



37 Dawson Road, Worcester, MA 01602 Office 508-791-0445

October 10, 2017

Mr. Daniel Sieger
Assistant Secretary for Environment
Chair, Administrative Council on Toxic Use Reduction
Executive Office of Energy & Environmental Affairs
100 Cambridge Street
Boston, MA 02114

Mr. Sieger:

The Massachusetts Chemistry & Technology Alliance (MCTA), an organization representing the manufacturers, users, and distributors of chemistry in Massachusetts, urges the Commonwealth to apply both restraint and science in its decisions regarding the regulation of nanomaterials in Massachusetts. Please consider this letter as a supplement to the letter submitted to Secretary Beaton on October 5, 2017, by the American Chemistry Council (ACC) and co-signed by MCTA.

Nanomaterials have no common chemistry, shape, or use; their only commonality is their small size, between 1 and 100 nanometers. Moreover, nanomaterials are not new. They have been produced naturally since the beginning of time. Naturally occurring inorganic and organic nanomaterials are found in rock quarries, ocean spray, human bone, and the silk of dust mites, and they are continuously forming within, and being distributed throughout, continental soils, ground and surface waters, the oceans, and the atmosphere. Engineered nanomaterials have been used throughout history - in Damascus steel in 500 AD, in the glass Lycurgus Cup in 400 AD, and in lubricants, paints, metals, and pharmaceuticals through the ensuing centuries.

The growth of nanotechnology within the past 20 years has resulted in a national and global focus on defining and studying nanomaterials and identifying the potential risk they may pose to human health and the environment. In fact, as the ACC/MCTA letter underscores, any new products must undergo a comprehensive approval process under the Toxic Substance Control Act (TSCA.) The U.S. Environmental Protection Agency's TSCA authority to review and regulate chemicals, including nanomaterials, were strengthened by passage of the bipartisan Lautenberg Chemical Safety Act in 2016 a bipartisan initiative during the Obama administration. MCTA does not take issue with that.

As also stated in the ACC/MCTA letter, EPA earlier this year issued a final regulation requiring one-time reporting and recordkeeping of existing exposure and health and safety information on nanoscale chemical substances in commerce pursuant to its authority under TSCA section 8(a). This rule requires companies that manufacture, import, or process certain chemical substances already in commerce as nanoscale materials notify EPA of certain information, including specific chemical identity; production volume; methods of manufacture; processing, use, exposure, and release information; and available health and safety data. The rule, posted under the Obama Administration, "seeks to facilitate innovation while ensuring safety of the substances. The information collection is not intended to conclude that nanoscale materials will to cause harm to human health or the environment. Rather, EPA will use the information gathered to determine if any further action under TSCA, including additional information collection, is needed." MCTA supports the approach articulated by EPA under President Obama.

MCTA is concerned that, contrary to the federal approach, the Commonwealth appears to be moving toward a presumption of harm even before information is gathered and scientific studies are reviewed. In a letter dated November 22, 2016, a coalition of nongovernment organizations requested that the Administration review "regulatory options" for facilities using nanomaterials. The request was based on "the intrinsic hazard of many types of nanomaterials," i.e., the presumption that since they are small they must be hazardous. This statement is not supported by science, and creates a false and inappropriate perception that nanomaterials, in any form or use, are dangerous.

The letter also ignores the fact that there is an existing mechanism in the Commonwealth for addressing questions related to nanomaterials: the Massachusetts Interagency Committee on Nanotechnology, which is charged with "creating a better dialogue to obtain a better understanding of nanomaterials and nanoprodut manufacturing, use, disposal, and hazards of the technology as well as potential roadblocks to safe development in order to work with the sector towards preventing unintended consequences." Another charge of the Committee is to "educate and advise senior officials in the Administration as well as educate the public about the benefits and risks of nanotechnology and the necessary precautions Massachusetts is taking to protect public and occupational safety and health and the environment."

The Toxic Use Reduction Institute takes things a step further when it recommends, **"Commercialization of products and processes containing nanomaterials should not proceed until their hazards are well understood."** (Highlighting is TURI's.) Beyond the fact that commercialization of new products and processes must already undergo a rigorous review process under TSCA, the implementation of such a recommendation, which again presumes a "hazard" associated with any nanomaterial, would have a devastating economic impact on the Commonwealth.

Finally, several pieces of legislation filed in the 2017-2018 session include bans on the use of nanotechnology in identified products; in at least one case, no such product exists. This approach

serves no purpose other than to dampen research, innovation, and the development of new products that could have beneficial impacts to human health and the environment.

The Commonwealth is considered a national leader in research and development, and in 2012 opened the Emerging Technology Innovation Center at UMass Lowell with the stated goal of "Moving Nanotechnology from Lab to Market." Stopping the commercialization of products and processes containing nanomaterials would halt that economic push dead in its tracks.

Therefore, MCTA requests that the administration undertake a thoughtful review of the existing federal and Commonwealth regulations and programs governing the research, development, and commercialization of nanomaterials before supporting or promulgating new ones.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Robertson", with a stylized flourish at the end.

Katherine Robertson
Executive Director

Cc:

Matthew Beaton, Secretary, Executive Office of Energy & Environmental Affairs
Ricard Bizzozero, Executive Director, Administrative Council on Toxic Use Reduction