

TUR Advisory Committee
Meeting Summary
March 26, 2015
Mass DEP Office
One Winter Street
2nd Floor, Conference Room A
Boston, MA

Members Attending: Tolle Graham (MassCOSH), Kathy Flannery (Department of Labor Standards [DLS]), John Riccio (MWRA), Stephen Gauthier (IUE/ CWA Local 201), Jillian Riley (AGO), Elizabeth Saunders (Clean Water Action), Lucy Servidio (Capaccio Environmental Engineering Inc.), Joon Han (AB Cleaners), Mark Rossi (Clean Production Action), Samuel Lipson (City of Cambridge Public Health Dept.), Sylvia Broude (Toxics Action Center), Jessica King (Designee for Bill Judd [TURPA]).

Others Attending: Rich Bizzozero (MA Office of Technical Assistance [OTA]), Rick Reibstein (OTA), Danielle Domingos (OTA), Rachel Massey (Toxics Use Reduction Institute [TURI]), Liz Harriman (TURI), Kathy Robertson (MCTA), Suzi Peck (Massachusetts Department of Environmental Protection [MassDEP]), Greg Cooper (MassDEP), Steve Rosario (American Chemistry Council [ACC]), Trish McCarthy (ACC), Sean Moynihan (MCTA).

Welcome, Introduction, Minutes

Executive Director Rich Bizzozero welcomed attendees and introduced new committee members. Rich also noted that the six new Administrative Council members have been notified regarding participation, and two have determined their designees. Following all six designations, an Administrative Council meeting will be held, and then the next Advisory Committee meeting will be held. Rich anticipated that the Council meeting will occur in late May or early June. It was noted that there will be no TURA fee increase for reports due July 1, 2015. The Governor has implemented a regulatory pause until March 31, 2015. Prior to the regulatory pause, regulations were promulgated to designate four new Higher Hazard Substances (HHS). The four substances – n-propyl bromide (nPB), Cyanide compounds, Hydrogen fluoride, and Dimethylformamide (DMF) – will be reportable in 2016. The proposed designation of toluene diisocyanate (TDI) was put on hold before the end of the calendar year and a second comment period was provided.

The meeting minutes from December 11, 2014, September 19, 2014, and August 5, 2014 were distributed. There were no changes made to the December 11 or the September 19 minutes and they were accepted. There was one change made to the SAB section of the August 5 minutes and then those minutes were accepted.

Program Agency Updates

OTA

Currently, OTA is working on the Fiscal Year 2013 Governor's Report. OTA, alongside TURI and MassDEP, is also working on the TURA 25th Anniversary Leadership Tour, a series of events taking place in April and May, throughout the Commonwealth, honoring companies that have implemented exceptional toxics use reduction, water conservation, or energy conservation projects. A document outlining all the leaders and summarizing the projects was handed out.

OTA continues to work alongside the Operational Services Division (OSD) on the Toxics Use Reduction Taskforce for Environmental Preferable Products (EPP). Currently, the taskforce is working on a report to the Governor, which has determined that more than \$400 million was spent on EPPs in the last fiscal year.

TURI

Liz Harriman of TURI provided an agency update, which noted that the Annual Spring Continuing Education Conference will take place on April 9th, in Bedford, MA. The keynote speaker will discuss sustainability efforts and successes at EMC Corporation. On May 19th, TURI is hosting the Greener Materials Research Symposium, which will bring together researchers presenting their projects and companies presenting needs for future research, in order to facilitate collaborations. Jim Jones, US EPA Assistant Administrator and Roger McFadden, Senior Scientist at Staples, will be keynote speakers. It was also mentioned that the next Science Advisory Board (SAB) meeting will take place on April 1st, and the SAB will work to finalize its review of phthalate esters.

MassDEP

Suzi Peck and Greg Cooper from MassDEP presented the agency update. The dates and times of the upcoming TRI/TURA reporting workshops were mentioned, and committee members interested in attending one of the workshops were urged to do so. MassDEP is currently working on the Data Release for 2013, which will integrate feedback provided by the Committee, including new visual data presentation, new progress methods, and the introduction of GIS maps that track toxics use and byproducts from the first data release in 1993 to 2013.

MassDEP provided committee members with a document outlining a proposal for a TURA amnesty period, with the goal of encouraging more companies that are required to report but have not, to self-disclose. It was noted that the current enforcement measures for companies that are discovered by MassDEP are the chemical fees for the past three years, plus an administrative late fee and a Notice of Noncompliance (NON), and that this is currently the same for those who discover a failure to file and self-disclose.

MassDEP then outlined the proposal for the two phases of the amnesty period. In the first phase, companies that voluntarily disclose DEP will be issued only a warning notice and the company will pay one year of fees plus the administrative fee. The second phase of the amnesty period separates entities that have never reported under TURA before and entities that have previously reported under TURA. For companies that have not previously reported under TURA and file within thirty days of discovering a failure to file, regardless of how they discovered the failure, the MassDEP will issue a warning notice and require a one-year chemical fee and the

administrative fee. If these entities file more than thirty days after discovery, the MassDEP will issue a warning notice and require two years of chemical fees and the administrative fee. The goal of this distinction is to incentivize companies to voluntarily disclose immediately following the discovery of failure to file. For companies that have previously reported under TURA, regardless of how they discovered the failure, MassDEP will issue a NON and require two years of chemical fees and the administrative fee. Throughout the amnesty period, MassDEP will continue to inspect and enforce companies, and if the MassDEP discovers a failure to file through inspection, the amnesty period will not apply and MassDEP will issue a NON and require three years of chemical fees and an administrative fee. The goal of the amnesty period is to incentivize companies to enter into the TURA program. It was also noted that MassDEP reviewed this proposal at an informal meeting with TURPs and provided them with the handout.

One committee member asked how many companies DEP anticipates will be affected by the amnesty period. DEP does not know exactly how many Massachusetts companies will be affected by the amnesty because, unless they are already reporting under TURA, it is impossible to tell which companies use what chemicals and the amount of chemicals that a company uses. The Executive Director noted that DEP will see higher numbers of voluntary disclosures if there is strong outreach to companies and to TURPs. One committee member commented that the Annual Spring Continuing Education Conference for TURPs would be taking place in the second week of April, and if DEP presented the final amnesty period information at the conference, they would reach a large number of TURPs.

A committee member representing health and safety asked if the amnesty would be burdensome to small businesses: with TURA requiring an annual fee, many would not take advantage of the amnesty period because they would have to pay that every year. The executive director noted that small businesses with less than ten employees are exempt from TURA. It was also noted that companies could ask OTA for assistance with the goal of reducing chemical use below thresholds to avoid the fees completely.

Review of Decision-Making Document and TURA Program History

TURI provided an overview of the document *Decision-Making under TURA: Resources for the TURA Administrative Council and Advisory Bodies*, which was created after the Administrative Council asked for a resource document to assist them in the decisions they were making. It was intended as a resource for the Administrative Council, the Science Advisory Board (SAB) and the Advisory Committee. TURI outlined the key principles and recent updates made to the document.

Section 3, which outlines the decision-making responsibilities of each body, was made more general. The SAB provides input on the hazards of chemicals based strictly on scientific considerations. TURI or OTA provides a policy analysis, taking the SAB's input into account and then presents the policy analysis to the Advisory Committee, which provides input and recommendations. Then, the policy analysis and any comments from the Advisory Committee are presented to the Administrative Council, which deliberates and makes a decision through a vote.

Appendix A outlines the statutory responsibilities for the SAB, Advisory Committee, and Administrative Council. Appendix C provides information on the SAB's use of expert judgment. TURI suggested that the Advisory Committee review and understand Appendix I, which outlines the policy goals of TURA. It was noted that Appendix J contains a full list of the More and Less Hazardous Chemicals (informational lists created by the SAB).

Response to Comments: The Proposed Additions of Four Higher Hazard Substances

The Response to Comments for the four substances, n-Propyl Bromide (nPB), Cyanide compounds, Hydrogen Fluoride, and Dimethylformamide (DMF) that were designated as Higher Hazard Substances (HHS) was provided to the Committee members. Prior to the designation, a 21-day public comment period for written testimony and public hearings for oral testimony were held. No oral or written testimony in opposition of the aforementioned substances was provided. No comments were received from Massachusetts businesses that are subject to TURA. Comments were received on a fifth substance, TDI, which was proposed for designation as a HHS. An additional comment period was held for TDI to alleviate stakeholder concerns about the process, their opportunity for input, and sufficient SAB review. All the chemicals were on the SAB's More Hazardous Chemical list, and were then considered for HHS designation. The additional comment period closed on February 23, 2015.

Lower Hazard Substance Designation Recommendation: Ethyl Acetate

TURI provided a draft policy analysis that proposes ethyl acetate be designated as a Lower Hazard Substance (LHS). As an LHS, ethyl acetate would remain a reportable chemical under TURA, but there would be no per-chemical fee. The planning requirements would remain unchanged.

The document notes that the substance is extremely flammable and is an eye irritant. It is listed by the National Fire Protection Association (NFPA) as flammability level 3, which includes materials that can be "easily ignited under almost all normal temperature conditions. Water may be ineffective in controlling or extinguishing fires in such materials." (Note: NFPA has a rating scale of 0 [not combustible] to 4 [extremely flammable liquid])

One committee member asked how many facilities would be affected by the designation. The estimate is that the designation would affect 22 facilities. These numbers are based on the 2012 filing data.

A committee member asked if there are alternatives to ethyl acetate and if ethyl acetate is preferable to other chemicals. TURI responded that ethyl acetate was more flammable but less toxic than some alternative chemicals. No final recommendation was determined for the chemical and the discussion will continue at the next Advisory Committee meeting.

Next Advisory Committee Meeting Date

An online poll will be distributed to determine the next Advisory Committee meeting date.

Adjourn

Handouts

Meeting Minutes for August 5, 2014 Advisory Committee Meeting

Meeting Minutes for September 19, 2014 Advisory Committee Meeting

Meeting Minutes for December 11, 2014 Advisory Committee Meeting

Draft TURI Policy Analysis – Lower Hazard Substance Designation – Ethyl Acetate (CAS# 141-78-6)

Designation of Higher Hazard and Lower Hazard Substances in Massachusetts Factsheet

Decision-making under TURA: Process Overview and Reference Guide

Final Response to Comments on Proposed Amendments to 301 CMR 41.00 Toxic or Hazardous Substance List to Designate Five Additional Higher Hazard Substances

What is a TUR Planner (brochure)

Greener Studio Challenge

Hexavalent Chromium Fact Sheet

Methylene Chloride Fact Sheet

Reducing the Use of Carcinogens

Products Finishing article on hexavalent chromium alternatives

912 Auto Body Case

CE Conference Brochure

Greener Materials Symposium

25th Leaders Overview