

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 301 CMR 41

Estimate of the Number of Small Businesses Impacted by the Regulation: 2 to 9

Select Yes or No and Briefly Explain

Yes ☒	No ☐	Will small businesses have to create, file, or issue additional reports? A principal reason for TURA's success is that companies covered by the program are required to develop and use a chemical tracking system. The tracking system helps companies understand their use of chemicals and where losses occur in the manufacturing process. Companies annually report their chemical use and the waste generation from that use to the Massachusetts Department of Environmental Protection (MassDEP). These same companies develop plans that identify options and evaluate alternatives that would reduce or eliminate the use of these hazardous chemicals and the waste they generate. Companies are not required to adopt the toxics use reduction techniques they identify, but when alternatives that make good business sense are available, companies will frequently adopt these cost effective strategies, which leads to more efficient chemical use and a reduction in waste generation. Companies provide the MassDEP with a progress update on their planning activity every other year. All small businesses with less than 10 full-time equivalents (FTEs) are exempt from the proposed regulation, however, facilities that use toxic chemicals are still entitled and encouraged to utilize the free and confidential environmental compliance and chemical assistance services provided by the TURA program.
Yes ☒	No ☐	Will small businesses have to implement additional recordkeeping procedures? The companies are required to develop and use a chemical tracking system. They will need to keep track of the amount of TDI purchased and used on site; the amount released to the workplace and environment, or generated as waste during manufacturing operations; and the amount of the chemical incorporated into products and sold in commerce.
Yes ☒	No ☐	Will small businesses have to provide additional administrative oversight? The annual reports, and plan updates that are submitted to the MassDEP are reviewed and signed by a senior management official at the company.
Yes ☐	No ☒	Will small businesses have to hire additional employees in order to comply with the proposed regulation? Most businesses prepare the annual report and toxics plan using in-house expertise and staff. About half the companies use an outside consultant to certify their toxics use reduction plan. Existing staff in the environment, health and safety; process engineering; or facilities management categories are most commonly responsible for preparing toxics reports and plans.
Yes ☐	No ☒	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? A toxics use reduction plan must be certified by a MassDEP certified toxics use reduction planner (TURP). Most businesses prepare the chemical evaluation plan using in-house expertise and staff (in-house planner) and some choose to use/hire a general practice TURP (outside the company consultant).
Yes ☐	No ☒	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?

		Businesses subject to TURA are not required to make any capital investment to comply with the regulation. Program evaluation has shown that businesses are likely to adopt and implement many chemical options evaluated in the planning process that have a positive economic benefit (companies adopt alternatives when they make good business sense). The 1997 TURA program evaluation found that in the first five years of TURA, the program produced a net economic benefit for the regulated community and the Commonwealth as a whole. Compliance costs for all firms totaled \$67.4 million; as a result of planning, companies chose to make capital investments totaling \$37 million; and savings in operating costs totaled \$120.3 million (all figures in 2007 dollars). The 2009 program evaluation estimated net operating cost savings of \$43 to \$50 million over the period 2000 to 2009, and found that 51% of TURA filers surveyed experienced improved worker health and safety; 41% experienced financial savings from TUR; 21% experienced improved product marketing; and 33% experienced improved compliance with other state or federal regulations, among other findings. It is anticipated that these economic benefits would be realized by new companies to the TURA program.
Yes ☐	No ☒	Are performance standards more appropriate than design standards? TURA is neither a performance nor a design standard, but employs right to know disclosure and what has been termed a "management" standard. It leaves the decision of whether to switch chemicals or make manufacturing process changes up to the company based on the self-evaluation of their business needs. This approach ensures that companies subject to TURA only undertake changes that are technically and financially feasible and make good business sense.
Yes ☒	No ☐	Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities? Massachusetts companies that are toxics users are already subject to inspections from the MassDEP, Mass Department of Fire Services, USEPA and local boards of health. This regulation only applies to MassDEP, expanding what a MassDEP inspector may examine at a facility which is already subject to inspection.
Yes ☒	No ☐	Will the regulation have the effect of creating additional taxes and/or fees for small businesses? The reports that are submitted to the MassDEP and signed by a senior management official are accompanied by an annual reporting fee. If a facility reduces use below threshold, the fee no longer applies.
Yes ☐	No ☒	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? There are continuing education requirements for the Toxics Use Reduction Planner - the individual who certifies that the toxics use reduction plan conforms with the MassDEP regulations. Many of these educational services are provided at little or no cost by the TURA program and are not required to be provided by the company. A company that hires an outside consultant to certify its plan does not bear the costs of this education.
Yes ☐	No ☒	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? The regulation is not likely to deter the formation of small businesses in Massachusetts. The regulation supports the formation and maintenance of responsible businesses. For those businesses that use toxic chemicals, complying with TURA provides a way to structure and organize responsible chemical management. There are also important business opportunities associated with adoption of safer alternatives. The regulation could conceivably deter the formation of small businesses that are not prepared to properly manage toxic chemicals.

Yes ☐	No ☒	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? The regulation may encourage the formation or location in Massachusetts of companies providing safe alternatives to the relevant toxic chemicals.
Yes ☐	No ☒	Can the regulation provide for less stringent compliance or reporting requirements for small businesses? All large quantity toxics users are subject to the same reporting and compliance requirements, but the fee varies by the size of the business (number of employees), with smaller businesses paying significantly less than larger businesses. TURA specifically exempts very small companies from the program - those companies with fewer than ten full-time equivalent employees. The law also allows companies to remove themselves from the regulatory requirements by reducing use below threshold amounts.
Yes ☐	No ☒	Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? All large quantity toxics users are subject to the same reporting and compliance requirements. The statute requires they be treated equally and does not allow for less stringent schedules or deadlines for compliance. However, reporting and compliance assistance is offered to small companies at no charge. The TURA program also provides business assistance grants, educational events, research assistance, and on-site technical assistance, helping both small and large businesses to overcome barriers to toxics use reduction and identify opportunities for financial savings.
Yes ☐	No ☒	Can the compliance or reporting requirements be consolidated or simplified for small businesses? All large quantity toxics users are subject to the same reporting and compliance requirements. The statute requires they be treated equally and does not allow for consolidation or simplified reporting. However, the assistance efforts of the state have helped to simplify the effort of compliance for many small companies covered by the Act by targeting assistance services, outreach, research, and grant programs to users of Higher Hazard Substances.
Yes ☐	No ☒	Can performance standards for small businesses replace design or operational standards? Setting either performance, design or operational standards (for example, where the Commonwealth phases out the use of a chemical or sets strict reductions in its use, or requires specific processing changes), would be more burdensome than what the law currently requires, which is characterized as a "management" standard. TURA's reporting requirements are not burdensome and are considered good chemical management practices. TURA's planning standard is regarded as "business friendly" in that it requires the company, not the state, to identify its options and evaluate alternatives. TURA leaves the responsibility for making the decision to make changes or switch to an alternative chemical, or to do nothing at all, up to the company.
Yes ☐	No ☒	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? None have been identified by the program that are within its statutory discretion.
Yes ☒	No ☐	Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe. Yes, there was significant small business and stakeholder involvement in the development of this regulation. Input was provided at the many public meetings and deliberations of the Science Advisory Board, the Advisory Committee to the Administrative Council, and the Administrative Council on Toxics Use Reduction.

Announcement of the public meetings with an agenda was sent to the list of TURA program stakeholders that are notified of each Administrative Council and Advisory Committee meeting – that are open to the public. Those contacted included trade associations such as the American Chemistry Council (ACC), Halogenated Solvents Industry Alliance (HSIA), Associated Industries of Massachusetts (AIM), Massachusetts Chemistry and Technology Alliance (MCTA), and companies that distribute products that contain these chemicals.

The Advisory Committee to the Administrative Council provided a forum for discussing the merits of designating TDI as a Higher Hazard Substance. Extensive discussion with this 15-member stakeholder group served to inform a network of businesses using the chemical, environmental advocacy and public health groups, labor, and the general public about the proposal. The chemical was selected from a larger list of candidates based on input from the Advisory Committee members and their associated networks. TDI was chosen based on a number of criteria recommended by Advisory Committee members, including small business representatives. These criteria included likelihood of use as an alternative to an existing Higher Hazard Substance; high acute toxicity; and prioritization for regulatory action in Europe, among others. The majority of the Advisory Committee members and their associated networks are solidly supportive of the scientific basis and the recommendation to regulate TDI as a Higher Hazard Substance under the Act.

EOEEA published notice of the public hearing and public comment period on October 17, 2014 in the following newspapers: the *Springfield Republican*, *Worcester Telegram and Gazette*, and the *Boston Globe*. EOEEA held a public hearing on November 20, 2014. Announcement of the public comment period and public hearing was also sent to the list of TURA program stakeholders that are notified of each Administrative Council and Advisory Committee meetings – which are open to the public. Those contacted included trade associations such as the American Chemistry Council, Halogenated Solvents Industry Alliance, Associated Industries of Massachusetts, Massachusetts Chemistry and Technology Alliance, and companies that distribute products that contain these chemicals. Additionally, members of TUR Advisory Committee and Administrative Council and their associated networks were notified of the public comment period. Attendees to the Toxics Use Reduction Planners Continuing Education Conference were notified and encouraged to provide comments. A letter announcing the public comment period was sent to each of the facilities most likely to be subject to the lower reporting threshold. TURA filers were notified twice via the Toxic Use Reduction Institute electronic newsletter about the public comment period. In the end, EOEEA received several comments from Massachusetts individuals and organizations supporting the designation and no comments from Massachusetts business opposing the designation as Higher Hazard Substances.

Although the public had opportunity to comment on the proposal, an additional 60-day comment period for TDI was held in response to concerns raised by two national chemical company representatives and three national chemical trade associations about the designation process and the need for adequate review of new scientific information. EOEEA published notice of the second public comment period on January 9, 2015 in the *Boston Globe*. Notifications were made to stakeholders through newsletters and professional associations and each entity that submitted comments during the first 21-day comment period in 2014 were sent notification of the additional 60-day comment period. Comments were accepted until 4 P.M. on Monday, February 23, 2015. In January 2015, the Science Advisory Board (SAB) reviewed the most recently-submitted scientific information. The Administration's final decision concerning this designation has ensured that all perspectives have been fully considered and the review of current science has been comprehensive.