

Meeting of the TUR Administrative Council

September 19, 2014
1:00 PM – 3:00 PM
100 Cambridge Street, Conference Room C
Boston MA, 02114

Council Members Attending:

Martin Suuberg, Executive Office of Energy and Environmental Affairs (EOEEA)
Timothee Rodrigue, Department of Fire Services
Heather Rowe, Department of Labor Standards
Nancy Seidman, Department of Environmental Protection (MassDEP)
Tim Wilkerson, Executive Office of Housing and Economic Development
Meg Blanchet, Department of Public Health

Others Attending: Bill Judd (TURPA), Laurie Stewart (Barrday Composite), Deema Dabbagu (Clean Water Action), Sean Moynihan (Massachusetts Chemistry and Technology Alliance [MCTA]), Mike Ellenbecker, Heather Tenney, Liz Harriman, Rachel Massey (Toxics Use Reduction Institute [TURI]), Rich Bizzozero (EOEEA), Rick Reibstein (Office of Technical Assistance [OTA]), Erica Mattison (Environmental League of Massachusetts), Paul Connor (Dow Electronic), Bob Napolitano (Astro Chemical Inc.), Steve Rosario, Bill Coyne (American Chemistry Council), Bob Rio (Associated Industries of Massachusetts), Lindsay Mercer (College of the Atlantic), Mark Rossi (Clean Production Action), Suzi Peck (MassDEP), Ron Westgate (Philips Lightolier), William Judd (Industrial Compliance Group), Lucy Servidio (Capaccio Environmental Engineering, Inc)

Welcome and Introductions

The Council Chairman, Martin Suuberg, noted that this meeting was solely to discuss and receive comments regarding the proposed increase in TURA fees. He noted that fees have not been raised in many years, and thus, it is important to consider the question at this time. He asked for comments both on the general question of a fee increase and on the relative merits of the three options under consideration (designated as Options A, B, and C).

Comments from Advisory Committee members and members of the public

The first commenter, a TUR Planner, noted that there has been a sharp decline in TURA program staff over the past several years and without a fee increase, the program could be further reduced. He agreed with the second option (Option B) for the fee increase, and suggested the fee increase be phased in over a period of two years.

A commenter from industry said that TURA filers did not receive proper notice or opportunity for input and the proposal should be delayed to allow filers sufficient time to respond. The commenter also believed that an increase in fees was not statutorily allowable, and asked if there were other ways to raise revenue for the program, such as trainings.

A commenter from an environmental non-profit noted that the TURA program has resulted in major improvements in public health since its inception and that there have been no increases in fees since 1990. The commenter feels it is reasonable to adjust fees for inflation.

Another commenter from industry, asked the Council to oppose the proposal or to at least delay because many companies did not receive enough notice to attend the meeting. The commenter stated that many companies could not put the fee increase into their budgets for the next year at this point, and that there was insufficient input from the regulated community. They also noted that if the fee proposal is adopted, it should be phased in slowly to mitigate the effect on businesses.

A commenter representing industry stated that although it is important to fund the program adequately, there had not been sufficient notice for companies to handle a fee increase. He asked that the Council delay the decision and provide more information to TURA filers about the proposal and fee increase options.

An industry association representative asked the Council to consider what a toxics program would look like going forward and suggested that the fees paid by filers should not be used for projects benefiting non-filers. It was also noted that companies in Massachusetts are doing the best that they can and that raising fees will not motivate companies to stop using chemicals, if it is part of their process or product.

Another commenter from an environmental non-profit noted that the TURA program cannot be a leader in toxics use reduction unless it is adequately funded. The commenter expressed support for a fee increase.

A representative of a national chemical industry association asked the Council to reconsider the fee proposal, and if not, to at least table it and allow for further discussion at a later date.

The next commenter, from an NGO that brings together progressive businesses with environmental advocates, supported the second option (Option B), with a two-year phase in of the fees. The commenter acknowledged the large amount of work that went into creating the proposal and incorporating the feedback that had been received from the Advisory Committee. He noted that TURA is a premier P2 program in the country and has been internationally recognized as well. He commented that TURA provides important assistance to small and medium-sized businesses and that in some industry sectors, products that use less hazardous or fewer chemicals give companies a competitive edge.

A representative from a chemical industry association stated that the Commonwealth did not abide by the statute by raising fees to match inflation, and is now trying to make up for a 22-year lapse. He stated that many filers do not know about the proposal and that their input is not included in the proposal.

Comments from Council Members

The Council member representing MassDEP noted that the TURA program is entirely funded with fees. She noted that it is appropriate for the program to invest funds in toxics use reduction among small businesses, including dry cleaners and auto body shops, and that these activities fall within the program's mandate. She commented that MassDEP wants to identify noncompliant companies in order to ensure a level playing field, and wants the program to be helpful to filers. She suggested that the program offer more grants, especially to filers.

The designee from the Executive Office of Public Safety and Security noted that this decision would not be made lightly by the Council. He commented that the regulatory process is taken very seriously and was concerned about whether there had been a lack of transparency surrounding the public notification process.

The Chair of the Council stated that funds were necessary for the program to do its work and the program needs to increase fees. He noted that the staff was thoughtful about impacts to filers in the fee proposal. He stated that the Council takes the public process seriously and that he understands the concerns that other commenters presented, but the Council's job was to start the process and make the proposal.

The representative from MassDEP questioned whether all options should be put out for public comment?

The Chair responded that the public process started in the month prior to this meeting; proposals were previewed by the Council in July and presented in August to the public for comments. He stated that it is important to move forward on a proposal, so that people have something concrete to respond to during the public comment period.

The designee from the Executive Office of Labor and Workforce Development requested that during the public comment period that EOEEA hold multiple public hearings, all in different parts of the state.

The designee from the Executive Office of Housing and Economic Development noted there were many competing interests in this instance. He noted that there was a sound argument for a significant fee increase. He expressed concern about the time line for the decision.

A motion was put forward and seconded; the Council moves to instruct OTA to prepare a package for the 30A process with the TURA fee proposal in the memorandum presented at the August 19th Council meeting. The Council recommends Option B but invites comments on Options A and C; the Council also invites comment on whether the fee change should be phased-in over two years, and will hold a process of four public hearings distributed geographically across the state as well as sending mailings to all past and current TUR filers and to TUR Planners.

Vote:

4 council members voted for the proposal and 2 against (Rodrigue and Wilkerson). The fee proposal as outlined above would move forward to begin the 30A public process.

Adjourn.

Attachments:

Agenda Council Meeting September 19, 2014

TURA Fee: Summary of Recommendation 8_19_14

TURA Fee: Overview and Recommendation to Update 8_19_14

TURA fee Adjustment Charts

Written Comments from:

Marcy Goldstein-Gelb, MassCOSH

Robert Rio, Associated Industries of Massachusetts

Laurie Stewart, Barrday

Steve Rosario, American Chemistry Council

Elise Dauksevicz, AlphaChem

Elizabeth Saunders et.al, Clean Water Action

Robert Napaltano, Massachusetts Chemistry Technology Alliance

Joon Han, AB Cleaners of Westwood