

TURA Ad Hoc Committee Meeting, December 14, 2020

Meeting Attendees

Ad Hoc Committee members

***Larry Boise**, Franklin Paint
Lauren Bradford, Cabot Corporation
Tom Estabrook, TNEC
****Wendy Heiger-Bernays**, BUSPH
Andy Irwin, Irwin Engineers
***Bill Judd**, Industrial Compliance Group^{1,2}
Terry McCormack, Umicore
***Mark Monique**, Savogran
Elise Pechter, DPH
Jim Reger, MAAPA
Rick Reibstein, BU
Bob Rio, AIM
Kathy Robertson, MCTA
***Mark Rossi**, Clean Production Action
Elizabeth Saunders, CWA
***Lucy Servidio**, Capaccio
***Laura Spark**, CWA
***Jodi Sugarman-Brozan**, MassCOSH
***Matt Taylor**, Dupont

Other Advisory Committee members

Magdalena Ayed, Harborkeepers
Karen Blood, Hollingsworth and Vose
Michael Fiore, DLS
Becky Weidman, MWRA

TURA program

Richard Blanchet, DEP
Lynn Cain, DEP
Hardiesse Dicka-Bessonneau, DEP
Veronica Wancho O'Donnell, DEP
Caroline Higley, EEA
Dan Sieger, EEA
Jim Cain, OTA
Caredwen Foley, OTA
Marcela Rojas, OTA
Michelle Spitznagel, OTA
Tiffany Skogstrom, OTA
Pam Eliason, TURI
Liz Harriman, TURI
Rachel Massey, TURI
Greg Morose, TURI
Heather Tenney, TURI

Other attendees

Cathy Benjamin, GenTex Optics
Jeff Bibeau, Tighe and Bond/MCTA
Bill Coyne, ACC
James Dunbar, O'Neill and Associates
Harry Hechehouche, ACC
Carol Holahan, Foley-Hoag for ACC
Kuper Jones, ACC
Michael Martell, Photofabrication Engineering
Tricia McCarthy, Coyne PC for ACC
Jason Myers, Saint-Gobain
Marc Pelissier, Valley Plating
Suzanne Pisano, Geolnsight
Lynne Santos, Trinity Consultants
Emilee Scott, Robinson + Cole

Three other attendees, full names and affiliations unknown

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

***Denotes members of the AHC who also sit on the Science Advisory Board*

*Absent: Jay Kaufman (AHC), Cora Roelofs (AHC), *Kari Sasportas (AHC/Adv)*

Minutes

Welcome and introductions: Members were welcomed and introduced themselves.

Approval of minutes: Minutes approved. During discussion, a member requested that minutes be revised to clearly reflect which members have affiliation to multiple TURA bodies.

Presentation: DEP staff delivered presentation on compliance and enforcement. A brief summary of the discussion following the presentation follows.

1. Member asked whether desk audits represent a cross section of filers (large and small, numerous chemicals vs. only one, newer vs. more veteran TUR Planners). DEP will review and respond.
2. Member asked whether DEP has ever imposed an Administrative Consent Order for a TURA issue. DEP referred to the background document for 2010 to 2020 data and responded that some ACOs have penalties attached and some do not. Reporting penalties can also be issued for failure to submit required certifications.
3. Member asked if the Administrative Council votes to approve the PFAS NOL list, can DEP reinstitute the Amnesty program for a period of time for that listing? DEP acknowledged the suggestion for future consideration.
4. Dan Sieger requested for members who have participated in desk audits to provide feedback.
5. Member remarked that they had been told “no feedback is good news” while participating in a desk audit, and asked about the top 5 issues that came out of the desk audits. DEP referred to the background document, and clarified that some facilities with deficiencies identified by the desk audit received NONs (along with their respective TUR Planners) and some were referred to OTA for additional technical assistance.
6. Member asked whether issues were coming more from facilities or from planners. DEP replied that both would receive a NON if there was a problem with a plan, but noted that facilities are ultimately responsible for being in compliance.
7. Member pointed out that the background document covers many of the questions being asked.
8. Non-member attendee asked whether the frequency or nature of violations varies between limited practice and general practice TUR planners. DEP agreed to review and respond.
9. Member asked about major deficiencies of plans and what follow-up was conducted with filers. DEP agreed to review and respond. Member who had participated in the desk audit stated that they had received guidance.
10. Member asked whether any NONs were issued for organizational/clerical issues (e.g., lack of table of contents). DEP responded that this did not happen unless there were other deficiencies.
11. Member stated that one of his clients received a request to participate in this audit and discussed the experience, indicating that DEP had closed the loop with them, and his client felt like the process was fair and a good alternative to on-site inspection.
12. Dan Sieger asked whether filers/planners who participate in an audit would want technical assistance or other follow-up information that’s not related to enforcement. Member stated that the desk audit is a useful and important tool whose use should be expanded, and felt that it’s useful for participants to have some closure but that a close relationship between participant and auditor isn’t necessary/desirable.
13. Discussion topic: What constitutes good faith effort?
 - a. One member expressed concern about small companies’ ability to comply with the PFAS NOL listing. Another member indicated that, for chemical categories, companies need guidance on de minimis from DEP, like EPA’s guidance for PBTs. Another person asked how companies can best demonstrate good faith if PFAS show up because they are already present in the water used in processing.

- i. Program staff responded that OTA and the TURA program are doing outreach and developing tools to help companies identify if they're using PFAS. Taking advantage of this assistance is a way companies can demonstrate good faith. Examples might be to document conversations with suppliers, to document the materials that were reviewed to determine whether they are likely to have PFAS.
- b. Member asked to what extent the TURA program has been in contact with other states re: PFAS guidance.
 - i. Program staff provided examples of collaborations between TURA and other states in order to provide companies with PFAS guidance, including developing self-assessments to identify potential PFAS sources and outreach to industries upstream from POTWs. A member indicated that the targeted outreach is beneficial, but that general guidance (e.g., a checklist companies can comply with) is also needed. OTA raised the idea of a PFAS supply chain workgroup.
- c. Member stated that, when companies report on same chemicals over numerous cycles, this may strain the diligence of their good faith efforts. Another member expressed concerns about the 2-year planning cycle since broader changes can take many years.
 - i. A member who is a TUR Planner acknowledged concerns about the 2-year planning window but emphasized dedication to making sure clients get their money's worth, that waiting 4 years would keep TUR Planners from following up on implementation of prior recommendations, and that additional issues/opportunities might be missed.

14. Discussion topic: Quality control for TUR Planners

- a. A member pointed out that companies rely on a planner's certifications and should not be held accountable for a TUR Planner's mistakes, and that it's important that licensure guarantees a certain level of expertise. Another member indicated that desk audits will be helpful for identifying planners who need further education, and that right now, continuing education doesn't include a robust assessment of what planners are learning.
 - i. DEP noted that, per regulations, the development of the plan is the responsibility of the toxics user (the company). The planner reviews and certifies that the plan meets the regulations.
- b. Member noted that it's a good point that the facility is responsible and suggested that a smaller piece of guidance/executive briefing could be included to indicate what the TUR Planners' responsibilities are.
- c. In chat, a member requested that all requests for information that are provided off-line are added to the public record. Dan Sieger replied that the TURA program is committed to identifying the best way to ensure everyone is in the loop on any conversation.
- d. Member asked whether we can strengthen oversight and training by learning from the LSP program. Another member noted that desk audits resemble what is done in the LSP program. Veronica noted that there are important differences between the programs and that TUR Planners are more similar to UST/Solid Waste third-party inspectors.

- e. A member asked whether TUR Planners can have their certifications removed. DEP pointed to the regulations for application/recertification and procedures for disciplinary action.
 - f. Member asked how we can best ensure that ongoing training is effective, helpful, and sets TUR Planners up for success. Another member indicated that when there are deficiencies, training should focus on remediation, not punishment. TURA staff indicated that these topics will be revisited in upcoming sessions.
15. Regional inspectors/screenings
- a. Member asked whether desk audits are coordinated with multimedia inspections
 - i. DEP noted that DEP inspections are conducted based on EPA commitments, and that DEP will be doing the Desk Audit annually. Inspection lists are coordinated so facilities do not get inspected twice during a fiscal year, and DEP will attempt to not inspect/review plans on consecutive years.
 - b. A member stated that [DEP news](#) on violations and enforcement activities was an extremely helpful resource that is no longer available. The current self-serve website does not provide same level of information. DEP will review and respond. Publicizing enforcement activities can help deter other deficiencies.
16. Other compliance and enforcement topics
- a. A non-member participant noted the efficacy of the amnesty program in identifying companies that should have been filing and requested that it be reinstated. DEP acknowledged the suggestion for future consideration.
 - b. A member suggested that Notice of Noncompliance language be differentiated for cases of self-disclosure vs. those who got caught. Another member clarified that, under the current self-disclosure policy, companies don't receive a Notice of Non-Compliance, and indicated that the current self-disclosure policy is not as lenient as the amnesty program, but it's reasonable.
 - c. Member stated that the original goal of TURA was to reduce the use of toxic chemicals by working with industries and emphasized that the work should be cooperative and that industries bear the cost of compliance. This member noted that OTA does a good job helping facilities through the process.

Topic of next meeting: Alternative planning, incl. resource conservation planning

Adjourn