

Toxic Reduction Advisory Committee

Meeting Summary

June 23, 2008

The first meeting of the Toxics Reduction Advisory Committee (TRAC) was held on June 23, 2008 in Seattle, Washington at Seattle University. These notes are available on the Department of Ecology's website.¹

The following Committee members attended the meeting:

- **Ray Carveth**, King County Local Hazardous Waste Management Program
- **Joyce Cooper**, University of Washington Department of Mechanical Engineering
- **Alan Durning**, Sightline Institute
- **Kelly Flynn**, BP Cherry Point
- **Jim Jesernig**, Agricultural Industry
- **Steve Gilbert**, Institute of Neurotoxicology and Neurological Disorders
- **Ray Lam**, Boise Cascade Paper Division
- **Alan Link**, Washington State Labor Council
- **Mo McBroom**, Washington Environmental Council
- **Darin Rice**, Washington State Department of Ecology
- **Claudia Rojas**, Crown Cork and Seal Co. (entered late)
- **Ivy Sager-Rosenthal**, Washington Toxics Coalition
- **Gary Smith**, Independent Business Association

The following Committee members were unable to attend the meeting:

- **Wayne Clifford**, Washington State Department of Health
- **Mel Oleson**, The Boeing Company
- **Daryl Robins**, GE Aviation LLC Yakima

The following Department of Ecology staff presented information:

- **Tom Boucher**, Washington State Department of Ecology
- **Dennis Johnson**, Washington State Department of Ecology
- **Darin Rice**, Washington State Department of Ecology
- **Ken Zarker**, Washington State Department of Ecology

The following representatives from government agencies signed in:

- **Kathy Davis**, Washington State Department of Ecology
- **Peggy Morgan**, Washington State Department of Ecology

Additional stakeholders and members of the public who attended the meeting:

- **Laura Blackmore**, Cascadia Consulting Group
- **Gwen Vernon**, Cascadia Consulting Group

¹ <http://www.ecy.wa.gov/programs/hwtr/TRAC/index.html>

Marc Daudon (Cascadia Consulting Group) facilitated the meeting, and Matt Schoellhamer (Cascadia Consulting Group) took notes.

Convening and Introductions

Darin Rice convened the meeting with introductions of the Committee. Marc Daudon reviewed the meeting agenda and materials.

Introductions of the Toxic Reduction Advisory Committee

Each member of the Committee introduced themselves in turn, providing their name, affiliated organization, and professional background relevant to the subject material under discussion.

Review of Meeting Agenda and Materials

Marc Daudon introduced himself as the facilitator for these meetings. He clarified his role as facilitator and introduced Darin Rice as the convener. Marc summarized the meeting agenda for the day, and introduced Laura Blackmore as his replacement facilitator for the next Committee meeting.

Orientation and Purpose

Darin Rice provided an overview of the scope, timelines, and goals of the Committee's work. Committee members had questions and comments.

Summary of Darin's Overview

The Washington Department of Ecology works on a wide spectrum of toxics issues, from site cleanup and enforcement of hazardous waste regulations on the downstream end, to pollution planning and technical assistance on the upstream end. We intend for this Committee to address the upstream end of the chain: how we reduce the use of toxics so that we don't have to engage as much in the more costly acts of cleanup and regulation. This initiative to reduce toxics use also overlaps with a number of other current Ecology initiatives, especially with the initiative to restore Puget Sound by 2020.

The TRAC Budget Proviso charges the Committee with the following five tasks:

1. Review and develop recommendations to help businesses achieve a 50% toxics reduction use goal.
2. Develop strategies to improve Ecology's technical assistance to businesses. Ecology currently has a range of approaches of varying complexity; how can we improve them?
3. Develop strategy recommendations to help Ecology move away from an "end of the pipe" approach.
4. Make recommendations regarding the hazardous waste planning fee including incentives to reward businesses for successes in reaching a 50% toxics reduction use goal.
5. Send findings and recommendations from this Committee to the Legislature by November 1, 2008. This process could inform legislation that would appear as early as the next legislative session.

The Department of Ecology asked that the scope of this Committee be focused in the following areas:

- Regarding the 50% toxics reduction goal, I would ask that we think more about what the process toward achieving this goal looks like, rather than focusing intently on the number 50%.
- Addressing the distinction between use of toxics and hazardous waste. In the past, we have focused on the waste side of the equation. For example, the amount of hazardous waste generated is used to calculate the planning fee. Now we want to address use.
- Those businesses that currently complete pollution prevention plans, which is approximately 600 businesses. This is the tip of the business iceberg, but it is our population: P2 planners.

This Committee is working within the broader context of a national and international shift to green chemistry practices. Our goal is to be a part of this process: to reduce the use of toxics while still maintaining the functionality of consumer and industrial products.

To achieve its goals of toxic use reduction, Ecology requested that the Committee assist with the following four tasks related to the Legislature's original charges:

- Identify tools to make Ecology's current business technical assistance program more effective and increase businesses' emphasis on toxics use reduction.
- Identify changes that should be made to Ecology's strategies and approaches. What planning options should exist for facilities with advanced approaches to environmental management?
- Should a Toxics Use Reduction Institute (TURI) program, such as is used in Massachusetts, be established in Washington?
- Develop improvements to the hazardous waste planning fee that will make it more equitable and provide incentives for toxics use reduction. Ultimately, Ecology would like the Committee to answer the question of whether the fees should be based on toxics used instead of waste.

Questions and comments from committee members regarding orientation and purpose

- **How does the annual report on reducing toxics fit in with this process? Have businesses been doing a good job? The State needs to recognize and announce the positive things businesses have done with waste reduction, rather than continuing to go after businesses with new demands.**
Comments: The State has had great success reducing waste; now it needs to move to chemical use. One member said that, while the waste reduction goals set out in 1990 were met, they were met ten years behind schedule, in 2005 instead of 1995. Members commented that this is a lesson from the past process, that businesses need to be thanked for their positive contributions, timelines need to be adhered to, and forging public/private partnerships is important.
- **We need to identify what a toxic is. There have been questions regarding the toxicity of certain elemental minerals that businesses are working with.**
Comments: One member commented on the need to take a precautionary approach. We need to look at full cost accounting for these materials and processes, not just the upfront costs to businesses. What are the life cycle costs of not reducing toxics?

Review Committee Purpose and Establish Operating Guidelines and Decision Making Processes

Marc Daudon identified Committee Members' understanding of the Committee's purpose and charges, and facilitated a discussion establishing the protocols that will govern the Committee's operation and decision making.

Review Committee Purpose

Marc questioned the Committee about their knowledge of the history of the legislation directing this process, the legislation itself, and related topics. Several members claimed a solid understanding of the legislation itself. A few members also claimed a solid understanding of the P2 planning process. No one claimed an understanding of the TURI program. Only three members felt knowledgeable about the structure of the planning fee.

Additional information will be provided to Committee members on the following topics: specific details of current technical assistance programs; how the P2 planning process affects businesses; TURI; and the structure of the planning fee.

Establish Operating Guidelines and Decision Making Processes

Marc suggested the Committee use a modified consensus process to make decisions and recommendations. For each issue, the Committee will identify possible findings and recommendations, determine areas of consensus and divergence, and ultimately present both areas of consensus and alternate points of view to the legislature. While the Committee will not be required to reach consensus, the priority will still be to identify those areas of consensus. If there is no consensus, the conclusions will not be diluted to create meaningless recommendations; rather, divergent points of view will be presented that fairly represent the thoughts of the group. This model will serve to present the most complete picture of the issues to the legislature, while still alerting them to key areas of converging opinion.

Concerns and recommendations regarding the modified consensus proposal

- What is the role of Ecology in this Committee? Is it convening the meeting, or participating as well?
 - Ecology is both convening the Committee and serving as a Committee member. Darin Rice, Ecology's representative on the Committee, will have equal standing with the other Committee members.
- We should not use voting. These issues are nuanced and do not lend themselves to a yes/no vote.
- Modified consensus will be good for the Legislature because they will be interested in a summary of both the issues and the opinions. They should receive all of the input.
- The Committee should strive to stay issue focused, rather than individual focused.
- A true consensus model can tend to produce "vanilla" conclusions that mean nothing.
- Members of the committee are confident in Marc's facilitation abilities.
- The members of the Committee have political incentives to try to reach consensus much of the time.

- I am comfortable with modified consensus if there are rules governing what consensus is and how it will be defined.
- I am uncomfortable with the fact that Marc has no experience applying this process in other groups.
- If we use a true consensus model, there is a good chance the Legislature will adopt our recommendations. They might be less inclined to do so if we present a divided opinion.
- What incentive is there to work towards consensus if every time a member disagrees with the majority they get their own page in the report?
- There need to be rules identified for what modified consensus is; right now the rule is that Marc will make up the rules as we go along, and I am not comfortable with that.

A majority of Committee members favored adopting a modified consensus process, and agreed upon the **following rules to govern the modified consensus process:**

- The Committee will strive for consensus, based on a thumbs up/down voting system.
- Dissenters are under an obligation to make their views known, and to represent them accurately. They should not disagree to filibuster or slow down the process.
- If disagreement persists, the facilitator will have the authority to form a working group of interested parties to address the issue, and shall ensure that it has specific goals and deadlines.
- The Committee will strive for a solution, but recognizes the need to keep moving if there is a deadlock.

Identify Behavior Guidelines for Committee Meetings

The Committee identified the need for rules governing member conduct during meetings, and agreed to the following:

- No interruptions.
- Turn off cell ringers before the meeting starts.
- Treat other members as you would like to be treated: with respect.
- Come to meetings with an open mind.
- Intend no malice with what you say, assume no malice in what you hear.
- Don't "monkey wrench" or play devils advocate. Represent your interests and those of your constituents; don't disagree just to disagree.
- Make an effort to be both present and engaged.
 - It was acknowledged that some members will not be able to stay fully engaged at all times, but will still be able to pay attention to the proceedings. It was agreed to respect this need.

Overview and Background

Ken Zarker presented an orientation to P2 planning. Washington State began focusing on toxic waste issues in 1988, with the passage of the Office of Waste Reduction Act. The Office of Waste Reduction encouraged voluntary waste reduction by businesses with assistance from the Department of Ecology. In 1990, the legislature passed a law requiring pollution prevention planning. This law targeted certain waste generating businesses, requiring them to submit five year pollution prevention plans. While implementing these plans was optional, the State achieved its goal of a 50% reduction in commercial toxic waste generation. This achievement has not only reduced the amount of toxic material released into the environment, but has sometimes served to save businesses money.

Washington has achieved these results because businesses understand that: toxic waste reduction saves them money, improves employee health, and enhances their public image; the Department of Ecology provides technical assistance and other innovative programs; and interest groups provide technical research and lobbying.

However, it is no longer as productive to address waste only; the State needs to expand its focus to address the production, use, and life cycle of toxic chemicals. We are moving forward, and we are doing so at a time when the public and the media are increasingly aware of toxic issues. The current national landscape looks like this:

- Over 40 states have enacted pollution prevention legislation.
- Washington is the only state in the country with a persistent bioaccumulative toxin (PBT) strategy.
- Washington has several single chemical restrictions, such as those for polybrominated diphenyl ethers (PBDEs).
- States, including Washington, need to look more closely at the safety of alternatives to toxic chemicals.
- States across the United States are taking action because of federal inaction on toxics reduction.

Questions and comments regarding overview and background

- **Why was there an overall decrease in waste generation, but an increase in 1999?**
Comments: There have been changes in the economy and in certain sectors. The 1999 rise was due in large part to changes in aerospace industry activity.
- **Is the dip in the 2003 numbers due to aluminum smelters (7) closing?**
Comments: The aluminum smelters are not included in this data.
- **These numbers are measured in pounds, but toxicity levels do not always correspond to weight. We want a reduction in toxicity, and this chart does not provide that information. How has overall waste toxicity changed? We need a better understanding of toxicity.**
Comments: The data for this chart comes from individual business reports that do contain that information. These reports could be provided at a future meeting.²
- **Employee right to know laws have also had an impact on businesses' toxics use.**

² Upon review, Ecology will not be able to provide this information.

- **Are there data that indicate the benefits of toxics reductions? Have there been lower rates of cancer, or other benefits from these waste reductions?**
- **We need to guard against the view that not much has changed. There have been enormous changes at small businesses; the climate is totally different now than it used to be.**

Member Interests, Objectives and Concerns

Committee members introduced themselves, identified their main interests and relevant experience, and provided their perspective on the toxics use reduction goal, if applicable.

Kelly Flynn, BP Cherry Point

BP Cherry point is located in Blaine and is the largest refinery in Washington State, handling 2,400,000 barrels of crude oil a day. The refinery qualifies as a large quantity generator. Kelly is not a chemical engineer, but he has access to that information and expertise, especially regarding chemical alternatives in the refining process. He can also provide expertise regarding cleaners and solvents. Kelly sends the refinery's ISO 14001 report every year, and has access to that information. He is interested in maintenance items and lab chemicals.

Alan Link, Washington State Labor Council

Alan approaches this issue from an employee perspective. He wants to make sure that employees are safe and healthy, and that any changes the Committee agrees to benefit businesses as well. He comes from the aluminum industry, which has declined from eight Washington plants to two over the last 20 years. He used to work in production, but has been a union representative for years now. It makes sense to reduce toxic chemical use by not buying toxic chemicals in the first place. This should benefit both the community and workers.

Ray Carveth, King County Local Hazardous Waste Management Program

Ray has been a business owner for years, and has worked with the government in enforcement and other roles. He started his work in government with 19 staff and no enforcement powers, but 90% of his recommendations were followed. His current job is "partnership champion," finding solutions between business and government. In general, the rules businesses needed to follow were extremely convoluted, with the result that they were unsure what to do with their toxic waste and would just store all of it in a back room. Business attitudes play a huge role in achieving sustainability goals. If a business tells its employees the company is green, the employees will tend to behave in that way.

Gary Smith, Independent Business Association

Gary participated in the creation of the 1990 legislation, and still works with small businesses such as auto machine shops and auto wreckers. Small business has unique challenges. Most owners aren't chemists or waste experts; they are trying to make their business work and many are facing significant challenges. The auto wrecking industry in particular has changed dramatically – consolidating as margins have declined. Business owners remember the old model of fining businesses and writing up violators in the media. They need to be told what Ecology wants, how they can do it, and how it will benefit them. Gary is here to help answer these questions and provide the small business perspective. For instance, the first question a business will have on this subject is: What is toxic?

Jim Jesernig, agricultural industry representative

The agricultural industry's focus is on any unreasonable restriction on the use of pesticides. These chemicals are dangerous by definition, and misuse is always a concern. It is important to note that, despite the attention given to organic food and fiber, it is 1% of the food and fiber market and not a viable solution. There is also little room for mistakes in Washington agriculture. The State has an export dependent agricultural economy, and a single fruit fly can cancel a shipment to Taiwan or China. States like Washington are also hit hard by this sort of legislation because the state produces a huge number of different crops, requiring many different chemicals. Jim's main concern is that a 50% reduction in pesticide use would destroy Washington agriculture.

Joyce Cooper, University of Washington Department of Mechanical Engineering

Joyce has a background in business, but also worked for Congressional Office of Technology Assessment (OTA). One of the reasons for that agency's demise was that it tried to present multiple points of view on every issue, which is applicable to the question of the Committee's process. Joyce teaches classes on sustainable development technology research and product design, and is a co-founder of the American Center for Lifecycle Analysis. She can help tap into University of Washington resources on behalf of the Committee. Joyce thinks that it would benefit the state to leverage work being done by other states and entities, i.e. the REACH program. This leverage would also be useful in publicizing business successes.

Ray Lam, Boise Cascade Paper Division

Ray became involved in toxics issues after becoming concerned by the limitations on eating fish. He is a doer. Boise Cascade was lagging for 20 years before he arrived, but one year later they were a small quantity generator. His priority is making sure that reduction strategies are practical. Companies need to address pieces that they can fix without going out of business.

Claudia Rojas, Crown Cork and Seal Company

Crown Cork and Seal is a manufacturer of aluminum cans, and Claudia is the human resources manager at the plant. She is in charge of employee safety, among other responsibilities. The plant has done a lot of work to become more sustainable, and they are now looking to go after higher hanging fruit. Claudia does not have a goal coming into this process, but cost is a big concern for the company's corporate office in Pennsylvania. Plants have been closed in California and her employees are worried that the same thing might happen in Washington.

Alan Durning, Sightline Institute

Alan is the Executive director of Sightline institute, a regional think tank devoted to creating a sustainable future for people and the environment. In 1998, Sightline published *Tax Shift*, a book about reducing taxes on payroll and industry and taxing pollution and resource depletion instead – in other words, how to align financial incentives with policy goals. This concept is now a major goal of policy in Europe and in the U.S. Tax shift has led to a number of other analyses, including an analysis of environmental taxes and fees in Washington and Oregon that specifically addressed the P2 planning fee, one of the best-designed and smallest fees in the State. For more information, you can refer to Sightline's report in your binder. The report was the top story in the Seattle P-I last September.

The issues surrounding the P2 fee are as much about fairness as about toxicity. The fee is grossly unfair to Gary's constituents, but it is possible to make significant improvements with minor changes to the fee structure itself. Alan brings more than 20 years of experience analyzing public policies and figuring out how they play out in the world. This experience has centered on the use of financial incentives.

Mo McBroom, Washington Environmental Council

Mo is the policy director at the Washington Environmental Council (WEC), where her focus is on promoting policies. Her job is to coordinate the voice of the environmental community in Olympia. She is not a toxics expert, but she is working on issues related to Puget Sound that touch on concerns over toxics. Mo has also worked on PBDE, mercury switches, and other relevant topics. She used to work as a litigator, including for Boeing, representing LEAN manufacturing. In that role, she had to understand manufacturing processes, and she may be able to draw on that expertise if it would be helpful.

Mo brings a background in law and economics. She is interested in how the incentives can be designed so as to drive the desired behaviors, and generally in driving change through economics instead of from top-down regulation. The Committee's goal will be a moving target, and our understanding of the need is going to change. We need to understand both our safety objective, and the abilities of the business community to achieve certain ends. Success is also going to require respectful collaboration by all members of the Committee.

Steve Gilbert, Institute of Neurotoxicology and Neurological Disorders

Steve is a toxicologist working on lead and mercury. He has also worked for the Canadian government, several universities, and a biotech firm in Washington. He now works with the Institute on Policy Issues, and has developed the "Toxipedia" website to make expertise and information on toxic chemicals more widely available. Steve also sat on the Washington Pesticide Incident Reporting and Tracking Review Panel (PIRT). This Committee needs to know what chemicals are coming into the state and how toxic they are. The State's increasing population means that more people are living near the chemicals as we push growth up against chemical use sites. We need to decide what we target, and where we will put our resources. Steve is a big proponent of TURI. The State needs to bring in business, government, and nonprofits together to achieve meaningful reductions. This partnership will also bring in the educational community. All of these elements are needed to achieve a sustainable community.

Ivy Sager-Rosenthal, Washington Toxics Coalition

Ivy has worked on toxics issues for over seven years, and the Washington Toxics Coalition (WTC) has been working with the State on pollution prevention issues for over 25 years. Before joining WTC, Ivy was an attorney advising on health care policy. WTC has realized, like Ecology, that it is now more beneficial to take a broad-based approach that looks at reducing toxics use so permits and cleanup work are not always necessary. WTC has worked with Ecology to develop the PBT program and phase-out plan. Ivy has also served on Mercury Advisory Committee, as well as those for PBDEs and lead. The lesson is that the chemical-by-chemical approach is not going to work; it is too slow to go to the Legislature repeatedly.

Ivy's goal for this process is to identify approaches that will reduce the use of toxic chemicals. Looking at waste alone does not address the impacts of toxics on workers and/or the user of the product. Ivy comes to this Committee with a bias against voluntary actions by business. She is not opposed to all voluntary actions, but there is a place for mandatory policies, such as in the case of dental mercury, where a mandate resulted in 99% industry compliance. Voluntary action also tends to produce laggards that give industry a bad name.

Darin Rice, Washington State Department of Ecology

Darin Rice has 18 years of experience working in government including a number of years assisting different business sectors with voluntary compliance. He brings a sense of what is effective for the business community. Although not directly involved with the 1990 legislation, he remembers the concerns raised about the 50% waste reduction goal in that legislation. His emphasis is on achieving long term solutions by acknowledging the environmental, business, and healthy communities legs of the

sustainability stool. Nationwide change is already in motion on this issue, and will happen regardless, but it is important for Washington to take a leadership role.

Charges 1 and 2: Improving the Effectiveness and Delivery of Technical Assistance

Tom Boucher presented a background and overview of the current technical assistance programs offered by the Department of Ecology, and identified opportunities for change.

There has been an increase in the adoption of Environmental Management Systems (EMS), and Lean manufacturing techniques by Washington State businesses. These changes, coupled with the State's adoption of Beyond Waste strategies, have pointed toward the opportunity to improve the effectiveness of Ecology's technical assistance by providing more flexible approaches, keeping current to the changing methods in the business world, and aligning technical assistance more closely with Beyond Waste principles. Currently, the components of successful business technical assistance are:

- Working one on one with businesses to develop P2 plans. Surveys have shown that businesses think that Ecology staff technical assistance is the most helpful part of the program.
- Focusing on entire, specific industries, such as boatyards and marinas.
- Working cooperatively with businesses, rather than serving as an enforcer.

Ecology also has a Technical Resources for Engineering Efficiency (TREE) team that helps companies monitor and reduce their resource use.

Technical assistance visits total six thousand over fifteen years, and they can provide significant benefits even in the case of leading green businesses. For example, Canyon Creek Cabinets is a Governor's Award for Sustainable Practices winner that Ecology worked with to reduce thousands of pounds of toxic chemicals on site. So, there are still tremendous opportunities for toxics reduction.

There are a number of possible future tools to help maintain the program's utility going forward. These include a system for online toxics reporting, calculators that allow businesses to prioritize certain processes and materials, and developing a "road map" that would give an understanding of larger questions such as whether working with a few large businesses is better than working with lots of smaller ones. Other possible tools might include using the Global Reporting initiative (GRI), an internationally-used sustainability reporting framework, which allows for more reporting around facility processes, and a Toxics Use Reduction Institute (TURI)-style approach, as found in Massachusetts. TURI involves consolidating scientific research on chemical alternatives, training toxics use reduction planners to provide better services, and supplying both technical support and grant funding. Massachusetts has reduced its toxics use by 41% by weight as a result of the program. Finally, Ecology is exploring options to facilitate colleagues sharing toxics use information across state borders. Ideas include the development of an interstate chemical clearinghouse. Ecology is already working on this issue with California and Oregon.

The Department of Ecology requests that the Committee think about the following three questions that fall under the first two charge areas:

- Which tools will most improve the effectiveness of technical assistance with an increased emphasis on toxics use reduction?
- What planning options should exist for facilities with advanced approaches to environmental management?
- Should a TURI-like program be established in Washington?

Questions and comments regarding charges 1 and 2: improving the effectiveness and delivery of technical assistance

- **Why did Canyon Creek Cabinets come to the table and how did it come about?**
Response: Ecology worked with Canyon Creek because it had had a long-standing relationship with the business, and so approached them about piloting the Lean program. Canyon Creek participated in large part to gain manufacturing efficiency and because avoiding the permitting process is a powerful incentive for businesses, as is any reduction in liability.
- **What is Ecology's role in the technical assistance process; why don't businesses do this work on their own?**
Response: This work is a tiny slice of what the average business has to worry about. For example, the average small business is covered by 58 regulations by 20 state, federal, and local agencies. Most businesses simply don't have time to think about these issues.
- **What was the cost of the Canyon Creek project, and can Ecology provide this type of assistance directly to make large scale change across the economy?**
- **How much of the technical assistance work is with small vs. large businesses?**
Response: The work is usually with small to medium businesses that don't have an engineering staff.
- **The Massachusetts data is the only data I have ever heard of that tracks chemical use. It would be good to learn more about it.**
Comments: Steve Gilbert has a paper on this subject that he offered to share with the group.

Marc asked: Are Ecology's three questions the right questions? Are they framed correctly? What information do you need to answer them?

- **"I feel like I'm on the edge of a cliff"; this is a big leap from the initial charge to these three very specific bullets.**
- **There are a lot of questions that need answers. We definitely need more information on the TURI program.**
- **What tools exist in other states, how effective are they, and would they work in Washington State?**
- **We need to figure out what a toxic is before we tackle these questions. What chemicals are we addressing?**
Comments: Ecology uses a list of 600 chemicals, those reportable in the federal Toxics Release Inventory and those greenhouse gases found in the Montreal Protocol. A comment was also made that an evaluation of the list might indicate that the Committee could use a subset and focus on a smaller list of chemicals than the full 600.
- **Is the fee designed to pay for a program of a certain size, or is it a vehicle to drive behavior?**
- **How can you talk about achieving a 50% reduction if you don't know what and how many chemicals are used in the State in the first place?**
- **Why are these questions different from the original legislative charge, and how do they relate to each other?**

Comments: These questions were conceived of as prompts to get the Committee thinking about the budget proviso charges.

Recommendations regarding charges 1 and 2: improving the effectiveness and delivery of technical assistance

The Committee favored ignoring Ecology's focusing questions and instead preferred to focus on the original charges listed in the Budget Proviso.

- There was general agreement that Ecology's clarifying questions were not helpful, and that the Committee should use the original Committee charges as a guide instead.
- The Committee needs to address the larger questions first. If we take as a premise that Government will work cooperatively with businesses, then we need to address the broader topic of how does that happen before we can address the specific question of whether a TURI program should be used.

The Committee agreed to focus future discussion on the 600 P2 planning businesses in Washington, but reserved the right to change that list if it proved desirable to do so. It was also noted that the Committee needs more information about toxics use in the State, including both the types and quantities of chemicals.

- We don't have time to analyze the full list of 600 chemicals, and we should be aware of the fact that focusing on certain individual chemicals could result in unfair treatment of particular industry sectors. However, the Committee needs some degree of characterization of what chemicals are out there before it can make decisions about how to reduce their use by a specified amount.

The Committee will begin by developing an understanding of the program, and subsequently discuss the role and structure of the fees.

- We need to clarify whether the fee should be structured to pay for the program, to drive behavior change, or both.
- There were differing opinions on the order in which the Committee addressed these topics. Several members argued for addressing the fee issue before the program details, because linking the fee to use instead of waste could be extremely beneficial, and today's discussion of the fee has been very informative. The counter argument was that the fee is designed to pay for the program, so you can't address the fee until you reach an understanding of what the scope and cost of the program will be.

Charge 3: Revisions to the Hazardous Waste Planning Fee

Dennis Johnson of the Department of Ecology summarized the mechanics of and the rationale behind the hazardous waste planning fee, and budget sources for the Hazardous Waste and Toxics Reduction (HWTR) P2 program. The P2 program is currently funded through three sources: approximately half of the program cost is paid for by the Hazardous Waste Planning Fee ("P2 Planning" Fee) and the Hazardous Waste Base ("generation") Fee, with the other half coming from the State Toxics Control Account (STCA). The STCA is funded largely through petroleum taxes. The planning and generation fees were originally intended to pay for the entire program.

As outlined in WAC 173-305, the hazardous waste planning fee is assessed on facilities that generate 2,640 pounds or more of recurrent hazardous waste annually. Facilities generating between 2,640 and 4,000 lbs. per year pay \$60 per year, while facilities generating more than 4,000 lbs. per year are charged

a per pound rate up to an annual cap (\$18,300 in 2008). The total amount collected is capped by law, and that cap is currently \$1.8 million per year. Historically, both fee caps have increased by applying the inflation factor called for in the original legislation. However, the middle tier of businesses has born the brunt of the costs because the \$1.8 million must be spread across all businesses, but the fees for the largest generators are capped.

The original intent of the planning fee was to pay for the program in such a way that small businesses do not carry more than their fair share of the costs. However, despite this attempt at fairness, the largest generators pay a lower per pound rate the more waste they generate. Other problems with the planning fee are that facilities that produce no waste but have Toxics Release Inventory (TRI) emissions pay nothing; fees are based on waste and emissions, not chemical use; the current revenue cap does not cover the cost of the program; the resulting revenues don't support supply side hazardous material reduction; and it is possible for a facility to reduce their hazardous waste and still pay a higher fee the following year.

In part to help solve these problems, Ecology would like the Committee to focus on the following questions:

- How can the fees be made more equitable?
- How can the fees be structured to create incentives for toxics use reduction?
- Should the fees be based on something other than waste generated?

The following documents, which Ecology could share at future meetings as appropriate, provide additional information and/or analysis on the P2 planning fee,

- 1995 Senate Budget Committee review.
- Beyond Waste P2 Planning and Fee papers.
- Internal quantitative work Ecology has done with test scenarios.
- Sightline Institute's report.
- Examples of other states' approaches.

Questions and comments regarding charge 3: revisions to the hazardous waste planning fee

- **While no facility pays more than \$18,000 in Hazardous Waste Planning Fees, if half of the program is paid for out of STCA, then certain companies, such as BP, are paying substantially more than \$18,000 towards the program.**
- **The fees should be structured so that they fully fund the program.**
- **Is there a plan or incentive for reducing Ecology staff if an incentive program is successful and the number of P2 businesses drops?**
Comments: This is difficult to accomplish because new technologies and business sectors are appearing constantly.
- **We need to discuss the nature of the program before we discuss the fees and how they are structured. What is an effective program? Are the P2 planners implementing? What**

does it mean that we have a number of businesses engaged in P2 planning? We need to come to a consensus on the program and its goals before we can design a fee structure to help meet them.

- **There is very little incentive for businesses to provide information for these programs. TRI reports take a lot of work: ten employee-days per year. On top of this, the end result is that most of the data isn't even useful because it can't be compared across industries. Make sure you are using what you already have before you increase the burden on businesses.**

Comments: High costs are not necessarily a bad thing; it may just be that that is the cost of doing business in these industries. However, the problem is not the amount of data, it's that we are collecting the wrong data. We need better data, not more data.

- **Companies will move facilities to other areas if there is a higher cost of doing business in Washington.**
- **We need to make sure that we are addressing the right businesses in any proposed fee structures.**

Schedule Next Meetings and Develop Agendas

Develop Future meeting Agendas

Marc summarized the plan to have a total of four meetings plus a lot of staff content developed between meetings. The group appears to be in agreement that the Committee should first discuss the P2 process, and then fees. Marc also proposed that the Committee spend more time on meeting #2 and #3 topics than what is currently scheduled.

Questions and comments regarding developing future meeting agendas

- **We still need to clarify if the goal of the fees should be to pay for the program or create incentives for behavior change. If the fee will pay for the program, you cannot have a meaningful discussion of the fee before you decide what it will have to pay for. Either way, you need to know your costs.**
- **We also need to clarify if we are looking at limiting use or waste. If the program focus shifts to use, that will shift which businesses it will affect, and we should know who those businesses will be.**

Recommendations regarding developing future meeting agendas

Begin by addressing the mechanics of the program, and then move into a discussion of the fees. Ecology will develop three "mock" proposed scenarios for the group to evaluate at the next meeting, with assistance from several Committee members.

- Several members proposed that developing three mock-up scenarios would be useful: one that starts from scratch and aligns fees with goals; one that makes several key realpolitik changes to the current system to make the fees more equitable; and one that makes only minor changes to the current system. Members should not claim ownership of these plans; they will exist only to foster discussion.
- The Committee also requested information on the cost of the current program.

Schedule Next Meeting

There was broad consensus that Seattle is a good place for the Committee to meet. The next TRAC meeting will take place on Tuesday, August 5th. The tentative location is Seattle University. Ecology will notify the group of the time and location when they have been finalized.

Summary of Decisions, Actions, and Key Themes

The Committee agreed on several decisions, identified key actions and next steps, and decided on themes that will guide their approach to the charges contained in the Budget Proviso.

Decisions

The Committee decided to:

- Adopt a modified consensus decision making process, with rules.
- Adopt guidelines for meeting conduct, and agreed on a set of guidelines.

Actions and Next Steps

The Department of Ecology will provide additional information to the Committee on the following topics:

- A workload analysis of the current program, including the program's cost.
- Similar programs and fees in other states, including Massachusetts's TURI/TURA program.
- The Pollution Prevention Planning process from both Ecology's and business's perspectives.
- The effectiveness of the current Pollution Prevention Planning program at reducing the amount and toxicity of business waste.
- Approaches to identifying what chemicals are being used in the state.
- Possible ways to prioritize chemicals.
- Three mock scenarios for the program and the P2 Planning fee.
- A characterization of the state's P2 Planners by business type.
- A compilation of available information on toxics used from available P2 Plans.

Key Themes

The Committee will:

- Focus on the 600 firms that are required to develop P2 plans, but also reserved the right to add businesses as necessary.
- Focus their recommendations on toxics use reduction, rather than hazardous waste reduction.

- Begin by developing key elements of a future program, and then move into a discussion of how to develop a fee structure that supports the new program.