



July 20, 2022

Gary Moran, Undersecretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Undersecretary Moran,

I am writing on behalf of the Massachusetts Chemistry & Technology Alliance (MCTA), an organization that represents the manufacturers, users and distributors of chemistry in the Commonwealth.

Please accept this letter as MCTA's response to the Synthesis Document summarizing the TURA Program Strengthening Ad Hoc Committee's discussions over the past two years. This Synthesis Document was presented at the TUR Advisory Committee meeting on May 4, 2022.

The Ad Hoc Committee was formed to facilitate a review of the Toxic Use Reduction Act and engage stakeholders in frank discussions about experiences with the program over the past 30-plus years and recommendations of what can be done to improve it. The program was last amended in 2006, and we relished the opportunity to discuss those areas that filers felt worked and those that filers felt could and should be modified.

MCTA was optimistic when the intent to convene the Ad Hoc committee was announced but disheartened when we learned that the process would be staffed by the regulating organization. While I have enormous respect for TURA and TURI staff and believe we work well together, our attempts to discuss changes over the past eight years have been consistently rebuffed.

The Ad Hoc Committee meetings, as intended, facilitated robust conversations about the program, what works, and what doesn't work. There was a lot of back

and forth. The MCTA companies who bear the responsibility for reporting and planning took advantage of the opportunity to highlight their experiences and suggest changes.

It is worth noting here that less than 500 manufacturers, users and distributors of Toxic or Hazardous Chemicals are subject to TURA filing, a small fraction of the institutions, laboratories and public facilities using these the substances.

The depth and breadth of industry's input was not reflected in the synthesis document. We commented earlier in the process about concerns with the lack of detail in the minutes. We had hoped that the end product would be more reflective of the comments made at these meetings. It was not.

To summarize, in the words of one MCTA member who had been engaged throughout the year-long process, "I was less than surprised at the minimization of our concerns."

One example: The Synthesis Document states that 70% of respondents to a 2008-2009 survey commissioned by TURA "always or usually found" new TURA opportunities in the 1st cycle and noted a decline over time. It did not mention how great that decline was although this was discussed at the meeting.

The document does not mention the results of MCTA's survey – which was done more than a decade later and which I cited in my comments during the March 30th meeting. It's worth noting that 12 of the respondents who have worked diligently to reduce their use of toxic or hazardous chemicals have been filing since the program's inception because no feasible alternatives are available to get below reporting thresholds. Our survey found that 69% identified TURA opportunities in the first cycle, with slightly under 50% in the second. This is consistent with the data reported from TURI's 2008/2009 survey. That dwindled down to zero after 20 years. TURI's own data from 2008/2009 also reflected a substantial decrease in identifying alternatives after the first two cycles. The results of MCTA's survey were forwarded to the Ad Hoc Committee with the specific request that it be entered into the record.

It's also worth noting that the Synthesis Document does not mention that industry is not advocating to abolish the annual reports, just extend the planning period.

We also take issue with the tone of the document which we find patronizing to the stakeholders who are TURA filers. There is a general theme throughout the document that implies that industry is either uninterested in or unable to reduce the use of toxics, find alternatives, and be good environmental stewards if the current two- year planning cycle is not maintained to remind industry to think about the concepts of TURA. This could not be further from the truth.

Industry has every incentive to reduce the use of Toxics including market demand. Our members, and others who manufacture, use or distribute chemicals in the state, are constantly seeking non-toxic or less-toxic alternative and apply them to their processes. Industry has every incentive to reduce the use of Toxics including market demand, federal and state laws and regulations and, yes, a strong commitment environmental stewardship, employee safety and public health. Industry already has economic and social incentives to reduce scrap, waste and discharge.

The Synthesis Document also deflected industries recommendation to extended planning cycles from the current two-year intervals to six years. The rationale for that recommendation has been that the changes in technology are not evolving on such a short cycle that a two-year planning cycle is productive; and, even when alternative are identified, it may take 4 to 8 years to develop and fund alternatives through testing of alternative system functionality, product quality and customer acceptance with reformulated products, and retooling and retraining of personnel for modified operations. The response by TURI staff, which was recorded several times in the Synthesis Document, is that these filers should contact OTA for assistance. Not recorded were statements that industry does consult with OTA, is well aware of the TURA process, and is always striving to reduce use of listed chemistries. Most filers have robust research capacity and devote significant resources toward identifying alternatives to toxic chemicals in order to compete in a global marketplace.

It is worth noting that MCTA and TUR filers did not advocate for the elimination of the program and we believe that parts of the program have real value. We also did not advocate for the elimination of mandated TUR Planning after the first two cycles. Instead, we have advocated for changes to the regulations to reflect advancements made and the experiences of the regulated community, since the

program's inception in 1989. Those changes include (1) increasing the time between planning cycles for companies who had been reporting for more than four years, (2) a waiver for companies that cannot reduce the use of chemicals they use because those chemicals are required by government-mandated bid specifications for highway, aviation, general transportation, and public safety projects among others, (3) an extended certification period for Toxic Use Reduction Planners and (4) a reduction of the number of credits certification and recertification of Toxic Use Reduction Planners require.

This letter addresses only the areas in the Synthesis Document with which MCTA and its members had major issues, and does not touch upon numerous other points which were either not included in the final document, poorly explained or minimized. We do understand that recording these meetings was a daunting task and understand the challenges faced in sifting through hours of discussions. We consider this our opportunity to memorialize the issues and challenges we, the regulated community, raised before the Administration proceeds with implementing any changes to the program.

Thank you for your consideration and please do not hesitate to contact me at 508-572-9113 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kathy Robertson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Katherine Robertson
Executive Director

cc: Tiffany Skogstrom