

Toxic Reduction Advisory Committee

Meeting Summary

October 14, 2008

The fourth meeting of the Toxic Reduction Advisory Committee (TRAC) was held on October 14, 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:

- **Joyce Cooper**, University of Washington Department of Mechanical Engineering
- **Alan Durning**, Sightline Institute
- **Kelly Flynn**, BP Cherry Point
- **Jim Jesernig**, Agricultural Industry Representative
- **Ray Lam**, Boise Cascade Paper Division
- **Mel Oleson**, The Boeing Company
- **Darin Rice**, Washington State Department of Ecology
- **Ivy Sager-Rosenthal**, Washington Toxics Coalition
- **Gary Smith**, Independent Business Association
- **Jim White**, Washington State Department of Health (for Wayne Clifford)

The following Committee members were unable to attend the meeting:

- **Ray Carveth**, King County Local Hazardous Waste Management Program
- **Wayne Clifford**, Washington State Department of Health
- **Steve Gilbert**, Institute of Neurotoxicology and Neurological Disorders
- **Alan Link**, Washington State Labor Council
- **Mo McBroom**, Washington Environmental Council
- **Claudia Rojas**, Crown Cork and Seal Co.

The following individuals presented information:

- **Alan Durning**, Sightline Institute
- **Ken Zarker**, Washington State Department of Ecology

The following representatives from government agencies signed in:

- **Tom Boucher**, Washington State Department of Ecology
- **Kathy Davis**, Washington State Department of Ecology
- **Dennis Johnson**, Washington State Department of Ecology
- **Peggy Morgan**, Washington State Department of Ecology

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

- **Gwen Vernon**, Cascadia Consulting Group

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

Marc Daudon facilitated the meeting, and Matt Schoellhamer took notes.

Convening and Introductions

Marc Daudon convened the meeting, summarized the meeting's agenda, and reminded the committee of the modified consensus approach and its guidelines, including the option for minority reports. He then solicited feedback on the content and order of the agenda.

Recommendations Regarding Convening and Introductions

The Committee favored moving the discussion of the statement of principle to the end of the day's agenda.

Review Draft Final Report

Peggy Morgan summarized the content and organization of the draft TRAC report as presently written. Marc Daudon solicited general feedback from the Committee on the report as a whole.

Questions and Comments Regarding Draft Final Report

- **Most of the proposed recommendations suggest additional work for Ecology. I am uncomfortable recommending additional activities without addressing where the money to pay for them would come from.**
- **If the program becomes too broad, it won't do anything well. Focus on narrower program goals that can realistically be funded.**
 - Several members countered that the goal of the TRAC is to recommend a path to achieve the State's 50% toxics reduction goal by 2020. The Committee should focus on providing recommendations to this end, and let the legislature worry about how to fund it.
- **The capital climate is exceptionally grim right now. Businesses will probably fight any increase in fees or addition to the program.**

Draft Recommendations

Marc Daudon solicited feedback from the Committee on each recommendation contained in the draft final report. The Committee voted on each recommendation and any proposed changes using the agreed upon modified consensus approach based on a thumbs up, thumbs down vote.

Recommendation 1-1

As a part of the existing Office of Waste Reduction established in RCW 70.95C, the Department of Ecology is charged with 'administering a waste reduction and hazardous substance use reduction research and development program.' The office should implement programs which solve problems identified in partnership with businesses, other governments and non-governmental organizations as barriers to more competitive, sustainable and "greener" business practices. An emphasis should be placed on researching, testing and promoting safer chemical alternatives. Specifically, the program should include:

- *Participation in an Interstate Chemicals Clearinghouse (IC2)*

- *Partnerships with higher education institutions to conduct research into potential toxic chemical issues, development of safer chemical alternatives and development of green chemistry curriculum.*
- *Partnerships with trade associations to identify industry-specific needs for safer chemical alternatives, life-cycle thinking and supply chain technical assistance. (Recommendation 1-1)*

Suggestions Regarding Recommendation 1-1

The Committee favored clarifying the language of this recommendation to indicate that it applies to non-agricultural chemicals only.

- This work is already being done for the agricultural sector.

The Committee favored adding language that some of the research conducted at higher education institutions will focus on the types and amounts of toxics used in Washington.

Committee members also made the following comments:

- I was skeptical of the Intergovernmental Chemical Clearinghouse (ICC), but now I think it is a good idea to help conduct this work efficiently.
- Educating small businesses about alternatives to toxic chemicals will be very important. They do not have the resources to do this work themselves.
- Small business owners often know the materials or products they work with, but not their chemical ingredients. Outreach efforts will need to be able to provide this information.

Recommendation 1-2

Add a definition of “high priority hazardous substances” to RCW 70.95C and Chapter 173-307 WAC to include:

- *Toxic substances found in Chapter 173-333 WAC, Persistent Bioaccumulative Toxics (the PBT list and metals of concern);*
- *known human carcinogens (those used in manufacturing, services and government) and*
- *Any other substance determined by the director by rule to present a threat to human health or the environment. (Recommendation 1-2)*

Peggy Morgan summarized the recommendation. Gary Smith summarized Washington’s rulemaking process.

Questions and Comments Regarding Recommendation 1-2

- **One member did not like that the recommendation applies to chemicals that “present a threat”, stating that that language is too ambiguous. “Of concern to human health and the environment” would be more effective.**
 - Both phrases are loaded and subjective.

Suggestions Regarding Recommendation 1-2

While one member strongly disagreed, under the rules of modified consensus the Committee agreed to add language to clause (c) of the recommendation that any new rule adding chemical(s) to a priority list at some future date must wait until 30 days after the next legislative session before going into effect, as is currently done with Washington building codes (3 years, 1 day, 2 neutral).

- Conflicting opinions were expressed on the extent to which future chemical additions to the priority list should be subjected to legislative review. Some members argued that relying on the rulemaking process alone would not provide enough oversight. One countered that subjecting a science-based chemical selection process to increased political oversight could have very detrimental effects, and that the rulemaking process itself would provide for sufficient vetting of proposed chemicals.

Recommendation 1-3

Amend the definition of "hazardous substance" found in RCW 70.95C and Chapter 173-307 WAC to read:

"Hazardous substance" means:

- a) Any hazardous substance listed as a hazardous substance as of the effective date of this section in accordance with Section 313 of Title III of the Superfund Amendments and Reauthorization Act and any further updates;*
- b) All ozone depleting compounds as defined by the Montreal Protocol of October 1987 and any further updates of the Montreal Protocol;*
- c) All "high priority hazardous substances;" (see Recommendation 1-2) and*
- d) Any other substance determined by the director by rule to present a threat to human health or the environment. (Recommendation 1-3)*

Peggy Morgan clarified that this recommendation is designed to amend the definition of a hazardous substance in RCW 70.95C and WAC 173-307 to make them consistent and include high priority hazardous substances.

Questions and Comments Regarding Recommendation 1-3

- **What is the distinction between clause c) and clause d), and how is the overall recommendation distinct from recommendation 1-2? Is anything lost if d) is removed from the recommendation?**
 - Clause d) allows chemicals that might not be of high concern and/or have been removed from the chemical list such as methyl ethyl ketone, to be tracked.

Suggestions Regarding Recommendation 1-3

A majority of Committee members supported modifying the "to present a threat" language in d) to set a lower bar for designating a chemical as a hazardous substance than as a high priority hazardous substance (covered in recommendation 1-2)

- As presently written, the recommendations provide similar definitions for both hazardous substances and high priority hazardous substances.

Recommendation 1-4

The Department of Ecology shall periodically conduct a science-based public process to develop recommendations on:

- *Priority chemicals for technical assistance and outreach.*
- *Additions to the list of “high priority hazardous substances.” Criteria to consider for additional chemicals should include, but not be limited to:*
 - *human carcinogenicity*
 - *endocrine disruption*
 - *chemicals of high concern for children*
- *Criteria for measuring success. (Recommendation 1-4)*

Questions and Comments Regarding Recommendation 1-4

- **Why would we recommend a different list of chemicals for assistance and outreach (bullet 1) and the list of high priority hazardous substances (bullet 2)?**
 - The intent was to link the two bullets and to recognize that even among hazardous substances, there are those that are a higher priority. Perhaps that needs to be clearer.
- **Where does recommendation 1-3 fit in? The Committee is using the phrase “high priority substances” to mean a lot of different things.**

Suggestions Regarding Recommendation 1-4

The Committee favored adding a reference to recommendation 1-3 that makes it clear that the addition of any chemical to either list of chemicals shall go through a science-based process.

The Committee favored removing the word priority from the recommendation, and replacing it with language that indicates that Ecology will “go where the threat is.”

Recommendation 1-5

Add requirement to RCW 70.95C and Chapter 173-307 WAC that P2 planners must include information on the “high priority hazardous substances” in the inventory and opportunity assessment portions of their P2 plans. (Recommendation 1-5)

Questions and Comments Regarding Recommendation 1-5

- **I support this recommendation; it reflects earlier Committee consensus around streamlining reporting requirements while obtaining data on toxics use.**

Suggestions Regarding Recommendation 1-5

The Committee agreed to revise the language of the recommendation to incorporate a *de minimis* standard and clarify acceptable sources for the chemical information.

Recommendation 1-6

Ecology shall develop alternative approaches to gather information from and provide technical assistance to facilities that are not required to develop pollution prevention plans but are users of "high priority hazardous substances." (See Recommendation 2-2 for discussion). (Recommendation 1-6)

Questions and Comments Regarding Recommendation 1-6

- The term "user" is not defined in this recommendation? Who is considered a user?
 - User is defined in the pollution prevention law.

Suggestions Regarding Recommendation 1-6

Several Committee members favored clarifying who makes up the universe of users. This clarification should include language that reflects the theme of going where the threat is.

Recommendation 1-7

Tax incentives and grants should be available to facilities for improvements that lead to reducing toxic threats, including research and development of safer chemical alternatives, and capital improvements. (Recommendation 1-7)

Questions and Comments Regarding Recommendation 1-7

- Can this recommendation include incentives for research and development at private companies?
 - There are already specific tax incentives in effect that encourage similar behaviors.
- There is currently an effort in the Finance Committee to eliminate tax incentives. Refer to JLARC (Joint Legislative Audit and Review Committee) reports for more information.

Suggestions Regarding Recommendation 1-7

While several members approved of the inclusion of a reward system for businesses, it was agreed that at a minimum this recommendation would need to include more specific recommendations in order to be useful.

- This recommendation isn't focused appropriately and isn't a good target of public policy.
- Any plan recommended by the Committee needs carrots as well as sticks. This recommendation is a carrot.

Recommendation 1-8

Ecology should work with federal, state and local agencies and private organizations administering programs related to reducing threats from the use of toxics. (Recommendation 1-8)

Questions and Comments Regarding Recommendation 1-8

- **Why wouldn't we include this recommendation? Are there any barriers to accepting it?**
 - It is a general statement of intent, and is worth including in the report.

Suggestions Regarding Recommendation 1-8

The Committee supported changing the language of the recommendation to say that Ecology will continue to work with federal, state and local agencies.

- As written, the recommendation suggests that this work is not happening now.

Recommendation 1-9

Implement a state-wide incentive-based certification/recognition program (e.g. EnviroStars.) (Recommendation 1-9)

Suggestions Regarding Recommendation 1-9

The Committee supported adding language recommending that businesses that achieve toxics reduction goals receive preferential purchasing from the State and its agencies.

- For instance, businesses in the top 25% of toxics use could receive preferential purchasing from the State.

Recommendation 2-1

Standardized methods of reporting, to track progress toward toxics reduction goals, should be required of pollution prevention planners. (Recommendation 2-1)

Tom Boucher introduced this recommendation by stating that Ecology already receives much of this information, but would like to start receiving it in a standard format that would lead to comparable data.

Questions and Comments Regarding Recommendation 2-1

- **Businesses have had problems using state and federal websites in the past, and not everyone is computer savvy.**
 - Ecology has already worked with companies to identify a way to effectively standardize this process, and this is not a federal program so there would not be a need to standardize with them, too.
- **The fact that electronic signatures are not allowed is a big issue.**

- This kind of work is expensive and hard to do.
- Ecology needs to be able to compare apples to apples, but wants to give businesses some flexibility in their reporting.

Suggestions Regarding Recommendation 2-1

Several Committee supported rewriting this recommendation to address concerns that data sharing with Ecology will be onerous for businesses, that electronic signatures are not accepted by the courts, and that businesses must expend considerable effort to gather and report this data, while emphasizing Ecology's need to obtain comparable data from businesses.

- Standardized reporting could be especially onerous for large businesses.
- One possible solution is to amend the recommendation to include the language "where practical" or to include a phase in process.

Several members agreed to a solution where businesses would be asked to report specific types of data but would be granted flexibility in how they report that data.

The Committee agreed that Ray Lam and Mel Oleson would work with Ecology to make the proposed changes to this recommendation.

Recommendation 2-2

To minimize the impacts to small businesses and small toxics users, simpler information requests should be developed by Ecology. Information requests and statistical sampling should be used to track toxics use by smaller users. (Recommendation 2-2)

Questions and Comments Regarding Recommendation 2-2

- This recommendation is too broad and generic.
- What is the definition of a small toxics user?
 - Ecology's intent was to define the term as non-P2 planners that are using "the worst of the worst" chemicals.

Suggestions Regarding Recommendation 2-2

The Committee favored specifying that this recommendation does not apply to P2 planners, and is intended to apply to those non-P2 planners that are using "the worst of the worst" chemicals. The Committee agreed that Gary Smith would work with Ecology to develop more specific language.

- Currently the recommendation says all planners.

Recommendation 2-3

The Department of Ecology should increase technical assistance services to businesses in the state seeking to reduce threats from toxics including the use of safer chemical alternatives, reducing hazardous waste and toxic emissions, increasing efficiency, and redesigning industrial processes. (Recommendation 2-3)

Ken Zarker introduced the recommendation. Currently Ecology has engineers and scientists that could provide the suggested technical assistance if given additional training in alternative chemical analysis.

Questions and Comments Regarding Recommendation 2-3

- **Lean manufacturing consulting is a high-benefit, low-cost carrot that our business would be very interested in.**
- **Two Committee members proposed an approach wherein companies that participate in a successful lean consulting program would pay some amount of their profit gains back into the program. Partnerships that do not lead to a profit would become grants.**
- **What does “toxics” mean in this recommendation? Is it everything or just high priority chemicals?**
 - Marc Daudon interpreted it to mean everything.
- **One member is concerned about the total cost of the program. It is up to \$1.4 million at this point.**
- **Maybe Ecology could track the need for these technical assistance services in order to inform staffing decisions.**

Suggestions Regarding Recommendation 2-3

The Committee favored clarifying the phrase “increase technical assistance” to indicate that the Committee is recommending additional technical training for Ecology staff.

The Committee favored including language specifying what businesses are affected by this recommendation, especially in regards to whether or not it applies to P2 planners only.

- It was suggested that such language might include that Ecology will assist those businesses that ask for help, and will provide an appropriate and measured response.
- Committee members were divided on whether or not this recommendation should apply to P2 planners only.

The Committee agreed that Gary Smith would work with Ecology to develop the recommended changes.

Recommendation 3-1

Advanced environmental management systems should be allowed as alternatives to pollution prevention plans as required under Chapter 173-307 WAC, Pollution Prevention Plans. These alternatives may include any system deemed adequate by the Director of Ecology as long as it addresses reducing toxic threats and achieves the aims of RCW 70.95C and Chapter 173-707 WAC. Examples might include Environmental Management Systems based on ISO 14000, the Global Reporting Initiative, the Natural Step and “eco-mapping.” The Department of Ecology should provide technical assistance services to businesses in the state seeking to utilize these advanced management systems. (Recommendation 3-1)

Dennis Johnson summarized the recommendation. Ecology needs a common denominator of information, but businesses should have some flexibility in how they report it.

Questions and Comments Regarding Recommendation 3-1

- **This recommendation needs to be stitched together with the reporting-related recommendation 2-1.**

Suggestions Regarding Recommendation 3-1

The Committee favored adding language that clarifies what information will be reported, and what are the boundaries between obtaining comparable data and offering businesses flexibility in their reporting.

Recommendation 3-2

The following monetary incentives should be established:

- *A revolving loan account for funding improvements which lead to the reduction of threats from toxics. These improvements could include those identified through TREE and 'Lean and Green' assistance. (See Recommendation 2-2.)*
- *A voucher program reimbursing—to a fixed level—improvements at businesses which lead to reduction of toxics threats. (Recommendation 3-2)*

Questions and Comments Regarding Recommendation 3-2

- **Handing out vouchers will affect business competition. There needs to be a level playing field for any merit-based system.**
- **What about a company's credit worthiness?**
- **One member was more interested in the loan idea than the voucher one. The loan program seems bigger but more exciting.**

Fee Structure Recommendations

Alan Durning presented his proposed changes to the fee structure [see attached report]. These changes were based on the changes to the fee structure previously agreed to by the TRAC, including a hybrid fee structure, and follow up work performed by the fee subcommittee designated by the TRAC at its third meeting. Alan's proposal was to tune the fee to chemical toxicity, raise the fee cap to 5% of the total collected amount in 2010 and by 1% per year thereafter, develop an opt-in pilot program, explore the development down the road of a fee tied to use, and cover all TRI on-site releases to air, water and land.

Alan proposed tuning the fee to toxicity and applying a multiplication factor of 1x, 10x, or 100x to the per-pound fee on waste and emissions, depending on whether the material contains one or more High Priority Hazardous Substances and whether the material gets into the environment. EPA's Risk-Screening Environmental Indicators (RSEI) model indicates that human health is threatened most by releases to the environment.

Questions and Comments Regarding Fee Structure Recommendations

The Committee engaged in an extensive and wide-ranging discussion regarding the proposed changes to the fee structure. Much of the discussion focused on the extent to which the proposal would impact

specific business's fees, but the Committee also discussed the absence of use from the proposal and the rationale behind the development of the specific toxicity factors and the specific proposal for raising the fee cap.

- **Is the RSEI score an average of various scores, and is it a composite index of effects on human health and the environment?**
 - The score is cumulative statewide, and only accounts for impacts on human health.
- **It appears that this system does not account for exposure to chemicals.**
 - That is correct. The proposal aims to tune the fee to toxicity given data constraints while improving fairness. The hope is that a pilot project could be developed that would determine an approach to incorporate exposure more effectively.
- **Is the purpose of the fee to punish waste generators or to raise money for the program? These recommendations are punitive and are trying to drive behavior.**
 - The program has never been about a dollar-for-dollar benefit for fee paying businesses. Ecology's chief concern is to make the fee structure fairer. The stated objective of this Committee has been to develop a plan that "goes where the risk is."
- **The businesses that pay the highest fees will not benefit from technical assistance.**
- **The proposal does not account for the efficiency with which toxics are used to produce products.**
- **Several members were very concerned to see that their business's fees would increase under this proposed plan. Some of these businesses could see their fee increase by a significant percentage, and even if they agree to the underlying principles, that increase will be tough to support unless the businesses will realize specific cost savings or other benefits as a result of the program.**
 - It seems unlikely that businesses will agree to be charged tens of thousands of dollars. This may be a time for modified consensus and minority reports.
 - The program needs to take small steps towards equity or it will be politically infeasible.
- **While it is conceptually correct that the largest producers should pay more, it seems that businesses in remote locations would pose less risk to human health than those in urban centers, and should pay less as a result.**
- **Add a weighting factor that would result in different fees for facilities that have maximized their reduction potential than for those that haven't.**
 - That is a very complicated consideration to account for in this type of fee.
- **The Committee was specifically charged with achieving use reduction, but this proposal seems to deal with waste only.**
 - Ideally businesses would pay based on their toxics used, but it has been determined that currently there is no good way to do this. The report needs to specify that there should be continued work to incorporate use, but the current proposal is a reasonable first step.

- The report should specify that the Committee was unable to identify a reasonable way to incorporate toxics use into the fee structure.
- **Ecology proposed the idea of putting the funds obtained by the 100x multiplier chemicals into a specific fund for researching chemical alternatives.**
- **The proposal needs some sort of “off ramp” for businesses that have no alternative to a certain chemical.**
- **How were the 1x, 10x, and 100x multipliers developed?**
 - Those numbers were developed for discussion purposes. They were designed to convey the message of the relative weighting of chemical categories, but they were not designed to exactly reflect the relative toxicities of those categories.
- **Increasing the fee cap from 1% of the total fee amount to 5% of the total is an arbitrary jump. Any change should be tied to achieving the 50% reduction goal.**
 - Marc Daudon reminded the Committee members that they agreed to move away from the 50% goal in favor of focusing on threat.
- **Changing the percentage cap isn't the only way to change the maximum one facility might pay: changing the total program amount will also change it.**
- **This proposal will require additional vetting and broader stakeholder buy in before it is considered by the Legislature.**

Recommendations Regarding Fee Structure Recommendations

Alan Durning's full recommendation consisted of eight component recommendations. The Committee agreed to discuss these component recommendations, referred to in the meeting as steps, individually.

Step 1

Recommendations Regarding Step 1

The Committee agreed to the recommendation as written.

Step 2

Recommendations Regarding Step 2

The Committee agreed to change the recommendation to say that the Director can revise the threshold upwards or downwards, but cannot lower it below the 2,640 lb. threshold.

- Businesses will be upset if the Director has the authority to bring more businesses into the program by lowering the chemical threshold.

Step 3

Questions and Comments Regarding Step 3

- **I don't know who would be on such a list, and that makes me skeptical.**
 - This step would eliminate the TRI exemption and extends the fee to all TRI reporters.

Recommendations Regarding Step 3

A majority of the Committee favored rewriting the recommendation to clearly convey that it is intended to include all TRI reporters.

Step 4

Recommendations Regarding Step 4

The Committee favored removing the specific \$50 reward cap from the recommendation and giving the Director the authority to determine a sensible amount, as well as rewording the recommendation so that it conveys that it is voluntary.

- There should be an advantage for businesses that take the time to get data to Ecology in a useful format, but make the amount meaningful.

Step 5

Questions and Comments Regarding Step 5

- **One member did not think that the Committee would support a 5% increase in the fee cap. Ecology needs to consult a broader stakeholder group on this issue.**
 - Perhaps we eliminate the 5% recommendation and propose raising the fee cap by 1% annually.
- **Keep political concerns in mind. Maybe this Committee develops an overall philosophy and allows a different group to develop how that would be implemented on the ground. It would be better to state the Committee's intent than to recommend arbitrary numbers and goals.**
 - Ecology is worried that this approach is too vague and will result in a weak report.

Recommendations Regarding Step 5

The Committee favored rewriting the recommendation to say that the fees should be redistributed to address inequities in the current system.

The Committee agreed that Ecology will meet with additional non-committee stakeholders to obtain broader support for the specific fee structure, particularly a plan for raising the fee cap and the 1x, 10x, 100x toxicity multipliers, that will be generally accepted.

- Ecology's understanding is that the Committee would benefit from seeing fee numbers for specific businesses.

Step 6

Recommendations Regarding Step 6

The Committee supported the inclusion of step 6, with the revision that RSEI or a similar methodology would be recommended, rather than specifying RSEI.

Step 7

Recommendations Regarding Step 7

The Committee agreed to step 7 as written.

Step 8 (a)

Questions and Comments Regarding Step 8 (a)

- **One member argued that it is fine to keep the 1x, 10x, 100x numbers, but don't present the precise values as particularly representative of their effects on human health and the environment.**
 - 1x and 10x come from current law, and a 1x, 10x, 100x system would be easy to communicate and would convey the intended message.
- **We should strive for equitable reporting requirements across businesses, whatever numbers are used.**
- **Do the proposed multipliers only affect the amount a business pays once they reach the 2640 lb. threshold, or do they also factor into calculating whether a business meets that threshold?**
 - The 10x multiplier is currently applied when determining whether a business qualifies for the program.

Recommendations Regarding Step 8 (a)

The Committee favored adopting this step, with the addition that it is a strong starting point.

- The 1x, 10x, 100x numbers will stay unless a better approach is found in the next few weeks.
- Add into the language that these numbers were chosen in part because they are easy to understand.

Step 8 (b)

Alan Durning specified that this step was intended to build in a periodic review process for examining which chemicals go in which levels that would be identical to that found in other areas of the program. It is meant as a direct citation of the task 4 language.

Recommendations Regarding Step 8 (b)

The Committee favored adding specific language to more clearly link this step and its periodic review process to recommendation 1-4, and to specify that additions would be conducted through a rulemaking process.

- There is often a political imperative to categorize chemicals in a certain way at a specific time that the rulemaking process can help mitigate.

Step 8 (c)

Questions and Comments Regarding Step 8 (c)

- **Everyone can agree that waste reduction is good, but weighing the value of use reduction means you need to factor in the societal benefit of the resulting product.**
- **This step doesn't need to be included to get us where we want to go this time.**
- **Addressing use will result in several large companies paying most of the fees.**
- **The intent of this recommendation is to keep use reduction as a long-term goal. That idea needs to stay in the report.**
 - 1x and 10x come from current law, and a 1x, 10x, 100x system would be easy to communicate and would convey the intended message.
- **What if the fees collected from a particular waste category were to go towards identifying a use-based system?**
 - Ecology liked that idea, but bigger businesses that are looking at the program as an investment might balk.

Recommendations Regarding Step 8 (c)

The Committee favored rewriting the step to convey that the Committee repeatedly attempted to develop a system that applied to toxics use, but was unable to do so, and include a proposed path forward to incorporating toxics use into the program at a future date.

Fee Levels, Revenues, and Program Costs

Ken Zarker presented the potential program cost based on the proposed recommendations. The results would be an additional annual program cost of \$900,000, as well as a \$5.2 million one-time cost for the proposed loan program. This would fund the ICC, partnerships with businesses and higher education, an EnviroStars-like business assistance program, and standardized reporting for planners.

Marc Daudon introduced the discussion by asking if the Committee was in favor of increasing the fee to support the proposed programs. The Committee was unable to reach any decisions regarding the proposal.

Questions and Comments Regarding Fee Levels, Revenues, and Program Costs

The Committee engaged in an animated discussion about the cost of the proposed program. Several members were concerned that additional costs would be politically unpalatable in the current climate, with one member refusing to support any increase in funding for the program. Several other members argued that the program is valuable, and should be advocated for no matter the current political and economic climate.

Questions and Comments Regarding Fee Levels, Revenues, and Program Costs

- **I do not support additional funding currently and it won't fly in the current system. No program on this list justifies a fee increase. The only way to get additional funding should be from resolving the inequity issue.**
- **Any fee increase will be politically infeasible in the current climate.**
 - If there is a way to fund the proposals partially to get them started with the idea that the program will be self sufficient at a later date it might be more palatable.
- **Several members advocated for prioritizing the Committee's recommendations.**
 - Prioritizing the recommendations may help answer this question. Some of the very important and valuable recommendations are close to free.
- **There is a lot to be said for sucking it up and trying to get something done in this budget cycle. Not emphasizing a program during a tight budget climate indicates it's not important. If the program is really important, let's push for these recommendations now.**
 - We need to identify at least a couple of priorities to recommend. This is a well regarded program and we need to fight for this program if we think it's worthwhile
- **The charge of the Committee is to come up with recommendations, not to come up with specific budget recommendations in the context of an economic downturn.**

Recommendations Regarding Fee Levels, Revenues, and Program Costs

A slight plurality of the Committee (4 yeas, 3 nays, 1 undecided) supported establishing Committee members' priorities, reviewing the program cost with those priorities in mind, and paying for any costs resulting from an expansion of the program through increased fees.

Statement of Principle

Marc Daudon solicited feedback on the draft statement of principle from each Committee member in turn. Members made the following specific comments:

- I agree with everything in the statement, but I understand the explosive nature of the topic. Is there way to rewrite it as a set of bullet points that the Committee agrees on?

- The content seems like common sense, although I think that a statement of principles is not necessary.
- This is an anti-chemical diatribe, not a statement of principles. There is no discussion of the benefits to society and the environment of products that require toxic chemicals. This is an agenda, not a statement of principles.
- The statement seems fair.
- No one will read it; I don't care what it says or if it is included.
- It adds nothing to the report. It can only hurt the report by creating concern.
- I found it non-controversial and fairly factual, but I understand the perception that it lacks a risk/benefit discussion.
- I would like to see it shortened to one paragraph. A statement of principles may not be useful but it would set the tone for the report.
- I don't like the title. The section should be aimed more at setting the context for the report. I agree that it doesn't represent a balanced perspective and that it would be more effective if it was shorter.

Summary of Decisions and Actions

Marc Daudon summarized the meeting, including decisions and next steps. This is the last formal meeting of the TRAC.

Decisions

Decisions Regarding Draft Recommendations

The Committee decided to:

- Add language to recommendation 1-1 stating that the research conducted at higher education institutions will focus on toxics use.
- Add clarifying language to recommendation 1-1 that specifies that it applies to non-agricultural chemical uses only.
- Add language to recommendation 1-2 that any new rule adding chemicals to a priority list at a future date must wait until the next legislative session before going into effect.
- Modify the "to present a threat" language in recommendation 1-3 (d) to set a lower bar for designating a chemical as a hazardous substance than as a high priority hazardous substance (recommendation 1-2)
- Add a reference to recommendation 1-3 that makes it clear that the addition of any chemical to either list of chemicals shall go through a science-based process.
- Remove the word priority from recommendation 1-4, and replace it with language that indicates that Ecology will "go where the threat is."

- Revise the language of recommendation 1-5 to incorporate a *de minimis* standard and clarify acceptable sources for the chemical information.
- Clarify who makes up the universe of users. Include language in recommendation 1-6 that reflects the theme of going where the threat is.
- While several members approved of the inclusion of a reward system for businesses, it was agreed that at a minimum recommendation 1-7 would need to include more specific recommendations in order to be useful.
- Change the language recommendation 1-8 to say that Ecology will continue to work with federal, state and local agencies.
- Add language to recommendation 1-9 recommending preferential purchasing by the State and its agencies from companies that achieve certain benchmark goals in the program. It was proposed that these goals would be percentage based (i.e. a percentage reduction rather than an absolute reduction).
- Rewrite recommendation 2-1 to address the concerns posed by incompatibilities related to data sharing between businesses and Ecology, the fact that electronic signatures are not accepted, and the considerable effort necessary to gather this data, while capturing Ecology's need for data that can be compared between businesses and across sectors.
- Add specific language to recommendation 2-2 to indicate that it does not apply to P2 planners, and is intended to apply to those non-P2 planners that are using "the worst of the worst" chemicals.
- Clarify the phrase "increase technical assistance" in recommendation 2-3 to reflect that the Committee is recommending additional technical training for Ecology staff.
- Include language in recommendation 2-3 specifying what businesses are affected by this recommendation, especially in regards to whether or not it applies to P2 planners only.
- Add language to recommendation 3-1 that clarifies what information will be reported, and what are the boundaries between obtaining comparable data and offering businesses flexibility in their reporting.
- Revise recommendation 3-2 to ensure that there is a level playing field for any merit-based system.

Proposed Fee Structure

The Committee decided to:

- Include step 1 of the proposed fee structure as written
- Revise the language of step 2 of the proposed fee structure to say that the Director can revise the threshold but cannot lower it below the 2,640 lb. threshold.
- Revise step 3 of the proposed fee structure to more effectively convey that the intent of this recommendation is to include all TRI reporters.

- Remove the specific \$50 reward cap from step 4 of the proposed fee structure and give the Director the authority to determine a sensible amount.
- Reword step 4 of the proposed fee structure so that it is clear that the proposal is voluntary.
- Rewrite the recommendation in step 5 of the proposed fee structure to say that the fees should be redistributed in order to address inequities in the current system.
- Revise step 6 of the proposed fee structure to recommend RSEI or a RSEI-like system, rather than specifying RSEI.
- Include step 7 of the proposed fee structure as written.
- Include step 8 (a) of the proposed fee structure as written.
- Add specific language to step 8 (b) of the proposed fee structure linking this recommendation to recommendation 1-4.
- Add language to step 8 (b) of the proposed fee structure specifying that the process described will be a rulemaking process.
- Rewrite step 8 (c) of the proposed fee structure to convey that the Committee repeatedly attempted to develop a system that applied to toxics use, but was unable to do so, and include a proposed path forward to incorporating toxics use into the program at a future date.

Actions and Next Steps

- Ecology will work with Ray Lam and Mel Oleson to rewrite recommendation 2-1 to reflect the Committee's decisions.
- Gary Smith will work with Ecology to include more specific language to recommendation 2-2 reflecting, per the Committee's decision.
- Ecology will work with Gary Smith to develop specific language to reflect the Committee's decisions on recommendation 2-3.
- Ecology will consult with a group of stakeholders from outside the Committee to develop a specific fee structure that will be generally accepted. The structure will include a plan for raising the fee cap and a final decision on specific toxicity multipliers.
- Ecology will send a request to Committee members for the top three proposed program elements that they support, in order to inform the development of a prioritized list that might inform the funding recommendation.