

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO
SENATE BILL 85**

1 In line 2 of the printed bill, after “operations” insert “; creating new
2 provisions; amending ORS 468B.050, 468B.215 and 537.545; and declaring an
3 emergency”.

4 Delete lines 4 through 8 and insert:
5

6 **“WATER QUALITY PERMIT**
7

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

9 “468B.050. (1) Except as provided in ORS 468B.053 or 468B.215, without
10 holding a permit from the Director of the Department of Environmental
11 Quality or the State Department of Agriculture, which permit shall specify
12 applicable effluent limitations, a person may not:

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

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

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

19 “(d) Construct, install, operate or conduct any industrial, commercial,
20 confined animal feeding operation or other establishment or activity or any
21 extension or modification thereof or addition thereto, the operation or con-

1 duct of which would cause an increase in the discharge of wastes into the
2 waters of the state or which would otherwise alter the physical, chemical
3 or biological properties of any waters of the state in any manner not already
4 lawfully authorized.

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

7 “(2) The Department of Environmental Quality or the State Department
8 of Agriculture may issue a permit under this section as an individual, gen-
9 eral or watershed permit. A permit may be issued to a class of persons using
10 the procedures for issuance of an order or for the adoption of a rule. Not-
11 withstanding the definition of ‘order’ or ‘rule’ provided in ORS 183.310, in
12 issuing a general or watershed permit by order pursuant to this section, the
13 State Department of Agriculture or Department of Environmental Quality:

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

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

19 **“(3) When deciding whether to issue a permit to a confined animal**
20 **feeding operation under this section, the Department of Environ-**
21 **mental Quality or the State Department of Agriculture shall consider**
22 **any relevant determination by the Water Resources Department pur-**
23 **suant to section 7 (2) of this 2023 Act.**

24 **“(4) Notwithstanding subsection (2) of this section, the Department**
25 **of Environmental Quality or the State Department of Agriculture may**
26 **not issue a general NPDES or WPCF permit to a new large confined**
27 **animal feeding operation that:**

28 **“(a) Is located in a ground water management area declared under**
29 **ORS 468B.180; and**

30 **“(b) Applies manure, litter, wastewater or processed waste to land**

1 **within the ground water management area.**

2 **“(5) Subsection (4) of this section does not apply to the issuance of**
3 **water quality permits to regulate stormwater.**

4 **“[(3)] (6) The State Department of Agriculture or the Department of En-**
5 **vironmental Quality may define ‘confined animal feeding operation’ by rule**
6 **for purposes of implementing this section.**

7 **“(7) As used in this section:**

8 **“(a) ‘New large confined animal feeding operation’ has the meaning**
9 **given that term in ORS 468B.215.**

10 **“(b) ‘NPDES’ and ‘WPCF’ have the meanings given those terms in**
11 **ORS 561.255.**

12 **“SECTION 2. ORS 468B.215 is amended to read:**

13 **“468B.215. (1) As used in this section:**

14 **“(a) ‘Expanding confined animal feeding operation’ means a con-**
15 **finned animal feeding operation that is expanding operational size into**
16 **a new tier, as described in ORS 561.255 (2).**

17 **“(b) ‘Expanding large confined animal feeding operation’ means a**
18 **large confined animal feeding operation in the largest tier described**
19 **in ORS 561.255 (2) that is expanding the capacity of the large confined**
20 **animal feeding operation to manage animal wastes, consistent with**
21 **the conditions of a permit issued under ORS 468B.050, to more than**
22 **20 percent of the capacity of the large confined animal feeding opera-**
23 **tion.**

24 **“(c) ‘Large confined animal feeding operation’ has the meaning**
25 **given that term in ORS 561.255.**

26 **“(d) ‘New confined animal feeding operation’ means a confined an-**
27 **imal feeding operation that is seeking a permit under ORS 468B.050 to**
28 **operate on a parcel of land on which no confined animal feeding op-**
29 **eration has previously operated.**

30 **“(e) ‘New large confined animal feeding operation’ means a large**

1 **confined animal feeding operation that is seeking a permit under ORS**
2 **468B.050 to operate on a parcel of land on which no confined animal**
3 **feeding operation has previously operated.**

4 **“(f) ‘NPDES’ and ‘WPCF’ have the meanings given those terms in**
5 **ORS 561.255.**

6 *“[(1)] (2) Any person operating a confined animal feeding operation or*
7 *concentrated animal feeding operation under an NPDES or WPCF permit*
8 *shall annually pay a fee for a confined animal feeding operation permit or*
9 *concentrated animal feeding operation permit as provided by State Depart-*
10 *ment of Agriculture rules adopted under ORS 561.255. [As used in this sub-*
11 *section, ‘NPDES’ and ‘WPCF’ have the meanings given those terms in ORS*
12 *561.255.]*

13 *“[(2)] (3) Except for an animal feeding operation subject to regulation*
14 *under 33 U.S.C. 1342, a fee shall not be assessed to nor a permit required*
15 *under ORS 468B.050 (1)(d) of confined animal feeding operations of four*
16 *months or less duration or that do not have waste water control facilities.*
17 *A confined animal feeding operation of four months or less duration or that*
18 *does not have waste water control facilities is subject to all requirements*
19 *of ORS chapters 468, 468A and 468B if found to be discharging wastes into*
20 *the waters of the state.*

21 **“(4)(a) Before submitting an application for a permit under ORS**
22 **468B.050 for a new large confined animal feeding operation or an ex-**
23 **anding large confined animal feeding operation, an applicant shall:**

24 **“(A) Request that the Department of Environmental Quality or the**
25 **State Department of Agriculture schedule a preliminary consultation.**

26 **“(B) Participate in the preliminary consultation.**

27 **“(b) Before scheduling the preliminary consultation, the Depart-**
28 **ment of Environmental Quality or the State Department of Agricul-**
29 **ture shall:**

30 **“(A) Notify the governing bodies of all federally recognized Indian**

1 **tribes in this state; and**

2 **“(B) Consult with the governing bodies, upon request by the gov-**
3 **erning bodies.**

4 **“(c) The preliminary consultation must:**

5 **“(A) Include the applicant, the Department of Environmental**
6 **Quality, the State Department of Agriculture, the Water Resources**
7 **Department and other relevant state agencies, as determined by the**
8 **Department of Environmental Quality and the State Department of**
9 **Agriculture.**

10 **“(B) Occur not more than 45 days after the request is received.**

11 **“(5)(a) In addition to other permit conditions, a person that applies**
12 **for a permit under ORS 468B.050 for:**

13 **“(A) A confined animal feeding operation shall submit a water**
14 **supply plan, as described in section 7 of this 2023 Act, with the appli-**
15 **cation.**

16 **“(B) A new large confined animal feeding operation shall send in-**
17 **dividual notice of the public comment period for the permit, by mail,**
18 **to all persons on record as owning property within one-half mile of the**
19 **parcel of land on which the new large confined animal feeding opera-**
20 **tion is proposed to be located.**

21 **“(b) The Department of Environmental Quality and State Depart-**
22 **ment of Agriculture may not consider a person’s lack of receipt of the**
23 **notice described in paragraph (a)(B) of this subsection when deciding**
24 **whether to approve or deny an application for a permit under ORS**
25 **468B.050.**

26 **“[(3)] (6) The Department of Environmental Quality or the State Depart-**
27 **ment of Agriculture may impose on the permit required for a confined animal**
28 **feeding operation only those conditions necessary to ensure that:**

29 **“(a) Wastes are [*disposed of*] used in a manner that does not cause pol-**
30 **lution of the surface and ground waters of the state.**

1 **“(b) The confined animal feeding operation is in compliance with**
2 **water quality standards.**

3 **“(c) The quantity of water necessary to supply the level and dura-**
4 **tion of the water needs of the confined animal feeding operation, in-**
5 **cluding any ancillary operations of the confined animal feeding**
6 **operation described in the permit, is legally authorized.**

7 **“(7) After being issued a permit under ORS 468B.050, a person may**
8 **not bring animals to a new confined animal feeding operation, or to**
9 **newly constructed or installed facilities for an expanding confined an-**
10 **imal feeding operation, until after the State Department of Agricul-**
11 **ture:**

12 **“(a) Inspects the new confined animal feeding operation or ex-**
13 **panding confined animal feeding operation; and**

14 **“(b) Confirms that the construction or installation of the waste**
15 **management system and relevant operational functions of the new**
16 **confined animal feeding operation or expanding confined animal feed-**
17 **ing operation comply with the conditions of the water quality permit.**

18 **“(8) In addition to monitoring and reporting requirements under an**
19 **NPDES or WPCF permit, a person that holds a permit under ORS**
20 **468B.050 for a confined animal feeding operation and sends manure,**
21 **litter or processed wastewater to a person that holds a nutrient ap-**
22 **plication permit described in section 5 of this 2023 Act shall maintain**
23 **records of the nutrient application permit, including the number of the**
24 **nutrient application permit.**

25 **“[(4)] (9) A permit for a confined animal feeding operation may be revoked**
26 **or modified by the Department of Environmental Quality or the State De-**
27 **partment of Agriculture or may be terminated upon request by the permit**
28 **holder. An animal feeding operation may be inspected for compliance with**
29 **water quality laws and regulations by the Department of Environmental**
30 **Quality or the State Department of Agriculture.**

1 **“SECTION 3. The provisions of ORS 468B.215 (5) and (7) apply to:**

2 **“(1) New confined animal feeding operations and expanding confined**
3 **animal feeding operations, as defined in ORS 468B.215, that apply for**
4 **a permit under ORS 468B.050 on or after the effective date of this 2023**
5 **Act.**

6 **“(2) Large confined animal feeding operations, as described in ORS**
7 **561.255 (1), that renew permits under ORS 468B.050 on or after July 1,**
8 **2024.**

9 **“(3) Small confined animal feeding operations and medium confined**
10 **animal feeding operations, as described in ORS 561.255 (1), that renew**
11 **permits under ORS 468B.050 on or after July 1, 2025.**

12
13 **“NUTRIENT APPLICATION PERMIT**

14
15 **“SECTION 4. Section 5 of this 2023 Act is added to and made a part**
16 **of ORS 468B.200 to 468B.230.**

17 **“SECTION 5. (1) The State Department of Agriculture may issue a**
18 **nutrient application permit.**

19 **“(2) As applicable, the permit must concern, but need not only**
20 **concern:**

21 **“(a) The rate of nutrient application.**

22 **“(b) The source of the nutrients.**

23 **“(c) The placement of the nutrients.**

24 **“(d) The timing of nutrient application.**

25 **“(e) The volume of wastewater applied to the surface of the lands**
26 **per time period.**

27 **“(3) Except as authorized under an NPDES or WPCF permit, a**
28 **person may apply manure, litter, wastewater or processed waste from**
29 **a confined animal feeding operation on lands in a ground water man-**
30 **agement area declared under ORS 468B.180 only if the person holds a**

1 permit under this section.

2 “(4) A person that holds a permit under this section shall provide
3 the confined animal feeding operation from which the person receives
4 manure, litter, wastewater or processed waste with a copy of the per-
5 mit.

6 “(5) The department may adopt rules to implement this section,
7 including rules that establish:

8 “(a) Recordkeeping requirements for a person that holds a permit
9 under this section.

10 “(b) Criteria for inspections to ensure compliance with this section.

11 “(c) Fees for permits under this section.

12 “(6) As used in this section, ‘NPDES’ and ‘WPCF’ have the
13 meanings given those terms in ORS 561.255.

14

15 **“WATER SUPPLY PLAN**

16

17 **“SECTION 6. Section 7 of this 2023 Act is added to and made a part**
18 **of ORS chapter 468B.**

19 **“SECTION 7. (1) A person that applies for a permit under ORS**
20 **468B.050 for a confined animal feeding operation operating under an**
21 **NPDES or WPCF permit, as described in ORS 468B.215 (2), shall submit**
22 **with the application a water supply plan that identifies all sources of**
23 **the water that will be used to supply the level and duration of the**
24 **water needs of the confined animal feeding operation, including any**
25 **ancillary operations of the confined animal feeding operation, as de-**
26 **scribed in the application.**

27 **“(2) After receiving a water supply plan described in subsection (1)**
28 **of this section, the Department of Environmental Quality or the State**
29 **Department of Agriculture shall request that the Water Resources**
30 **Department review the water supply plan to determine whether the**

1 water uses identified in the water supply plan are legally authorized
2 and allowable.

3 “(3) Not more than 45 days after receiving a request described in
4 subsection (2) of this section, the Water Resources Department shall
5 provide a determination described in subsection (2) of this section to
6 the Department of Environmental Quality or the State Department
7 of Agriculture.

8 “(4) A water supply plan for a confined animal feeding operation
9 that uses stockwater as described in ORS 537.545 (1)(a) must use ani-
10 mal water consumption guidelines provided by the State Department
11 of Agriculture to estimate the gallons per day that the confined animal
12 feeding operation will use.

13 “(5) The Water Resources Department may recommend that the
14 Department of Environmental Quality or the State Department of
15 Agriculture condition a permit under ORS 468B.050 on one or more of
16 the following:

17 “(a) Requiring a confined animal feeding operation that uses
18 stockwater, as described in ORS 537.545 (1)(a), or a person renewing a
19 permit under ORS 468B.050 for a confined animal feeding operation,
20 to:

21 “(A) Install water metering and submetering devices concerning a
22 new or expanding production area; and

23 “(B) Maintain quarterly water use data that the Water Resources
24 Department may inspect annually, upon request by the department.

25 “(b) Prohibiting an expanding confined animal feeding operation,
26 as defined in ORS 468B.215, within a critical ground water area desig-
27 nated by order or pursuant to ORS 537.730 from increasing the con-
28 fined animal feeding operation’s use of water per day under the
29 exemption described in ORS 537.545 (1)(a) by more than the limit de-
30 scribed in ORS 537.545 (1)(a).

1 **“(6) When making a determination described in subsection (2) of**
2 **this section, the Water Resources Department may not consider a**
3 **change of use, place of use or point of diversion as legally authorized**
4 **until the change is approved pursuant to an order described in ORS**
5 **540.530 that is final as a matter of law or is not subject to a pending**
6 **appeal.**

7 **“(7) A determination under subsection (2) of this section may not**
8 **be considered:**

9 **“(a) An authorization of water use or water rights.**

10 **“(b) A final order or ruling.**

11 **“(8) A person that renews a permit under ORS 468B.050 for a con-**
12 **finned animal feeding operation operating under an NPDES or WPCF**
13 **permit, as described in ORS 468B.215 (2), shall attest upon renewal of**
14 **the permit that the water supply plan for the confined animal feeding**
15 **operation that was previously approved under this section is compliant**
16 **with this section.**

17 **“SECTION 8.** Section 7 of this 2023 Act is amended to read:

18 **“Sec. 7.** (1) A person that applies for a permit under ORS 468B.050 for a
19 confined animal feeding operation operating under an NPDES or WPCF
20 permit, as described in ORS 468B.215 (2), shall submit with the application
21 a water supply plan that identifies all sources of the water that will be used
22 to supply the level and duration of the water needs of the confined animal
23 feeding operation, including any ancillary operations of the confined animal
24 feeding operation, as described in the application.

25 **“(2) After receiving a water supply plan described in subsection (1) of this**
26 **section, the Department of Environmental Quality or the State Department**
27 **of Agriculture shall request that the Water Resources Department review the**
28 **water supply plan to determine whether the water uses identified in the**
29 **water supply plan are legally authorized and allowable.**

30 **“(3) Not more than 45 days after receiving a request described in sub-**

1 section (2) of this section, the Water Resources Department shall provide a
2 determination described in subsection (2) of this section to the Department
3 of Environmental Quality or the State Department of Agriculture.

4 “(4) A water supply plan for a confined animal feeding operation that uses
5 stockwater as described in ORS 537.545 (1)(a) must use animal water con-
6 sumption guidelines provided by the State Department of Agriculture to es-
7 timate the gallons per day that the confined animal feeding operation will
8 use.

9 “(5) The Water Resources Department may recommend that the Depart-
10 ment of Environmental Quality or the State Department of Agriculture con-
11 dition a permit under ORS 468B.050 on [*one or more of the following:*]

12 “[*(a)*] requiring a confined animal feeding operation that uses stockwater,
13 as described in ORS 537.545 (1)(a), or a person renewing a permit under ORS
14 468B.050 for a confined animal feeding operation, to:

15 “[*(A)*] **(a)** Install water metering and submetering devices concerning a
16 new or expanding production area; and

17 “[*(B)*] **(b)** Maintain quarterly water use data that the Water Resources
18 Department may inspect annually, upon request by the department.

19 “[*(b) Prohibiting an expanding confined animal feeding operation, as de-*
20 *finied in ORS 468B.215, within a critical ground water area designated by or-*
21 *der or pursuant to ORS 537.730 from increasing the confined animal feeding*
22 *operation’s use of water per day under the exemption described in ORS 537.545*
23 *(1)(a) by more than the limit described in ORS 537.545 (1)(a).]*

24 “(6) When making a determination described in subsection (2) of this
25 section, the Water Resources Department may not consider a change of use,
26 place of use or point of diversion as legally authorized until the change is
27 approved pursuant to an order described in ORS 540.530 that is final as a
28 matter of law or is not subject to a pending appeal.

29 “(7) A determination under subsection (2) of this section may not be
30 considered:

1 “(a) An authorization of water use or water rights.

2 “(b) A final order or ruling.

3 “(8) A person that renews a permit under ORS 468B.050 for a confined
4 animal feeding operation operating under an NPDES or WPCF permit, as
5 described in ORS 468B.215 (2), shall attest upon renewal of the permit that
6 the water supply plan for the confined animal feeding operation that was
7 previously approved under this section is compliant with this section.

8 **“SECTION 9. The amendments to section 7 of this 2023 Act by sec-**
9 **tion 8 of this 2023 Act become operative on September 15, 2027.**

10

11 **“STOCKWATER EXEMPTION**

12

13 **“SECTION 10.** ORS 537.545 is amended to read:

14 “537.545. (1) [No] A registration, certificate of registration, application for
15 a permit, permit, certificate of completion or ground water right certificate
16 under ORS 537.505 to 537.795 and 537.992 is **not** required for the use of
17 ground water for:

18 “(a) Stockwatering purposes, **unless the use exceeds 12,000 gallons per**
19 **day and occurs at a new confined animal feeding operation, as defined**
20 **in ORS 468B.215;**

21 “(b) Watering any lawn or noncommercial garden not exceeding one-half
22 acre in area;

23 “(c) Watering the lawns, grounds and fields not exceeding 10 acres in area
24 of schools located within a critical ground water area established pursuant
25 to ORS 537.730 to 537.740;

26 “(d) Single or group domestic purposes in an amount not exceeding 15,000
27 gallons a day;

28 “(e) Down-hole heat exchange purposes;

29 “(f) Any single industrial or commercial purpose in an amount not ex-
30 ceeding 5,000 gallons a day; or

1 “(g) Land application, so long as the ground water:

2 “(A) Has first been appropriated and used under a permit or certificate
3 issued under ORS 537.625 or 537.630 for a water right issued for industrial
4 purposes or a water right authorizing use of water for confined animal
5 feeding purposes;

6 “(B) Is reused for irrigation purposes and the period of irrigation is a
7 period during which the reused water has never been discharged to the wa-
8 ters of the state; and

9 “(C) Is applied pursuant to a permit issued by the Department of Envi-
10 ronmental Quality or the State Department of Agriculture under either ORS
11 468B.050 to construct and operate a disposal system or ORS 468B.215 to op-
12 erate a confined animal feeding operation.

13 “(2) A ground water use for a purpose that is exempt under subsection (1)
14 of this section, to the extent that the use is beneficial, constitutes a right
15 to appropriate ground water equal to that established by a ground water
16 right certificate issued under ORS 537.700.

17 “(3) Except for the use of water under subsection (1)(g) of this section,
18 the Water Resources Commission by rule may require any person or public
19 agency using ground water for any such purpose to furnish information with
20 regard to such ground water and the use thereof. For a use of water de-
21 scribed in subsection (1)(g) of this section, the Department of Environmental
22 Quality or the State Department of Agriculture shall provide to the Water
23 Resources Department a copy of the permit issued under ORS 468B.050 or
24 468B.215 authorizing the land application of ground water for reuse. The
25 permit shall provide the information regarding the place of use of such water
26 and the nature of the beneficial reuse.

27 “(4) If it is necessary for the Water Resources Department to regulate the
28 use or distribution of ground water, including uses for purposes that are
29 exempt under subsection (1) of this section, the department shall use as a
30 priority date for the exempt uses the date indicated in the log for the well

1 filed with the department under ORS 537.765 or other documentation pro-
2 vided by the well owner showing when water use began.

3 “(5) The person licensed under ORS 537.747 or permitted under ORS
4 537.753 (4) that constructs a well to allow ground water use for a purpose
5 that is exempt under subsection (1) of this section shall provide the Water
6 Resources Department with a map showing the exact location of the well on
7 the tax lot. The person licensed under ORS 537.747 or permitted under ORS
8 537.753 (4) that constructs a well shall provide a map required by this sub-
9 section to the department, along with the well log required by ORS 537.765,
10 no later than 30 days after the well is completed. The map must be prepared
11 in accordance with standards established by the department. The map and
12 well log must be accompanied by the fee described in subsection (6) of this
13 section to record the exempt ground water use.

14 “(6) The Water Resources Department shall collect a fee of \$300 for re-
15 cording an exempt ground water use under subsection (5) of this section.
16 Moneys from fees collected under this subsection shall be deposited to the
17 credit of the Water Resources Department Water Right Operating Fund.
18 Notwithstanding ORS 536.009, moneys deposited to the fund under this sub-
19 section shall be used for the purposes of evaluating ground water supplies,
20 conducting ground water studies, carrying out ground water monitoring,
21 processing ground water data and the administration and enforcement of this
22 subsection and subsections (3), (5) and (7) of this section.

23 “(7) The Water Resources Commission shall adopt rules to implement,
24 administer and enforce subsections (5) and (6) of this section.

25 **“SECTION 11.** ORS 537.545, as amended by section 10 of this 2023 Act,
26 is amended to read:

27 “537.545. (1) A registration, certificate of registration, application for a
28 permit, permit, certificate of completion or ground water right certificate
29 under ORS 537.505 to 537.795 and 537.992 is not required for the use of
30 ground water for:

1 “(a) Stockwatering purposes[, *unless the use exceeds 12,000 gallons per day*
2 *and occurs at a new confined animal feeding operation, as defined in ORS*
3 *468B.215*];

4 “(b) Watering any lawn or noncommercial garden not exceeding one-half
5 acre in area;

6 “(c) Watering the lawns, grounds and fields not exceeding 10 acres in area
7 of schools located within a critical ground water area established pursuant
8 to ORS 537.730 to 537.740;

9 “(d) Single or group domestic purposes in an amount not exceeding 15,000
10 gallons a day;

11 “(e) Down-hole heat exchange purposes;

12 “(f) Any single industrial or commercial purpose in an amount not ex-
13 ceeding 5,000 gallons a day; or

14 “(g) Land application, so long as the ground water:

15 “(A) Has first been appropriated and used under a permit or certificate
16 issued under ORS 537.625 or 537.630 for a water right issued for industrial
17 purposes or a water right authorizing use of water for confined animal
18 feeding purposes;

19 “(B) Is reused for irrigation purposes and the period of irrigation is a
20 period during which the reused water has never been discharged to the wa-
21 ters of the state; and

22 “(C) Is applied pursuant to a permit issued by the Department of Envi-
23 ronmental Quality or the State Department of Agriculture under either ORS
24 468B.050 to construct and operate a disposal system or ORS 468B.215 to op-
25 erate a confined animal feeding operation.

26 “(2) A ground water use for a purpose that is exempt under subsection (1)
27 of this section, to the extent that the use is beneficial, constitutes a right
28 to appropriate ground water equal to that established by a ground water
29 right certificate issued under ORS 537.700.

30 “(3) Except for the use of water under subsection (1)(g) of this section,

1 the Water Resources Commission by rule may require any person or public
2 agency using ground water for any such purpose to furnish information with
3 regard to such ground water and the use thereof. For a use of water de-
4 scribed in subsection (1)(g) of this section, the Department of Environmental
5 Quality or the State Department of Agriculture shall provide to the Water
6 Resources Department a copy of the permit issued under ORS 468B.050 or
7 468B.215 authorizing the land application of ground water for reuse. The
8 permit shall provide the information regarding the place of use of such water
9 and the nature of the beneficial reuse.

10 “(4) If it is necessary for the Water Resources Department to regulate the
11 use or distribution of ground water, including uses for purposes that are
12 exempt under subsection (1) of this section, the department shall use as a
13 priority date for the exempt uses the date indicated in the log for the well
14 filed with the department under ORS 537.765 or other documentation pro-
15 vided by the well owner showing when water use began.

16 “(5) The person licensed under ORS 537.747 or permitted under ORS
17 537.753 (4) that constructs a well to allow ground water use for a purpose
18 that is exempt under subsection (1) of this section shall provide the Water
19 Resources Department with a map showing the exact location of the well on
20 the tax lot. The person licensed under ORS 537.747 or permitted under ORS
21 537.753 (4) that constructs a well shall provide a map required by this sub-
22 section to the department, along with the well log required by ORS 537.765,
23 no later than 30 days after the well is completed. The map must be prepared
24 in accordance with standards established by the department. The map and
25 well log must be accompanied by the fee described in subsection (6) of this
26 section to record the exempt ground water use.

27 “(6) The Water Resources Department shall collect a fee of \$300 for re-
28 cording an exempt ground water use under subsection (5) of this section.
29 Moneys from fees collected under this subsection shall be deposited to the
30 credit of the Water Resources Department Water Right Operating Fund.

1 Notwithstanding ORS 536.009, moneys deposited to the fund under this sub-
2 section shall be used for the purposes of evaluating ground water supplies,
3 conducting ground water studies, carrying out ground water monitoring,
4 processing ground water data and the administration and enforcement of this
5 subsection and subsections (3), (5) and (7) of this section.

6 “(7) The Water Resources Commission shall adopt rules to implement,
7 administer and enforce subsections (5) and (6) of this section.

8 **“SECTION 12. The amendments to ORS 537.545 by section 11 of this**
9 **2023 Act become operative on September 15, 2027.**

10

11

“AIR QUALITY

12

13 **“SECTION 13. (1) Not more than 180 days after the United States**
14 **Environmental Protection Agency finalizes the National Air Emissions**
15 **Monitoring Study, the Department of Environmental Quality shall re-**
16 **port, in the manner provided by ORS 192.245, to the interim commit-**
17 **tees of the Legislative Assembly related to agriculture on the findings**
18 **from the study that relate to animal feeding operations.**

19

“(2) The report:

20

“(a) Must summarize how the findings related to air emissions by
21 **confined animal feeding operations may inform an understanding of**
22 **emissions of air contaminants by animal feeding operations in Oregon.**

23

“(b) Must identify existing Oregon laws and rules, as well as NPDES
24 **and WPCF permit requirements, that pertain to the findings described**
25 **in paragraph (a) of this subsection.**

26

“(c) May identify a process for developing recommendations to re-
27 **duce emissions of air contaminants by animal feeding operations,**
28 **based on the results of the study described in subsection (1) of this**
29 **section.**

30

“(3) As used in this section, ‘NPDES’ and ‘WPCF’ have the

1 meanings given those terms in ORS 561.255.

2
3 **“LAND USE**

4
5 **“SECTION 14. (1) Prior to applying for a permit under ORS 468B.050,**
6 **an applicant for a proposed confined animal feeding operation shall**
7 **request, from the city or county in which the confined animal feeding**
8 **operation is proposed to be located, a land use compatibility statement**
9 **that authorizes the land use.**

10 **“(2) The land use compatibility statement must demonstrate that**
11 **the requested permit pertains to a land use that is allowable as a**
12 **permitted or conditional use within the given zoning designation**
13 **where the land is located.**

14 **“(3) The Department of Environmental Quality or the State De-**
15 **partment of Agriculture may not issue the permit under ORS 468B.050**
16 **if the land use compatibility statement demonstrates that the proposed**
17 **land use is prohibited in the applicable zone.**

18 **“SECTION 15. Notwithstanding ORS 30.935, 215.253 (1) and 633.738,**
19 **the governing body of a city or county in which a new large confined**
20 **animal feeding operation, as defined in ORS 468B.215, is proposed to**
21 **be located may require the new large confined animal feeding opera-**
22 **tion to include a setback or buffer, composed of a natural or created**
23 **vegetative barrier, berm or terrain, in the production area of the new**
24 **large confined animal feeding operation, if the parcel of land on which**
25 **the new large confined animal feeding operation would be located is**
26 **adjacent to a parcel on which:**

27 **“(1) A residential structure is lawfully sited; or**

28 **“(2) A structure that was lawfully sited when constructed, but no**
29 **longer conforms with or is allowed under new or changed land use**
30 **requirements, is sited.**

1 "CAPTIONS

2
3 "SECTION 16. The unit captions used in this 2023 Act are provided
4 for the convenience of the reader and do not become part of the stat-
5 utory law of this state or express any legislative intent in the
6 enactment of this 2023 Act.

7
8 "EFFECTIVE DATE

9
10 "SECTION 17. This 2023 Act being necessary for the immediate
11 preservation of the public peace, health and safety, an emergency is
12 declared to exist, and this 2023 Act takes effect on its passage."
13
