

## **TURA Administrative Council Meeting**

August 10, 2023

3:00pm – 5:00pm

The TURA Administrative Council convened remotely on August 10, 2023, over Zoom.

### **Council Members Attending (attendance taken by roll call):**

Stephanie Cooper, Executive Office of Energy and Environmental Affairs (EEA)

Greg Cooper, Department of Environmental Protection (DEP)

Michael Flanagan, Department of Labor Standards (DLS)

Jacob Nunnemacher, Department of Fire Services (DFS)

Meg Blanchet, Massachusetts Department of Public Health (DPH)

Layla D’Emilia, Executive Office of Economic Development (EOED) Office of Consumer Affairs and Business Regulation

### **Meeting Attendees (recorded by participant list):**

**EEA:** Caroline Higley

**DEP:** Lynn Cain, Rebecca Dolan, Veronica O’Donnell, Jenny Outman

**OTA:** Caredwen Foley, Kari Sasportas, Tiffany Skogstrom (TURA Administrative Council Executive Director), Elisheva Thoreen

**TURI:** Liz Harriman, Hayley Hudson, Heather Tenney, Greg Morose, Baskut Tuncak

### **Other attendees:**

Andrea Serlin, Serlin Haley LLP on behalf  
of HCPA

Aron Pollard

Carol Holahan, Foley Hoag on behalf of  
ACC

Emilee McCubbins, Ignite

Erin DeSantis, ACC

Hannah Alleman, ACC

Judi Anderson

Laura Spark, Clean Water Action

Katherine Robertson, MCTA

Keiona Pasco

Keith Hostetler

KLittel

Kuper Jones

Matthew Dam, MWRA

Michelle

TC Moore

Raza Ali

Robert Audlee, Stainless Steel Coatings

Tordo (Thor)

Tracy Stewart

### **1. Welcome and Introductions:**

Council members were identified by roll call.

Tiffany Skogstrom, Executive Director of the TURA Administrative Council and Director of the MA Office of Technical Assistance (OTA), welcomed new Undersecretary of Environment and Designated Chair of the TURA Administrative Council Stephanie Cooper. Undersecretary Cooper briefly introduced herself and introduced new members of the Council.

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

## **2. Approval of July 23, 2022 Meeting Minutes**

The Chair opened the meeting by asking if there were any changes to the July 23, 2022 meeting minutes. The Executive Director clarified that members who were not present for the past meeting are still permitted to move, second, and vote in the affirmative, negative or abstain on the minutes.

There were no changes brought forth and the motion to accept the minutes as written was seconded and approved.

## **3. TURA Administrative Council Vote to add all current additions to the US EPA Toxics Release Inventory (TRI) ([Nine PFAS](#), a [Diisononyl Phthalate Category](#), and [twelve other chemicals](#)) to the TURA List**

TURA Program staff provided background on the addition of chemicals listed under the Toxics Release Inventory (TRI) to the TURA List. Under TURA, EPCRA chemicals are incorporated into the TURA chemical list after a vote by the Administrative Council.

The Chair underlined that an affirmative vote would open the public participation process, and that the addition of TRI substances is mandated by statute.

A member clarified that the TRI vote is pro forma because approval is required.

A member asked whether the 6 companies expected to report might already be at the fee maximum. TURI staff noted that most of them were not at the fee maximum, and that we will not know for sure which companies will report until the chemicals become reportable.

Comment was invited from stakeholders; no questions were asked.

The Chair requested a motion. A motion was made and seconded. A vote was taken by roll call and the motion carried unanimously.

## **4. TURA Administrative Council Vote to add Science Advisory Board (SAB) recommended Quaternary Ammonium Compounds to the TURA List**

Program staff provided a summary of the discussion on the recommendation to list the Quaternary Ammonium Compounds (QACs) held during the Advisory Committee meeting, including the comments offered by the Household and Commercial Products Association (HCPA) and the Massachusetts Chemistry and Technology Alliance (MCTA) stakeholders.

TURI provided a summary of the QAC policy analysis, including an update on revisions made as a result of the Advisory Committee discussions.

The Executive Director explained that an affirmative vote would open the public participation process and provided an explanation about the upcoming steps in the regulatory process which would include collecting comments from the public and holding a public hearing, responding to comments, and bringing responses to the comments back to the Administrative Council.

A member noted that it sounds like these substances are mainly used as ingredients in products, and are used by facilities not captured under TURA. Asked about widely-used alternatives and whether those would be distributed by the same companies, program staff noted that in some cases they would be distributed by the same companies.

A member asked if other states' TURA programs have regulated QACs similarly. Program staff noted that as far as they are aware, only California has regulated them, and clarified that the TURA Program does not exist in other states, but that other states may regulate them in different ways. The member asked whether a wide number of members of the category are being used, or if it is just a select few. Program staff responded that it's more than a few, but that they are not sure whether all 25 are being used.

A member asked how many businesses will be affected. Program staff responded that they estimate 5 to 10 businesses – primarily distributors and facilities in the food manufacturing sector – would have to file, pay fees, and do TUR planning. Personal users and other institutions (e.g., schools, hospitals, restaurants) outside of TURA SIC codes would not be covered directly. The member asked for clarification that the product could still be used. The Chair confirmed that this is correct. The member asked if QACs are under consideration for listing because of the COVID pandemic and the increased use of disinfectants, and whether the analysis reflects the current use (as opposed to use during the height of the pandemic). Program staff noted that industry contends that use has decreased, and restated that TURA-covered facilities are not prohibited from using listed chemicals. The member wished to understand the size of the businesses expected to be affected, and whether they are already filers, to determine the potential new regulatory burden. Program staff responded that all companies expected to file are already filing under TURA, and that several are also already paying the maximum fee. These companies will have to plan for an additional chemical.

A member asked why restaurants are not included; program staff responded that they are not a covered SIC (industry) code. The member asked program staff to elaborate further on food manufacturers, and what kinds of facilities they would be. Program staff provided the example of producers of pre-packaged soups. The member also asked about the effectiveness of alternatives, and whether alternatives would be drop-in substitutes or would require reformulation. Program staff replied that it depends on which alternative is chosen, and noted that the TURI cleaning lab has assisted many food and beverage companies with this challenge.

A member said that it sounds like distributors are distributing to food manufacturers, and that QACs are used to sanitize operations. Program staff agreed that is a likely scenario. The Chair asked whether the impact is really to employees who are sanitizing a facility, more than on consumers. Staff agreed and added the potential educational impact of a listing, and clarified that MA also has formulators of cleaning products who are using concentrates to formulate or are repackaging products, who would be affected.

A member asked about Advisory Committee concerns and asked for more information about the concerns about competitiveness and whether TURA is the best route for regulating QACs. Program staff responded that several Tier II filers (approximately half) would not be covered under TURA; that smaller users would not be covered; and that in terms of competitiveness, distributors are often maxed out on fees and would not have to pay the \$1100 per-chemical fee, but they have to pay for the planning process. The member asked if TURA listing is the best route, where most of the

end users may not be affected (such as small restaurants and personal users). Program staff responded that this may be a small step with limited impact on individual consumer and institutional users, but every step forward can make a difference. Staff added that it does make a difference to exposure within the TURA-covered facilities who are using QACs.

The Chair invited comment from other attendees. Attendees should raise their hands and will be recognized for 3 minutes to speak.

An attendee representing producers of QACs used in biocides stated that the SAB evaluated the listing through an assessment focusing on hazards of QAC concentrates, but did not consider concentrates of safer alternative active ingredients. Comparing QAC concentrates to diluted products is inappropriate as it doesn't consider comparable hazards. Diluted QAC products are not as hazardous as implied by the TURA analysis. In addition, alternatives are often unsuitable for the same surfaces and substitutions are not simple. The attendee also stated that listing could lead to unintended consequences as other chemistries will have other hazards and may be less effective. At this point, program staff alerted the attendee that his 3 minutes had elapsed, and he noted that he would submit his comments in writing.

An attendee from a Massachusetts trade association stated that QACs were raised as an issue during the pandemic because they were being more heavily used than in the past, because they are a very effective biocide, and stated that this listing will not reduce the manufacture of products in the Commonwealth and will have limited impact on the use of QACs. The distributors of chemistries in MA just respond to what their clients need. If a restaurant wants QACs, it will be sent to them. A tanker truck will come in, it is pumped into a tank where it will be diluted and sent out. Because of the limited universe affected here, and because the goal of TURA is to reduce use of toxics, this would be better approached through an education campaign by DPH.

An attendee representing a trade association stated that a TURA listing for QACs is not appropriate. TURA imposes fees on companies for using listed chemicals to discourage the use of these chemicals. There are required PPE and labeling for biocides. Listing will not discourage use and will not address misuse or overuse. Misuse is not unique to QACs and replacement of QACs will not address this concern. QACs are effective at killing pathogens relevant to public health, and are effective preservatives and biocides. The SAB did not examine whether alternatives are available for uses other than disinfection, nor whether there are similar risks posed by other applications. In many applications, QACs are the only suitable product usable in settings such as food contact and hospital settings. USEPA requires extensive risk assessment from FIFRA registrants. QACs are also registered by state agencies.

Attendees from a national trade association wished to reiterate the comments of previous speakers. Her organization opposes this addition of DDAC and ADBACs to the TURA List. They fear that this action will have an indiscriminate effect on the use of QACs, including necessary uses. They are also concerned about misuse or overuse, including in contexts like the COVID pandemic, but fear this will discount the appropriate and beneficial use of QACs. They are safe and effective in many settings when used as directed, and meet the rigorous FIFRA requirements. They believe the concerns would be better addressed by occupational and/or health authorities to track misuse and overuse. They will also submit written comments.

A member of the Advisory Committee in attendance noted that there is one critical difference between QACs and the listed alternatives. As far as anyone is aware, lactic acid, citric acid, hydrogen peroxide, alcohol, and caprylic acid are not contributing to reproductive toxicity, and there is no correlation between blood concentrations of those and biomarker evidence of damage. At 100% concentration, you may not want to dip your finger in them, but the environmental effect is noticeably different between QACs and the alternatives.

An attendee wished to respond to the previous comment, referring to John DeSesso et al, a systematic review of QACs and their effects on reproductive health, which covers some of the research that was just referenced that was refutable. The attendee offered to send the paper to TURI. TURI noted that they are already familiar with the work referenced.

A member noted that a number of people have mentioned that they will be submitting written comments, and expressed uncertainty whether the council is prepared to take a vote today.

The Chair stated that this vote would open up the regulatory process, which is the process in which we put out a draft regulatory amendment and formally seek comments. We would review them, evaluate them, and determine whether draft regs should be amended.

A member stated that, for people who are buying these products, they are probably not paying attention to the degree to which they're using it or the contents. The member expressed a desire to hear not only from those who are selling it, but from those who are using it. While they aren't regulated, the member stated that it sounds like some of the opponents are saying that adding QACs to the TURA List would impact QAC users. Maybe it just impacts distributors, and those companies may say an alternative is actually fine with them. The per-chemical fee is modest, can we understand the implications for users?

The Chair suggested that going through a public regulatory process is a helpful way to hear the implications. If we proceed that way, we might want to do specific outreach to make sure we hear from users.

A member mentioned that attendees had stated that QACs are the most cost effective. For a restaurant employee, are they more discerning than "that one's cheaper than that one"? If they knew some alternatives are healthier, maybe they would spend a bit more.

The Chair noted that listing would also provide more public information on QAC use.

Program staff stated that they have received a number of inquiries from folks who are looking for safer alternatives – food industries and individual users – and indicated that we can invite them to contribute to the process.

The Executive Director stated that, in the regulatory process, the program will attempt to gather as many comments as possible, and the Program's response to comments should give the Council the information they are looking for.

A member expressed discomfort taking a vote without first seeing the remaining comments attendees plan to submit, and only to have the policy analysis and the minutes from the last

meeting. The member raised a concern that the regulatory process might not permit listening session discussions like these.

The Chair noted that the Advisory Committee had offered a helpful listening opportunity, and those meetings are traditionally where the back and forth with stakeholders happens. TURI then updates the policy analysis based on those discussions, and the program shared a summary of perspectives heard at the advisory committee meeting today. The SAB makes its recommendation based on scientific research – the regulatory process is where concerns get put on the record. The Advisory Committee is the sounding board where policy concerns are aired before going to the Administrative Council. It was clarified for the benefit of new members that every listing like this is brought at least twice before both the Advisory Committee and the Administrative Council.

The Executive Director noted that, traditionally, the Administrative Council has opened comment to everyone. The benefit of public comment is that we hear not only from people on this call, but also from stakeholders who aren't here today, in a very transparent process. Collecting all those comments, program staff would then respond to them and report back to Administrative Council. Opening the process allows everyone to participate, since many people may not be able to participate in this meeting today but may still wish to submit comments. Program staff emphasized that there would definitely be a Council meeting to discuss the comments and the response to comments.

A member raised that a guest had mentioned that the SAB was looking at diluted alternatives vs. concentrated QACs, and invited TURI to reply to that. TURI clarified that the SAB looked exclusively at the hazard for QACs. The SAB does not compare QACs to alternatives. TURI adds in an evaluation of alternatives to the policy analysis, based, in this case, on extensive work done by the TURI Lab. The SAB recommendation is based solely on hazards of the chemicals under consideration, not comparison to alternatives. The member asked for confirmation that the hazard evaluation was for QAC concentrates. TURI acknowledged that this was the case, since some users buy in a concentrated form, so corrosivity is an issue for worker safety, as it is for many alternatives. TURI staff also noted that some other hazards are not dependent on concentration.

The Chair stated that an affirmative vote would advance the recommendation to a public regulatory process to put the draft regulations out for full public comment and consideration. The Chair clarified that listing would not limit the use of QACs, but would require reporting on their use and going through a TUR planning process. Entities subject to this can continue to use these chemicals should they choose.

The Chair sought a motion to vote on the proposed QAC listing. A motion was made to open the public participation process for this listing and was seconded. A vote was taken by roll call with three yea's, two nays, and one abstention.

Program staff wish to clarify whether the motion was carried by 3 Yea votes. Will notify Council members and announce next steps based on status of motion. *[Note: The motion carried with 3 votes, as this constituted a majority of the votes cast.]*

##### **5. TURA Administrative Council Vote to add Environmental Justice seat to TURA Advisory Committee**

The Chair and Executive Director raised the potential addition of an Environmental Justice seat to the TURA Advisory Committee to operationalize Environmental Justice consideration in the TURA program and to carry forward aspects of EEA's Environmental Justice strategy.

A member asked for information about how people would be selected and whether they'd be compensated. The Executive Director replied that, historically, members have not been compensated, but would look for the guidance of our Environmental Justice team at EEA for how to move forward in selecting candidates. We would want them to represent people who live in environmental justice neighborhoods. The Chair said we would also seek advice from MariaBelen Power and the Environmental Justice council.

Comments from attendees were invited.

An attendee expressed support for the addition of an Environmental Justice seat, but wanted to point out that the Environmental Justice community is well-represented on the Advisory Committee. The attendee asked for clarification about whether the proposed seat was for the Advisory Committee or the Administrative Council. A member noted that the slides mention the Administrative Council but clarified that the recommendation is to add a seat to the *Advisory Committee*.

A motion to add the proposed seat was made and seconded. A vote was taken by roll call and the motion carried unanimously.

## **6. TURA Program Update**

TURA staff committed to send a program update out via PDF in the interest of time and to plan to provide an update at the next Administrative Council meeting.

The Chair noted that we will process the vote on QACs and publicize the result. *[Note: The motion carried with 3 votes, as this constituted a majority of the votes cast.]*

A motion to adjourn the meeting was made and seconded. A vote was taken and the motion carried unanimously.