

# Toxic Reduction Advisory Committee

## Meeting Summary

### September 10, 2008

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The third meeting of the Toxic Reduction Advisory Committee (TRAC) was held on September 10, 2008 in Seattle, Washington at Seattle University. These notes are available on the Department of Ecology's website.<sup>1</sup>

#### The following Committee members attended the meeting:

- **Ray Carveth**, King County Local Hazardous Waste Management Program
- **Alan Durning**, Sightline Institute
- **Kelly Flynn**, BP Cherry Point
- **Steve Gilbert**, Institute of Neurotoxicology and Neurological Disorders
- **Jim Jesernig**, Agricultural Industry
- **Ray Lam**, Boise Cascade Paper Division
- **Mel Oleson**, The Boeing Company
- **Darin Rice**, Washington State Department of Ecology
- **Ivy Sager-Rosenthal**, Washington Toxics Coalition
- **Jim White**, Washington State Department of Health (for Wayne Clifford)

#### The following Committee members were unable to attend the meeting:

- **Wayne Clifford**, Washington State Department of Health
- **Alan Link**, Washington State Labor Council
- **Mo McBroom**, Washington Environmental Council
- **Claudia Rojas**, Crown Cork and Seal Co.
- **Joyce Cooper**, University of Washington Department of Mechanical Engineering
- **Gary Smith**, Independent Business Association

#### The following individuals presented information:

- **Tom Boucher**, Washington State Department of Ecology
- **Alan Durning**, Sightline Institute
- **Dennis Johnson**, Washington State Department of Ecology
- **Peggy Morgan**, Washington State Department of Ecology

#### The following representatives from government agencies signed in:

- **Ken Zarker**, Washington State Department of Ecology

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

- **Estefania Moreira**, University of Washington
- **Gwen Vernon**, Cascadia Consulting Group

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

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

## Convening and Introductions

Darin Rice convened the meeting. Committee members introduced themselves.

Marc Daudon reviewed today's agenda and the accompanying meeting materials. He described the focus of the meeting as including the fee structure, returning to the recommendations to the draft scenarios presented at the last meeting, and a review of the structure, content, and timing of the report. In putting together the report, the Committee will attempt to avoid minority reports, but they can be included if a strong need is demonstrated. Marc reviewed the meeting guidelines and protocols.

There were no questions on today's agenda or on the summary from the last meeting.

## Options for Fee Structure

Darin Rice introduced the topic of the fee structure. Previously the Committee has discussed different aspects of P2 planning; now we will address the associated fee structure as the last major component.

Marc Daudon reviewed the handout outlining key considerations for the fee structure. The Committee will address the structure of the fees at this meeting. Issues regarding revenue quantities or program costs will be addressed at the next meeting. Committee members were encouraged to consider where they would fall on the spectrum of ideas presented, and to consider each idea on its own, disassociated from the other options.

### *List of Considerations*

Marc Daudon introduced a list of key factors to consider in discussing the fee structure, and Marc solicited changes to the proposed list from the Committee.

### Questions and Comments Regarding List of Considerations

- **The Committee should include how much toxic material is used in the state. Toxics use is related to the fee question, and addressing it will ground our discussion of fees.**
  - Alan Durning will address this topic in his presentation.
- **Green house gasses (GHGs) have been declared toxics in certain circumstances. Is that consideration within the scope of this Committee?**
  - There might be room to address the issues together, especially since some toxic chemicals emit GHGs.
- **What was the 50% toxics reduction goal supposed to achieve? Fewer people getting sick?**
  - The 50% number is a planning oriented goal. The idea was really to shift hazardous waste thinking to use. The number was not intended to relate to specific outcomes.

## Recommendations Regarding the List of Considerations

**Several Committee members favored keeping the Committee's scope narrow, but maintaining the flexibility to address topics such as GHGs down the road.**

- There are many resource concerns that have fees associated with them and could be considered. The Committee should keep its scope on the narrow side.
- Ecology does not want to focus on GHGs, but maybe the Committee should maintain the flexibility to address them if it makes sense.
- Looking ahead, proposed recommendation 3-1 allowing advanced Environmental Management Systems (EMS) might be the place to incorporate the idea that the world is changing and toxic waste management may ultimately need to factor in issues such as GHGs and carbon trading.
- Maintaining flexibility to incorporate GHGs down the road would be important to Ecology.

## *Review of the Current Fee Structure*

Alan Durning reviewed the current fee structure. The theoretical ideal for any pollution tax is to multiply a chemical by its quantity and a cost rate, with factors built in for toxicity, proper stewardship, and uncertainty.

The existing fee structure covers three types of hazards: dangerous waste (more than 80% of the current total), Toxics Release Inventory (TRI) waste (10% of the current total), and extremely hazardous waste (10% of the current total). Currently there are 600 P2 planner businesses that generate roughly 77 million pounds of covered waste, although the quantity produced varies enormously by business.

Under the existing structure, there are different thresholds that affect what a business pays: a flat fee threshold below which no fee is paid, a per-pound threshold, and an absolute per business fee cap of \$17,100. Last year, businesses that reached the per-pound threshold paid \$220 per ton of material generated. This structure is what leads to inequity when one looks at the fees paid from a per pound standpoint. While the overall fee cap does not affect a large majority of businesses, those that do have their fees restricted by the cap produce 92% of the covered waste.

In addition to these thresholds, TRI waste is exempted from being counted towards the threshold for the flat fee. This exemption applies to roughly 25% of the covered waste. Extremely hazardous waste is also treated differently in different areas of the fee structure. These tonnages are multiplied by ten to determine their contribution to the flat-fee threshold, but are not multiplied by ten when counted towards the per-pound threshold.

## Questions and Comments Regarding Review of the Current Fee Structure

- **Boeing produces some TRI waste that is not shown in this data.**
  - We could look into why this material does not appear on this table, if that would be valuable.
- **What counts as TRI waste in the summary program data?**
  - This data include TRI materials that left the facility.

- **It is incorrect to say that businesses aren't charged for their TRI wastes. These waste amounts are factored into air and water permit fees, which are not small.**
- **Is there any information on waste generation as a function of production? I would that larger waste generators are producing an equivalently large amount of their final product.**
  - Ecology does have that information on an industry-wide basis. Reporting businesses provide a "production factor", but as those vary business by business, the data are very hard to compare.

### *Changes to the Fee Structure*

Alan Durning presented four incremental steps for improving the existing fee structure: remove the TRI exemption, remove the extremely hazardous waste exemption, remove the fee cap, and discontinue the flat fee. Implementing all four steps would lead to a fee structure with one threshold between two categories: businesses that produce less than 1.3 tons of toxic waste annually and pay no fee, and those that produce more that would pay a per ton fee. Assuming an overall program cost at the current level of \$1.7 million, all businesses who reach the threshold would pay \$29 per ton of material.

Implementing all four of these changes would result in a number of effects, including:

- Businesses that currently pay the per pound fee of \$220 per ton would end up paying significantly less per ton of toxic waste than they do currently, as the removal of all of the exemptions, the flat fee, and the fee cap would result in more pounds of materials being covered by the per pound fee.
- Most P2 planner business' fees would not be affected by removing the TRI exemptions.
- Eliminating the extremely hazardous waste exemption alone would not raise enough extra program-wide revenue to produce a sizeable financial impact on many P2 planner businesses.
- Eliminating the fee cap would lead to a large increase in the fee paid by large generators of toxic waste and TRI emissions.
- Eliminating the flat fee alone would have very little financial impact overall, but would decrease the fees paid by small businesses, the very businesses for whom this fee is supposed to reduce costs.

All of the effects presented were based on the assumption that the total program cost would be the same as for last year, at \$1.7 million.

### **Questions and Comments Regarding Changes to the Fee Structure**

- **That would unfairly punish groups in trade organizations. Under TRI you are only required to report what you suspect you will emit. If you're not in a trade association, you don't have to report on certain emissions.**
  - There is a policy problem with basing a fee on self-reported data.
- **The Committee should emphasize that this is an "alternative" approach, not necessarily an "improved" approach.**

- **The costs being referred to are Ecology's costs, and it is misleading to say that this equates to a company's costs. Waste disposal costs form the bulk of a business's toxics-related costs, not this fee.**
  - That is true, but this Committee has been charged with producing recommendations that will make the fee more fair, and which will ultimately reduce the use of toxic materials.
- **This presentation assumes that a change in the fee structure will provide an incentive to businesses to reduce either their chemical use or waste. However, the fee might be so small relative to overall disposal costs that it cannot be used as a meaningful incentive.**
  - The Committee's charge is to create an incentive, as well as to have the fee system be as fair as possible.

### *Shifting the Planning Fee to Use*

Alan Durning presented several ideas for how to shift some of the focus of the P2 planning fee from waste to chemical use. There is not very much information about toxics use right now. Currently, the planning fee covers 77 million pounds of waste per year. The entire toxic waste universe is larger than this amount, and we know that the amount of chemicals in use is greater still. However, there are no data on exactly how much material that is.

Since data are not available, the Committee might explore taking one or more of the following steps:

- Using TRI reporting on toxic material storage as a proxy for toxics use. Storage might be the best available proxy for measuring use. One possibility would be to factor a fee based on storage category into the overall planning fee.
- Identify potential intermediate steps that could move Washington towards a use-based system, such as a toxic census to identify what materials are being used. This could be undertaken by the Department of Ecology or as part of a Washington TURI-style program. There would need to be a policy plan in place to review the compiled data.

### **Questions and Comments Regarding Shifting the Planning Fee to Use**

- **Pounds of material treated on site are included in TRI reporting.**
  - There is a policy problem with basing a fee on self-reported data.
- **It appears that there is some double counting between planning pounds and treatment pounds.**
- **Didn't the Committee establish at the last meeting that businesses are reporting on toxics use?**
  - Yes. That topic will be covered in a presentation later today.
- **If a company uses a hazardous chemical and doesn't dispose of it, it isn't included in their P2 plan. Like wise, if a company uses two toxic materials to produce a non-toxic one, that isn't reported.**
- **It seems like we are overcomplicating the issue. Companies like Boise Cascade know what they have in their inventory.**

- **There is a cost benefit issue that needs to be a part of this discussion. The consideration of use vs. waste brings up the question of how one factors in value. Everyone agrees that waste is undesirable, but if Ecology is going to try to reduce use, you need to figure out a way to factor the value of the end product into the decision. This is a central concern.**
  - The value of that end product needs to be balanced with the overall health of society.
- **There will be unintended consequences for any program that reduces toxics use. For instance, burning tires releases toxics, but if you stop burning them they provide a home for mosquitoes. If businesses stop using certain materials that are waste products from other processes, what do you do with the leftover material?**

### *Tuning the Tax to the Toxicity.*

Tom Boucher presented considerations to factor into tuning the fees to chemical toxicity levels. In order to identify the danger posed by a particular material, one needs to know the ingredients, the toxicity of those ingredients, and how much of the material is used.

The standard way to refer to chemical ingredients is with a Chemical Abstracts Service (CAS) registry number. There are 100 million unique CAS materials.

However, we don't know the toxicity of all of these CAS materials. Furthermore, information on these materials is provided in different ways on different lists. Some lists, such as TRI, have an all or nothing criteria: either a chemical is on it or it's not, and very different chemicals are grouped together. Other lists, such as TRACI, have a relative grading.

Factoring toxicity into a fee structure also requires information about the usage of the material. Here a key factor is exposure: how much is too much? This varies tremendously by material. It is common to see thresholds of 10,000 pounds on the TRI list, but some thresholds are in grams.

Currently, the major toxic chemical reporting schemes with information on use are EPA/Washington's "Tier 2", EPA's TRI, and Washington's P2. Tier 2 focuses on storage of chemicals, so the fire department will know what you have on site. However, a drawback of this list is that it often lists mixes, such as "paint", instead of individual chemicals. TRI focuses primarily on emissions. P2 plans focus on use. P2 planners must report on 95% of the pounds of products that contain ingredients that are on the TRI list.

There are two tradeoffs for tying the fee to toxicity: the reporting program could create new burdens for businesses, and there is a question of which category of toxics listing to use.

### **Questions and Comments Regarding Tuning the Tax to the Toxicity**

- **The Washington Administrative Code (WAC) refers to products at threshold levels. Are those thresholds based on TRI? Would nine pounds of mercury not be reported?**
  - It would only be reported if the business produces at least 2,640 lbs. of total waste. Once a business qualifies for the program it reports 95% of its use of listed chemicals.

### *Proposed Fee Options*

Tom Boucher introduced five proposed options for tying the fee to toxicity. The extent to which the fee is tuned to toxicity increases from Option 1 to Option 5. Each of these options is mutually exclusive.

- In Option 1, chemicals are charged based on a flat fee. This option could be implemented immediately if so desired. It factors in chemical use but not toxicity.
- Option 2 uses storage as a proxy for determining toxic chemical use. It does not incorporate toxicity.
- Option 3 incorporates a multiplier for chemical toxicity.
- Option 4 includes a numerical toxicity factor with the potential to factor in many different multipliers.
- Option 5 is the option most tuned to toxicity. This option does the best at factoring in all concerns of use and toxicity. It also would require the most research and new tools. This is where Ecology staff wants to be; treat businesses differently based on how they are using chemicals.

### Questions and Comments Regarding Tuning the Tax to the Toxicity

- **Implementing these options would only apply to businesses that are located in Washington, and would be a huge disincentive for businesses that might move into the State. The Tri-Cities area recently lost 3 billion dollars worth of companies.**
  - These concerns form a backdrop for all government decision. Forbes recently rated Washington the number three business friendly State.
- **Focusing on use will have an unintended consequence: businesses will dispose of certain materials.**
  - One possibility is that Ecology could exempt material reuse and recycling.
- **What about quantity. Will my business get charged the same amount for 10,000 lbs of ammonia as for 1,000,000 pounds?**
  - Discussion of the proposed plans was tabled until after the presentation.
- **Will rail lines be affected by focusing on toxics use?**
  - They are exempt currently because they are in the transportation sector. They are transporting the chemicals, not using them.
- **In incorporating toxicity into the fees, Ecology will consider toxicity for whom? Copper is not highly toxic for people, but it is very toxic for salmon.**
  - There are a variety of factors to consider. Researches and policymakers have looked at these questions. A group will have to make a decision on how to use that information.
- **How will farmers be affected if end users will be taxed?**
  - Currently end users of agricultural pesticides are exempt from planning and fees. So far, the Committee has talked about excluding them going forward. Producing hazardous waste is the only thing that would get them into Ecology's system.
- **Is the difference between Options 3 and 4 that Option 3 establishes chemical categories, while 4 looks at specific chemicals?**

- Yes. Option 3 looks at maybe three categories, as the Massachusetts program does. Option 4 is much more tuned to specific chemicals. This option would not require new reporting because it is restricted to current P2 planners. It does require establishing toxicity factors. However, Tom has talked to the Environmental Protection Agency (EPA) and has found that toxicity comparisons cannot always be made. Ecology already has a database, "TRACI", that would be relevant to this question, as well as the Persistent Bioaccumulative Toxin (PBT) list.
- It is pretty tough to make toxicity comparisons; they require a good deal of analysis.
- **Right now there is no requirement for industry to produce toxicity data. Registration, Evaluation, Authorization, and Restriction of Chemicals (REACH) is changing this, but the US has been slow to adopt it.**
- **These options will create an incentive for Washington companies either to shift the use of these materials to overseas facilities, or to create the chemicals on site rather than purchasing them, so that they do not show up in storage records. Only Washington businesses are paying the tax under this scheme, and a company would be better off manufacturing products in a neighboring state unless the statute were based on manufacturing equivalents.**
  - The P2 planning fee is a really tiny fee. Also, there already is a fee; we're just talking about making it a little fairer. A fee of this size shouldn't have a large impact on businesses moving out of the State.

### *Discussion of Fee Alternatives*

Based on the fee structure presentations and discussion, Marc added two new items to the list of fee discussion considerations: consequences for Washington businesses and unintended consequences of changes to the fee.

Marc summarized the presentations and discussion so far today, and facilitated a Committee discussion of the fee structure alternatives.

### **Questions and Comments Regarding the Discussion of Fee Alternatives**

- **The Committee would benefit from additional clarity about what the current law says about use reporting under the P2 process.**
- **What is the total revenue amount for the program?**
  - The Committee will address program structure now, and will discuss the issues of program funding later.
- **These fees are a relatively minor cost for businesses. The real cost is having people gather and report this data. Some of these approaches will cost a lot and we need to consider that businesses will want to know the benefit they are getting for paying this cost.**
  - That concern needs to be put in the broader perspective of the overall benefits to society.

- **The final system needs to be simple. Businesses have multiple regulatory concerns, and the overall impact can be significant even if the individual requirements themselves are small. Simplicity also relates to competitiveness concerns.**
- **Previously, the Committee agreed to be concerned with continuing business assistance services and making them available to more businesses. Selling changes to businesses is easier if they are fair; raising a company's annual fees from \$17,000 to \$400,000 doesn't seem fair.**
- **Will removing the TRI and extremely hazardous waste exemptions add businesses to the program?**
  - Removing the TRI exemption would add businesses to the group that pays fees, but they are already P2 Planners.
- **How will any of these structures achieve the Committee's goal of targeting chemical use?**
- **Removing the exemptions appears to make the structure more equitable.**
- **Several members were more concerned with waste reduction than with addressing use.**
  - Use is relevant to worker safety concerns.
- **If the flat fee is removed and only the per-pound threshold remains, growing businesses will move.**
  - Actually, removing the flat fee would result in most businesses paying less than they do now.
- **If the flat fee is removed, would it be possible to broadly classify wastes by toxicity and incorporate this into the fee structure?**
- **The more changes the Committee recommends, the harder it will be for the Legislature to pass them. From a political standpoint, simpler is better.**

### **Recommendations Regarding the Discussion of Fee Alternatives**

**The Committee reached consensus on recommending a "hybrid" fee structure that would incorporate the following element's of Alan's proposed options:**

- Eliminating the \$60 flat fee and setting a new threshold for paying the fee at a level that fully covers the administrative costs of collecting it.
- Eliminating the extremely hazardous waste exemption.

**The Committee reached a qualified consensus on two other elements of the "hybrid" fee structure**

- Removing the total per-business cap on the fee, and replacing it with a higher fee cap. Several members supported the reasoning behind eliminating the fee cap entirely, but conceded that doing so is probably not feasible politically.

- Removing TRI as a basis for any part of the planning fee. While several members agreed to this proposal, others wanted more information on the role that TRI reporting might play in tying the fee to chemical use before they agree to remove TRI from the fee structure entirely.

The Committee also agreed to refer to the proposed changes to the fee structure as “alternatives” rather than “improvements”.

### Next Steps Regarding the Discussion of Fee Alternatives

- Ecology will develop a range of options that increase the fee cap to help direct Committee discussion on what will be politically feasible.
- Ecology will share TRI data with Alan Durning for an analysis of TRI's possible applicability to incorporating toxics use into the fee.

### *Use vs. Waste*

Marc Daudon facilitated a discussion of how to include toxics use in the fee structure, in addition to toxic waste.

### Questions and Comments Regarding Use vs. Waste

- **Ecology favored an approach that would include a fee based on the use of toxic chemicals. Such a fee could be calculated by combining business' Tier 2 reports and their extremely hazardous waste and PBT data, and having them pay based on their storage of these chemicals. Storage would be a proxy for usage. This would be a relatively simple way to incorporate use into the fee structure with minimal new reporting.**
- **Storage isn't a good proxy for use because there are too many instances when a stored hazardous material is used on a product and not disposed of. Many chemicals change their toxicity when they are used.**
  - If the program waits until toxics are disposed of, then a lot of toxic material has already gone into the community. Our communities will keep paying the financial and health costs until we look at the complete picture of toxics, and that includes use.
- **Using storage as a proxy for use would be a recordkeeping nightmare for businesses. I cannot come up with a simple use-based system for manufacturers; they would have to track their inventory.**
  - Manufacturers that are TRI reporters are already reporting this.
- **Ecology cannot be scene as the organizing agent for a statewide toxics census as proposed in Alan's presentation. Any group that does this needs to be independent, such as the University of Washington or Washington State University.**
- **Use reduction implies doing a cost benefit analysis of the product and its health effects. Focusing on the waste side is easier to agree on, because everyone agrees that waste is a bad thing.**
  - Simplicity will be important, but addressing use based on available data can be simple. The basis would be: what chemicals are in Puget Sound and in kids. Rather than using a

toxicity factor, the program would use a list of chemicals of high concern. Such a list would not have to be large.

- **A TURI style program would be beneficial, but the Legislature will not fund a research body this session. Perhaps there are intermediate steps that Washington could take towards such a program.**
  - A Washington TURI program would also provide a valuable resource to businesses that want to learn about the toxicity of the materials they use. However, it would not benefit agricultural chemical users, as such resources are already available to them.
  - There was a concern that a TURI program would not be held accountable for its work.
- **There should be enough information available to implement Ecology's option 4.**
- **The Committee needs more information on what a use-based fee would look like. I would be uncomfortable recommending anything more than a pilot program at this point, given our lack of understanding of whether or not a use fee would work. Also, while chemical use is certainly important, we have not answered that it is a better litmus test for toxics release than waste is.**
- **It would be exciting if the Committee agreed to get use data from businesses, in order to determine if these chemicals are coming from businesses in China or in Washington.**
- **I would support a charge on chemical use. Storage could be a good proxy for use, as there is the possibility for release when chemicals are stored on site.**
- **Is there a way to pilot a use-based approach for established extremely hazardous waste chemicals?**
  - Kelly would be interested in participating in a pilot program.
  - Any participating business would need to avoid public disclosure of their information.
- **Developing incentives for businesses that develop EMSs might be a more efficient way to meet use reduction goals than to develop a new regulatory structure.**
  - Incentives for EMSs could work, but an incentive system that charges different fees for different thresholds is too complex. Charging a per-pound fee is enough of an incentive.
- **It might be possible to consider a chemical's hazard over its lifecycle.**
  - There are lots of concerns with that approach. For instance, there would be a big difference in lifecycle toxicity depending on whether the chemical came from the US or India.

## **Recommendations Regarding Use vs. Waste**

**Many Committee members favored an approach that is focused on the threat posed by toxic chemicals, and that can pursue that threat whether it appears on the use side or the waste side.**

- Such a threat-based approach could involve the use of a list of chemicals of high concern.

- Business liability is a huge concern that relates to threat.

**The Committee agreed that additional information is needed before making any decisions about incorporating chemical use. The Committee designated a subcommittee to research how to incorporate use into the program fee, and to develop several example scenarios. These examples will also address the issue of toxicity.**

- Alan Durning, Mel Oleson, Ivy Sager-Rosenthal, and a representative from Ecology will staff the subcommittee. Ecology will take the lead on running this group.

**Committee members also made the following comments:**

- Instead of using a fee, drive business innovation with incentives. Businesses respond to money, not to fees.
- Implementing a percent reduction goal would reward those businesses that are the worst offenders.
- A waste based fee structure, accounting for toxicity, is the fairest option.

## **Other Considerations for Developing Recommendations**

The Department of Ecology presented information on its technical assistance programs and approaches.

### *Firewall Between Assistance and Compliance*

Dennis Johnson presented on the system the Department of Ecology uses for keeping outreach and compliance efforts separate when working with businesses. Ecology's technical assistance officers inform the facility they are visiting of any violations they find, but they only report those violations when there is an immediate danger to human health or life, or when they have caused or are likely to cause damage to others' property of more than \$1000. These are not just Ecology policies, they are codified in the Revised Code of Washington (RCW). Washington law also mandates that information obtained onsite as part of a planning visit cannot be used to implicate a P2 planner.

In practice, Dennis has never needed to invoke these requirements in the almost twenty years of its existence.

### **Questions and Comments Regarding the Firewall Between Assistance and Compliance**

- **King County's Local Hazardous Waste Management Program has a similar protection in place for businesses. In over 40,000 inspections they have had no issues in this area.**

### *Small Business Technical Assistance Approaches*

Peggy Morgan presented Ecology's multi-faceted approach to working with small businesses. Ecology began conducting single industry outreach campaigns in 1992. Subsequent evaluations identified that businesses have made a lot of changes based on these campaigns. This outreach has taken both a geographic focus, based out of local offices, and a business sector focus.

Peggy also reviewed Ecology's four current programs, including the EnviroStars Cooperative, which may expand beyond Puget Sound.

## Review Draft Outline

Marc Daudon facilitated a review of the draft outline of the Committee's report to the Legislature. Marc announced that the report would be approximately 20 pages, but that the outline is quite bare bones at present. He solicited examples of effective report models from the Committee.

### Recommendations Regarding Review of Draft Outline

**Several Committee members favored moving any minority opinion next to the majority opinion.**

- Otherwise the minority opinion will be ignored.

**Several Committee members favored including a statement of purpose.**

- This statement could provide the larger context for the report, and would be included in the problem statement.

## Recommendations to the Legislature

Marc Daudon introduced the draft recommendations. Those scenarios that were agreed upon at the last Committee meeting were turned into summary recommendations. The Committee discussed the summary recommendations, and provided feedback on those scenarios that were not discussed at the last meeting.

### *Recommendations 1-1 and 1-2<sup>2</sup>*

The Committee discussed Ecology's recommendations 1-1 and 1-2.

### Questions and Comments Regarding Recommendations 1-1 and 1-2

- **Recommendation 1-2 is redundant because recommendation 1-1 would require a rulemaking process.**
  - The Committee discussion that led to recommendation 1-2 centered on the need for a proactive process to prioritize the list of chemicals and develop a system for modifying such a list after it is created. That is missing from this recommendation.
  - The Committee had decided that any changes to a list should come from a public process.
- **Could there be a group like the Solid Waste Advisory Committee (SWAC) that would advise the State on toxics issues, including providing the basis for any changes to the chemical list?**
  - A standing committee gives the advantage of added visibility, networking, and power, but frequently they are too far removed from the issues to know the material well, and

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<sup>2</sup> All recommendation numbering reflects the draft dated September 4, 2008.

political concerns can strongly affect their recommendations. The Children's Safe Products Act and the PBT stakeholder process provide alternative models.

- **The Committee discussion that led to recommendation 1-2 centered on the need for a proactive process to prioritize the list of chemicals and develop a system for modifying such a list after it is created. That is missing from this recommendation.**

### **Recommendations Regarding Recommendations 1-1 and 1-2**

**Several Committee members favored removing references to the designated committee as “standing”, describing its functions, and describing its convening schedule as “periodic”.**

#### *Recommendation 1-3*

The Committee discussed recommendation 1-3.

### **Questions and Comments Regarding Recommendations 1-3**

- **This recommendation is where a tiered approach could be inserted, allowing smaller businesses to adopt a simpler approach.**
- **The Committee needs data on business chemical use. We should recommend obtaining that information if it is not currently available.**
  - Such a recommendation would involve proprietary business information. The Sarbanes-Oxley Act prevents a private company from reporting information that could be used by a competitor.
- **How does Ecology include a small waste generator that generates very toxic materials? Does such a business prepare a full plan?**
  - These small businesses will be difficult to work with because they don't trust government. The most effective plan would be to reach these businesses through trade associations.

### **Recommendations Regarding Recommendation 1-3**

**Several Committee members favored changing the word “lessening” to “streamlining”.**

**Several Committee members favored removing the concept of reporting chemical use from the recommendation.**

- Ecology will develop additional specificity around what such reporting might look like.

**The Committee agreed that Ecology would add language on working with trade associations to recommendation 1-3.**

#### *Recommendation 2-1*

The Committee discussed recommendation 2-1.

## Questions and Comments Regarding Recommendations 2-1

- **It makes sense to establish a group outside of the State universities.**
- **Think about which trade associations could go back to their members with a working idea.**
- **It is very difficult to identify where outside of Ecology such an organization would fit.**
  - The University of Washington is establishing a College of the Environment, so it would be a perfect time to approach them about housing an organization.
- **Lean manufacturing consultants might respond to a request for proposal and be able to do the work cheaper than Ecology can.**
- **Given this Committee's timeline, it makes sense to house the proposed organization at Ecology temporarily.**
  - Housing the organization at Ecology might cause it to lose focus.
- **The Committee should develop a recommendation for an intermediate step towards forming a TURI-like organization.**
  - We should not determine the specifics of where such an organization should be housed.
- **One Committee member expressed concern about creating a series of unfunded mandates for Ecology in a deficit year.**
  - Ultimately, funding will be a question for the Legislature.

## Recommendations Regarding Recommendation 2-1

Several Committee members favored recommending a "proof of concept" pilot program for a TURI-like research organization.

- Fully funding an effective organization is unlikely in the current political climate.

## *Remaining Recommendations*

Marc Daudon solicited feedback from the Committee on the remaining recommendations.

## Questions and Comments Regarding Remaining Recommendations

- **Aren't EMSs already an option as an alternative to a P2 plan?**
  - Yes, they are allowed by policy. This recommendation would provide additional flexibility.
- **The fee structure in recommendation 4-2 should include some form of incentive.**
  - Businesses with an EMS could pay at a different rate.

- **The Committee should either formulate concrete options for recommendation 4-3 or drop the recommendation. One option might be an incentive for businesses that develop ideas that help other sectors.**
  - We are making things awfully complicated.
- **Scenarios 8 and 9 seem redundant with recommendations 3 and 4.**
- **The business community has been submitting plans a certain way for years. Changing that to provide options might lead to confusion.**
- **Requiring online reporting will lead to problems with lost records.**
  - Electronic signatures are not accepted according to the federal courts.
  - Ecology allows electronic submission of pollution prevention plans and reports as long as a cover letter with the signature of the person responsible for the plan is mailed or faxed.
- **Ecology proposed to support California's toxics clearinghouse as part of the partnerships recommendation.**
  - Would the P2 program pay for this?
  - The initial cost is \$1.5 million, and a multi-state group could share that cost.
- **What are the specific benefits of the 50% toxics reduction goal? Conceptually, we know it's a good thing, but specifics would help sell the Committee's recommendations to the Legislature.**
  - This is a great idea, but it isn't practical for the Committee to address. It would be a great project for a TURI-like group.
- **These recommendations ignore toxics that enter Washington from elsewhere. Imposing costs that only Washington businesses must meet will create a competitiveness issue.**
  - While this is an important consideration, it is outside the Committee's scope as defined by the charter.

## **Recommendations Regarding Remaining Recommendations**

**Several Committee members favored changing the language "use of toxics" in recommendation 2-3 to "reduction of toxics" and replacing "use" with "use, reuse, and recycling".**

**Several Committee members favored moving recommendations 8 and 9 to subtasks under task 2.**

- Add lifecycle analysis to that section as well.

**Several Committee members favored having Ecology write up the partnership recommendation to specify participation in the toxics clearinghouse, and the costs and benefits of that participation.**

## **Summary of Decisions and Actions**

Marc Daudon summarized the meeting.

Peggy Morgan reviewed the aggressive Committee timeline. Ecology will draft a new set of recommendations by Friday, September 19<sup>th</sup>. The Committee will have until September 30<sup>th</sup> to provide comment on the recommendations. Ecology will incorporate this feedback into a draft report that will be sent to the members one week before the next meeting. This draft will be discussed at the meeting, and any further changes will be made by October 24<sup>th</sup> for a final round of review by the Committee. Any minority opinion write-ups will be due to Ecology by October 29<sup>th</sup>. Ecology will submit the final report to the Legislature on October 31<sup>st</sup>.

As a result of the tight timeline, please try to return Ecology's calls in a timely fashion.

The next meeting of the Toxics Reduction Advisory Committee is currently schedule for Tuesday, October 14, 2008 at Seattle University in Seattle, Washington.

## *Decisions*

The Committee decided to:

- Table the consideration of GHGs for now.
- Recommend removing or raising the per-business fee cap.
- Recommend eliminating the extremely hazardous waste fee exemption.
- Recommend eliminating the flat fee.
- Consider removing TRI from the planning fee; but not all committee members agreed pending the discussion of what would be recommended about addressing use and toxicity.
- Refer to the proposed changes to the fee structure as "alternatives" rather than "improvements".
- Pursue a hybrid concept for the fee structure that focuses on the threat posed by toxics, whether that occurs on the use side or the waste side.
- Form a subcommittee to research ways to incorporate toxics use into the program and to develop several demonstration scenarios.
- Include a statement of purpose in the final report.
- Include any minority opinions next to the majority opinions in the final report.
- Rewrite recommendation 1-2 to refer more generally to the purpose of a TURI-like group, and to remove any specific reference to creating a standing body.
- Include a recommendation for a pilot program for a TURI-like program that would focus on toxic chemical threats, both in regards to chemical use and waste.
- Make several revisions to recommendations 1-3, 2-3, and scenarios 8, and 9.

## *Actions and Next Steps*

- Cascadia Consulting will distribute Alan Durning's PowerPoint to the Committee.
- Ray Lam and Steve Gilbert will draft a broad statement of philosophy and approach for the introduction to the report.

- Ecology will take the lead on coordinating with the designated subcommittee to research ways of incorporating use into the program and fees.
- Ecology will provide:
  - Draft recommendations based on today's suggested changes by Friday, September 19<sup>th</sup>.
  - A "proof of concept" for the development of a TURI-like group.
  - A table of the costs and benefits associated with the program recommendations.
  - A range of fee options.
  - TRI data to Alan Durning to be used for an analysis of TRI's possible applicability to incorporating toxics use into the fee structure.