

Meeting of the TUR Administrative Council

August 19, 2014
9:30 AM – 11:30 AM
100 Cambridge Street, Room B
Boston MA, 02114

Council Members present:

Martin Suuberg, Executive Office of Energy and Environmental Affairs
Timothee Rodrique, Department of Fire Services
Dr. Marc Nascarella, Department of Public Health (DPH), Bureau of Environ. Health
Nancy Seidman, Department of Environmental Protection (MassDEP)
Michael Flanagan, Department of Labor Standards
Tim Wilkerson, Executive Office of Housing and Economic Development

Other Attendees:

Suzi Peck, Lynn Cain (MassDEP); Mike Ellenbecker, Rachel Massey, Liz Harriman, (Toxics Use Reduction Institute [TURI]); Rich Bizzozero, Rick Reibstein (Executive Office of Energy and Environmental Affairs); Tricia McCarthy, Steve Rosario (American Chemistry Council); Sean Moynihan (Massachusetts Chemistry & Technology Alliance)

Welcome and Introductions

Meeting Minutes July 14, 2014 (approved as written 4-yes, 1-abstention, 1- not present at the time of the vote)

High Hazard Substance designations

The Council Chair, Martin Suuberg presented the topic of Higher Hazard Substance designations and turned the floor over to TURI.

- TURI reviewed the designation process and the criteria recommended by the Advisory Committee for choosing priorities in 2014:
 - Avoiding adverse substitutions – for chemicals already identified as HHS.
 - Logical groupings – based on similar structure or functional use.
 - Reporting under TURA – a rough proxy for the likelihood of significant use.
 - High acute toxicity – risk of significant adverse short term effects, including death, from exposure.
 - Prioritization in other jurisdictions – helping businesses that sell or operate out of state or in Europe.

The following chemicals are proposed for designation as Higher Hazard Substances in 2014:

- Hydrogen fluoride (CAS 7664-39-3)
- Cyanide compounds (*TURA #1016*)
- Toluene diisocyanate (listed as three CAS numbers: 2, 4-TDI [584-84-9]; 2, 6-TDI [91-08-7], and TDI mixed isomers [26471-62-5]);
- Dimethylformamide (CAS 68-12-2).

These are in addition to -1-Bromopropane (n-Propyl Bromide, or nPB) (CAS 106-94-5)). The Council voted on June 3, 2014 to designate nPB as a HHS.

Concerning hydrogen fluoride, there were no comments/questions.

Concerning toluene diisocyanate, the following points were discussed:

- Concern was expressed by Council members relating to asthmagenic effects and the possibility of affecting indoor air quality.
- Reference was made to OTA's Report on Barriers to Reducing the Use of Asthmagens.
- An industry association representative commented that the SAB was at the start of the process of analyzing the diisocyanates category and suggested that the Council wait until the SAB has completed its deliberations on these related chemicals. California, he noted, has recently begun the process of possible regulation of diisocyanates in spray foam, and California's decision to list it as a proposed priority has already affected markets for spray foam services in that state.
- Program staff explained that the SAB is not examining the evidence on TDI or MDI, but rather, is considering whether additional diisocyanates should also be placed on the "more hazardous chemicals" list. TDI and MDI are already on the "more hazardous chemicals" list.
- Concern was raised about dealing with TDI separately from the other diisocyanates. It was noted that there is minimal concern about businesses shifting from TDI to other isocyanates in the short term, as it is not easy to make drop-in substitutions. However, in the medium or long term, businesses may switch from one to another, so there would be a concern about adverse substitutions if the TURA program does not also consider MDI for designation.
- A Council member suggested that TDI might be the least dangerous of the four chemicals being discussed today. Disagreement with this was expressed. Staff noted that the effects of TDI exposure can be debilitating to the point that people can no longer work. A Council member noted that its allowable exposure level is actually lower than some of the other chemicals, so in their opinion it is not the least hazardous.
- An industry association representative urged the Council to wait until after the September SAB meeting before voting on TDI, in case the SAB had more input on TDI. The Chair clarified that the SAB is not revisiting the science on TDI, but looking at other diisocyanates to see if they should be categorized the same way the SAB has already categorized TDI and MDI. TURI staff explained that MDI is now reported as part of the EPA Diisocyanates category, and the SAB is considering whether to categorize the entire Diisocyanates category on their more

hazardous chemicals list. The question of whether the Council should wait until this evaluation is finished was addressed by several participants. A staff member noted that while the grouping approach is the ideal, it is not a reason to not move forward on a reasonable action that can reduce exposures that are currently occurring.

Concerning cyanide compounds, there were no comments/questions.

Concerning dimethylformamide (DMF), the following points were discussed:

- A member asked if EPA's EPCRA Extremely Hazardous Substances (EHS) list is up to date, because DMF does not appear on it, could that be an indicator that it is not of concern. Staff explained that the EHS list was first published in 1987, and is focused on short-term exposure; it is not a comprehensive list of chemicals of concern.
- A member asked why DMF usage has gone up slightly. Program staff noted this has not been a consistent trend, and that staff had not researched this before the meeting, but the largest use seems to be laboratories, many of which will not be covered by TURA. Some biotech companies could be using it.
- An industry association representative asked when the SAB reviewed DMF. DMF was categorized as a More Hazardous Chemical by the SAB in 1999, when they originally categorized all TURA substances that had been reported.

A motion was put forward and seconded to designate as HHS. The council voted (6-0) in favor of designating all four chemicals as Higher Hazard Substances.

The Council Chair, Martin Suuberg, announced that the program would commence a formal 30A process of regulatory promulgation, including notice and comment, and a public hearing.

Fees

Executive Director Rich Bizzozero presented three options for increasing TURA fees to approximately \$4 million, the minimum of the range contemplated by the statute in 1991, noting that each option to be presented is significantly less than the 69% increase that would result from institution of the statutorily-mandated adjustment for changes in the Producer Price Index. Option A is an across-the board 50% increase; Option B, recommended by staff, incorporates mitigations for small companies, and Option C is a modification of Option B to shift some fee burden to companies that use many chemicals.

Questions and discussion points included the following:

- Currently, no company over 500 FTEs reaches the maximum fee, either under the current structure or in any of the three proposed options.
- How many options should go out for public comment? The chair recommended that the Council select one option.
- A member expressed a preference for option B or C.

- A member suggested moving forward on option B. A vote was suggested but the Chair suggested it would be better to wait for a vote until the next meeting.
- An industry association representative expressed concern about a “lack of substantive input from industry” and about the changes being made in a single year.
- The Chair noted that they are mindful of the impact on the regulated community, although other agencies have had to make changes of this kind as well and that the statute provides authority for making the fee changes.
- A member pointed out that the fee revenue goes to the TURA program; that’s not true for all fees. She pointed out that the regulated community would also receive additional services.
- An industry association representative expressed concern that companies would not relocate to Massachusetts as a result of the fee increase.
- The Chair noted that “we are trying to balance a number of public goods,” including providing a safe place to work, a good place to work, etc. We also need to be able to support a program like TURA that balances those public goods.
- A member thanked staff for the careful thought behind the fee proposal.
- A member suggested that the next meeting be devoted entirely to the fee question and that a special effort be made to invite stakeholders to be there.
- The Chair requested that stakeholders provide written comment to the Council by September 12th to help inform their deliberations

Handouts:

- 1) Agenda Administrative Council August 19, 2014
- 2) Minutes Administrative Council July 14, 2014
- 3) Toxic Use Reduction Institute Summary of Policy Analysis, Higher Hazard Substance Designation Recommendation: *Hydrogen Fluoride (CAS 7664-39-3)*, August 12, 2014
- 4) Toxic Use Reduction Institute Summary of Policy Analysis, Higher Hazard Substance Designation Recommendation: *Cyanide Compounds (TURA #1016)*, August 12, 2014
- 5) Toxic Use Reduction Institute Summary of Policy Analysis, Higher Hazard Substance Designation Recommendation: *Toluene Diisocyanate (listed as CAS: 2,4-TDI [584-84-9]; 2,6-TDI [91-08-7]; and TDI mixed isomers [26471-62-5])*, August 12, 2014;
- 6) Toxic Use Reduction Institute Summary of Policy Analysis, Higher Hazard Substance Designation Recommendation: *Dimethylformamide (CAS 68-12-2)*, August 12, 2014
- 7) TURA Fee: Summary of Recommendation 8_19_14
- 8) TURA Fee: Overview and Recommendation to Update 8_19_14