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By email to: Stephanie.Cooper3@mass.gov

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Stephanie Cooper
Undersecretary for Environment
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, 10th Floor
Boston, MA 02114

Dear Undersecretary Cooper:

On behalf of our members, the Massachusetts Chemistry & Technology Alliance (MCTA) would like to make follow up comments to a topic discussed at the December 4, 2024, meeting of the Administrative Council for Toxics Use Reduction. Specifically, we would like to comment on Item 4 of the agenda: TURA Fees Background and Status.

We know that there is no current fee proposal, but we believe it is important to reiterate our position on this issue.

MCTA understands the financial dilemma that the TURA program finds itself in. Our position is that fee discussions should be part of incorporating larger reforms to the program (many of which MCTA has suggested in the past) coupled with expansion of the universe of TURA filers to include large toxics users who are not currently part of the program. Absent reform and expansion, fee increases are unsustainable and would hurt companies in Massachusetts that are facing increased economic threats in the form of higher costs related to energy, taxes, and the availability of workforce.

The current financing dilemma is a result of the way TURA filers were identified and fees were originally designated. TURA is one of only a few programs (another being the state's Title V Air Permit program), that were designed to "punish the polluter" with the intent that fees would discourage certain behavior. This was a common national model, and it was successful when Massachusetts had a large industrial base that could support these programs. That is no longer the case here. Our industrial base has shrunk, and now there are far fewer "large quantity toxic users" to support the program – which means a large fee increase would be necessary under the "business as usual" approach. Under this scenario, a fee increase would be counterproductive and would result in a continued exodus of manufacturers and product lines resulting in fewer filers over time and less revenue, not more.

The fact is a large number of the 449 companies required to file with TURA in 2022 (down from 728 filers at the program's peak) either use chemicals as part of their business – distributing crucial supplies for wastewater treatment and other public health needs - or are required to use the product due to government contracts or environmental protection requirements. Many of the

current TURA filers have been part of the program for decades - some have been filing since the start of the program. In these cases, TURA fees do not incentivize further reduction as many filers have run into a wall - there are simply no alternatives available. TURA fees provide no incentive, making them nothing more than an additional tax just for operating here.

There is also the very real issue of making industry report on materials that are specified by governmental and regulatory agencies. This is both counterproductive and an unnecessary expenditure of time and resources. In 301 CMR 40.01(2)(c) the purpose of Toxic Use Fees is stated “to minimize unnecessary duplication of reporting requirements concerning chemical or hazardous substance production, use, release, disposal and worker exposure.” Having to report on ways industry is trying to reduce the usage of listed chemicals when such use and quantity is determined by a governmental or regulatory agency is illogical and serves no genuine public policy goal.

Of course, fees are only part of the cost of complying with TURA. But coupled with other administrative burdens, the cost of compliance with TURA is high. As noted at the December 4 meeting, the total cost of compliance with the TURA law can cost upwards of \$50,000 or more in a planning year, depending on the complexity of the operations, commitment of facility resources to active planning, and the services of a TUR Planner. This estimate is based on the services of a toxics use reduction planner (anywhere from \$3,000 to \$18,000 depending on source complexity), staff and management time for TUR planning meetings (preparation, attendance and follow up) and fees (facility fees and chemical fees can be well over \$10,000-\$15,000 dollars). This does not include the time invested by companies to certify in-house TURPs, CE program costs and, in the case of audits, preparation and response costs. It is not an inexpensive program.

Sustaining the TURA program requires reform, and such reform requires a combination of regulatory and legislative changes. In past legislative sessions, MCTA filed modest legislation to amend TURA - *An Act to Reform the Toxic Use Reduction Act* (HB 857 and SB 485 in the 2023-2024 legislative session) that could act as starting point for discussion. We intend to refile this bill for the 2025-2026 session. Our proposal will:

- Amend reporting requirements to once every 6 years after the first two-year cycle;
- Extend the certification of toxic use reduction planners (TURPs) from 2 years to 6 years, with renewals every 6 years;
- Change continuing education (CE) requirements for the initial certification and license renewal of TUR Planners to 45 hours and 36 hours respectively;
- Change CE requirements for the initial certification and license renewal of TUR Planners who only work for their employer to 36 hours and to 30 hours, respectively;
- Waive fees for companies that cannot reduce their chemicals use because those chemicals are required by government-mandated bid specifications for highway, aviation, general transportation, and public safety projects, among others.

These simple reforms would lower costs and bureaucracy for existing filers and result in more time spent on actual toxics use reduction. Expansion of the program to large toxics users (not included in our legislation but supported by MCTA) such as hospitals, biotech, colleges, and universities and even government entities would give the commonwealth a better understanding of where toxics use reduction activities need to be focused and provide a fertile ground for TURA to help industry. Framed correctly, newly impacted industries should embrace toxics use

management which would allow them to incorporate TURA planning into their widely touted sustainability, climate, and environmental justice initiatives.

The expansion of the universe of TURA filers is a critical component to any reform and to the sustainability of the program. The existing system misses an entire segment of toxics users, a large data gap for the commonwealth. For instance, under the current system, a distributor selling a chemical or products to an exempt industry is required to develop a plan to lower the amount they sell, but the actual *user* of the chemical has no incentive to lower its use – a backward approach to chemical reduction. Likewise a company incorporating a chemical into a product per government spec pays a fee (assuming they are located in Massachusetts) yet the person who demands the supplier meet the specification has no incentive to change it.

MCTA remains a partner with MassDEP and the TURA Program in reducing toxics when possible and we appreciate the cooperative relationship we have had for many years. However, the TURA program is struggling, and difficult decisions need to be made to erase archaic mandates and legislative issues that are simply not as relevant today as they were 40 years ago. We would love to further discuss this model legislation that would accomplish these goals.

Thank you for your consideration of the concerns raised by MCTA and our members. If you have any questions, please do not hesitate to call Katherine Robertson at 508-572-9113 or via email at katherine@masscta.org.

Respectfully,



Katherine Robertson
Executive Director
Massachusetts Chemistry & Technology Alliance

cc: Tiffany Skogstrom, tiffany.skogstrom@mass.gov