

HOUSE BILL REPORT

E2SHB 2915

As Passed House:

February 13, 1998

Title: An act relating to dairy nutrients management.

Brief Description: Regulating dairy nutrients.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Koster, Chandler, Honeyford and Linville).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/2/98, 2/4/98 [DPS];

Appropriations: 2/7/98 [DP2S(w/o sub AGEC)].

Floor Activity:

Passed House: 2/13/98, 96-0.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin and Sump.

Staff: Carole Richmond (786-7114).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 30 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Jeff Olsen (786-7157).

Background: The federal Clean Water Act establishes requirements and a regulatory framework for discharges to surface waters from dairy farms. The Department of Ecology is authorized to administer the federal Clean Water Act in Washington. In addition, state water quality laws regulate discharges not only to surface waters, but also to ground water.

The Department of Ecology administers a dairy waste management program established in 1993. The program requires operators of concentrated dairy animal feeding operations to apply for a national pollution discharge elimination system (NPDES) permit. In addition, the program requires inspection of dairy farms if there is a third party complaint or if the Department of Ecology believes that a dairy farm is a likely source of water quality degradation. Under the program, dairy farms found to be discharging dairy nutrients into waters of the state are referred to the Conservation Commission and local conservation districts for technical assistance. A dairy producer is required to develop a dairy waste management plan within six months and to implement the plan in the ensuing 18-month period.

In early 1997, the federal Environmental Protection Agency conducted inspections of dairy farms in Washington due to water quality concerns. Because dairy farms are not periodically inspected, the rate of compliance with state and federal water quality laws is not known.

Summary of Bill: The dairy waste management program is modified by requiring dairy farm inspections and dairy nutrient management plans, creating an advisory and oversight committee and technical assistance teams, providing better response times to complaints, creating an account, and changing the fee structure for dairy producers who hold a NPDES permits.

Dairy farm inspections. The Department of Ecology must inspect every dairy farm in the state within two years. The purpose of the inspections is to:

- (1) survey for evidence of significant dairy nutrient discharges;
- (2) identify and recommend corrective actions for actual or imminent discharges;
- (3) monitor the development of dairy nutrient management plans; and
- (4) identify dairy producers who would benefit from technical assistance programs.

At its option, the local conservation district may accompany a Department of Ecology inspector on any scheduled dairy farm inspection, except random unannounced inspections. Copies of department inspection reports must be provided to the dairy producer within 20 days.

Dairy nutrient management plans. Dairy producers must develop and implement a dairy nutrient management plan within three years from the start of the inspection program in

October 1998. The Conservation Commission, in conjunction with the advisory and oversight committee, develops planning requirements that dairy nutrient management plans must meet. A plan is turned in to the local conservation district where it is reviewed and approved. Once the elements of the plan are implemented, a plan is certified by both the local conservation district and the dairy producer. A copy of the certification is provided to the department.

Compliance. A definition of "upset" is provided, which allows certain discharges of pollutants to not be considered violations of water quality requirements. Further clarification is provided in regard to the definition of a dairy animal feeding operation. Holders of a NPDES permit are deemed in compliance with the state and federal clean water acts if, at the time of a discharge, they were operating within the terms of the permit or the conditions of a dairy nutrient management plan, or the discharge was due to a catastrophic or chronic weather event or to an upset.

Information management. To manage and track information from the inspections, as well as other activities, the Department of Ecology, in consultation with the Conservation Commission, must create and maintain a database. Information entered into the database about the dairy management practices of a given dairy producer may be reviewed by that dairy producer, and will be corrected by the department upon a showing that the existing information is faulty.

Advisory and oversight committee and technical assistance teams. An advisory and oversight committee comprised of a balance of interests is created to monitor the overall dairy nutrient management program. Technical assistance teams of persons with expertise in dairy nutrient management are created to serve up to four geographic areas of the state. These teams must develop standards and specifications that are appropriate to the prevailing soils and weather conditions in those areas.

Investigations. The department is required to investigate any written complaint that is made within three days of receiving the complaint. For first offenses of water quality laws, the department may waive a penalty to allow a dairy producer to come into compliance with those laws.

Account created. An account is created to receive any penalties that may be paid by dairy producers for violations of this chapter. The balance in this account may only be used to provide grants to local conservation districts to assist dairy producers in developing and fully implementing dairy nutrient management plans.

Fees. The fee for a NPDES permit issued for discharges related to dairy nutrients is 50 cents per animal unit covered by the permit.

One section of current law is repealed, referring to compliance levels and the respective roles of conservation districts and the department.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Testimony For: (Agriculture & Ecology) A uniform approach aimed at prevention is better than an approach driven by complaints or based on water quality monitoring after a discharge has occurred. When water quality data show contamination, there has already been a discharge. The requirement applies to all dairy farms, but all plans can be different because all farms are different. Alternative standards should be as stringent as federal standards. The goal is to prevent contamination of state and federal waters. Options to mandatory planning should be available. Resources must be provided to carry out this program. The program should be expanded to cover other kinds of feedlots, such as for beef cattle.

(Appropriations) The dairy industry supports clean water and compliance with the Clean Water Act. The bill has been changed three times in the past week and needs to be reviewed by dairy industry representatives. There are concerns about "upset" and "bypass" definitions and a possible conflict with the Clean Water Act. The program needs adequate funding to carry out inspections.

Testimony Against: (Agriculture & Ecology) None.

(Appropriations) None.

Testified: (Agriculture & Ecology) Don Stuart, Washington Association of Conservation Districts; Dave Boon, Washington State Farm Bureau; Karla Kay Fullerton, Washington Cattlemen's Association; Christi Lee, U.S. Environmental Protection Agency; Peter Birch, Washington Department of Fish and Wildlife; Josh Baldi, Washington Environmental Council; Steve Meyer, Conservation Commission; Bruce Wishart, People for Puget Sound; Dick Wallace, Washington Department of Ecology; Vic Jenson, Tony Veiga, Larry Kytola, all with the Washington State Dairy Federation; Patricia Sumption, Friends of Green River; and John Rosapepe, Sierra Club.

(Appropriations) Chris Cheney, Dairy Federation; Bruce Wishart, People for Puget Sound; Megan White, Department of Ecology; and Josh Baldi, Washington Environmental Council (pro with concerns).