

American Chemistry Council
Comments before the South Coast Air Quality District
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On behalf of the American Chemistry Council (ACC), I'd like to thank you for the opportunity to comment on precaution and the chemical industry. The ACC represents the leading companies engaged in the business of chemistry. Health care products, technology-enhanced agricultural products, protective packaging materials, longer-lasting paints, faster microprocessors, lightweight automobiles, and stronger composite materials in aircraft are only a few of the innovative products of our industry, which in California employs nearly 82,000 people and generates over \$22 billion worth of products.

The Council believes that industry should exercise a precautionary approach as a fundamental operating principle. For decades, governments and industries have taken a precautionary approach to environmental and health decisions, and the current U.S. system seek to strike a rational balance that recognizes the fundamental importance of scientific evidence. This approach is also consistent with the elements of sustainable development, which is a commitment to minimize the environmental impact of our products and operations, while at the same time maximizing the social and economic contributions of the chemical industry.

There are extreme interpretations of precaution that essentially reject industrial innovation and sound science, instead favoring worst case scenarios and fear as the basis for precautionary action. The Council is opposed to decision-making processes that do not have a basis in science.

When making risk management decisions, it is necessary to consider a full range of possible precautionary measures, and actions should be proportional to the risks addressed. There is a wide range of measures available – from education or warnings, to market-based reforms, to product restriction or bans: – the key is to make measures proportional to the risk. Use of an overly restrictive precautionary measure can adversely impact all sectors of society by depriving them of meaningful benefits to human health, environmental quality, and improvements in the quality of life.

For decades, the United States and California have taken a precautionary approach to environmental and health regulations – striking a rational balance that recognizes the fundamental importance of scientific evidence. For example, the California Environmental Quality Act provides a comprehensive framework designed to make sound decisions based on credible information.

The U.S. environmental regulatory system also is based on precaution; for example, the U.S. EPA typically uses conservative assumptions or safety factors to account for a lack of substantial scientific data. The Council supports the EPA practice of using credible

and realistic default assumptions to address uncertainty and variability when analyzing risks in the absence of complete data.

The level of precaution embedded in decision-making is an issue that warrants continual evaluation. In fact, the federal Office of Management and Budget is required under the Regulatory Right-to-Know Act to annually estimate the costs and benefits of federal rules and paperwork and to publish recommendations for reform. This year OMB sought public comment on government approaches to analysis and management of emerging risks. In the Federal Register notice announcing the request OMB highlights the difficulties facing decision-makers: “Regulators often must decide on an appropriate course of action to protect public health, safety or the environment before science has resolved all the key factual questions about a potential hazard.” To assist OMB and other federal agencies, public comment was sought on the following:

- Ways in which “precaution” is embedded in current risk assessment procedures through “conservative” assumptions in estimation of risk, or through explicit “protective” measures in management decisions as required by statutory requirements as well as agency judgments.
- Examples of approaches in human and ecological risk assessment and management methods addressed by U.S. regulatory agencies which appear unbalanced.
- How the U.S. balances precautionary approaches to health, safety and environmental risks with other interests such as economic growth and technological innovation.

Thus, the federal government acknowledges that the appropriate level of precaution is an issue that warrants open and transparent discussion.

Such debate is not limited to a national audience and the U.S. government has engaged in negotiations on precaution in international forums. Most notably, precaution was one of the chief issues addressed by the world’s nations at the two environmental world summits in 1992 and 2002. At the 1992 Rio de Janeiro global environmental summit – perhaps the most significant environmental gathering in recent times – participating countries adopted Principle 15 of the Rio Declaration that is premised on a science-based approach and the importance of cost-effective measures. Principle 15 demonstrates a balanced understanding of the need to encourage governments to base environmental precautions on mainstream science. Importantly, the 1992 Rio Declaration was entirely consistent with the precautionary approach to environmental and health protection adopted long ago by U.S. industry and embodied in U.S. regulatory law.

Precaution was one of the key issues addressed at the 2002 World Summit in Johannesburg, the follow-up to the 1992 Rio conference. While most of the world’s governments still supported the existing definition of the Precautionary Principle, a delegation from the European Union sought to amend the Principle 15 definition to

require governments to apply a more extreme interpretation of the precautionary principle to their regulatory decision-making.

Delegates representing the rest of the world's governments soundly rejected the European initiative. Developing nations in particular were concerned that adoption of any extreme interpretation of the precautionary principle would have an adverse effect on trade. Many other governments, including the United States, strongly advocated the importance of a science-based approach to decision-making that does not limit innovation in the absence of scientific evidence of risk.

Participants in the 2002 World Summit overwhelmingly supported a science-based approach to decision-making, and the final text of those proceedings reflects this consensus. Paragraph 109 addresses the need to "Improve policy and decision-making at all levels...and improve collaboration...between scientists and policy makers...". Furthermore, the delegates agreed to "Promote and improve science-based decision-making and reaffirm the precautionary approach as set out in principle 15 of the Rio Declaration on the Environment and Development..."

The U.S. government, with the support of a majority of the rest of the world's governments, has thus clearly and definitively addressed its intention to exercise precaution in decision-making, and to ultimately base those decisions on science. Along with the rest of the world, the United States further rejected any extreme interpretations of the precautionary principle, particularly those that would limit a nation's ability to trade with its neighbors or limit its ability to promote innovation in its industry.

In conclusion, the appropriate level of precaution to apply in regulation is an important issue that warrants public debate and involvement. This forum today provides that opportunity, as does the initiative undertaken by the federal Office of Management and Budget, and the World Summit on Sustainable Development. However, of equal importance is the notion that it may be wise to apply a precautionary approach to any attempt to recommend a universal precautionary principle that may, if too extreme, do significant harm.