

SENATE BILL REPORT

SB 5309

As of February 1, 1995

Title: An act relating to entry for the purposes of water pollution investigations on agricultural land.

Brief Description: Revising department of ecology entry authority for water quality complaints caused by agricultural activity.

Sponsors: Senators Morton, Rasmussen, Deccio and Hochstatter.

Brief History:

Committee Activity: Ecology & Parks: 2/1/95.

SENATE COMMITTEE ON ECOLOGY & PARKS

Staff: Cathy Baker (786-7708)

Background: Washington State has been delegated administration of the National Pollution Discharge Elimination System (NPDES) permit program under the federal Clean Water Act. NPDES permits are required for discharges of wastewater to surface waters of the state. Most feedlots and dairy operations are required to obtain an NPDES permit.

The federal act requires delegated states to have adequate statutory authority to conduct inspections of regulated facilities pursuant to federal standards. Among the federal requirements, states must have: 1) a right of entry to any facility where an effluent source is located; and 2) access, at reasonable times, to inspect the facility and/or water quality records.

Under current state law, the Department of Ecology may enter public or private property, at reasonable times, for the purpose of inspecting and investigating conditions relating to the pollution of any waters of the state.

Summary of Bill: In conducting water quality inspections on agricultural land used for livestock production, the Department of Ecology must follow certain procedures. First, the department must receive a complaint demonstrating cogent, site-specific scientific evidence that waters of the state are being polluted. Additional information requirements are specified. Second, the department must notify the person against whom a complaint is filed and the property owner (if they are not the same), and receive permission to enter the property for inspection purposes.

In conducting the inspection, the department must observe the terms of any permit or agreement it may have with the person against whom the complaint is filed.

The department may execute a valid search warrant for legal entry onto private agricultural property for inspection purposes authorized under law.

The department must also have cogent, site-specific scientific evidence before issuing an order or a notice of violation to any wastewater discharge permittee.

Appropriation: None.

Fiscal Note: Requested on January 24, 1995.

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