

# ANALYSIS OF HB 2191

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House Agriculture & Ecology Committee

March 3, 1997

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## **BACKGROUND:**

Federal water quality laws and regulations require certain dairy farms to be covered by a national pollution discharge elimination system (NPDES) permit. The Department of Ecology (DOE) has been delegated by the federal Environmental Protection Agency to administer these permits. Legislation enacted in 1993 formalized an existing dairy waste management process that had been developed in 1988 between the DOE and the State Conservation Commission. The 1993 legislation assigned duties to the Conservation Commission, to conservation districts, and to the DOE.

Under the legislation, inspections are generally initiated when a complaint is received by the DOE, the Commission, or a local conservation district, or when the The DOE believes that a dairy farm is a likely source of pollution. If the The DOE confirms a water quality violation and the violation is not corrected, the problem is generally referred to the local conservation district. A dairy animal waste management plan is required to be prepared within six months and implemented within 18 additional months. Conservation districts must commit to provide one of four levels of involvement to dairy farmers. Conservation districts at level one provide minimum technical assistance to dairy farmers. At level two, districts provide on-site technical assistance to develop and implement dairy animal waste management plans. At level three, districts provide a greater level technical assistance in plan development and implementation. Conservation districts at level four provide extensive technical assistance for plan development and implementation, and are involved in resolving enforcement actions between the The DOE and a dairy farmer. Most conservation districts have agreed to participate at level three.

The DOE has enforcement responsibilities and conducts inspections if a complaint is filed or if the The DOE believes the farm is a likely source of water pollution. Discharges of pollution into state surface or ground waters is subject to a maximum penalty of up to \$10,000 per violation per day. The Conservation Commission has general responsibilities for coordinating communication between local conservation districts and the DOE.

## **SUMMARY OF THE PROPOSED SUBSTITUTE:**

### Inspections

The regulatory system for dairy waste management is substantially revised. By July 1, 1998, each dairy farm in the state is required to undergo an inspection. The inspections are to be conducted jointly by the DOE and the local conservation district. The DOE has enforcement

responsibilities and local conservation districts are to provide technical assistance to the The DOE and to the dairy farmer. Dairy farms that are determined to have had a direct discharge to state waters and farms that are required to have dairy waste plans are subject to on-going inspections. By December 31, 1997, the the DOE must develop and maintain a system to track dairy waste water quality violations, enforcement actions, and dairy waste management plan implementation.

#### Planning

A dairy farm must prepare a dairy animal waste management plan if it has been documented as having a discharge of waste into state waters or is considered by the the DOE to be a significant contributor of pollution. A plan must be completed within six months and be fully implemented within 18 months. The Conservation Commission is required to develop up to four technical assistance teams to create regionally appropriate standards and specifications for components of a dairy waste plan. In implementing a plan, a farmer may use the standards the regional standards created by the commission's teams, the federal natural resource conservation service, or any specifications certified by a professional engineer.

#### Agency Responsibilities

The four levels of local conservation district involvement are repealed. The The DOE of Ecology has authority to receive complaints, conduct inspections, require the use of appropriate standards for farmers required to plan, develop a regulatory tracking system, and to enforce violations involving discharges into state waters. Local conservation districts are required to forward complaints to the The DOE, provide technical assistance at all inspections, and provide technical assistance to farmers developing or implementing a dairy waste management plan. The Conservation Commission is required to serve as chair of a dairy waste program coordination and oversight committee.

#### Oversight Committee

The oversight and coordination committee is to consist of representatives from the The DOE, the Commission, the Environmental Protection Agency, the natural resources conservation district, the dairy federation, an environmental organization, and the shellfish industry. The committee is to provide oversight to the inspection program. Specific duties include reviewing the development and use of the the DOE's tracking system, monitor the development and use of regional management plan standards, and developing a performance based method to determine the frequency of inspections for farms subject to on-going inspections.

#### Enforcement, Penalties, Account

The DOE is to use its existing enforcement authority under the state's water pollution laws (Chapter 90.48 RCW). No new penalties are created. A dairy waste management account is created. Monetary penalties that are assessed for the first discharge into state waters is to be returned to the dairy farmer committing the violation, if the violation is corrected within two weeks. Monetary penalties for subsequent violations are deposited into the account to assist in the development and implementation of dairy waste management plans.