

SENATE BILL REPORT

SSB 6161

As Passed Senate, February 17, 1998

Title: An act relating to dairy nutrient management.

Brief Description: Creating a dairy nutrient management program.

Sponsors: Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Newhouse, Rasmussen and Anderson).

Brief History:

Committee Activity: Agriculture & Environment: 1/15/98, 1/22/98 [DPS-WM].

Ways & Means: 1/29/98, 2/3/98 [DPS (AE)].

Passed Senate, 2/17/98, 47-0.

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6161 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Newhouse, Oke and Rasmussen.

Staff: Bob Lee (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6161 as recommended by Committee on Agriculture & Environment be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Rossi, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Staff: Bob Lee (786-7404)

Background: The federal Clean Water Act establishes requirements and a regulatory framework for the regulation of discharges to surface waters from dairy farms. The federal framework differs for three size categories of dairy operations. The Department of Ecology is authorized to administer the federal Clean Water Act in Washington State. In addition, state water quality laws not only regulate discharges 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. The dairy farm 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, there is not a periodic inspection of dairy farms so the rate of compliance with state and federal water quality laws is not known.

Summary of Bill: The current program is modified by adding options for registration by dairy farms, and establishing a prioritized inspection program. The legislation does not change existing state and federal water quality standards, the availability of technical assistance from conservation districts, authorities to provide a notice of correction for minor violations, nor civil fines for serious or repeat violations.

By July 15 of each year, dairy farms are to register with the Department of Ecology. Farms are to submit information including number of cows and number of acres in the operation. The farm may choose one of four options to demonstrate how compliance with state and federal water quality laws will be achieved:

- (1) Hold a National Pollution Discharge Elimination System (NPDES) Permit;
- (2) Have a fully implemented dairy nutrient management plan that meets technical specifications of the federal Natural Resources Conservation Service (NRCS);
- (3) Will fully implement approved best management practices by September 1999;
or
- (4) Will have water quality monitored and have results submitted to the department.

If the farm chooses to not register, the farm is placed in the "unregistered status category."

Dairy farms are subject to the following inspection policy:

- (1) The department should inspect dairy farms a minimum of once every 24 months.
- (2) Dairy farms that fully implement a plan that meets NRCS specifications are to be inspected at a reduced frequency.
- (3) Dairy farms that are in the unregistered category are to be inspected within the first six months of the closure of the registration period.
- (4) The following categories of farms are the highest priority for inspection:
 - (a) Unregistered farms;
 - (b) Farms for which water quality monitoring show a violation of water quality standards;

- (c) Farms in those watersheds where the department has determined dairy farms are a likely source of water quality degradation; and
- (d) Farms for which the department receives complaints.

A data base is established to monitor the program. The data base records inspection results of dairy farms and the number of inspections and technical assistance activities conducted each month by each inspector.

Nutrient management planning guidelines are to be developed and distributed to conservation districts and interested parties. An advisory committee is to assist in the development of the guidelines.

A Dairy Nutrient Management Program Compliance Review Committee must provide oversight and accountable direction to the program.

An Environmental Excellence Awards Program must be developed to provide non-monetary recognition to dairy farms that have demonstrated exceptional natural resource stewardship. The Dairy Products Commission formulates and administers the awards program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The legislation is needed to better assure compliance with state and federal water quality laws and to provide a safe harbor for dairy farms that are in compliance. The current process of referring noncomplying dairy farms to conservation districts to develop dairy waste management plans needs to be streamlined. A data base to track compliance of dairy farms is needed to improve the accountability of the program.

Testimony Against: Adequate funding for conducting inspections is needed, otherwise the legislation will not be effective. Concerns were expressed about state water quality laws being more stringent than federal laws.

Testified: Jon Rossepepe, Sierra Club; Fred Colvin, Doelman Dairy (pro); Dan Coyne, Darigold Farms (pro); Mike Schwisow, Ore-Wash Dairy Processors Association (pro); Ed Owens, Coalition of Coastal Fisheries (pro); Karen Terwilleger, Assistant Director--Habitat Management, Department of Fish and Wildlife (pro); Karla Kay Fullerton, Washington Cattlemen's Association; Dick Wallace, Department of Ecology; Larry Cochran, Don Stuart, WACD; Debbie Becker, George DeRuyter, Steve DeRuyter, Ladon Linde, Vic Jensen, WSDF; Dave Boon, Washington State Farm Bureau; Bruce Wishart, People for Puget Sound; Josh Baldi, WEC.

House Amendment(s): Registration Options and Farm Plans. The Senate bill provides options for dairy producers to demonstrate how compliance with state and federal water quality laws will be achieved including obtaining a NPDES permit, preparing a farm plan that meets NRCS standards, or conducting periodic water quality monitoring.

The House striking amendment requires that all dairy farms prepare a dairy nutrient management plan that meet standards of the federal Natural Resource Conservation Service (no discharges allowed except in a 25 year/24-hour flood event). Dairy producers submit the plan to the local conservation district and are required to obtain approved no later than July 1, 2002. If the plan does not contain the necessary elements, the conservation district is to notify the dairy producer of the modifications that must be made. If the producer does not make the required modifications, the producer must file an appeal within 30 days. An appeal may be filed with the State Conservation Commission or the Pollution Control Hearings Board. If the State Conservation Commission reverses the decision of the conservation district, the district may appeal this reversal to the Pollution Control Hearings Board.

Once all of the elements of the plan have been put in place, the dairy producer must obtain certification by the conservation district that the plan has been fully implemented. Certification shall be obtained by December 31, 2003 and filed with the Department of Ecology.

The failure to have an approved plan by July 1, 2002, or to obtain certification by December 31, 2003, are considered separate violations. A civil fine may be levied of \$100 a month, or \$200 if neither the plan approval nor certification is obtained. The combined total maximum fine is \$5000. These fines are in addition to civil fines levied for violations of water quality laws. Dairy producers are not to be held responsible for noncompliance with the planning requirements of this chapter if conservation districts receive insufficient funds to perform their duties.

Dairy producers are required to register once every two years with the Department of Ecology and shall include information such as current herd size and number of acres in the operation. The producer is also to provide the names of other farms that dairy nutrients from the producers farm will be applied during the ensuing two-year period.

Inspection of Dairy Farms. The Senate version provides for inspection of dairy farm at least once every two years with additional follow-up inspections when necessary. Dairy producers that have plans that meet NRCS standards are to be inspected less frequently than other farms. The purpose of inspection under the Senate version is to determine whether there is compliance with state and federal water quality laws.

In addition to surveying for evidence of violations, the purpose of the inspection program under the House amendment is to identify corrective actions for actual or imminent discharges that violate or could violate state water quality standards, monitor development and implementation of dairy nutrient management plans, and identify producers who would benefit from technical assistance. All dairy farms are to be inspected once within two years, but inspection frequency after the initial two year period is not specified.

Technical Assistance Teams. The Senate version provides for technical assistance to be provided to dairy farms to the extent funds and staff are available.

The House amendment requires the State Conservation Commission to establish four regional technical assistance teams by June 1, 1998. Each team is to consist of one or more professional engineers, local conservation district employees, and a dairy nutrient management expert from Washington State University. Each team is to develop one or more initial sets of standards for dairy nutrient plans by January 1, 1999. Each team is to assist in developing dairy nutrient management plans.

