

2867-S2

Sponsor(s): House Committee on Agriculture & Ecology (originally sponsored by Representatives Fromhold, Ogden, McMorris, Grant, Haigh and Delvin)

Brief Description: Mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as the result of a recent court decision.

**HB 2867-S2 - DIGEST**

(DIGEST AS ENACTED)

Finds that the recent federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) imposes a duty to obtain a national pollutant discharge elimination system permit under the clean water act for the application of pesticides to irrigation canals. This duty is also extended to other individuals and organizations that apply pesticides to other waters, where no duty existed before the *Talent* decision.

Finds that the costs associated with the issuance of the national pollutant discharge elimination system permit now required by the department of ecology as a result of the federal decision is burdensome to the affected individuals and organizations.

Declares an intent to reduce the burden of the federal decision on those individuals and organizations.

Declares that the fee for a general permit or an individual permit developed solely as a result of the federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) is limited, until June 30, 2003, to a maximum of three hundred dollars. Such a permit is required only, and as long as, the interpretation of this court decision is not overturned or modified by future court rulings, administrative rule making, or clarification of scope by the United States environmental protection agency or legislative action. In such a case the department shall take appropriate action to rescind or modify these permits.