

ANALYSIS OF PSHB 2915

House Agriculture & Ecology Committee

February 2, 1998

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 State. In addition, state water quality laws regulate discharges not only to surface waters, but also to ground water.

The Department of Ecology currently administers a Dairy Waste Management Program established in 1993. 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 current program, dairy farms that are found to be discharging 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 fully implement the plan in the ensuing 18-month period.

In early 1997, the federal Environmental Protection Agency conducted inspections of dairy farms in one river basin due to water quality concerns and noncompliance by some dairy farms with federal water quality laws. Currently, dairy farms are not periodically inspected, so the rate of compliance with state and federal water quality laws is not known.

SUMMARY OF SUBSTITUTE BILL:

The current program is modified by adding two provisions, creating technical assistance teams and an advisory and oversight committee, providing better response times to complaints, creating an account, and changing the fee structure for dairy producers who hold national pollutant discharge elimination system (NPDES) permits.

The first provision is that the Department of Ecology 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) identify dairy producers who do not have dairy nutrient management plans, or are not implementing an approved plan; and
- (4) identify dairy producers who would benefit from technical assistance programs.

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In conducting dairy farm inspections, the Department of Ecology will invite a representative from the local conservation district to go along, but the decision to go is optional for the conservation district. Copies of inspection reports must be provided to the dairy producer within twenty days.

The second provision is that dairy producers develop and implement a dairy nutrient management plan within a two-year period. The conservation commission develops planning requirements that dairy nutrient management plans must meet. At a minimum, these plans must show a map of the property, waters of the state on or adjacent to the property, structures designed to handle the dairy nutrients produced by the dairy farm operation, the location and size of fields where nutrients may be applied, and any other pertinent information.

A plan is turned in to the local conservation district where it is reviewed and approved. Once the elements of the plan are fully implemented, which can be no later than December 1, 2000, a plan is certified by both the local conservation district and the dairy producer. A copy of the certification is provided to the department.

To manage and track information from the inspections, as well as dairy nutrient management planning information and enforcement actions, the department, in consultation with the conservation commission, creates and maintains a database.

Two new groups are created. First, technical assistance teams of professional engineers and conservation district employees are created to serve up to four geographic areas of the state. These teams develop standards and specifications that are appropriate to the soils and weather conditions that prevail in those geographic areas. Second, an advisory and oversight committee comprised of various interests is created to monitor the overall dairy nutrient management program.

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.

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

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conservation districts to assist dairy producers in developing and fully implementing dairy nutrient management plans.

The fee for a NPDES permit issued for discharges related to dairy nutrients is \$0.50 per head of cattle covered by the permit.

Two sections of current law are repealed, including section 020, referring to requiring a permit for concentrated dairy animal feeding operations, and section 090, referring to compliance levels and the respective roles of conservation districts and the department.

Finally, an emergency is declared and the provisions of this act go into effect immediately.

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