

A-Engrossed Senate Bill 85

Ordered by the Senate May 30
Including Senate Amendments dated May 30

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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.

[Requires State Department of Agriculture to study confined animal feeding operations. Directs department to submit findings to interim committees of Legislative Assembly related to agriculture no later than September 15, 2024.]

Makes certain changes concerning water quality permits for confined animal feeding operations.

Authorizes State Department of Agriculture to issue nutrient application permits.

Requires persons that apply for water quality permits for certain confined animal feeding operations to submit water supply plans.

Makes certain changes to exemption from certain water laws for stockwatering. Sunsets changes on September 15, 2027.

Requires Department of Environmental Quality to report on findings of United States Environmental Protection Agency study relating to confined animal feeding operations to interim committees of Legislative Assembly related to agriculture not more than 180 days after study is finalized.

Establishes certain requirements concerning land use compatibility statements related to proposed confined animal feeding operations.

Authorizes governing body of city or county to require setback or buffer between proposed confined animal feeding operation and adjacent land parcels in specified circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to confined animal feeding operations; creating new provisions; amending ORS 468B.050, 468B.215 and 537.545; and declaring an emergency.

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

WATER QUALITY PERMIT

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

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

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

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

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

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

1 (d) Construct, install, operate or conduct any industrial, commercial, confined animal feeding
2 operation or other establishment or activity or any extension or modification thereof or addition
3 thereto, the operation or conduct of which would cause an increase in the discharge of wastes into
4 the waters of the state or which would otherwise alter the physical, chemical or biological proper-
5 ties of any waters of the state in any manner not already lawfully authorized.

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

7 (2) The Department of Environmental Quality or the State Department of Agriculture may issue
8 a permit under this section as an individual, general or watershed permit. A permit may be issued
9 to a class of persons using the procedures for issuance of an order or for the adoption of a rule.
10 Notwithstanding the definition of “order” or “rule” provided in ORS 183.310, in issuing a general
11 or watershed permit by order pursuant to this section, the State Department of Agriculture or De-
12 partment of Environmental Quality:

13 (a) Is not required to direct the order to a named person or named persons; and

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

16 **(3) When deciding whether to issue a permit to a confined animal feeding operation under
17 this section, the Department of Environmental Quality or the State Department of Agricul-
18 ture shall consider any relevant determination by the Water Resources Department pursuant
19 to section 7 (2) of this 2023 Act.**

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

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

24 **(b) Applies manure, litter, wastewater or processed waste to land within the ground wa-
25 ter management area.**

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

28 **[(3)] (6) The State Department of Agriculture or the Department of Environmental Quality may
29 define “confined animal feeding operation” by rule for purposes of implementing this section.**

30 **(7) As used in this section:**

31 **(a) “New large confined animal feeding operation” has the meaning given that term in
32 ORS 468B.215.**

33 **(b) “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.**

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

35 **468B.215. (1) As used in this section:**

36 **(a) “Expanding confined animal feeding operation” means a confined animal feeding op-
37 eration that is expanding operational size into a new tier, as described in ORS 561.255 (2).**

38 **(b) “Expanding large confined animal feeding operation” means a large confined animal
39 feeding operation in the largest tier described in ORS 561.255 (2) that is expanding the ca-
40 pacity of the large confined animal feeding operation to manage animal wastes, consistent
41 with the conditions of a permit issued under ORS 468B.050, to more than 20 percent of the
42 capacity of the large confined animal feeding operation.**

43 **(c) “Large confined animal feeding operation” has the meaning given that term in ORS
44 561.255.**

45 **(d) “New confined animal feeding operation” means a confined animal feeding operation**

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

3 (e) “New large confined animal feeding operation” means a large confined animal feeding
4 operation that is seeking a permit under ORS 468B.050 to operate on a parcel of land on
5 which no confined animal feeding operation has previously operated.

6 (f) “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.

7 [(1)] (2) Any person operating a confined animal feeding operation or concentrated animal feed-
8 ing operation under an NPDES or WPCF permit shall annually pay a fee for a confined animal
9 feeding operation permit or concentrated animal feeding operation permit as provided by State De-
10 partment of Agriculture rules adopted under ORS 561.255. [As used in this subsection, “NPDES” and
11 “WPCF” have the meanings given those terms in ORS 561.255.]

12 [(2)] (3) Except for an animal feeding operation subject to regulation under 33 U.S.C. 1342, a fee
13 shall not be assessed to nor a permit required under ORS 468B.050 (1)(d) of confined animal feeding
14 operations of four months or less duration or that do not have waste water control facilities. A
15 confined animal feeding operation of four months or less duration or that does not have waste water
16 control facilities is subject to all requirements of ORS chapters 468, 468A and 468B if found to be
17 discharging wastes into the waters of the state.

18 (4)(a) Before submitting an application for a permit under ORS 468B.050 for a new large
19 confined animal feeding operation or an expanding large confined animal feeding operation,
20 an applicant shall:

21 (A) Request that the Department of Environmental Quality or the State Department of
22 Agriculture schedule a preliminary consultation.

23 (B) Participate in the preliminary consultation.

24 (b) Before scheduling the preliminary consultation, the Department of Environmental
25 Quality or the State Department of Agriculture shall:

26 (A) Notify the governing bodies of all federally recognized Indian tribes in this state; and

27 (B) Consult with the governing bodies, upon request by the governing bodies.

28 (c) The preliminary consultation must:

29 (A) Include the applicant, the Department of Environmental Quality, the State Depart-
30 ment of Agriculture, the Water Resources Department and other relevant state agencies,
31 as determined by the Department of Environmental Quality and the State Department of
32 Agriculture.

33 (B) Occur not more than 45 days after the request is received.

34 (5)(a) In addition to other permit conditions, a person that applies for a permit under
35 ORS 468B.050 for:

36 (A) A confined animal feeding operation shall submit a water supply plan, as described
37 in section 7 of this 2023 Act, with the application.

38 (B) A new large confined animal feeding operation shall send individual notice of the
39 public comment period for the permit, by mail, to all persons on record as owning property
40 within one-half mile of the parcel of land on which the new large confined animal feeding
41 operation is proposed to be located.

42 (b) The Department of Environmental Quality and State Department of Agriculture may
43 not consider a person’s lack of receipt of the notice described in paragraph (a)(B) of this
44 subsection when deciding whether to approve or deny an application for a permit under ORS
45 468B.050.

1 (a) The rate of nutrient application.

2 (b) The source of the nutrients.

3 (c) The placement of the nutrients.

4 (d) The timing of nutrient application.

5 (e) The volume of wastewater applied to the surface of the lands per time period.

6 (3) Except as authorized under an NPDES or WPCF permit, a person may apply manure,
7 litter, wastewater or processed waste from a confined animal feeding operation on lands in
8 a ground water management area declared under ORS 468B.180 only if the person holds a
9 permit under this section.

10 (4) A person that holds a permit under this section shall provide the confined animal
11 feeding operation from which the person receives manure, litter, wastewater or processed
12 waste with a copy of the permit.

13 (5) The department may adopt rules to implement this section, including rules that es-
14 tablish:

15 (a) Recordkeeping requirements for a person that holds a permit under this section.

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

17 (c) Fees for permits under this section.

18 (6) As used in this section, "NPDES" and "WPCF" have the meanings given those terms
19 in ORS 561.255.

20
21 **WATER SUPPLY PLAN**

22
23 **SECTION 6.** Section 7 of this 2023 Act is added to and made a part of ORS chapter 468B.

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

30 (2) After receiving a water supply plan described in subsection (1) of this section, the
31 Department of Environmental Quality or the State Department of Agriculture shall request
32 that the Water Resources Department review the water supply plan to determine whether
33 the water uses identified in the water supply plan are legally authorized and allowable.

34 (3) Not more than 45 days after receiving a request described in subsection (2) of this
35 section, the Water Resources Department shall provide a determination described in sub-
36 section (2) of this section to the Department of Environmental Quality or the State Depart-
37 ment of Agriculture.

38 (4) A water supply plan for a confined animal feeding operation that uses stockwater as
39 described in ORS 537.545 (1)(a) must use animal water consumption guidelines provided by
40 the State Department of Agriculture to estimate the gallons per day that the confined animal
41 feeding operation will use.

42 (5) The Water Resources Department may recommend that the Department of Environ-
43 mental Quality or the State Department of Agriculture condition a permit under ORS
44 468B.050 on one or more of the following:

45 (a) Requiring a confined animal feeding operation that uses stockwater, as described in

1 **ORS 537.545 (1)(a), or a person renewing a permit under ORS 468B.050 for a confined animal**
2 **feeding operation, to:**

3 **(A) Install water metering and submetering devices concerning a new or expanding pro-**
4 **duction area; and**

5 **(B) Maintain quarterly water use data that the Water Resources Department may in-**
6 **spect annually, upon request by the department.**

7 **(b) Prohibiting an expanding confined animal feeding operation, as defined in ORS**
8 **468B.215, within a critical ground water area designated by order or pursuant to ORS 537.730**
9 **from increasing the confined animal feeding operation's use of water per day under the ex-**
10 **emption described in ORS 537.545 (1)(a) by more than the limit described in ORS 537.545**
11 **(1)(a).**

12 **(6) When making a determination described in subsection (2) of this section, the Water**
13 **Resources Department may not consider a change of use, place of use or point of diversion**
14 **as legally authorized until the change is approved pursuant to an order described in ORS**
15 **540.530 that is final as a matter of law or is not subject to a pending appeal.**

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

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

18 **(b) A final order or ruling.**

19 **(8) A person that renews a permit under ORS 468B.050 for a confined animal feeding op-**
20 **eration operating under an NPDES or WPCF permit, as described in ORS 468B.215 (2), shall**
21 **attest upon renewal of the permit that the water supply plan for the confined animal feeding**
22 **operation that was previously approved under this section is compliant with this section.**

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

24 **Sec. 7.** (1) A person that applies for a permit under ORS 468B.050 for a confined animal feeding
25 operation operating under an NPDES or WPCF permit, as described in ORS 468B.215 (2), shall sub-
26 mit with the application a water supply plan that identifies all sources of the water that will be used
27 to supply the level and duration of the water needs of the confined animal feeding operation, in-
28 cluding any ancillary operations of the confined animal feeding operation, as described in the ap-
29 plication.

30 (2) After receiving a water supply plan described in subsection (1) of this section, the Depart-
31 ment of Environmental Quality or the State Department of Agriculture shall request that the Water
32 Resources Department review the water supply plan to determine whether the water uses identified
33 in the water supply plan are legally authorized and allowable.

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

37 (4) A water supply plan for a confined animal feeding operation that uses stockwater as de-
38 scribed in ORS 537.545 (1)(a) must use animal water consumption guidelines provided by the State
39 Department of Agriculture to estimate the gallons per day that the confined animal feeding opera-
40 tion will use.

41 (5) The Water Resources Department may recommend that the Department of Environmental
42 Quality or the State Department of Agriculture condition a permit under ORS 468B.050 on [*one or*
43 *more of the following*:]

44 [*(a)*] requiring a confined animal feeding [*operation that uses stockwater, as described in ORS*
45 *537.545 (1)(a), or a person renewing a permit under ORS 468B.050 for a confined animal feeding op-*

1 eration, to:

2 [(A)] (a) Install water metering and submetering devices concerning a new or expanding pro-
3 duction area; and

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

6 [(b) *Prohibiting an expanding confined animal feeding operation, as defined in ORS 468B.215,*
7 *within a critical ground water area designated by order or pursuant to ORS 537.730 from increasing*
8 *the confined animal feeding operation's use of water per day under the exemption described in ORS*
9 *537.545 (1)(a) by more than the limit described in ORS 537.545 (1)(a).]*

10 (6) When making a determination described in subsection (2) of this section, the Water Re-
11 sources Department may not consider a change of use, place of use or point of diversion as legally
12 authorized until the change is approved pursuant to an order described in ORS 540.530 that is final
13 as a matter of law or is not subject to a pending appeal.

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

15 (a) An authorization of water use or water rights.

16 (b) A final order or ruling.

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

21 **SECTION 9. The amendments to section 7 of this 2023 Act by section 8 of this 2023 Act**
22 **become operative on September 15, 2027.**

23
24 **STOCKWATER EXEMPTION**

25
26 **SECTION 10.** ORS 537.545 is amended to read:

27 537.545. (1) [No] A registration, certificate of registration, application for a permit, permit, cer-
28 tificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is
29 **not** required for the use of ground water for:

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

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

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

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

36 (e) Down-hole heat exchange purposes;

37 (f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day;

38 or

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

40 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
41 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
42 for confined animal feeding purposes;

43 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
44 reused water has never been discharged to the waters of the state; and

45 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the

1 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
2 system or ORS 468B.215 to operate a confined animal feeding operation.

3 (2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the
4 extent that the use is beneficial, constitutes a right to appropriate ground water equal to that es-
5 tablished by a ground water right certificate issued under ORS 537.700.

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

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

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

28 (6) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground
29 water use under subsection (5) of this section. Moneys from fees collected under this subsection
30 shall be deposited to the credit of the Water Resources Department Water Right Operating Fund.
31 Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for
32 the purposes of evaluating ground water supplies, conducting ground water studies, carrying out
33 ground water monitoring, processing ground water data and the administration and enforcement of
34 this subsection and subsections (3), (5) and (7) of this section.

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

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

38 537.545. (1) A registration, certificate of registration, application for a permit, permit, certificate
39 of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is not re-
40 quired for the use of ground water for:

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

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

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

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

2 (e) Down-hole heat exchange purposes;

3 (f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day;

4 or

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

6 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
7 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
8 for confined animal feeding purposes;

9 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
10 reused water has never been discharged to the waters of the state; and

11 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
12 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
13 system or ORS 468B.215 to operate a confined animal feeding operation.

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

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

25 (4) If it is necessary for the Water Resources Department to regulate the use or distribution of
26 ground water, including uses for purposes that are exempt under subsection (1) of this section, the
27 department shall use as a priority date for the exempt uses the date indicated in the log for the well
28 filed with the department under ORS 537.765 or other documentation provided by the well owner
29 showing when water use began.

30 (5) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs
31 a well to allow ground water use for a purpose that is exempt under subsection (1) of this section
32 shall provide the Water Resources Department with a map showing the exact location of the well
33 on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that
34 constructs a well shall provide a map required by this subsection to the department, along with the
35 well log required by ORS 537.765, no later than 30 days after the well is completed. The map must
36 be prepared in accordance with standards established by the department. The map and well log must
37 be accompanied by the fee described in subsection (6) of this section to record the exempt ground
38 water use.

39 (6) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground
40 water use under subsection (5) of this section. Moneys from fees collected under this subsection
41 shall be deposited to the credit of the Water Resources Department Water Right Operating Fund.
42 Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for
43 the purposes of evaluating ground water supplies, conducting ground water studies, carrying out
44 ground water monitoring, processing ground water data and the administration and enforcement of
45 this subsection and subsections (3), (5) and (7) of this section.

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

3 **SECTION 12.** The amendments to ORS 537.545 by section 11 of this 2023 Act become op-
4 erative on September 15, 2027.

5
6 **AIR QUALITY**
7

8 **SECTION 13.** (1) Not more than 180 days after the United States Environmental Pro-
9 tection Agency finalizes the National Air Emissions Monitoring Study, the Department of
10 Environmental Quality shall report, in the manner provided by ORS 192.245, to the interim
11 committees of the Legislative Assembly related to agriculture on the findings from the study
12 that relate to animal feeding operations.

13 (2) The report:

14 (a) Must summarize how the findings related to air emissions by confined animal feeding
15 operations may inform an understanding of emissions of air contaminants by animal feeding
16 operations in Oregon.

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

19 (c) May identify a process for developing recommendations to reduce emissions of air
20 contaminants by animal feeding operations, based on the results of the study described in
21 subsection (1) of this section.

22 (3) As used in this section, “NPDES” and “WPCF” have the meanings given those terms
23 in ORS 561.255.
24

25 **LAND USE**
26

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

31 (2) The land use compatibility statement must demonstrate that the requested permit
32 pertains to a land use that is allowable as a permitted or conditional use within the given
33 zoning designation where the land is located.

34 (3) The Department of Environmental Quality or the State Department of Agriculture
35 may not issue the permit under ORS 468B.050 if the land use compatibility statement dem-
36 onstrates that the proposed land use is prohibited in the applicable zone.

37 **SECTION 15.** Notwithstanding ORS 30.935, 215.253 (1) and 633.738, the governing body of
38 a city or county in which a new large confined animal feeding operation, as defined in ORS
39 468B.215, is proposed to be located may require the new large confined animal feeding oper-
40 ation to include a setback or buffer, composed of a natural or created vegetative barrier,
41 berm or terrain, in the production area of the new large confined animal feeding operation,
42 if the parcel of land on which the new large confined animal feeding operation would be lo-
43 cated is adjacent to a parcel on which:

44 (1) A residential structure is lawfully sited; or

45 (2) A structure that was lawfully sited when constructed, but no longer conforms with

1 or is allowed under new or changed land use requirements, is sited.

2
3 **CAPTIONS**

4
5 **SECTION 16.** The unit captions used in this 2023 Act are provided for the convenience
6 of the reader and do not become part of the statutory law of this state or express any leg-
7 islative intent in the enactment of this 2023 Act.

8
9 **EFFECTIVE DATE**

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

14 _____