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SENATE BILL 6781

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State of Washington

56th Legislature

2000 Regular Session

By Senators Rasmussen and Morton

Read first time 01/27/2000. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to dairy nutrients; amending RCW 90.48.020,  
2 90.48.390, 90.64.150, 90.64.026, 90.64.010, 90.64.023, 90.64.050,  
3 90.64.080, 90.64.130, 90.64.140, 90.64.800, and 90.64.005; adding a new  
4 section to chapter 90.64 RCW; creating new sections; and providing an  
5 expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 90.48.020 and 1995 c 255 s 7 are each amended to read  
8 as follows:

9 ~~((Whenever the word))~~ The definitions in this section apply  
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Person" ~~((is used in this chapter, it shall be construed to))~~  
12 includes any political subdivision, government agency, municipality,  
13 industry, public or private corporation, copartnership, association,  
14 firm, individuals or any other entity whatsoever.

15 ~~((Wherever the words))~~ (2) "Waters of the state" ~~((shall be used in~~  
16 this chapter, they shall be construed to)) includes lakes, rivers,  
17 ponds, streams, inland waters, underground waters, salt waters, and all  
18 other surface waters and watercourses within the jurisdiction of the  
19 state of Washington.

1       (~~Whenever the word~~) (3) "Pollution" (~~is used in this chapter, it~~  
2 ~~shall be construed to~~) means such contamination, or other alteration  
3 of the physical, chemical, or biological properties, of any waters of  
4 the state, including change in temperature, taste, color, turbidity, or  
5 odor of the waters, or such discharge of any liquid, gaseous, solid,  
6 radioactive, or other substance into any waters of the state as will or  
7 is likely to create a nuisance or render such waters harmful,  
8 detrimental, or injurious to the public health, safety, or welfare, or  
9 to domestic, commercial, industrial, agricultural, recreational, or  
10 other legitimate beneficial uses, or to livestock, wild animals, birds,  
11 fish or other aquatic life.

12       (~~Wherever the word~~) (4) "Department" (~~is used in this chapter it~~  
13 ~~shall~~) means the department of ecology.

14       (~~Whenever the word~~) (5) "Director" (~~is used in this chapter it~~  
15 ~~shall~~) means the director of ecology.

16       (~~Whenever the words~~) (6) "Aquatic noxious weed" (~~are used in~~  
17 ~~this chapter, they have~~) has the same meaning as prescribed under RCW  
18 17.26.020.

19       (7) "Dairy farm" means any farm licensed to produce milk under  
20 chapter 15.36 RCW.

21       **Sec. 2.** RCW 90.48.390 and 1991 sp.s. c 13 s 84 are each amended to  
22 read as follows:

23       The coastal protection fund is established to be used by the  
24 department as a revolving fund for carrying out the purposes of  
25 restoration of natural resources under this chapter and chapter 90.56  
26 RCW. To this fund there shall be credited penalties, fees, damages,  
27 charges received pursuant to the provisions of this chapter and chapter  
28 90.56 RCW, compensation for damages received under this chapter and  
29 chapter 90.56 RCW, and an amount equivalent to one cent per gallon from  
30 each marine use refund claim under RCW 82.36.330. However,  
31 notwithstanding any other provision of law, dairy farm-related  
32 penalties received under the provisions of this chapter shall be  
33 credited to the dairy nutrient management account as provided in RCW  
34 90.64.150.

35       Moneys in the fund not needed currently to meet the obligations of  
36 the department in the exercise of its powers, duties, and functions  
37 under RCW 90.48.142, 90.48.366, 90.48.367, and 90.48.368 shall be  
38 deposited with the state treasurer to the credit of the fund.

1       **Sec. 3.** RCW 90.64.150 and 1998 c 262 s 15 are each amended to read  
2 as follows:

3       The dairy ((~~waste~~)) nutrient management account is created in the  
4 custody of the state treasurer. All receipts from monetary penalties  
5 levied pursuant to violations of this chapter and from dairy farm-  
6 related violations of chapter 90.48 RCW must be deposited into the  
7 account. Expenditures from the account may be used only for the  
8 commission to provide grants to local conservation districts for the  
9 sole purpose of assisting dairy producers to develop and fully  
10 implement dairy nutrient management plans. Only the ((~~chairman~~)) chair  
11 of the commission or the ((~~chairman's~~)) chair's designee may authorize  
12 expenditures from the account. The account is subject to allotment  
13 procedures under chapter 43.88 RCW, but an appropriation is not  
14 required for expenditures.

15       NEW SECTION.   **Sec. 4.** The legislature finds that:

16       (1) Complying with the laws regarding dairy nutrient management is  
17 a burdensome yet laudable task that the dairy farmers of this state  
18 have undertaken;

19       (2) The dairy nutrient management standards and specifications of  
20 the natural resources conservation service were the most rigorous in  
21 the nation when the dairy nutrient management act was enacted in 1998;

22       (3) Those standards, as they existed in 1998, continue to be  
23 appropriate standards for proper management of dairy nutrients, despite  
24 modification by the natural resources conservation service since 1998;

25       (4) Dairy farmers cannot comply with constantly changing  
26 requirements. The uncertainty constant change creates is an  
27 unnecessary drain on limited resources; and

28       (5) If management standards change substantively, there should be  
29 a method for all parties concerned with proper dairy nutrient  
30 management to consider and implement changes without causing  
31 disruption, uncertainty, or an unnecessary drain on resources.

32       **Sec. 5.** RCW 90.64.026 and 1998 c 262 s 6 are each amended to read  
33 as follows:

34       (1) Except for those producers who already have a certified dairy  
35 nutrient management plan as required under the terms and conditions of  
36 an individual or general national pollutant discharge elimination  
37 system permit, all dairy producers licensed under chapter 15.36 RCW,

1 regardless of size, shall prepare a dairy nutrient management plan. If  
2 at any time a dairy nutrient management plan fails to prevent the  
3 discharge of pollutants to waters of the state, it shall be required to  
4 be updated.

5 (2) By November 1, 1998, the conservation commission(~~(, in~~  
6 ~~conjunction with the advisory and oversight committee established under~~  
7 ~~section 8 of this act)) shall develop a document clearly describing the~~  
8 elements that a dairy nutrient management plan must contain to gain  
9 local conservation district approval.

10 (3) In developing the elements that an approved dairy nutrient  
11 management plan must contain, the commission may authorize the use of  
12 other methods and technologies than those developed by the natural  
13 resources conservation service (~~(when such alternatives have been~~  
14 ~~evaluated by the advisory and oversight committee)). Alternative~~  
15 methods and technologies shall meet the standards and specifications  
16 of:

17 (a) The natural resources conservation service, as those standards  
18 and specifications existed on July 1, 1998, and as modified by the  
19 geographically based standards developed under RCW 90.64.140; or

20 (b) A professional engineer with expertise in the area of dairy  
21 nutrient management.

22 (~~(In evaluating alternative technologies and methods, the~~  
23 ~~principal objectives of the committee's evaluation shall be~~  
24 ~~determining:~~

25 (~~(a) Whether there is a substantial likelihood that, once~~  
26 ~~implemented, the alternative technologies and methods would not violate~~  
27 ~~water quality requirements;~~

28 (~~(b) Whether more cost effective methods can be successfully~~  
29 ~~implemented in some or all categories of dairy operations; and~~

30 (~~(c) Whether the technologies and methods approved or provided by~~  
31 ~~the natural resources conservation service for use by confined animal~~  
32 ~~feeding operations are necessarily required for other categories of~~  
33 ~~dairy operations.~~

34 In addition, ~~the committee shall encourage the conservation~~  
35 ~~commission and the conservation districts to apply in dairy nutrient~~  
36 ~~management plans technologies and methods that are appropriate to the~~  
37 ~~needs of the specific type of operation and the specific farm site and~~  
38 ~~to avoid imposing requirements that are not necessary for the specific~~  
39 ~~dairy producer to achieve compliance with water quality requirements.~~

1       ~~(5))~~ Such plans shall be submitted for approval to the local  
2 conservation district where the dairy farm is located, and shall be  
3 approved by conservation districts no later than by July 1, 2002. The  
4 conservation commission, in conjunction with conservation districts,  
5 shall develop a state-wide schedule of plan development and approval to  
6 ensure adequate resources are available to have all plans approved by  
7 July 1, 2002.

8       ~~((6))~~ (5) If a dairy producer leases land for dairy production  
9 from an owner who has prohibited the development of capital  
10 improvements, such as storage lagoons, on the leased property, the  
11 dairy producer shall indicate in his or her dairy nutrient management  
12 plan that such improvements are prohibited by the landowner and shall  
13 describe other methods, such as land application, that will be employed  
14 by the dairy producer to manage dairy nutrients.

15       ~~((7))~~ (6) Notwithstanding the timelines in this section, any  
16 dairy farm licensed after September 1, 1998, shall have six months from  
17 the date of licensing to develop a dairy nutrient management plan and  
18 another eighteen months to fully implement that plan.

19       ~~((8))~~ (7) If a plan contains the elements identified in  
20 subsection (2) of this section, a conservation district shall approve  
21 the plan no later than ninety days after receiving the plan. If the  
22 plan does not contain the elements identified in subsection (2) of this  
23 section, the local conservation district shall notify the dairy  
24 producer in writing of modifications needed in the plan no later than  
25 ninety days after receiving the plan. The dairy producer shall provide  
26 a revised plan that includes the needed modifications within ninety  
27 days of the date of the local conservation district notification. If  
28 the dairy producer does not agree with, or otherwise takes exception  
29 to, the modifications requested by the local conservation district, the  
30 dairy producer may initiate the appeals process described in RCW  
31 90.64.028 within thirty days of receiving the letter of notification.

32       ~~((9))~~ (8) An approved plan shall be certified by a conservation  
33 district and a dairy producer when the elements necessary to implement  
34 the plan have been constructed or otherwise put in place, and are being  
35 used as designed and intended. A certification form shall be developed  
36 by the conservation commission for use state-wide and shall provide for  
37 a signature by both a conservation district representative and a dairy  
38 producer. Certification forms shall be signed by December 31, 2003,

1 and a copy provided to the department for recording in the data base  
2 established in RCW 90.64.130.

3 ~~((10))~~ (9) The ability of dairy producers to comply with the  
4 planning requirements of this chapter depends, in many cases, on the  
5 availability of federal and state funding to support technical  
6 assistance provided by local conservation districts. Dairy producers  
7 shall not be held responsible for noncompliance with the planning  
8 requirements of this chapter if conservation districts are unable to  
9 perform their duties under this chapter because of insufficient  
10 funding.

11 (10) The conservation commission may, after public hearing and due  
12 consideration, including comment from the department of ecology, adopt  
13 standards and specifications of the natural resources conservation  
14 service that were not in existence on July 1, 1998. Producers affected  
15 by new standards and specifications have five years from the date the  
16 commission adopts the new standards and specifications to comply with  
17 the new standards and specifications.

18 NEW SECTION. Sec. 6. (1) In consultation with the state  
19 conservation commission and local conservation districts, the office of  
20 financial management shall develop recommendations to provide adequate  
21 funding for the dairy nutrient management program established pursuant  
22 to chapter 90.64 RCW. The recommendations shall include an  
23 identification of need, if any, for additional funding for each of the  
24 following purposes: (a) To perform functions required by conservation  
25 districts and the state conservation commission; (b) to provide  
26 technical assistance for development of plans; and (c) for cost-share  
27 moneys for implementation of the plans based on fifty percent of the  
28 eligible costs to be derived from public sources. The recommendations  
29 shall be for the amount of funding required each fiscal year for these  
30 purposes assuming that the deadlines established in chapter 262, Laws  
31 of 1998 will be met. If a lower level of funding is recommended, then  
32 the recommendation for additional funding shall be accompanied by a  
33 recommendation that the deadlines established in RCW 90.64.030(9) be  
34 extended to a specified date.

35 (2) The office of financial management shall submit its written  
36 recommendations to the co-chief clerks of the house of representatives  
37 and the secretary of the senate before December 20, 2000.

1        NEW SECTION.    **Sec. 7.**    The legislature finds that:

2        (1) Dairy nutrient management involves the knowledge of many areas  
3 and the possession of many skills besides engineering;

4        (2) While engineering is important to a correctly designed system,  
5 it is only part of the necessary skills, specialized knowledge, and  
6 considerations required to create proper dairy nutrient management; and

7        (3) Trained technicians, with the help of established technical  
8 manuals and guidelines, and working in consultation with a professional  
9 engineer when appropriate, can design and implement proper dairy  
10 nutrient management systems.

11        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 90.64 RCW  
12 to read as follows:

13        (1) Work carried out by technical assistance teams in order to  
14 comply with this chapter meets the requirements of chapter 18.43 RCW.  
15 Professional engineers may work in conjunction with technicians and  
16 need not have direct supervision over technicians in implementing this  
17 chapter.

18        (2) The provisions of this section apply to all dairy nutrient  
19 management plans developed under this chapter, whether developed prior  
20 to or after the effective date of this section.

21        NEW SECTION.    **Sec. 9.**    The legislature finds that substantial  
22 progress has been made in implementing the dairy nutrient management  
23 act since its enactment in 1998. Though the involved agencies and  
24 interest groups are cooperatively working to meet the deadlines  
25 established in that legislation, insufficiency of funding or unexpected  
26 obstacles, if not quickly remedied, will cause a delay in the  
27 implementation of the legislation and noncompliance with established  
28 deadlines.

29        The purpose of sections 10 through 17 of this act is to combine the  
30 advisory and oversight committee with the dairy nutrient task force  
31 that includes legislative participation to provide continuity to  
32 monitoring and problem-solving efforts.

33        NEW SECTION.    **Sec. 10.**    (1) A dairy nutrient management task force  
34 is established. The task force shall be comprised of up to thirteen  
35 members, appointed as follows:

1 (a) Two members of the house of representatives, one from each  
2 major caucus, appointed by the co-speakers of the house of  
3 representatives;

4 (b) Two members of the senate, one from each major caucus,  
5 appointed by the president of the senate;

6 (c) A representative of the department of ecology, appointed by the  
7 director of ecology;

8 (d) A representative of the state conservation commission,  
9 appointed by its executive secretary;

10 (e) A representative of local conservation districts, appointed by  
11 the president of a state-wide association of conservation districts;

12 (f) Three active dairy farmers or representatives of dairy farmers,  
13 appointed by a state-wide organization representing dairy farmers in  
14 the state, who shall represent the different regions and different  
15 sizes of dairy operations;

16 (g) A representative of an environmental interest organization with  
17 familiarity and expertise in water quality issues, appointed by  
18 agreement of the co-speakers of the house of representatives and the  
19 president of the senate;

20 (h) A representative of shellfish growers, appointed by the  
21 president of a state-wide association of shellfish growers;

22 (i) A representative of local health districts appointed by the  
23 president of a state-wide association of local health districts; and

24 (j) In addition to other members appointed under this subsection  
25 (1):

26 (i) The executive director of the state conservation commission  
27 shall request that a representative of the federal natural resource  
28 conservation service be appointed by the state conservationist; and

29 (ii) The director of the department of ecology shall request that  
30 a representative of the federal environmental protection agency be  
31 appointed by the regional director of the environmental protection  
32 agency.

33 (2) The task force shall meet three times per year, or more if  
34 necessary, to monitor the progress and provide oversight of the dairy  
35 nutrient management program administered by the department of ecology,  
36 the conservation commission, and local conservation districts. The  
37 task force shall include but not be limited to examination of the  
38 following topics:



1 (a) Determining whether the necessary progress is being attained so  
2 that deadlines established in chapter 262, Laws of 1998, for the  
3 development, approval, implementation, and final certification of dairy  
4 nutrient management plans will be achieved;

5 (b) Monitoring the development of and review recommendations for  
6 adequate funding for the various components of the program;

7 (c) Successful incorporation of engineering services into the  
8 existing system of technical assistance for the design and construction  
9 of dairy nutrient management plans; and

10 (d) Resolution of the conflict between the state public records  
11 laws and federal privacy laws in regards to processing of requests for  
12 dairy nutrient management plans when requests are submitted to staff  
13 that operate under different directives but share common office space.

14 (3) By December 20th of each year, the task force shall:

15 (a) Provide recommendations to the department of ecology, to the  
16 conservation commission, and to local conservation districts for  
17 improvements in the implementation of the dairy nutrient management  
18 program; and

19 (b) Provide recommendations to the legislature on statutory changes  
20 to clarify and improve the operations of various facets of the program.

21 (4) The task force shall convene as soon as possible upon  
22 appointment of its members. The task force shall elect a chair or co-  
23 chairs and adopt rules for conducting the business of the task force.  
24 Staff support for the task force shall be provided by the department of  
25 ecology.

26 (5) This section expires June 30, 2004.

27 **Sec. 11.** RCW 90.64.010 and 1998 c 262 s 2 are each amended to read  
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section apply throughout this chapter.

31 (1) (~~"Advisory and oversight committee" means a balanced committee~~  
32 ~~of agency, dairy farm, and interest group representatives convened to~~  
33 ~~provide oversight and direction to the dairy nutrient management~~  
34 ~~program.~~

35 (2)) "Bypass" means the intentional diversion of waste streams  
36 from any portion of a treatment facility.

1       (~~(3)~~) (2) "Catastrophic" means a tornado, hurricane, earthquake,  
2 flood, or other extreme condition that causes an overflow from a  
3 required waste retention structure.

4       (~~(4)~~) (3) "Certification" means:

5       (a) The acknowledgment by a local conservation district that a  
6 dairy producer has constructed or otherwise put in place the elements  
7 necessary to implement his or her dairy nutrient management plan; and

8       (b) The acknowledgment by a dairy producer that he or she is  
9 managing dairy nutrients as specified in his or her approved dairy  
10 nutrient management plan.

11       (~~(5)~~) (4) "Chronic" means a series of wet weather events that  
12 precludes the proper operation of a dairy nutrient management system  
13 that is designed for the current herd size.

14       (~~(6)~~) (5) "Conservation commission" or "commission" means the  
15 conservation commission under chapter 89.08 RCW.

16       (~~(7)~~) (6) "Conservation districts" or "district" means a  
17 subdivision of state government organized under chapter 89.08 RCW.

18       (~~(8)~~) (7) "Concentrated dairy animal feeding operation" means a  
19 dairy animal feeding operation subject to regulation under this chapter  
20 which the director designates under RCW 90.64.020 or meets the  
21 following criteria:

22       (a) Has more than seven hundred mature dairy cows, whether milked  
23 or dry cows, that are confined; or

24       (b) Has more than two hundred head of mature dairy cattle, whether  
25 milked or dry cows, that are confined and either:

26       (i) From which pollutants are discharged into navigable waters  
27 through a manmade ditch, flushing system, or other similar manmade  
28 device; or

29       (ii) From which pollutants are discharged directly into surface or  
30 ground waters of the state that originate outside of and pass over,  
31 across, or through the facility or otherwise come into direct contact  
32 with the animals confined in the operation.

33       (~~(9)~~) (8) "Dairy animal feeding operation" means a lot or  
34 facility where the following conditions are met:

35       (a) Dairy animals that have been, are, or will be stabled or  
36 confined and fed for a total of forty-five days or more in any twelve-  
37 month period; and

38       (b) Crops, vegetation forage growth, or postharvest residues are  
39 not sustained in the normal growing season over any portion of the lot

1 or facility. Two or more dairy animal feeding operations under common  
2 ownership are considered, for the purposes of this chapter, to be a  
3 single dairy animal feeding operation if they adjoin each other or if  
4 they use a common area for land application of wastes.

5 ~~((10))~~ (9) "Dairy farm" means any farm that is licensed to  
6 produce milk under chapter 15.36 RCW.

7 ~~((11))~~ (10) "Dairy nutrient" means any organic waste produced by  
8 dairy cows or a dairy farm operation.

9 ~~((12))~~ (11) "Dairy nutrient management plan" means a plan meeting  
10 the requirements established under RCW 90.64.026.

11 ~~((13))~~ (12) "Dairy nutrient management technical assistance team"  
12 means one or more professional engineers and local conservation  
13 district employees convened to serve one of four distinct geographic  
14 areas in the state.

15 ~~((14))~~ (13) "Dairy producer" means a person who owns or operates  
16 a dairy farm.

17 ~~((15))~~ (14) "Department" means the department of ecology under  
18 chapter 43.21A RCW.

19 ~~((16))~~ (15) "Director" means the director of the department of  
20 ecology, or his or her designee.

21 ~~((17))~~ (16) "Upset" means an exceptional incident in which there  
22 is an unintentional and temporary noncompliance with technology-based  
23 permit effluent limitations because of factors beyond the reasonable  
24 control of the dairy. An upset does not include noncompliance to the  
25 extent caused by operational error, improperly designed treatment  
26 facilities, inadequate treatment facilities, lack of preventive  
27 maintenance, or careless or improper operation.

28 ~~((18))~~ (17) "Violation" means the following acts or omissions:

29 (a) A discharge of pollutants into the waters of the state, except  
30 those discharges that are due to a chronic or catastrophic event, or to  
31 an upset as provided in 40 C.F.R. Sec. 122.41, or to a bypass as  
32 provided in 40 C.F.R. Sec. 122.41, and that occur when:

33 (i) A dairy producer has a current national pollutant discharge  
34 elimination system permit with a wastewater system designed, operated,  
35 and maintained for the current herd size and that contains all process-  
36 generated wastewater plus average annual precipitation minus  
37 evaporation plus contaminated storm water runoff from a twenty-five  
38 year, twenty-four hour rainfall event for that specific location, and  
39 the dairy producer has complied with all permit conditions, including

1 dairy nutrient management plan conditions for appropriate land  
2 application practices; or

3 (ii) A dairy producer does not have a national pollutant discharge  
4 elimination system permit, but has complied with all of the elements of  
5 a dairy nutrient management plan that: Prevents the discharge of  
6 pollutants to waters of the state, is commensurate with the dairy  
7 producer's current herd size, and is approved and certified under RCW  
8 90.64.026;

9 (b) Failure to register as required under RCW 90.64.017; or

10 (c) The lack of an approved dairy nutrient management plan by July  
11 1, 2002; or

12 (d) The lack of a certified dairy nutrient management plan for a  
13 dairy farm after December 31, 2003.

14 **Sec. 12.** RCW 90.64.023 and 1998 c 262 s 5 are each amended to read  
15 as follows:

16 (1) By October 1, 1998, the department shall initiate an inspection  
17 program of all dairy farms in the state. The purpose of the  
18 inspections is to:

19 (a) Survey for evidence of violations;

20 (b) Identify corrective actions for actual or imminent discharges  
21 that violate or could violate the state's water quality standards;

22 (c) Monitor the development and implementation of dairy nutrient  
23 management plans; and

24 (d) Identify dairy producers who would benefit from technical  
25 assistance programs.

26 (2) Local conservation district employees may, at their discretion,  
27 accompany department inspectors on any scheduled inspection of dairy  
28 farms except random, unannounced inspections.

29 (3) Follow-up inspections shall be conducted by the department to  
30 ensure that corrective and other actions as identified in the course of  
31 initial inspections are being carried out. The department shall also  
32 conduct such additional inspections as are necessary to ensure  
33 compliance with state and federal water quality requirements, provided  
34 that all licensed dairy farms shall be inspected once within two years  
35 of the start of this program. The department(~~(, in consultation with~~  
36 ~~the advisory and oversight committee established in section 8 of this~~  
37 ~~act,~~) shall develop performance-based criteria to determine the  
38 frequency of inspections.

1 (4) Dairy farms shall be prioritized for inspection based on the  
2 development of criteria that include, but are not limited to, the  
3 following factors:

4 (a) Existence or implementation of a dairy nutrient management  
5 plan;

6 (b) Proximity to impaired waters of the state; and

7 (c) Proximity to all other waters of the state. ((The criteria  
8 developed to implement this subsection (4) shall be reviewed by the  
9 advisory and oversight committee.))

10 **Sec. 13.** RCW 90.64.050 and 1998 c 262 s 12 are each amended to  
11 read as follows:

12 (1) The department has the following duties:

13 (a) Identify existing or substantial potential water quality  
14 problems resulting from dairy farms through implementation of the  
15 inspection program in RCW 90.64.023;

16 (b) Inspect a dairy farm upon the request of a dairy producer;

17 (c) Receive, process, and verify complaints concerning discharge of  
18 pollutants from all dairy farms;

19 (d) Determine if a dairy-related water quality problem requires  
20 immediate corrective action under the Washington state water pollution  
21 control laws, chapter 90.48 RCW, or the Washington state water quality  
22 standards adopted under chapter 90.48 RCW. The department shall  
23 maintain the lead enforcement responsibility;

24 (e) Administer and enforce national pollutant discharge elimination  
25 system permits for operators of concentrated dairy animal feeding  
26 operations, where required by federal regulations and state laws or  
27 upon request of a dairy producer;

28 (f) ~~((Participate on the advisory and oversight committee;~~

29 ~~(g)))~~ Encourage communication and cooperation between local  
30 department personnel and the appropriate conservation district  
31 personnel;

32 ~~((h)))~~ (g) Require the use of dairy nutrient management plans as  
33 required under this chapter for entities required to plan under this  
34 chapter; and

35 ~~((i)))~~ (h) Provide to the commission ~~((and the advisory and  
36 oversight committee))~~ an annual report of dairy farm inspection and  
37 enforcement activities.

1 (2) The department may not delegate its responsibilities in  
2 enforcement.

3 **Sec. 14.** RCW 90.64.080 and 1998 c 262 s 14 are each amended to  
4 read as follows:

5 (1) The conservation commission has the following duties:

6 (a) Provide assistance as may be appropriate to the conservation  
7 districts in the discharge of their responsibilities as management  
8 agencies in dairy nutrient management program implementation;

9 (b) Provide coordination for conservation district programs at the  
10 state level through special arrangements with appropriate federal and  
11 state agencies, including oversight of the review, approval, and  
12 certification of dairy nutrient management plans;

13 (c) Inform conservation districts of activities and experiences of  
14 other conservation districts relative to agricultural water quality  
15 protection, and facilitate an interchange of advice, experience, and  
16 cooperation between the districts;

17 (d) Provide an informal hearing for disputes between dairy  
18 producers and local conservation districts pertaining to: (i) Denial  
19 of approval or denial of certification of dairy nutrient management  
20 plans; (ii) modification or amendment of plans; (iii) conditions  
21 contained in plans; (iv) application of any dairy nutrient management  
22 practices, standards, methods, and technologies to a particular dairy  
23 farm; and (v) the failure to adhere to the plan review and approval  
24 timelines identified in RCW 90.64.026. An informal hearing may also  
25 provide an opportunity for dairy producers who are constrained from  
26 timely compliance with the planning requirements of this chapter  
27 because of financial hardship or local permitting delays to petition  
28 for additional time to comply;

29 (e) Encourage communication between the conservation district  
30 personnel and local department personnel;

31 ~~(f) ((Accept nominations and appoint members to serve on the  
32 advisory and oversight committee with advice of the Washington  
33 association of conservation districts and the department;~~

34 ~~(g) Provide a cochair to the advisory and oversight committee;~~

35 ~~(h))~~ Report to the legislature by December 1st of each year until  
36 2003 on the status of dairy nutrient management planning and on the  
37 technical assistance provided to dairy producers in carrying out the  
38 requirements of this chapter; and

1       (~~(i)~~) (g) Work with the department to provide communication  
2 outreach to representatives of agricultural and environmental  
3 organizations to receive feedback on implementation of this chapter.

4       (2) The commission's capability to carry out its responsibilities  
5 under this chapter is contingent upon the availability of funding and  
6 resources to implement a dairy nutrient management program.

7       **Sec. 15.** RCW 90.64.130 and 1998 c 262 s 9 are each amended to read  
8 as follows:

9       (1) By October 1, 1998, the department(~~(, in consultation with the~~  
10 ~~advisory and oversight committee,)~~) shall develop and maintain a data  
11 base to account for the implementation of this chapter.

12       (2) The data base shall track registrations; inspection dates and  
13 results, including findings of violations; regulatory and enforcement  
14 actions; and the status of dairy nutrient management plans. In  
15 addition, the number of dairy farm inspections by inspector shall be  
16 tallied by month. (~~(A summary of data base information shall be~~  
17 ~~provided quarterly to the advisory and oversight committee.)~~)

18       (3) Any information entered into the data base by the department  
19 about any aspect of a particular dairy operation may be reviewed by the  
20 affected dairy producer upon request. The department shall correct any  
21 information in the data base upon a showing that the information is  
22 faulty or inaccurate. Complaints that have been filed with the  
23 department and determined to be unfounded, invalid, or without merit  
24 shall not be recorded in the data base. Appeals of decisions related  
25 to dairy nutrient management plans to the pollution control hearings  
26 board or to any court shall be recorded, as well as the decisions of  
27 those bodies.

28       **Sec. 16.** RCW 90.64.140 and 1998 c 262 s 10 are each amended to  
29 read as follows:

30       (1) The conservation commission shall establish four dairy nutrient  
31 management technical assistance teams by June 1, 1998. The teams shall  
32 be geographically located throughout the state. Each team shall  
33 consist of one or more professional engineers, local conservation  
34 district employees, and dairy nutrient management experts from  
35 Washington State University. The purpose of the teams is to:

36       (a) Actively develop and promote new cost-effective approaches for  
37 managing dairy nutrients; and

1 (b) Assist dairy farms in developing dairy nutrient management  
2 plans.

3 (2) By January 1, 1999, each team shall develop one or more initial  
4 sets of standards and specifications to assist dairy producers in  
5 developing and implementing dairy nutrient management plans. Standards  
6 and specifications developed by a technical assistance team shall be  
7 appropriate to the soils and other conditions within that geographic  
8 area (~~and shall be reviewed by the advisory and oversight committee~~).

9 **Sec. 17.** RCW 90.64.800 and 1998 c 262 s 17 are each amended to  
10 read as follows:

11 The department, in conjunction with the conservation commission  
12 (~~and advisory and oversight committee~~), shall report to the  
13 legislature by December 1st of each year until 2003, on progress made  
14 in implementing chapter 262, Laws of 1998. At a minimum, the reports  
15 shall include data on inspections, the status of dairy nutrient  
16 planning, compliance with water quality standards, and enforcement  
17 actions. The report shall also provide recommendations on how  
18 implementation of chapter 262, Laws of 1998 could be facilitated for  
19 dairy producers and generally improved.

20 The conservation commission shall include in the report to the  
21 legislature filed December 1, 1999, an evaluation of whether the fiscal  
22 resources available to the commission, to conservation districts, and  
23 to Washington State University dairy nutrient management experts are  
24 adequate to fund the technical assistance teams established under RCW  
25 90.64.140 and to develop and certify plans as required by the schedule  
26 established in RCW 90.64.026. If the funding is insufficient, the  
27 report shall include an estimate of the amount of funding necessary to  
28 accomplish the schedule contained in RCW 90.64.026.

29 **Sec. 18.** RCW 90.64.005 and 1998 c 262 s 1 are each amended to read  
30 as follows:

31 The legislature finds that there is a need to establish a clear and  
32 understandable process that provides for the proper and effective  
33 management of dairy nutrients that affect the quality of surface or  
34 ground waters in the state of Washington. The legislature finds that  
35 there is a need for a program that will provide a stable and  
36 predictable business climate upon which dairy farms may base future  
37 investment decisions.



1       The legislature finds that federal regulations require a permit  
2 program for dairies with over seven hundred head of mature cows and,  
3 other specified dairy farms that directly discharge into waters or are  
4 otherwise significant contributors of pollution. The legislature finds  
5 that significant work has been ongoing over a period of time and that  
6 the intent of this chapter is to take the consensus that has been  
7 developed and place it into statutory form.

8       It is also the intent of this chapter to establish an inspection  
9 and technical assistance program for dairy farms to address the  
10 discharge of pollution to surface and ground waters of the state that  
11 will lead to water quality compliance by the industry. A further  
12 purpose is to create a balanced program involving technical assistance,  
13 regulation, and enforcement (~~((with coordination and oversight of the~~  
14 ~~program by a committee composed of industry, agency, and other~~  
15 ~~representatives))). Furthermore, it is the objective of this chapter to  
16 maintain the administration of the water quality program as it relates  
17 to dairy operations at the state level.~~

18       It is also the intent of this chapter to recognize the existing  
19 working relationships between conservation districts, the conservation  
20 commission, and the department of ecology in protecting water quality  
21 of the state. A further purpose of this chapter is to provide  
22 statutory recognition of the coordination of the functions of  
23 conservation districts, the conservation commission, and the department  
24 of ecology pertaining to development of dairy ~~((waste))~~ nutrient  
25 management plans for the protection of water quality.

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