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**Catherine H. Reheis-Boyd**

Chief Operating Officer and Chief of Staff

November 16, 2007

Maureen Gorsen, Director  
Department of Toxic Substances Control  
1001 I Street  
Sacramento, CA 95814

**Subject: WSPA comments on policy options for Cal-EPA Green Chemistry Initiative.**

Dear Director Gorsen:

The Western States Petroleum Association (WSPA) is pleased to offer the following comments on policy options being considered in the context of Cal-EPA's Green Chemistry Initiative. Many of the comments submitted to DTSC to date and debated in public forums refer to the need for California to supplement the requirements of the Federal Toxic Substances Control Act (TSCA).

Prior to immediately moving in this direction, WSPA believes that DTSC must evaluate what regulations and information are currently available and whether these tools are being appropriately implemented and applied prior to developing new programs. Indeed, we expect this analysis is already underway, pursuant to the mandate to conduct a "baseline assessment" of existing programs and information described in the April 20 memorandum from Cal-EPA Secretary Linda Adams announcing the Green Chemistry Initiative.

We further expect that this analysis will be presented to Initiative stakeholders for review and comment along with the policy options that flow from it, to ensure that all relevant information has been considered, including information obtained from national and international programs. We are optimistic that this approach will lead to meaningful improvements in existing state programs.

There are many initiatives currently underway around the world that directly or indirectly address "green chemistry." Industry participates in many of these, and while industry participation in "voluntary" activities is viewed by some as inadequate, it is important to recognize that it is in the best interest of industry to minimize the manufacture, use and disposal of materials that are truly hazardous to human health or the environment.

For example, a great deal of information has been submitted to the US EPA under the "High Production Volume" (HPV) Chemical Testing program. Most of this information is not yet available to the public, even though the submitting industries fully support making this information publicly available.

If the US EPA is not capable of making this information available in a timely fashion, Cal-EPA should consider requiring similar submissions at the state level that could be made public at a more rapid pace. At a minimum, Cal-EPA could appeal to US EPA to be timelier in making these submissions public.

Others have commented about the need for California to adopt a policy similar to the European Union REACH process. WSPA would caution that this is premature since REACH is just now being implemented and the ultimate success and impacts of this program are far from being clear at this time. Other programs currently underway may provide more timely information on hazards and risks of chemicals.

For example, Canada, Mexico, and the United States recently agreed to a program to complete screening level risk assessments on approximately 9,000 substances in North American commerce by 2012. The substances at issue constitute the vast majority of the chemicals in U.S. commerce.

This program builds on Canada's efforts to prioritize chemicals for further review according to their persistence, bioaccumulation, and toxic characteristics. The Canadian program identified some 500 high priority chemicals that will require additional assessment and possible regulatory action. It also "set aside" some 19,000 chemicals on the Canadian inventory as being of low or no regulatory concern (like the U.S., the Canadian chemical "inventory" is a historical database of chemicals that were on the market at one point in time; both inventories contain more chemicals than are actually in commerce today).

More information on the North American screening program is available at <http://yosemite.epa.gov/opa/admpress.nsf/0cd7fdf95b701616852572a000658ef2/77660c0da9fe643e8525733e0065d48b!OpenDocument>. DTSC should determine how it can leverage the results of this program in its recommendations, as well as identifying and evaluating potential alternatives for those chemicals designated as priority chemicals.

With regard to alternatives, DTSC's Green Chemistry policy recommendations should clearly state that any alternatives to chemicals currently in commerce must be thoroughly evaluated prior to any recommendations being made for substitution. Although "toxics use reduction" is an admirable goal, failure to adequately assess the multimedia and lifecycle implications of forcing a shift to alternatives can result in significant unintended consequences.

As DTSC further defines this initiative, WSPA strongly encourages that "risk" should be at the forefront of any deliberations. The risk of any chemical, whether regarded as "green" or not, depends on the dose received from various types of exposures, deliberate or accidental.

Non-toxic chemicals can be harmful at high doses (recall the Sacramento radio show contestant who died from water intoxication), and many highly toxic chemicals (pharmaceuticals for example) are extremely beneficial at low doses. Chemical policy decisions based solely on hazard assessment (evaluating chemicals on the basis of potential toxicity absent consideration of actual exposure), as some stakeholders have suggested, could have the perverse effect of restricting the use of beneficial chemicals that do not pose significant human health or environmental risks in their intended applications.

It is also essential for DTSC's Green Chemistry policy recommendations to recognize that if a significant risk is identified, there are a wide variety of acceptable risk management options available. These range from improving personal protective equipment and enhancing process technology controls to elimination of specific substances in favor of alternatives.

In closing, WSPA encourages DTSC to evaluate and build upon existing programs, both mandated and voluntary, in the course of developing this Initiative. It is imperative that both existing chemicals and processes and their alternatives are fully evaluated in terms of human health and environmental risk before regulatory action is taken.

WSPA appreciates your consideration of our comments and we look forward to working with DTSC and other Green Chemistry stakeholders on development of the policy recommendations that will be submitted to the Governor in 2008. If you have any questions, please do not hesitate to contact me at (916) 498-7752 or Suzanne Noble of WSPA's Staff at (661) 321-0884.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathy A. Boyd". The signature is fluid and cursive, with the first name "Cathy" being the most prominent.

cc: Linda Adams – Cal-EPA Secretary  
Dan Dunmoyer – Cabinet Secretary  
Dr. Joan Denton – Director, OEHHA  
Patty Zwarts – Cal-EPA  
Dr. Jeff Wong – DTSC  
Margaret Graham – DTSC