorandum of understanding required under section 1 of this 2023 Act and describe any additional resources or authorities needed by the State Department of Agriculture to assume exclusive jurisdiction over the administration and enforcement of air quality laws, water quality laws and land quality laws that apply to agricultural lands, operations and equipment by January 1, 2026.

SECTION 3. ORS 468A.790 is repealed.

SECTION 4. ORS 468A.020 is amended to read:

468A.020. (1) Except as provided in subsection (2) of this section, the air pollution laws contained in ORS chapters 468, 468A and 468B do not apply to:

(a) Agricultural operations, including but not limited to:

(A) Growing or harvesting crops;

(B) Raising fowl or animals;

(C) Clearing or grading agricultural land;

(D) Propagating and raising nursery stock;

(E) Propane flaming of mint stubble; and

(F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the period beginning October 1 and ending May 31 of the following year.
(b) Equipment used in agricultural operations, except boilers used in connection with propagating and raising nursery stock.

c) Barbecue equipment used in connection with any residence.

d) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except solid fuel burning devices, as defined in ORS 468A.485, that are subject to regulation under this section and ORS 468A.140 and 468A.460 to 468A.515.

e) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary.

(f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

(2) Subsection (1) of this section does not apply to the extent:

(a) Otherwise provided in ORS 468A.555 to 468A.620, [468A.790,] 468A.992, 476.380 and 478.960 and section 1 of this 2023 Act;

(b) Necessary to implement the federal Clean Air Act (P.L. 88-206 as amended) under ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330;

(c) Necessary for the Environmental Quality Commission, in the commission’s discretion, to implement a recommendation of the Task Force on Dairy Air Quality created under section 3, chapter 799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.

(3)(a) Except to the extent necessary to implement the federal Clean Air Act (P.L. 88-206 as amended), the air pollution laws contained in ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330 do not apply to carbon dioxide emissions from the combustion or decomposition of biomass.

(b) As used in this subsection, “biomass” means:

(A) Nonfossilized and biodegradable organic materials that originate from plants, animals and microorganisms and that are products, byproducts, residues or wastes from agriculture, forestry and related industries;

(B) Nonfossilized and biodegradable organic fractions of industrial and municipal wastes; and

(C) Gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic matter.

SECTION 5. The repeal of ORS 468A.790 by section 3 of this 2023 Act and the amendments to ORS 468A.020 by section 4 of this 2023 Act become operative on January 1, 2026.