

HOUSE BILL REPORT

HB 2915

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to dairy nutrients management.

Brief Description: Regulating dairy nutrients.

Sponsors: Representatives Koster, Chandler, Honeyford and Linville.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/2/98, 2/4/98 [DPS];
Appropriations: 2/7/98 [DP2S(w/o sub AGECE)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin and Sump.

Staff: Carole Richmond (786-7114).

Background: The federal Clean Water Act establishes requirements and a regulatory framework for discharges to surface waters from dairy farms. The Department of Ecology is authorized to administer the federal Clean Water Act in Washington State. In addition, state water quality laws regulate discharges not only 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. A dairy producer 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 Washington State due to water quality concerns. Currently, dairy farms are not periodically inspected, so the rate of compliance with state and federal water quality laws is not known.

Summary of Substitute Bill: The current program is modified by adding two provisions, creating technical assistance teams and an advisory and oversight committee, providing better response times to complaints, creating an account, and changing the fee structure for dairy producers who hold national pollutant discharge elimination system (NPDES) permits.

The first provision is that the Department of Ecology inspect every dairy farm in the state within two years. The purpose of the inspections is to:

- (1) survey for evidence of significant dairy nutrient discharges;
- (2) identify and recommend corrective actions for actual or imminent discharges;
- (3) identify dairy producers who do not have dairy nutrient management plans, or are not implementing an approved plan; and
- (4) identify dairy producers who would benefit from technical assistance programs.

At its option, the local conservation district may accompany a Department of Ecology inspector on a dairy farm inspection. Copies of department inspection reports must be provided to the dairy producer within 20 days.

The second provision is that dairy producers develop and implement a dairy nutrient management plan within a two-year period. The Conservation Commission, in conjunction with the advisory and oversight committee, develops planning requirements that dairy nutrient management plans must meet. A plan is turned in to the local conservation district where it is reviewed and approved. Once the elements of the plan are fully implemented, which can be no later than December 1, 2000, a plan is certified by both the local conservation district and the dairy producer. A copy of the certification is provided to the department.

Two definitions are provided: "bypass" and "upset." Both terms are used in the context of concentrated animal feeding operations under a NPDES permit. The definitions of "concentrated dairy animal feeding operation" and "dairy animal feeding operation" from the current law are retained, and further clarification is provided in regard to the definition of a dairy animal feeding operation. Holders of a NPDES permit are deemed in compliance with the state and federal clean water acts if, at the time of a discharge, they were operating within the terms of the permit or the conditions of a dairy nutrient management plan.

To manage and track information from the inspections, as well as on dairy nutrient management planning and enforcement actions, the Department of Ecology, in

consultation with the Conservation Commission, creates and maintains a database. Information entered into the database about the dairy management practices of a given dairy producer may be reviewed by that dairy producer, and will be corrected by the department upon a showing that the existing information is faulty.

Two new groups are created. First, technical assistance teams of professional engineers and conservation district employees are created to serve up to four geographic areas of the state. These teams develop standards and specifications that are appropriate to the prevailing soils and weather conditions in those areas. Second, an advisory and oversight committee comprised of various interests is created to monitor the overall dairy nutrient management program.

The department is required to investigate any written complaint that is made within three days of receiving the complaint. For first offenses of water quality laws, the department may waive a penalty to allow a dairy producer to come into compliance with those laws.

An account is created to receive any penalties that may be paid by dairy producers for violations of this chapter. The balance in this account may only be used to provide grants to local conservation districts to assist dairy producers in developing and fully implementing dairy nutrient management plans.

The fee for a NPDES permit issued for discharges related to dairy nutrients is 50 cents per head of cattle covered by the permit.

One section of current law is repealed, referring to compliance levels and the respective roles of conservation districts and the department.

Substitute Bill Compared to Original Bill: The definitions of a concentrated dairy animal feeding operation and dairy animal feeding operation are deleted. The conditions under which a discharge is not a violation of the state and federal clean water act are limited to holding a permit and having in place a wastewater system of a certain capacity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: A uniform approach aimed at prevention is better than an approach driven by complaints or based on water quality monitoring after a discharge has occurred. When water quality data show contamination, there has already been a discharge. The requirement applies to all dairy farms, but all plans can be different because all farms are different. Alternative standards should be as stringent as federal

standards. The goal is to prevent contamination of state and federal waters. Options to mandatory planning should be available. Resources must be provided to carry out this program. The program should be expanded to cover other kinds of feedlots, such as for beef cattle.

Testimony Against: None.

Testified: Don Stuart, Washington Association of Conservation Districts; Dave Boon, Washington State Farm Bureau; Karla Kay Fullerton, Washington Cattlemen's Association; Christi Lee, U.S. Environmental Protection Agency; Peter Birch, Washington Department of Fish and Wildlife; Josh Baldi, Washington Environmental Council; Steve Meyer, Conservation Commission; Bruce Wishart, People for Puget Sound; Dick Wallace, Washington Department of Ecology; Vic Jenson, Tony Veiga, Larry Kytola, all with the Washington State Dairy Federation; Patricia Sumption, Friends of Green River; and John Rosapepe, Sierra Club.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 30 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Jeff Olsen (786-7157).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: If specific funding is not provided in the Omnibus Appropriations Act, the bill is null and void.

Appropriation: None.

Fiscal Note: Requested on January 26, 1998.

Effective Date: The bill contains an emergency clause and takes effect immediately. However, the bill is null and void unless funded in the budget.

Testimony For: The dairy industry supports clean water and compliance with the Clean Water Act. The bill has been changed three times in the past week and needs to be reviewed by dairy industry representatives. There are concerns about "upset" and

"bypass" definitions and a possible conflict with the Clean Water Act. The program needs adequate funding to carry out inspections.

Testimony Against: None.

Testified: Chris Cheney, Dairy Federation; Bruce Wishart, People for Puget Sound; Megan White, Department of Ecology; and Josh Baldi, Washington Environmental Council (pro with concerns).