

Meeting of the TUR Administrative Council

September 25, 2018
Saltonstall Building
100 Cambridge Street, Boston
Conference Room A

Council Members Attending

Daniel Sieger, Executive Office of Energy and Environmental Affairs (EOEEA)
Michael Flanagan, Department of Labor Standards (DLS)
Greg Cooper, Department of Environmental Protection (MassDEP)
Meg Blanchet, Department of Public Health (MassDPH)
John Chapman, Office of Consumer Affairs and Business Regulation (OCABR)

Others Attending

Katherine Robertson (Massachusetts Chemistry Technology Alliance [MCTA]), James Dunbar (O'Neill and Associates representing MCTA), Margaret Gorman (American Chemistry Council [ACC]), Renée Lani (ACC FluoroCouncil), Bill Coyne (Coyne Law Office for ACC), Tricia McCarthy (Coyne Law Office for ACC), John Norman (Exxon Mobil), Thomas Hmiel (Teknor Apex), Susan Peck (MassDEP), Jenny Outman (MassDEP), Elizabeth Harriman (Toxics Use Reduction Institute [TURI]), Rachel Massey (TURI), Heather Tenney (TURI), Rich Bizzozero (Executive Office of Energy and Environmental Affairs [EOEEA]), Tiffany Skogstrom (Office of Technical Assistance [OTA]), Maia Rodriguez-Semp (OTA)

Welcome and Introductions

The Chair of the Council welcomed everyone to the meeting and opened the meeting by announcing that the agenda item “Phthalate Ester Category Policy” would be tabled. The Chair then asked if there were any changes to the February 28, 2018 draft meeting minutes. There were no changes brought forth and the motion to accept the minutes as written was unanimously approved.

EPA Listing of Nonylphenol Ethoxylates (NPE) Category to TRI and Council Vote

Nonylphenol Ethoxylates (NPE) category. On June 7, 2018, the U.S. Environmental Protection Agency (EPA) added the NPE category to the Toxics Release Inventory (TRI) list.

The Chair stated that the Council is required by the TURA statute to incorporate changes to the TRI list into the TURA list. The Executive Director provided an overview of the NPE category and the EPA’s decision to list 13 NPEs as part of this category. A handout from the EPA website with the Rule Summary, History, and other details was provided to members and attendees.

The member representing the Executive Office of Housing and Economic Development raised a question about the process for notifying businesses of the new reporting requirement and the extent to which businesses had the opportunity to comment on the new rule.

Representatives of TURI, MassDEP, and the Executive Director clarified that the rule-making process at EPA had concluded and that EPA's process included a public comment period. Submitted comments are publicly available on the docket. A representative of TURI noted that nonylphenol ethoxylates (NPEs) are surfactants and are precursors to nonylphenols (NPs) – NPEs break down into NPs in the environment. The NPs are highly toxic to aquatic life and EPA previously added an NP category to TRI. The Council already voted to adopt that change under TURA and the addition of the NP category to the TURA list is currently out for public comment. A representative from OTA explained that OTA can assist first time filers and that outreach would be done by OTA and MassDEP regarding the new reporting requirement.

A member suggested that the Executive Director provide the Council with a link to the comments received by EPA regarding the listing of NPE to TRI.

A representative from TURI stated that safer alternatives to the NPE category are available and many users have already switched. A representative from MassDEP explained that often businesses improve their efficiency after reporting on chemical use for the first time; the TURA program encourages them to find and implement these efficiencies.

The Council deliberated and there was a motion and a second to adopt the NPE category to the TURA list, maintaining continuity with the EPCRA list. The motion was approved 5-0 with no abstentions.

Introduction to Per- and Poly-Fluorinated Compounds

A representative from TURI provided an overview of the history and use of per- and poly-fluoroalkyl substances (PFAS) using the Interstate Technology & Regulatory Council's (ITRC) fact sheet titled "History and Use of Per- and Polyfluoroalkyl Substances" that was provided as a handout for members and attendees.

Following the overview, the Council Chair invited any questions or comments before proceeding to the next agenda item.

Update: TURA Science Advisory Board Work on Per- and Poly-Fluorinated Compounds

Representatives from TURI provided an overview of the draft "Per- and Poly-fluorinated Alkyl Substances (PFAS) Summary and Introductory Information" document dated September 2018 that was provided to members and attendees and includes information on recent TURA Science Advisory Board work on PFAS. It was noted for members and attendees that "Table 1: Chronic health effects" and "Table 2: Persistence, presence in the environment, and bioaccumulation" summarize the SAB's work as of September 2018 and that the SAB's examination of PFNA and PFHpA was still in progress. The draft document also includes regulatory context for PFAS substances in the U.S. and Europe.

The Council Chair invited questions or comments and added that this topic has the potential to affect the work of many Massachusetts agencies and that PFAS contamination is a significant emerging issue for many other states as well.

Following a member's inquiry, a TURI representative explained that the TURA Science Advisory Board's (SAB) initial focus on a subcategory of these substances (carboxylic and sulfonic acids) stems from prioritizing the breakdown products of other PFAS substances that are found in Massachusetts drinking water.

A representative from TURI added that the draft "Summary and Introduction" document presented at this meeting summarizes the SAB's work in brief. For those interested in more detail, Environmental Health and Safety summary sheets for each of the eight substances are available on the TURI website.

An attendee commented that ACC does not believe that there is a strong reason to list PFHxA (perfluorohexanoic acid) as a Higher Hazard Substance and has provided information to the SAB to support this position.

A TURI representative clarified that the SAB has reviewed the information provided by ACC. PFHxA is currently being considered for listing under TURA, not for designation as a Higher Hazard Substance.

The Council Chair expressed appreciation for the SAB's work on these substances and for the industry participation.

Update: Response to 2016 Nanomaterials Request

A representative from OTA gave an update on the information about use of nanomaterials in Massachusetts generated by the survey that has been public since December 2017. A total of 13 respondents selected "Yes" to the question "Do you manufacture in Massachusetts?" Additional individuals have responded as "No" to that question and filled out other parts of the survey and additional individuals have opened the survey and not provided response. The OTA representative stated that the survey will remain open but that significant additional change to the information it provides is unlikely.

The representative from OTA also provided details about a conference call between TURA program staff and the American Chemistry Council's Nanotechnology Panel. On July 9, 2018, the TURA program engaged in a conference call with the ACC to follow up on the offer of nanomaterial resources, services and expertise during the April 4, 2018 TURA Advisory Committee meeting. On April 30, 2018, following up on ACC's offer, the TURA program sent a request for information to the ACC on the nature and scope of nanomaterial use in Massachusetts, methods used by ACC members to identify and communicate the presence of nanoscale materials in products or mixtures, examples of how businesses in Massachusetts or elsewhere are protecting workers, communities and the environment from exposures and releases of engineered nanomaterials, specific Responsible Care guidelines for the handling of engineered nanomaterials, proven technologies and engineering controls to prevent worker exposures and releases to the environment, and best practices for disposal of engineered nanomaterials. During the conference call, the ACC's Nanotechnology panel representative suggested that the TURA program could use resources such as the MassDEP website, LinkedIn, job search sites like Indeed and Simply Hired, the NanoWerk listing of companies, and the Nano Science and Technology Institute's database, to gather information on companies using nanomaterials.

On the call, the ACC representatives clarified that they do not have a database or method of identifying nanomaterials companies. The ACC was also unable to provide methods for determining whether nanoscale materials are present in products. Regarding guidelines for health and safety, the ACC representative recommended using NIOSH guidelines and clarified that there are no specific Responsible Care guidelines related to nanomaterials.

The OTA representative went on to give an update on the recent EPA Information Gathering Rule on Nanomaterials in Commerce. OTA spoke with EPA in June to determine whether EPA has received information from Massachusetts companies. As of June, EPA reported receiving information from three companies nationally and none from Massachusetts. The reporting deadline for this rule was August 14, 2018 and OTA has not received an update on additional reports.

An attendee representing the ACC stated that, from the ACC's perspective, there was a misunderstanding about the original offer of resources by the ACC representative at the April 4th Committee meeting. The ACC Nanotechnology Panel can provide general information about nanomaterials but not information specific to the TURA program's request.

The Council Chair also reminded members and attendees that the ACC conversation with the TURA program was part of the program's effort to gather information about nanomaterials use in Massachusetts to respond to the request from the 13 community groups received by Secretary Beaton in 2016. The Chair invited ideas from Council members as to what role the Council members and agencies can play in developing a plan or policy for nanomaterials use in the Commonwealth. The Council Chair also requested a summary of the final results of the OTA survey.

Update: Regulation Package for C1-C4 NOL and TRI Chemicals

The Executive Director provided the update that the proposed changes to 301 CMR 41.00 Toxic or Hazardous Substance List will move forward for public comment starting October 5, 2018 with a public hearing on October 25, 2018. The changes are to add the following to the TURA list: the TRI nonylphenol category, the TRI hexabromocyclododecane (HBCD) category, and the TURA C1-C4 Halogenated Hydrocarbons/Halocarbons Not Otherwise Listed (C1-C4 NOL) category. The public hearing notice was provided as a handout to members and attendees.

Schedule Next Meeting

The Chair and Executive Director stated that the next Council meeting might be expected in November or January. Council members will be polled for their availability once proposed dates are determined.

Adjourn

Handouts

February 28, 2018 Draft Meeting Minutes for the TUR Administrative Council

Summary of Addition of Nonylphenol Ethoxylates (NPE) Category to TRI

ITRC Fact Sheet: History and Use of Per- and Polyfluoroalkyl Substance (PFAS)

September 2018 Draft Per- and Poly-fluorinated Alkyl Substances (PFAS): Summary and Introductory Information

TURA Program Update: September 2018

Public Hearing Notice for Changes to 301 CMR 41.00

FY19 TURA Grants Overview

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