

TURA Ad Hoc Committee Meeting, July 22, 2021

Final Draft

Meeting Attendees

Ad Hoc Committee members

Lauren Bradford, Cabot Corporation
Andy Irwin, Irwin Engineers
***Bill Judd**, Industrial Compliance Group
Jay Kaufman,
Terry McCormack, Umicore
***Mark Monique**, Savogran
Jim Reger, MAAPA
Rick Reibstein, BU
Robert Rio, AIM
Katherine Robertson, MCTA
Elizabeth Saunders, Clean Water Action
Matthew Taylor, Dupont

TURA program

Richard Blanchet, MassDEP
Lynn Cain, MassDEP
Walter Hope, MassDEP
Jenny Outman, MassDEP
Veronica Wancho O'Donnell, MassDEP
Beth Card, EEA
Caroline Higley, EEA
Jim Cain, OTA
Caredwen Foley, OTA
Michelle Spitznagel, OTA
Tiffany Skogstrom, OTA
Pam Eliason, TURI
Liz Harriman, TURI
Rachel Massey, TURI
Greg Morose, TURI
Heather Tenney, TURI

Other attendees

Catherine Benjamin
Jeff Bibeau, Tighe and Bond
Rick Bizzozero, private citizen
Bill Coyne, Coyne PC for ACC
Adam Diamond, Astro Chemical/MCTA
Erin DeSantis, ACC
Harry Hechehouche, ACC
Carol Holahan, Foley-Hoag for ACC
Tricia McCarthy, Coyne PC for ACC
Patrick Pelletier, Sika Corporation
Ray Pfeifle: Omnova Anonymous attendee

Other Advisory Committee members

Andy Goldberg, MA AGO
Diana Ceballos, BUSPH
Tennis Lilly, Groundwork Lawrence

**Denotes members of the AHC who also sit on the Advisory Committee*

Absent: Karen Blood, Larry Boise, Wendy Heiger-Bernays, Tom Estabrook, Cora Roelofs, Mark Rossi, Lucy Servidio, Laura Spark, Jodi Sugerman-Brozan, Becky Weidman

Minutes

1. Logistics
2. Approval of minutes
 - a. A member asked why minutes are unattributed. Program staff explained that the purpose of these meetings is to generate innovative ideas and that names have not been included in minutes to encourage this. Member suggests that attribution can help show the perspective of the stakeholder and enables follow-up with other committee members.
 - b. Approved. All members present voted aye.
3. TURA staff delivered presentation on the TURA fees, including an overview of historical reviews and past proposals to adjust the fee structure.

4. Discussion

- a. A member read a statement from MCTA opposing fee increases. Written version of statement will be submitted. Key points: MCTA is firmly against a fee increase; MCTA feels long term filers receive little benefit; especially if the chemical is required to be used or is part of the product; the program shouldn't be supported by a small universe of filers; questioning TURA's need for additional funding; and the universe should be expanded. Requested that the letter be added into the meeting record.
- b. In response to a member question, program staff clarified that none of the options were implemented, and fees had not ever been adjusted over the history of the program.
- c. Members asked about the overall impact of the fee structure and other revenue streams on the program budget, about funding utilization, and about the implications for program activities. Program staff offered the following information:
 - i. Revenue has declined over the history of the program from the original 4-5 million to approximately 2.8-2.9 million. The TURA program is designed to be funded through these fees, and staff sizes have declined substantially (for instance, OTA's staff has declined from the 30s to 7).
 - ii. When grant funding is obtained, it is for specific projects and is not designed to replace TURA funding for core program activities.
 - iii. TURA program hasn't always used all fees collected because the timing for fees/invoicing and reporting hampered MassDEP's ability to estimate how much revenue would be available in any one fiscal year. They have made changes in the invoicing schedule that have helped optimize the management of those funds.
- d. What are the strengths and weaknesses of the past fee adjustment proposals?
 - i. Members noted concerns about fees being assessed on a subset of toxics users and on a decreasing number of facilities, and about the program funding relying on a decreasing universe of companies, including those that have processes or products that require toxic chemicals.
 - 1. Members requested clarity about how any potential fee increases would be used, and how much it costs to do what the program wants to do.
 - 2. Members also noted that decreases in TURA budgets over time have compromised the program's ability to provide technical assistance in the way the statute envisioned, and that staff reductions at OTA have weakened the program in a fundamental way.
 - 3. Program staff indicated that there are many program priorities that could be pursued better with a larger program budget, including work in environmental justice communities, increased training opportunities, and keeping up-to-date on companies' needs. Members also pointed out that the discussions of the Ad Hoc Committee have resulted in many proposed new program activities that would require funding and capacity.
 - ii. While many members supported the idea of expanding the breadth of covered sectors to include more toxics users, since the impacts are the same regardless

of the user, members disagreed about whether any expansion should include nonprofit entities such as universities, or about how and whether they should involve small companies (for instance, a company with few employees using large quantities of toxic substances).

1. Members proposed a coalition of business and environmental groups to ask for an expansion in covered sectors.
 2. Members suggested that, if a broadening of covered SIC codes is pursued, it would be beneficial to highlight how the TURA program could aid these industries (e.g., biotech R&D)
- iii. Some members expressed the belief that it was the program's duty to pursue fee increases, since these had been delayed several times already and because of the statutory obligation to keep fees aligned with the Producer Price Index – that there is a need to comply with the will of the legislature and that the program is out of compliance with the law, and this needs to be addressed. A member noted that the program should be maintained at the equivalent of \$4m in revenue in today's dollars. Others believed that this is a particularly bad time to raise fees, in light of the strain on businesses during the pandemic, and noted that increasing fees could cause companies to have less money to spend on actual environmental improvements. Others responded that there is never a "good time" to raise fees.
1. A member asked for clarification about how much deference the discussions of the Ad Hoc Committee should pay to the statute as written – whether it should consider itself bound by the current statute. Another member suggested that the purpose of the program as envisioned by the legislature should be the jumping-off point for any changes, but that amendments to the statute could be considered.
- iv. Members noted that any fee increases should be pursued at a deliberate pace, implemented gradually and with ample input from the regulated community, and not necessarily through a one-time increase matched to the cumulative change in PPI. Members were appreciative of how responsive the process of convening the Ad Hoc committee has been to filers' needs and concerns.
- v. Members suggested that the TURA Program should receive budget allocations from the General Fund to support the program. Others noted that the budget for environmental agencies relative to the overall Mass budget has been decreasing for many years and that the agencies are unable to fund all the statutory requirements and existing environmental protection work—that there is no room in DEP or EEA's budget to supplement the TURA Program. Others mentioned that DEP's mandate keeps increasing while its budget decreases.
- vi. Members observed that non-TURA filers sometimes receive assistance from OTA (like auto shops and dry cleaners). Program staff clarified that this work makes up an extremely small proportion of programmatic work, and that it is often grant-funded, not paid for from TURA fees. Another member noted that OTA and TURA benefit the entire community, and that compliance with

environmental and public health regulations is not a transactional question of how an industry benefits, it is about public interest..

- e. The subcommittee that worked on the fee revision proposals in 2008 found that improving equity in the fee structure requires increasing complexity. What is the best balance between equity and simplicity in the fee structure?
 - i. A member noted that when DEP calculates fees for filers, the complexity behind the calculation doesn't matter. Another member agreed, and said that business size and relative substance toxicity should be accounted for.
- f. Pros and cons of revisiting the discussion of fee adjustment options within the Advisory Committee and Administrative Council? Pros and cons of making no change to the TURA fees?
 - i. Program staff reminded members that this discussion is not a proposal from the program to raise fees, it is a conversation about the pros and cons *both* of revisiting this question, and of doing nothing.
 - ii. A member noted that it was beneficial in previous proposals to see example scenarios to see how they work out.
 - iii. A member stated that the committee should not even consider taking no action on raising fees.
 - iv. A member asked why the annual adjustment isn't happening now. Also, the Administrative Council voted on this previously and it would be helpful to know why it wasn't implemented.
 - 1. Program staff stated that this happened around the time of the change in administrations and the process was not completed
 - v. The PPI adjustment was discussed, noting that the statute mandates PPI adjustment; the question was whether and how much to account for past changes to PPI.
- g. The Ad Hoc Committee has suggested a variety of additional activities for the TURA program. How would implementing proposed activities or managing resource constraints affect your thinking on possible fee adjustments? Based on the information presented in the background paper, or other information available to you, do you have any additional thoughts on whether or how the TURA fees should be adjusted?
 - i. A member noted that the decrease in the number of filers suggests that the program is working, and that while it is concerning that the burden is falling on fewer businesses, the decrease in number is a success story. He expressed support for increasing fees, expanding the universe to cover other toxics users, implementing fee increases gradually, and graduating fees (higher for larger businesses) so fees are not one-size-fits-all. He also urged support for continued alternatives adoption, and perhaps making allowances for companies where alternatives are not available.
 - 1. A member suggested that decreases in the number of filers may not be a signal of program success and may instead be attributable to companies moving operations and their toxics use elsewhere.
 - 2. Another member stated that his industry is constrained by existing federal specifications to use toxic substances and would be open to a

fee increase hand in hand with a decrease in requirements (e.g., planning every 6 years). He also requested that the TURA program continue to spend time addressing these barriers (such as military specs or zoning requirements that end up siting facilities in EJ areas, and that in the meantime, relief should be given to companies that are subject to the mil specs until they are altered. Others also expressed support for the work with military and standards agencies to get changes made in specifications to allow the use of safer materials.

- ii. An attendee asked whether there is a way to recognize and incentivize byproduct and emission reduction through the fee structure even if a company still has to use the chemical.

5. Wrap-up:

- a. Beth Card offered her thanks to Pam Eliason from TURI for moderating the discussion and thanked participants for their constructive participation. She acknowledged that talking about fees is never easy, that this discussion included many creative ways to consider how we could structure fees to be workable and effective, and offered appreciation for the Committee's guidance.
- b. Tiffany Skogstrom invited any final thoughts from participants.
 - i. A member expressed urgency about pursuing a workable proposal given that this issue has been postponed before, and stressed the importance of identifying what would need to change in order to arrive at a proposal that would be implemented (e.g., program priorities, regulations, statute, attitudes).
 - ii. A member noted that, in previous meetings, the Committee has asked the TURA program to do a lot of things that would have many benefits to businesses and to public health, but acknowledged that those things cost money. The top of the decision-making tree needs to be what is going to make the most benefit to public health. Impact on businesses matter, but so does reducing exposures for workers, the public, and the environment.
 - iii. A member stated that protecting public health and the environment is a huge mandate being borne by a small universe of filers, even if it grows as new chemicals are added, and that it shouldn't be the responsibility of this small group to fund TURA's entire mission. In addition, more budget information could help inform these discussions.
 - iv. A member acknowledged that expanding the universe of filers makes sense and could expand the revenue stream, and would require a statutory change. Acknowledging that this is a longer term project than just changing the fee structure, it is still important; another member concurred. It was also noted that not implementing fee increases after previous reviews leaves us in this difficult position now, and we shouldn't fail to act again.
 - v. An attendee noted that another suggestion from past discussions was expanding the program to all generators of hazardous waste.
- c. Tiffany Skogstrom stated that a final summary report will be created by program staff and shared with the committee. She also requested volunteers for a subcommittee of members to approve the final minutes from this meeting.

- i. Subcommittee for minutes approval: Lauren Bradford, Andy Irwin, Bill Judd, Jay Kaufman, Terry McCormack, Mark Monique, Jim Reger, Rick Reibstein, Bob Rio, Kathy Robertson, Elizabeth Saunders, Matt Taylor

6. Adjourn

Multiple members made a motion and Terry McCormack seconded. Chair declared meeting adjourned.