

# **TOXICS REDUCTION STRATEGY GROUP**

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## **Problem Statement: for Wastewater Treatment Plant Dischargers in meeting WA State's current and forthcoming Toxics Water Quality Standards**

Many municipal and industrial wastewater treatment facilities are faced with extremely stringent discharge limitations for toxic contaminants through the adoption of state water quality human health criteria and limitations of the Federal Clean Water Act to mitigate the implementation of water quality standards. Wastewater treatment facilities typically do not generate toxics, but are tasked with treating contaminants that enter the plants as a consequence of consumer products, stormwater, ambient deposition, contaminants in the intake water (legacy compounds and naturally-occurring elements) or manufactured products that contain toxic by-products. The proposed state water quality human health criteria will result in discharge limitations that may be unattainable with currently available technologies or the addition of technologies that are prohibitively expensive and produce little benefit.

Limitations of the Clean Water Act (CWA) further exacerbate the ability of our wastewater treatment plants to comply with prospective human health criteria. The CWA limits the number and types of implementation tools that the wastewater dischargers may use to comply with very stringent or unattainable limits. In many cases, non-point sources (run-off from agricultural, urban, construction, mining and forest lands containing fertilizers, herbicides, insecticides, oil, grease, toxic chemicals, sediments, etc.) are a significantly greater contributor of toxic contaminants to our watersheds, but emphasis continues to be placed on point source discharges (wastewater treatment plants), since the CWA does not provide for direct regulation of non-point sources.

Permitting of new facilities requiring discharge permits or existing facilities seeking to expand (municipal or industrial growth) in an impaired water body are in further jeopardy due to more stringent water quality criteria and recent case law. A Ninth Circuit U.S. Court of Appeals decision prohibits any new or expanded discharges into an impaired water body until a water quality attainment plan has been adopted and approved by EPA. There are few implementation tools permissible under the CWA, so this ruling virtually eliminates future growth on impaired water bodies. The adoption of more stringent state water quality human health criteria will result in a significant increase to the number of impaired water bodies (all of Puget Sound is, for example, likely to be listed as impaired for PCBs), preventing expansion of hundreds of existing municipal and industrial wastewater dischargers, and halting any new growth.

The combination of more stringent human health criteria, limitations of the CWA and case law, places an inequitable economic burden on cities, counties and ports and threatens the economic viability of state businesses. Non-compliance with these ever increasing standards subjects these facilities to risk of fines, citizen lawsuits and perpetual investment into plant improvements. The existing regulatory structure is insufficient to achieve WA State's progressive water quality standards through regulation of treatment plants alone and creates a threat to the current and future economic vitality of the state.