

Washington Toxics Reduction Strategy Group Meeting #3

Monday, November 19, 2012

Updates and Meeting Overview

- The TRS Workgroup will complete its work by mid-January with the finalization of a product, which may be a letter to the incoming Governor of Washington.
- This meeting focused on the problem statement or principles that were distributed in advance of the meeting, but instead focused on the Priority Toxic Chemicals paper and the thought pieces on paths forward.

Prioritization of Toxic Chemicals in Washington

A document was distributed prior to the meeting summarizing **Washington's current approaches** to the prioritization of toxic chemicals. Carol Kraege (Ecology) provided an overview of these approaches. Key points included:

- Prioritization in Washington focuses on three goals: protecting children under the Children's Safe Products Act (CSPA); reducing persistent, bioaccumulative, and toxic (PBT) chemical releases; and protecting Puget Sound from toxic contamination.
- The State's current focus on those three goals does not represent a broad view cross the landscape to select the most important ways to address toxics; there is room for that prioritization to be made in Washington.
- Sixty-six priority chemicals have been identified under the CSPA. Manufacturers began reporting on the use of these chemicals in August 2012. The selection of these chemicals focused on the use of chemicals in products, and excluded other pathways such as food, lead paint, and automobile combustion.
- The CSPA law does not include punitive measures for the use of toxic chemicals, but opens the door to future measures. Some manufacturers may choose to reduce the use of certain chemicals simply because of the reporting requirement.
- Chemical Action Plans (CAPs) are underway to reduce copper, poly-aromatic hydrocarbons (PAHs), copper, and petroleum. Action may be taken in the future on DEHP (a phthalate).

The workgroup discussed a **path forward for prioritization of toxic chemicals**. Key elements of the group's discussion included:

- Prioritization policy should address two dimensions:
 - **System-wide improvements** over time that utilize broad, ongoing strategies based on achieving specific endpoints, reducing specific exposures, or reducing specific types of chemicals,
 - Specific actionable problems that can be addressed **immediately**.
- A prioritization scheme should allow for elevated levels of concern and prompt action even when **fairly significant questions remain** (e.g. in the case of endocrine disruptors).
- **Program assessment** should be captured as an element of prioritization approaches.
- As some chemicals can **persistently impact small subpopulations**, population exposure as a prioritization metric should include the existence of these groups.

- **Very low levels of some chemicals can have big impacts**; this fact subverts the common wisdom that “dose makes the poison.” For example, endocrine disruptors exhibit significant health impacts in small doses.
- Chemical prioritization might be most effective when approached through **regional** collaboration with neighboring states (e.g. Oregon, California, and Idaho). Washington can serve as a leader both of a regional effort and for the nation to realize market impacts.
- **Environmental protection** could be an additional criterion in combination with human health exposure.
- **Emerging chemicals** are a challenge in creating a comprehensive approach to prioritization.
- Scaling up state **biomonitoring efforts** to a greater level could contribute valuable information to prioritization efforts.

Thought Pieces and Paths Forward

The workgroup discussed several thought pieces that were distributed prior to the meeting, each of which summarized ideas that the group articulated in previous meetings and conversations. Key points of these discussions are listed below.

Addressing Distributed Sources of Toxic Pollution

- This discussion focused on **establishing a connection between point-source dischargers and product manufacturers**. Dischargers would operate under aggressive but realistic permit limits and would be incentivized by a mechanism to bring producers, manufacturers, and retailers into the liability chain. If source control of toxics does not yield reductions, then a fee could be imposed on products that contributes toward the fee that point-source dischargers would pay.
- A **phased permitting** approach would allow manufacturers a window of time in which they would be required to reduce toxics without taking steps that would cause undue harm to their business. As new technologies became available, they would be phased into the permit.
- A **toxics tax** that includes priority level and exposure criteria to as contributing factors toward the fee could force manufacturers to internalize the costs of toxics. This approach could also remove the penalty in producing safer alternatives due to smaller quantities being more expensive. A tax could bring consumer behavior into a role to influence toxic use in a way that is more meaningful than simply educating the consumer. The fee could provide a revenue source to help offset the costs of additional reduction measures.
- Specific ideas in the short term include investing in programs like **street sweeping** to clean up toxics before they enter stormwater.
- This approach would require **buy-in from both permittees and chemical producers**, and could be accomplished administratively or through permitting.
- A **priority list with a ban authority** is an important component of this approach.
- A **collaborative path** will help ensure that a tax on toxics in Washington will help serve as a model for the region and the country, instead of incentivizing product purchases outside the state in places that do not impose the tax.

Next Steps:

- **Sara Kendall, Doug Krapas, and Ted Sturdevant** will work with Ross Strategic and Ecology to revise the Distributed Sources thought piece.

Labeling and Information

- The workgroup discussed several approaches to labeling, including a **positive label, a sliding scale supplemented by quantitative information, a four-square label, a binary variable**, and others. There is value in balancing a digestible amount of information provided to consumers with a holistic approach that addresses multiple dimensions beyond toxics, such as immune impacts, labor practices, and carbon footprint. The label should not be overwhelming to consumers who are not highly educated on these issues.
- **Voluntary labeling** approaches are much more easily implementable from a resources perspective.
- Approaching **established labeling programs** to include toxics in their criteria is a low-cost approach.
- The **four-square label** could include a square each for carcinogenic, reproductive harm, genetic harm, and endocrine disruption.
- An approach could require manufacturers to label their products that contain **chemicals of high concern to children (CHCCs)** under the CSPA.
- Manufacturers could be required to label products that have **not been evaluated** for toxicity.
- A labeling approach may not be the most efficient use of government resources. Another approach would be to develop a robust **education program** and accelerate the chemical action plan (CAP) process for PBTs.

Next Steps:

- **Susan Saffery and Sara Kendall** will work with Ross Strategic and Ecology to revise the Labeling thought piece.

Product Responsibility and Liability

- This approach focuses on **shifting liability to the chemical producers and product manufacturers** in order to incentivize them to search for safer alternatives. Causing these external costs to be internalized by producers would be more efficient than creating a state authority and obligation to evaluate all chemicals before they go into the marketplace. This approach would serve as a mechanism to encourage adoption of the precautionary principle without the state having to prove that each chemical causes harm to people.
- Questions remain as to how far up the **supply chain** liability should reach. In practice, the free market might result in liability being distributed across the supply chain. This would shift the burden from resting entirely on the end discharger.
- Any manufacturer who sells a product in Washington would be liable, and anyone who imports products into the state could become liable. If a chemical is found by the state to be harmful, then those manufacturers would become liable at that time. This approach encourages manufacturers to embrace the precautionary principle.
- A **pilot project** to test out this approach should be implemented.

Next Steps:

- **Sanjay Kapoor, Carol Kraege, Susan Saffery, and Laurie Valeriano** will work with Ross Strategic and Ecology to revise the Liability thought piece.

Safer Alternatives

- The Safer Alternatives piece will remain part of the conversation as the group works toward a final product.
- This piece presents an opportunity to frame part of the letter as supporting new opportunities for businesses in Washington.
- New initiatives in green chemistry in Washington could help generate new safer alternatives.
- **Dianne Barton, Sanjay Kapoor, John Stark, and Laurie Valeriano** will work with Ross Strategic and Ecology to revise the Safer Alternatives thought piece.

Additional Thoughts

Water Quality Standards and Fish Consumption: The ongoing conversations in Washington regarding the impact of toxic chemicals on water quality standards and fish consumption is open. As dischargers in Washington experience some anxiety from uncertainty about the direction that water quality standards will take, there is similar anxiety about the direction that toxic chemicals policy will take. One potential positive outcome of this workgroup might be a direction for toxic chemicals policy that would address some concerns of dischargers and contribute to the broader conversation about finding solutions to these challenging problems.

Next Steps

- The next TRS workgroup meeting will take place on December 11th.
- Workgroup members will send comments and feedback on the draft letter to Ross Strategic and Ecology by Friday November 30th.
- Ross Strategic will reach out to workgroup members via phone and email to solicit further input in revising the draft letter, which incorporates the problem statement and principles, as well as input on the thought pieces. Ross will distribute a revised version of the letter prior to the December meeting.
- Ross will convene small groups of workgroup members via phone or email to solicit targeted input on pieces that members have volunteered to contribute to.
- Ross will schedule a meeting in January, which will take place at Weyerhaeuser in Federal Way, and may schedule a conference call in January as well.

Meeting Participants

Name	Organization
Toxics Reduction Strategy Workgroup Members	
Rod Brown	Cascadia Law Group
Howie Frumkin	University of Washington School of Public Health
Sanjay Kapoor	Washington Business Alliance
Sara Kendall	Weyerhaeuser

Doug Krapas	Inland Empire Paper
John Stark	Washington Stormwater Center
Laurie Valeriano	Washington Toxics Coalition
Other Attendees	
Dianne Barton	Columbia River Intertribal Fish Commission
Tom Clingman	Washington Department of Ecology
Holly Davies	Washington Department of Ecology
Joshua Grice	Washington Department of Ecology
Carol Kraege	Washington Department of Ecology
Lincoln Loehr	City of Everett
Elizabeth McManus	Ross Strategic
Darcy Peth	Ross Strategic
Darin Rice	Washington Department of Ecology
Bill Ross	Ross Strategic
Susan Saffery	Seattle Public Utilities
Ted Sturdevant	Washington Department of Ecology