

3182

Sponsor(s): Representatives Chandler, Talcott and Schoesler

Brief Description: Concerning national pollutant discharge elimination system permits for application of aquatic pesticides.

HB 3182 - DIGEST

Declares that effective aquatic pest control is crucial to maintaining and enhancing agricultural, aquacultural, fishing, and recreational opportunities as well as the quality of life in Washington.

Recognizes that aquatic pesticides are an integral part of strategies to eliminate and control the growth of aquatic pests, and that aquatic pesticides include a variety of chemicals, such as herbicides, insecticides, piscicides, and algaecides, that are applied in our state's lakes, rivers, and estuaries.

Declares that the ninth circuit court of appeals concluded in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3d 526 (9th cir. 2001), that an application of aquatic herbicides into an irrigation canal was the discharge of a pollutant to navigable waters from a point source.

Recognizes that the ninth circuit court of appeals in the *Talent* decision concluded that such an application required a national pollutant discharge elimination system (NPDES) permit.

Recognizes that the court in the *Talent* decision also determined that compliance with the registration and labeling requirements of the federal insecticide, fungicide, and rodenticide act (FIFRA) did not obviate the need for the NPDES permit.

Declares the state should require NPDES permits for application of aquatic pesticides only when such requirement is consistent with federal environmental protection agency guidance and federal permitting requirements in nondelegated states. The legislature therefore intends to require this consistency in the state's NPDES permit program.

Declares an intent to transfer authority for issuing any NPDES permits required for application of aquatic pesticides from the department of ecology to the department of agriculture, subject to federal approval, and provide for permit program operations until federal approval of transfer of this authority is obtained.

Provides that, by December 31, 2004, the department of ecology and the department of agriculture shall jointly submit to the legislature a progress report regarding the transfer of the aquatic pesticides permit program and the federal approval and include in that report recommendations for any statutory or regulatory changes necessary to facilitate the transfer.