

SB 80 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

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Meeting Dates: 4/3

WHAT THE MEASURE DOES:

The measure prohibits the Department of Environmental Quality and the Department of Agriculture (ODA) from issuing a National Pollutant Discharge Elimination System permit or a Water Pollution Control Facilities permit to new or expanding large confined animal feeding operations (CAFOs), or to existing CAFOs expanding into a Tier 2 large CAFO as designated by ODA, if the CAFO is located within a groundwater management area. Declares an emergency, effective upon passage.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: May have revenue impact, but no statement yet issued.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The first regulatory program for CAFOs was established by Oregon's Legislative Assembly in 1989, directing the Department of Environmental Quality (DEQ) to issue CAFO permits and the Department of Agriculture (ODA) to inspect CAFO facilities. In 1993, the program was amended to formalize a memorandum of understanding between the Environmental Quality Commission (EQC) and ODA, allowing ODA to manage DEQ and EQC's CAFO-related functions. CAFOs are defined in OAR 603-074-0010 as operations where animals are concentrated, confined and fed in specific conditions, such as in buildings with wastewater treatment or discharging waste into state waters, or those that meet federal criteria for confined feeding operations.

Any person who owns or operates a confined animal feeding operation (CAFO) that discharges water, or discharges water through a wastewater treatment system or by removing liquid waste, into the state's surface waters must obtain a National Pollutant Discharge Elimination System (NPDES) or Water Pollution Control Facilities (WPCF permit).

According to ODA data, as of April, 2024, there are 493 CAFO permit-holding operations of all sizes in Oregon. Most CAFO permits are for dairy operations, but other facilities that meet CAFO requirements for permitting include those for horses, cattle, sheep, swine, chickens, turkeys, quail, egg production, fur farms, and dog kennels.

ORS 468B.215 (Fees; preliminary consultation; permit conditions; inspection by State Department of Agriculture; review) defines "Expanding confined animal feeding operation" as a "confined animal feeding operation that is expanding operational size into a new tier." This statute also defines "Expanding large confined animal feeding operation" as a "large confined animal feeding operation in the largest tier described in ORS 561.255 (2) that is expanding the capacity of the large confined animal feeding operation to manage animal wastes, consistent with the conditions of a permit issued under ORS 468B.050, to more than 20 percent of the capacity of the large confined animal feeding operation."

ORS 561.255 (2) (Permits for confined animal feeding operations or concentrated animal feeding operations; rules; fees) directs ODA to set annual permit fees for CAFOs under general NPDES or WPCF permits. The fees are

based on the operation's size: \$125 for small operations, \$250 for medium, \$400 for Tier 1 large, and \$900 for Tier 2 large operations. ODA has established these tiers within each size category to assess and assign fees.

Groundwater management areas are declared by DEQ if, based on information from monitoring activities, DEQ confirms that groundwater contains contaminants from suspected nonpoint source activities. Specifically, if nitrate levels exceed 70% of established limits, or if other contaminants exceed 50% of their established limits. The declaration must specify the substances detected and the affected groundwater aquifers. Before declaring the area, the DEQ must confirm the results with a second laboratory (ORS 468B.180: Declaration of groundwater management area).