
SENATE BILL 5332

State of Washington

57th Legislature

2001 Regular Session

By Senators Rasmussen and Morton

Read first time 01/19/2001. Referred to Committee on Agriculture & International Trade.

1 AN ACT Relating to dairy nutrient management; amending RCW
2 90.64.026; and creating a new section.

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

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

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

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

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

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

17 (5) If management standards change substantively, there should be
18 a method for all parties concerned with proper dairy nutrient

1 management to consider and implement changes without causing
2 disruption, uncertainty, or an unnecessary drain on resources.

3 **Sec. 2.** RCW 90.64.026 and 1998 c 262 s 6 are each amended to read
4 as follows:

5 (1) Except for those producers who already have a certified dairy
6 nutrient management plan as required under the terms and conditions of
7 an individual or general national pollutant discharge elimination
8 system permit, all dairy producers licensed under chapter 15.36 RCW,
9 regardless of size, shall prepare a dairy nutrient management plan. If
10 at any time a dairy nutrient management plan fails to prevent the
11 discharge of pollutants to waters of the state, it shall be required to
12 be updated.

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

18 (3) In developing the elements that an approved dairy nutrient
19 management plan must contain, the commission may authorize the use of
20 other methods and technologies than those developed by the natural
21 resources conservation service when such alternatives have been
22 evaluated by the advisory and oversight committee. Alternative methods
23 and technologies shall meet the standards and specifications of:

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

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

29 (4) In evaluating alternative technologies and methods, the
30 principal objectives of the committee's evaluation shall be
31 determining:

32 (a) Whether there is a substantial likelihood that, once
33 implemented, the alternative technologies and methods would not violate
34 water quality requirements;

35 (b) Whether more cost-effective methods can be successfully
36 implemented in some or all categories of dairy operations; and

37 (c) Whether the technologies and methods approved or provided by
38 the natural resources conservation service for use by confined animal

1 feeding operations, as those standards and specifications existed on
2 July 1, 1998, are necessarily required for other categories of dairy
3 operations.

4 In addition, the committee shall encourage the conservation
5 commission and the conservation districts to apply in dairy nutrient
6 management plans technologies and methods that are appropriate to the
7 needs of the specific type of operation and the specific farm site and
8 to avoid imposing requirements that are not necessary for the specific
9 dairy producer to achieve compliance with water quality requirements.

10 (5) Such plans shall be submitted for approval to the local
11 conservation district where the dairy farm is located, and shall be
12 approved by conservation districts no later than by July 1, 2002. The
13 conservation commission, in conjunction with conservation districts,
14 shall develop a statewide schedule of plan development and approval to
15 ensure adequate resources are available to have all plans approved by
16 July 1, 2002.

17 (6) If a dairy producer leases land for dairy production from an
18 owner who has prohibited the development of capital improvements, such
19 as storage lagoons, on the leased property, the dairy producer shall
20 indicate in his or her dairy nutrient management plan that such
21 improvements are prohibited by the landowner and shall describe other
22 methods, such as land application, that will be employed by the dairy
23 producer to manage dairy nutrients.

24 (7) Notwithstanding the timelines in this section, any dairy farm
25 licensed after September 1, 1998, shall have six months from the date
26 of licensing to develop a dairy nutrient management plan and another
27 eighteen months to fully implement that plan.

28 (8) If a plan contains the elements identified in subsection (2) of
29 this section, a conservation district shall approve the plan no later
30 than ninety days after receiving the plan. If the plan does not
31 contain the elements identified in subsection (2) of this section, the
32 local conservation district shall notify the dairy producer in writing
33 of modifications needed in the plan no later than ninety days after
34 receiving the plan. The dairy producer shall provide a revised plan
35 that includes the needed modifications within ninety days of the date
36 of the local conservation district notification. If the dairy producer
37 does not agree with, or otherwise takes exception to, the modifications
38 requested by the local conservation district, the dairy producer may

1 initiate the appeals process described in RCW 90.64.028 within thirty
2 days of receiving the letter of notification.

3 (9) An approved plan shall be certified by a conservation district
4 and a dairy producer when the elements necessary to implement the plan
5 have been constructed or otherwise put in place, and are being used as
6 designed and intended. A certification form shall be developed by the
7 conservation commission for use statewide and shall provide for a
8 signature by both a conservation district representative and a dairy
9 producer. Certification forms shall be signed by December 31, 2003,
10 and a copy provided to the department for recording in the data base
11 established in RCW 90.64.130.

12 (10) The ability of dairy producers to comply with the planning
13 requirements of this chapter depends, in many cases, on the
14 availability of federal and state funding to support technical
15 assistance provided by local conservation districts. Dairy producers
16 shall not be held responsible for noncompliance with the planning
17 requirements of this chapter if conservation districts are unable to
18 perform their duties under this chapter because of insufficient
19 funding.

20 (11) The conservation commission may, after public hearing and due
21 consideration, including comment from the department of ecology, in
22 accordance with the administrative procedure act, chapter 34.05 RCW,
23 adopt standards and specifications of the natural resources
24 conservation service that were not in existence on July 1, 1998.
25 Producers affected by new standards and specifications have five years
26 from the date the commission adopts the new standards and
27 specifications to comply with the new standards and specifications.

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