



Association
of Washington
Business

Washington State's Chamber of Commerce

March 11, 2013

Carol Kraege
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

RE: Public Comments on Toxic Reduction Strategy Workgroup whitepaper

Ms. Kraege:

Thank you for the opportunity to comment on the Department of Ecology's whitepaper developed by the Toxic Reduction Strategy Workgroup.

I am writing today on behalf of the Association of Washington Business (AWB). AWB is the state's oldest and largest statewide business association, representing more than 8,000 member companies as the state's Chamber of Commerce, as well as the Manufacturing and Technology Association. While our membership includes well-known, larger employers in the state, more than 90 percent of AWB members employ fewer than 100 people and more than half of our members employ fewer than 10.

We appreciate the efforts made by the Department, and those stakeholders serving as part of the Workgroup, in attempting to "transcend our typical legal and political silos to look for creative new approaches to toxics that offer better human health, environmental and economic outcomes." As a business community, we too are committed to working with interested stakeholders in finding reasonable approaches to protect the environment and improve the quality of life.

Unfortunately, the whitepaper, as presented, raise numerous concerns with the process used to develop the paper, the underlying premises and assumptions, as well as the overall recommendations. Following is a brief overview, highlighting some of these concerns shared by the broader business community.

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1. *Public Process*

It is our understanding that participation in the Toxic Reduction Workgroup process was limited to stakeholders invited by the former Director of Ecology, Ted Sturdevant. While we were pleased to see that the Workgroup included a couple business industry representatives, it is worth noting those on the Workgroup represented a singular business perspective, as they were from the same industry. By limiting the Workgroup representation to one industry, the Department failed to receive adequate views and perspectives from other industries within the broader business community.

Given that much of the discussion in the whitepaper focuses on “green chemistry” and the use of chemicals in products, it would have been advantageous to include a variety of industry representatives.

In addition, to not including a broader business community voice, the process to create the whitepaper lacked a robust public participation element. The Department's work on the whitepaper was not broadly known except by a few outside of the Workgroup. The lack of participation, whether on the Workgroup as a stakeholder or as part of the general public, contributes too many of the concerns being noted by business. Proper participation is fundamental to achieving support for such a report.

2. *Underlying Premise*

“Despite this progress people and the environment in Washington continue to encounter harmful toxics through a variety of sources.” (emphasis added)

“Continuing to work toward toxics reduction through individual chemical-specific efforts, and attempts to make sense of laws and regulations that are inadequate to address the quantity and complexity of exposures to toxic chemicals, will simply not get the job done.” (emphasis added)

The introductory statements to the Workgroup's whitepaper put great emphasis on the idea that ongoing actions, including current regulatory schemes at both the state and federal level, simply do not provide adequate protection. Despite such statements the Department provides no supporting evidence to this premise.

Does the Department have the data to show current policies are ineffective? What are the current levels of toxics in the environment compared to levels from 1990?

The report forwarded by the Workgroup, in fact, seems to ignore the early action Washington policymakers have taken, putting restrictions on the use of chemicals like PBDEs, as well as the development of several Chemical Action Plans (CAP) that help understand the sourcing of chemicals in the environment and establishing a plan to deal with them as necessary.

Additionally, the whitepaper seems to determine all toxics are bad by taking a hazard based view of chemicals. In order to understand chemicals, however, it is equally important understand the risks associated with chemicals. A hazard based approach does not consider scientific evidence based risk assessment methodologies to ensure that the risk of adverse health and/or environmental effects from exposure to chemicals used in products is acceptable, like a risk based approach does.¹

Finally, with regards to the underlying premises, the whitepaper invokes the use of precautionary approach to dealing with chemical safety. The whitepaper notes:

“The unknowns and the complexities in understanding chemical exposures and the effect on human health and the environment warrant a precautionary approach. A precautionary approach is not meant to eliminate all risks; rather it denotes that when there is credible evidence that a chemical or product may harm humans or the environment, protective measures should be taken even if some cause-and-effect relationships or toxicity levels are not fully established scientifically.”

Such approaches have been categorically rejected by the state policymakers in recent history. For example, during the 2012 Legislative Session SB 6369, which would have adopted a precautionary approach to environmental policy, failed to move through the legislative process. Given the reluctance of the Legislature to require such policies, it would seem inappropriate for the Department to adopt like policies.

As part of the state’s approach to reducing toxics in the environment it must consider economic feasibility and conclusive science evidence. The prescribed precautionary approach is inconsistent with these principles.

3. Recommendations

¹ http://www.ecy.wa.gov/programs/hwtr/chemicalalternatives/312presentations/3_28Webinar2_Gutsell.pdf

The broader business community supports the concepts of protecting our communities and ecosystems. Several of the recommendations set goals to reduce exposure to toxic pollutants. We generally agree that when appropriate, it is good to pursue such opportunities. The question is when is it appropriate to pursue such policies?

We believe any action should be based on sound science principles, and not subjective thought. This is supportive of our earlier comments asserting the need to understand not only the toxicity of a chemical, but also the exposure and risk associated with chemicals.

Given the limited resources available, recommendations should focus on voluntary approaches, and less on regulatory schemes.

For instance, one recommendation notes:

“Washington should become a national leader in green chemistry making these innovations a trademark of the state just like apples, wheat, software and airplanes.”

While Washington may become the leader in Green Chemistry markets, it is more likely to succeed if instituted as good business practices, not regulation. We tend to forget that Washington isn't a leader in other markets, like planes and apples, because of government mandates.

Additionally, Washington needs to do a better job at assessing the successfulness of existing regulatory and voluntary approaches.

The whitepaper references both the Departments three-phased report on toxics in the environment, as well as the number of water bodies that are impaired due to chemicals or metals in the environment. Both of these discussion points deserve a more robust discussion. For instance, the toxic loading report actually helps ID the sources of many chemicals and metals, which could sharpen the focus of approaches to deal with these chemicals and metals. Merely mentioning the report, suggesting it supports the broader recommendations around reducing toxics, does not do the report justice.

Conclusion:

Again, we appreciate the opportunity to comment on the toxic reduction whitepaper, and the work done by the small Workgroup in developing it.

Based on our comments, and the feedback of our members, we encourage Ecology to engage in a more inclusive discussion, bringing additional stakeholders to the table. While we may agree that we can do more to reduce chemicals in the environment, it is important to ensure the right approach is taken to accomplish the goals of the state.

This approach should include:

- A risk based assessment of the toxic chemicals;
- Inclusion in the development reductions strategies all impacted industries;
- A better understanding of the advances Washington has made through current regulatory approaches, including the CAP process and other bans on priority chemicals, etc.;
- Clearly articulate actual environmental conditions, i.e. – what does the Departments Toxic Loading report show, why are 1,700 water bodies considered impaired (nutrient loading vs. chemical);
- Based on conclusive science.

Finally, before the Department submits any additional recommendations, or begins early action on these recommendations, it should ensure a more robust public process. It is our understanding that several AWB members will submit their own comments regarding the toxic reduction whitepaper. We encourage the Department to be responsive to these comments, as well as provide additional forums and opportunities for our members to engage on this issue.

If you have any questions about our comments, or would like to discuss these issues, please let us know. We would be happy to facilitate conversations with the AWB membership.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon Houskeeper". The signature is fluid and cursive, with the first name being more prominent.

Brandon Houskeeper
Government Affairs Director
Association of Washington Business

Cc: Director Maia Bellon
Tom Clingman