

# HOUSE BILL REPORT

## SSB 5677

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**As Passed House:**  
April 8, 2009

**Title:** An act relating to the dairy nutrient management program.

**Brief Description:** Regarding the dairy nutrient management program.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senator Hatfield).

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 3/17/09, 3/26/09 [DP].

**Floor Activity**

Passed House: 4/8/09, 97-1.

**Brief Summary of Substitute Bill**

- Authorizes the Director of the Washington State Department of Agriculture to apply for a search warrant authorizing access to a dairy farm.
- Creates a violation for failure to maintain records that show that the application of nutrients to land was applied within acceptable agronomic rates.
- Repeals several statutes.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 13 members: Representatives Blake, Chair; Grant-Herriot, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Liias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

**Staff:** Jaclyn Ford (786-7339)

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In 1998 the Legislature enacted the Dairy Nutrient Management Act requiring dairies to develop by July 1, 2002, farm plans to protect water quality. The Department of Ecology (DOE) was given responsibility to regularly inspect dairies and to develop and issue a Dairy General National Pollutant Discharge Elimination System (NPDES) permit. The Conservation Commission, through conservation districts, was charged with providing technical assistance and cost-share to dairy farms to develop and implement their nutrient management plans by December 31, 2003.

In 2003 the Legislature transferred to the Washington State Department of Agriculture (WSDA) the Dairy Nutrient Management Program that had been administered since 1998 by the DOE. The WSDA has the responsibility to regularly inspect dairies but does not have the authority to request a search warrant if denied access to a dairy operation. If the WSDA is denied access, the WSDA has to rely on the DOE's statutory authority to obtain access.

Dairy Nutrient Management Plans and the Natural Resource Conservation Service (NRCS) standards include requirements to apply nutrients within agronomic rates to prevent discharges of nutrients to waters of the state. The NRCS requires records of nutrient applications to be maintained for three years.

Dairies that hold the NPDES permits are currently required to keep nutrient applications records for five years. Violations include when: (1) a discharge occurs, or (2) nutrients are applied in excess of agronomic rates.

#### **Summary of Bill:**

##### Inspection of Dairy Farms.

The Director of the WSDA may, at a reasonable time, enter a dairy farm for the purpose of inspecting and investigating conditions relating to water pollution.

If the Director of the WSDA is denied access to a dairy farm, the Director may apply for a search warrant authorizing access to the property to conduct tests, inspect the property, take samples, and examine records.

Before the court issues a warrant, the Director of the WSDA must file with the court an affidavit or declaration containing a description of his or her attempts to secure consent for access by the owner of the dairy farm.

##### Violations.

It is a violation to fail to maintain records that show that the application of nutrients to land were applied within acceptable agronomic rates. Beginning July 1, 2011, it is a violation to fail to maintain those records for five years.

##### Deletions.

The definition for "dairy nutrient management technical assistance team" is removed.

The RCW 90.64.015 (Environmental excellence program agreements — Effect on chapter) is repealed. This statute makes a legal requirement, including any standard, limitation, rule, or

order, superseded and replaced with the terms and provisions of an environmental excellence program agreement.

The RCW 90.64.140 (Technical assistance teams — Standards and specifications for dairy nutrient management plans) is repealed. This statute establishes the four dairy nutrient management technical assistance teams by the Conservation Commission.

The RCW 90.64.160 (Grants for dairy producers — Statement of environmental benefits — Development of outcome-focused performance measures) is repealed. This statute requires grant applicants to state the environmental benefits of their project in their applications and requires the conservation districts to use the statement of environmental benefits in their prioritization and selection process. The statute also requires the conservation districts to develop appropriate outcome-focused performance measures to be used to manage and assess the performance of the grant program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Some things were missed when the Dairy Nutrient Management Program was transferred from the DOE to the WSDA back in 2003. This bill helps improve the ability for the WSDA to act and implement Dairy Nutrient Management Plans and carry out the program.

(Opposed) None.

**Persons Testifying:** Chris Cheney, Washington Dairy Federation; and Mary Beth Lang, Washington State Department of Agriculture.

**Persons Signed In To Testify But Not Testifying:** None.