

May 26, 2010

To: Source Control Small Group

From: Nina Bell

Re: **Municipal Source Control** ** revised **

This is a proposed approach rather than a “list.” It attempts to address SB 737 and CWA 304(a) pollutants together but distinguishes them where it seems more appropriate to do so. The goals below are intended to be met by the objectives that follow.

Goals:

- **Authority.** All municipalities should have authority to control point and nonpoint pollution inputs to their collection systems.
- **Point Source Controls.** (*Industrial and commercial discharges*) Oregon should have consistent treatment requirements for certain industrial and commercial sources of toxic pollutants, regardless of water quality impacts. This is essentially “technology-based” control. The rationale for this pollution prevention approach includes: 1) half the new human health criteria are below quantitation limits so they cannot be measured at the POTW point of discharge; 2) controlling at the source of the pollution places the burden on the source and is more efficient (prior to dilution); and 3) public resources should not pay for private benefits just because a source discharges to a sewer system instead of a public waterbody.
 - **CWA 304(a) pollutants:** Sources should be regulated regardless of whether an exceedance of criteria is identified at point of discharge or in receiving water.
Rationale: Half the human health criteria are below quantitation limits.
 - **SB 737 pollutants:** Regulation of sources only if trigger level is exceeded at POTW point of discharge. *Rationale:* Consistent with SB 737 implementation.
- **Nonpoint Controls.** (*Land and households*) All municipalities should be required to control nonpoint sources (e.g., local bans) by local ordinance where SB 737 pollutants are a known problem (over trigger level) or CWA 304(a) pollutants are a known or suspected problem.
- **Resource Constraints.** We need an approach that balances current widespread lack of resources (municipal, DEQ) with forward progress on the above goals.

Objectives:

- Rule: Major municipalities to adopt sewer use ordinance by [DATE].
- Rule: Non-major municipalities to adopt sewer use ordinance by [LATER DATE].
- Rule: All municipalities that contract to have sewage treated by other municipalities to adopt sewer use ordinances by [DATE].
- DEQ Action: Possible alternative to any requirements on adoption of sewer use ordinance

for non-major municipalities: DEQ to issue WPCF(s) to cover industrial and commercial discharges to sewer collection systems.

- Municipalities would still have to assist DEQ by providing information on sources.
- Could be further limited to high priority pollutants and/or high priority sources.

- Recommendation: Recommend that the Commission endorse a statewide sewer charge to fund legislative creation of a nonprofit that would provide source control services to smaller municipalities (i.e., establish and revise ordinance(s), identify sources, issue permits or assist with WPCF permitting, inspection, and enforcement) and a DEQ FTE to oversee the program.

- Possible approach: Require major municipalities that have existing federal pretreatment programs to do more, or to do it sooner, than those without federal pretreatment programs on the basis that the former have more resources and existing infrastructure to address source control in the near future.

- Rule: Major municipalities to include in their sewer use ordinance by [DATE] the following restrictions:
 - Local ordinances and education programs to control disposal of pharmaceuticals from sources not required to register under the federal Controlled Substances Act. Non-registrants may include: coroners' offices, elementary and secondary schools, long-term care facilities, veterinarians and households.
 - Increase regulation of federal pretreatment "categorical discharges" by: (1) regulating pollutants that are unregulated through federal program; (2) regulating those *without* EPA-issued total toxic organics (TTO) limits; (3) evaluate *existing* TTO limits for categorical dischargers in the following sectors: electroplating, metal finishing, metal molding and casting, coil coating, aluminum forming, copper forming, electrical and electronic components.
 - Regulate industrial discharges not deemed to be "significant" (process water under 25,000 gallons/day) or "categorical" under the federal pretreatment program but which discharge toxics.
 - Establish priority pollutant list (CWA or SB 737) and/or priority source list to focus controls on pollutants of greatest concern and/or sources contributing greatest loads. (An SB 737 pollutant would have to exceed the trigger level to trigger actions but, once triggered, the actions would be regulatory, not voluntary, in nature.)
 - DEQ would update these lists later to expand the program.
 - Regulate commercial facilities – e.g., radiator shops, car washes, hospitals, laundries, and photo processors. As with industrial dischargers not regulated under federal pretreatment discussed immediately above, priority pollutants and priority sources would be identified for initial regulation and updated later.

- Other: ACWA to provide assistance and models for municipalities to adopt sewer use ordinances.
- Rule: Major municipalities to include nonpoint source controls by local ordinances (e.g., local bans) if: SB 737 triggers are exceeded, or for 304(a) criteria: 1) receiving water (including tissue/sediment) violates CWA 304(a) criteria; 2) discharge contains measurable levels of 304(a) criteria; or 3) criteria are below quantitation limits. This is not difficult; as of May 9, 2010, 166 municipalities in Canada have adopted municipal pesticide ordinances. See: <http://www.flora.org/healthyottawa/BylawList.pdf>
- Recommendation: Recommend that the Commission endorse a legislative approach to identifying sources of toxics which are widespread in the State from product use or disposal and state-wide action on product bans or substitutions.
- Rule/Other: DEQ should develop Source Control manuals to address key pollutants from dischargers to POTWs which could be incorporated into pretreatment or other source control programs, DEQ-issued WPCF permits, and/or incorporated in municipalities' NPDES permits. Such BMPs would include: 1) model municipal ordinances to ban use of products by households; 2) treatment and handling requirements for certain commercial sources of toxic pollutants; and 3) treatment and handling requirements for certain industrial dischargers. The scope of this effort would be limited by the priority setting process described above for both industrial and commercial sources. Perhaps ACWA could assist by identifying the most stringent limits its members have used.