

TURA Administrative Council Meeting

December 7, 2021

10am – 12pm

The December 7, 2021 TURA Administrative Council convened remotely, over Zoom, consistent with [An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#). This Act includes an extension, until April 1, 2022, of the remote meeting provisions of Governor Baker's March 12, 2020, Executive Order resulting from the outbreak of the 2019 novel coronavirus, known as "COVID-19."

Council Members Attending (attendance taken by roll call):

Beth Card, Executive Office of Energy and Environmental Affairs (EEA)

Greg Cooper, Department of Environmental Protection (DEP)

Michael Flanagan, Department of Labor Standards (DLS)

Kristen McDonough, Department of Fire Services (DFS)

Marc Nascarella, Massachusetts Department of Public Health (DPH)

Edward Palleschi, Executive Office of Housing and Economic Development (OEHD), Office of Consumer Affairs and Business Regulation (OCABR)

Meeting Attendees (recorded by chat box and/or participant list):

EEA: Caroline Higley, Read Porter

DEP: Richard Blanchet, Walter Hope, Veronica O'Donnell, Jenny Outman

OTA: Caredwen Foley, Kari Sasportas, Tiffany Skogstrom

TURI: Liz Harriman, Heather Tenney, Rachel Massey

Other attendees:

- Raza Ali, ACC
- Robert Audlee, Stainless Steel Coatings
- Richard Bizzozero
- Diana DiGangi, Inside TSCA
- Margaret Gorman, ACC
- Rajit Gupta, Ashland MA
- Emily Hammel, BUSPH
- Wendy Heiger-Bernays, BUSPH
- Carol Holahan, Foley Hoag
- William Judd, Industrial Compliance Group
- Tricia McCarthy, ACC
- Kristen Mello, Westfield Residents Advocating For Themselves
- Sheila O'Connell
- Katherine Robertson, MCTA
- Lauren Richter
- Greg Rooke, Titeflex
- Shawn Swearingen, ACC
- Summer-Solstice Thomas, Silent Spring

1. Welcome and Introductions:

Participants were admitted at 10am and were asked to identify themselves in the chat box for purposes of recording meeting attendance. Council members were identified by roll call.

It was explained that chat would be disabled during the meeting, and that there would be opportunity for attendee participation at designated times.

2. Approval of August 19, 2021 Meeting Minutes

The chair opened the meeting by asking if there were any changes to the August 19, 2021 meeting minutes. There were no changes brought forth and the motion to accept the minutes as written was seconded and approved.

3. Overview of Response to Comments

Secretary Card invited Tiffany Skogstrom to give background on the proposed amendments:

- If these regulations are finalized, certain TURA covered facilities will be required to report on Certain PFAS NOL manufactured or processed at the 25k lb or otherwise used at the 10k lb threshold per year and pay a fee in accordance with the TURA fee structure. Those manufacturers will also be required to conduct a Toxics Use Reduction Plan every other year.
- Listing Certain PFAS NOL under TURA would help manufacturers understand their use, identify opportunities for reduction or elimination, and reduce company liability. These source reduction activities will strengthen the Commonwealth's strategy to address PFAS comprehensively.
- If these regulations are finalized in December, certain TURA covered facilities will be required to track use beginning January 1, 2022 and report above-threshold use by July 1, 2023.

Secretary Card then invited Tiffany Skogstrom to give background on the comment period, public hearing, and response to comments.

- Following the last Administrative Council vote on 8/19/21, EEA notified stakeholders, including trade associations and companies that distribute products that may contain chemicals in the proposed category. Announcements were made for the public meeting scheduled for 10/15/21 along with reminders for the public comment period from 9/24/21 – 10/15/21.
- EEA received 100 written comments before the close of the public comment period on 10/15/21 with 87 comments in favor and 13 opposed. Of the comments in favor, 42 were form letters submitted by unique individuals expressing general support, an additional 30 comments were distinct letters from individuals expressing general support, and the remaining 14 comments were in favor of the proposed regulations with revision or further action suggested.
- 40 participants attended the public hearing on 10/15/21 and 11 provided oral testimony (4 of these participants spoke twice). Eight comments were in favor and 3 opposed. All comments delivered during the public hearing were provided on behalf of entities who also submitted written comments and raised the same issues in their written comments.
- The response to comments and all related documents can be found on the [TURA Regulations and Amendments webpage](#)

Description of final regulations:

- The definition of “substance” will not be amended from the draft regulations but will be relocated to its proper alphabetical position in 301 CMR 41.02. The TURA Administrative Council vote to add “substance” on 8/19/21 stands.
- Several commenters asked for clarification of the proposed definition of “PFAS NOL”
 - Some commenters noted the proposed definition of “PFAS NOL” is less inclusive than definitions used by other jurisdictions.
 - Some commenters sought clarification about which chemical structures are covered by the proposed listing
- The final definition clarifies the coverage of the listing and updates the name of the category
 - The clarification of the category name from ‘PFAS NOL’ to ‘*Certain* PFAS NOL’ reflects that the listed category contains only the certain PFAS considered by the Science Advisory Board and Administrative Council rather than *all* PFAS NOL.
 - The final listing clarifies the definition coverage by further describing the example structures.
- The final proposed regulations reflect significant public and stakeholder feedback during the public comment period and public hearing. These final regulations the council will vote on include minor changes to the draft regulations in response to comments and propose to add “*Certain* PFAS NOL” to the TURA Toxic or Hazardous Substances List, defined as “*Certain* PFAS NOL includes those PFAS that contain a perfluoroalkyl moiety with three or more carbons (e.g., $-C_nF_{2n}-$, $n \geq 3$; or $CF_3-C_nF_{2n}-$, $n \geq 2$) or a perfluoroalkylether moiety with two or more carbons (e.g., $-C_nF_{2n}OC_mF_{2m}-$ or $-C_nF_{2n}OC_mF_m-$, n and $m \geq 1$), wherein for the example structures shown, the dash (–) is not a bond to a hydrogen and may represent a straight or branched structure, that are not otherwise listed.”
 - Adding that the dash is not a bond to a hydrogen clarifies the term “perfluoro-“ in the definition
 - Adding that the dash may represent a straight or branched structure is because using text does not lend itself to portraying chemical structures like branched carbon chains.

Skogstrom reiterated the requirements that this proposed regulation would introduce for covered facilities, how the regulation would benefit covered facilities and the Commonwealth, and the timing of implementation.

A member of the Council asked whether the number of facilities estimated to be affected had been revised since the draft regulations were proposed. Program staff confirmed that no change was estimated.

4. Certain Per- and Polyfluoroalkyl Substances Not Otherwise Listed (Certain PFAS NOL) (Vote)

Secretary Card invited Council members to discuss and ask questions on the proposed revision for listing “*Certain* PFAS NOL” on the TURA List. Hearing no other comments, Secretary Card requested a motion in favor of adding the certain per- and polyfluoroalkyl substances not otherwise listed (Certain PFAS NOL) category to the TURA List of Toxic or Hazardous Substances (TURA List) to 301

CMR 41.03, as defined as those PFAS that contain a perfluoroalkyl moiety with three or more carbons (e.g., $-C_nF_{2n}-$, $n \geq 3$; or $CF_3-C_nF_{2n}-$, $n \geq 2$) or a perfluoroalkylether moiety with two or more carbons (e.g., $-C_nF_{2n}OC_mF_{2m}-$ or $-C_nF_{2n}OC_mF_m-$, n and $m \geq 1$), wherein for the example structures shown, the dash (-) is not a bond to a hydrogen and may represent a straight or branched structure, that are not otherwise listed.

A motion in favor of adding the proposed listing was seconded and approved. Votes, taken by roll call, 6 approvals (unanimous) and recorded as follows:

- Beth Card: yes
- Greg Cooper: yes
- Michael Flanagan: yes
- Kristen McDonough: yes
- Marc Nascarella: yes
- Edward Palleschi: yes

The motion was carried unanimously, and the listing will proceed through the remainder of the regulatory process.

5. TURA Program Update

Secretary Card invited Liz Harriman from TURI to provide a brief TURA Program Update. The update was also provided in writing, and included the following topics:

- An update on the fall Continuing Education Conference
- TURA Program staff updates
- PFAS activities underway to assist Massachusetts businesses with identifying and reducing PFAS in their facilities
- The Science Advisory Board has recommended that a selected group of quaternary ammonium compounds be added to the TURA chemical list; TURI has published a fact sheet on these chemicals and will be working on a policy analysis. The SAB is now evaluating carbon nanotubes and carbon nanofibers in response to a petition to list.

Beth Card thanked the Administrative Council and Advisory Committee members, Stakeholders, TURA Program staff, and reiterated that the affirmative vote taken today would result in filing the final amendments with the Secretary of the Commonwealth on December 10, 2021 and the publication of the final regulations in the Massachusetts Register on December 24, 2021. The final listing requires covered businesses to track use of Certain PFAS NOL beginning on January 1, 2022 and report above-threshold use by July 1, 2023. All inquiries, comments and communications should be sent to the TURA Administrative Council Executive Director, Tiffany Skogstrom.

A motion to adjourn was made and seconded. All TURA Administrative Council members were in favor, and none opposed. Meeting adjourned.