TURA Program Strengthening Ad Hoc Committee: Synthesis Document

DRAFT

November 2021

This draft has been prepared for review by the TURA Advisory Committee. This document summarizes the TURA program's background papers and the discussions of the TURA Strengthening Ad Hoc Committee and is presented to the Advisory Committee for additional feedback.

Contents

Introduction 3

Topic 1: Compliance and Enforcement 4

Overview 4

Ad Hoc Committee Discussion 5

Topic 2: Alternative Planning: Resource Conservation and Environmental Management Systems 7

Overview 7

Ad Hoc Committee Discussion 8

Topic 3: Planners and Planning 11

Overview 11

Ad Hoc Committee Discussion 12

Topic 4: TURA List of Toxic or Hazardous Substances 16

Overview 16

Ad Hoc Committee Discussion 18

Topic 5: Fees 22

Overview 22

Ad Hoc Committee Discussion 24

Appendix I. Questions and Answers from Compliance and Enforcement Meeting 26

Introduction

The Toxics Use Reduction Act (TURA) Program Strengthening Ad Hoc Committee was convened to review and strengthen the effectiveness and value of Toxics Use Reduction (TUR) planning to Massachusetts businesses while ensuring ongoing progress in reducing the use of toxics in the Commonwealth and increasing the adoption of safer materials. The Ad Hoc Committee was asked to address five interrelated focus areas. For each topic, the TURA program prepared a detailed Background Paper and engaged in a wide-ranging discussion on each topic during the respective Ad Hoc Committee sessions. The focus areas were:

- Compliance and Enforcement (background document) (minutes)
- Alternative Planning (background document) (minutes)
- TURA Planning and Planners (background document) (minutes)
- TURA List of Toxic or Hazardous Substances (background document) (minutes)
- Fees (background document) (minutes)

TURA Program staff were charged with summarizing outcomes of the Ad Hoc Committee process and presenting the findings to the Advisory Committee. This document provides a synopsis of key points related to each of the five topics. The document is structured in parallel with the background document and provides a summary of the information presented in the background documents and a summary of discussion. Additional detail on all the topics can be found in the full Background Documents and in the minutes from each of the five meetings.

Topic 1: Compliance and Enforcement

Overview

The Massachusetts Department of Environmental Protection (MassDEP) is responsible for ensuring compliance with TURA requirements and for certifying TUR Planners. TUR Planners are responsible for certifying that TUR plans are complete and that the plans have been developed in accordance with the regulations.

As part of their multi-media inspections, MassDEP inspectors inspect facilities' TUR plans for completeness and compliance with the regulations. In addition, MassDEP conducts desk audits, in which selected facilities are required to submit their entire plan to the Department for review. Goals of inspections and desk audits are to ensure that planning is being done in compliance with the regulations, and that facilities are completing all the elements of the planning process.

Current TURA Program Enforcement Activities

If a facility is being inspected as part of a multi-media inspection, inspectors check the TUR Plan for availability on-site and for completeness. If a facility being inspected is not reporting or planning under TURA, the inspectors review the facility's operations to see if they may be subject to TURA requirements. If the inspectors issue enforcement for a TURA violation, the enforcement document is also forwarded to OTA. This provides an opportunity for the facility to receive confidential, non-regulatory, free-of-charge assistance from the program.

Over the ten-year period from January 1, 2010, to December 1, 2020, MassDEP conducted 662 multi-media inspections. During this period, MassDEP issued a total of 174 enforcement actions to facilities subject to TURA. Of these, 29 were high-level enforcement (Administrative Consent Orders with Penalties).

During FY18, MassDEP inspected 66 TURA filers and undertook four enforcement actions for failure to fully comply with reporting and planning requirements, as well as six notices of noncompliance (NON) for failure to submit complete or timely TURA reports. MassDEP also identified one facility that was subject to TURA but had not filed with the program. Six new facilities availed themselves of a TURA self-disclosure policy in FY18. During FY19, MassDEP inspected 63 TURA filers and screened another 8 facilities to determine if they were subject to TURA. These activities resulted in 23 enforcement actions for failure to fully comply with reporting and planning requirements, and 20 NON's for failure to submit complete or timely TURA reports.

Desk Audits

MassDEP conducted desk audits of selected TUR plans that had been prepared after the adoption and implementation of the 2006 amendments. These desk audits consisted of an in-depth examination of the plans and covered both completeness and regulatory compliance.

The first set of plan reviews indicated that Planners needed additional training on certain basic types of information, including the basic elements of TUR planning, especially materials accounting, process flow diagrams, and approaches to evaluating cost of toxics. These findings were used to design new Continuing Education training sessions.

In FY19, MassDEP conducted audits of 12 plans. Significant insufficiencies included incomplete economic evaluations, incomplete process characterization (e.g., process flow diagrams missing key information), lack of implementation schedules and lack of material accounting information. MassDEP also noted organizational deficiencies that indicate potentially poor planning practices. Two facilities and two TUR Planners received NON's for deficiencies in their TUR Plans.

2014-2016 Amnesty and 2017 Self Disclosure Policy

In 2014-2016, MassDEP offered an amnesty program for facilities that had not complied with all reporting and planning requirements. Facilities that voluntarily filed during the amnesty period received a "warning letter" and were required to pay only one year of past-owed fees, regardless of how many years they had missed. One hundred and twenty-two facilities took advantage of the amnesty to come into compliance under TURA. After the close of the amnesty period, MassDEP updated the TURA self-disclosure policy to clarify the number of years of back reports and fees that would be required for different levels of non-reporting.

TURA Standard Operating Procedures for Operation and Enforcement

MassDEP has created a set of Standard Operating Procedures (SOPs) for TURA. These are internal resources issued to maintain consistency and quality. Specifically, approximately 12 TURA SOPs were written to memorialize correct procedures and processes.

Ad Hoc Committee Discussion

Topics covered in the Ad Hoc Committee's discussion on compliance and enforcement included the role of desk audits; quality control for TUR Planners; the role of the prior amnesty program as well as the on-going self-disclosure policy; what constitutes a good faith effort; regional inspections/screenings; and notices of noncompliance.

Desk Audits

Ad hoc committee members asked questions related to the two previous desk audits, or audits that could be conducted in the future. Members asked questions about the top issues that had been identified in the desk audits. In response to a query from a member, MassDEP clarified that no NONs were issued for minor organizational or clerical issues, unless there were other deficiencies in the plan as well. A member stated that one of their clients was included in the audit and discussed the experience, indicating that MassDEP had closed the loop with the facility, and from the perspective of the facility, the process was fair and a good alternative to on-site inspection.

Quality Control for Planners and Implications for Training and Enforcement

There were comments regarding quality control specifically for Planners versus facilities. A member asked whether it was possible to discern if the deficiencies in plans came primarily from the facilities themselves or from the planners. MassDEP staff members clarified that both the facility and the Planner would be issued a NON if there was a problem with a plan, but that facilities are regulatorily responsible for compliance.

A member commented that companies rely on a Planner's certifications and should not be held accountable for a Planner's errors. The member pointed out that it is important that licensure guarantees a certain level of expertise. Another member suggested that desk audits can be helpful

in identifying planners who need further education. MassDEP staff noted that the responsibility for the plan rests with the facility, while the Planner reviews and certifies that the plan meets the regulations. A member suggested that additional guidance could be provided to clarify the responsibilities of Planners.

Some of the discussion focused on Planner training, a topic designated for a later meeting. For example, a member suggested that the continuing education requirements do not include a robust assessment of what planners are learning. A member asked how the program can best ensure that ongoing training is effective and helpful and that it sets Planners up for success. Another member indicated that when there are deficiencies, training should focus on remediation, not punishment. Comments on this topic were noted and were taken up in greater depth at subsequent meetings.

Inspections and Documentation

A member asked whether desk audits are coordinated with multi-media inspections. MassDEP noted that inspections are conducted based on EPA commitments, and that MassDEP will be doing the desk audits annually. Inspection lists are coordinated so facilities are not inspected twice during a fiscal year, and MassDEP will attempt to not inspect/review plans on consecutive years.

A member stated that past website postings of violations and enforcement activities was an extremely helpful resource. The current self-serve website does not provide the same level of information. Publicizing enforcement activities can help deter other deficiencies.

Good Faith Effort

The Committee engaged in discussion about what constitutes a good faith planning effort. Several of the questions were focused on PFAS and members raised questions about how best to address this class of chemicals.

Amnesty

Committee members referenced the earlier amnesty program offered to companies and asked whether MassDEP could reinstate it if Certain PFAS NOL (Not Otherwise Listed) are added to the TURA List. MassDEP clarified that it currently has a TURA self-disclosure policy in place that may address some of these needs. OTA noted that is also providing companies with assistance in identifying Certain PFAS NOL in their operations, including developing a supplier notification letter that companies can use to contact their vendors and undertake a good faith effort to identify sources of Certain PFAS NOL in their facility.

An attendee requested that the amnesty program be reinstated.

Other Points

Members discussed some topics that were relevant to upcoming meetings. For example, members raised issues related to the planning cycle. One member expressed concerns that the two-year cycle is too short. Another member emphasized dedication to making sure client receive good value on their investments, and noted that a longer cycle would make it more difficult for planners to follow up on implementation of prior recommendations, potentially leading to missed opportunities.

Topic 2: Alternative Planning: Resource Conservation and Environmental Management Systems

Overview

Under the 2006 amendments, TURA filers that have completed an initial plan and two updates have the option to do alternative resource conservation (RC) in alternate planning cycles. The 2006 amendments also created an option for TURA filers to integrate TUR planning considerations into an Environmental Management System (EMS), rather than conducting TUR planning as a separate activity. The alternative planning options create alternatives for companies that may have been filing for several years and are interested in varying their approach.

Resource Conservation

This option provides for a facility to prepare a RC Plan every four years. Instead of the regular TUR Plan Summary, a separate RC Plan Summary is submitted for each asset addressed during the planning cycle. There are five RC asset areas: energy use; water use; materials that contribute to solid waste; toxic substances used below threshold amounts; and chemical substances exempt from TURA reporting. Two years after the RC Plan Summary is submitted, the facility is required to submit an RC Progress Report Form for each asset addressed in the plan, along with submitting a TUR Plan Summary in that planning cycle.

TURA Environmental Management System

The TURA Environmental Management System (TURA EMS) allows facilities to incorporate TUR into their existing environmental management systems. As with the RC option, the facility must have completed its initial TUR planning effort plus two subsequent plan updates to be eligible for this option. In addition, the facility's existing EMS must have been in effect for at least one full Plan-Do-Check-Act cycle and must have undergone an independent audit.

The EMS must include 14 defined elements that were developed to closely resemble the ISO 14001 EMS. Any toxic chemical reported on the most recent toxics use report (Form S) must be considered a significant aspect of the facility's activities, and all production units in the facility's most recent TUR Plan Summary are covered. When using this alternative, an EMS Progress Report is submitted instead of the TUR Plan Summary.

TUR Planner Eligibility to Certify each Alternative

In order to certify either type of alternative planning progress report, a current TUR Planner must obtain additional training. Both options require initial two-day trainings that highlight the ways the alternative relates to TUR planning, and the specific requirements associated with the alternative planning. For RC plans only, the Planner must also maintain RC-specific continuing education (CE) credits.

The TURA EMS option may be certified either by a TUR Planner or by an EMS professional. In either case, the individual must have obtained the initial two-day training. There are no additional EMS-specific continuing education requirements for TUR Planners. To date, no EMS professionals have been employed to certify a facility's TURA EMS Progress Report.

Use of Alternative Planning Options to Date

For the planning years 2008 through 2018, a total of 69 facilities completed RC plans and a total of 15 facilities incorporated TUR into an EMS. In the 2018 planning cycle, a total of 20 filers took advantage of the options: 6 completed an RC plan and 14 incorporated TUR into an EMS (1% and 3% percent of TURA filers, respectively).

The number of facilities maintaining a TURA EMS has been consistent. However, the number of facilities conducting RC planning as an alternative to TUR planning has decreased steadily since the first year this was an option, from 26 in 2008 to 6 in 2018.

Barriers to Alternative Planning: 2019 Interview Results

In 2019, TURA program staff members interviewed 19 Limited Practice Planners to find out more about their planning process and their success and challenges. This included asking whether they had chosen to do alternative planning, and what factors influenced that choice.

Of the 19 Planners interviewed, only one had chosen to do alternative planning. Responses indicated that many facilities that did not choose to do alternative planning found that alternative planning would be too much work; the facility did not have sufficient staff; or the facility was doing alternative planning anyway and did not want to systematize it. Others said they would lose momentum if they skipped some TUR planning cycles. In contrast, the facility that chose to formalize RC planning stated that they preferred RC over traditional planning.

Potential Areas for Adjustment

For facilities that prefer to continue doing TUR planning every two years, adjustments to this area of the program would not affect their experience. However, there are some facilities that find they are no longer benefiting from TUR planning every two years yet have not chosen to do alternative planning. For those facilities, several options are available to potentially increase their use of alternative planning options. Among others, these options include expanding guidance and opportunities associated with Assets 4 and 5 (toxic substances used below threshold amounts and chemical substances exempt from TURA reporting) within the RC planning structure; clarifying and simplifying guidance; and examining the approach to reporting. In addition, an option that is relevant for several of the topics discussed by the Ad Hoc Committee is to use desk audits to encourage all facilities to prepare quality plans that meet all the regulatory requirements.

Ad Hoc Committee Discussion

The Ad Hoc Committee's discussion included topics related to effort invested in planning; possible improvements in implementation; possible updates to guidance and case studies; adjustments related to providing credit for past RC activities; adjustments related to reduced requirements for specific sectors; and individual facilities' experiences with EMS and RC.

Level of effort. Some attendees commented that managing TUR and RC plans in addition to their existing environmental standards can be cumbersome, limiting the appeal of alternatives. A member also commented that the cost of hiring professionals to help with alternative planning, or allocating staff resources to do so, can outweigh the potential advantage of doing so.

Suggestions related to implementation. Members offered suggestions on mechanisms to increase implementation of RC or EMS planning. For example, one suggestion was to place greater emphasis on the fact that Planners do not need to have RC Planner certification to conduct RC

planning for alternative toxics/materials. Another suggestion was to provide additional case examples of successful RC implementation to encourage others.

Suggestions related to certification and recertification requirements. Members identified that access to required continuing education credits for RC Planners has been challenging, and largely limited to what the TURA program offers. They suggested that expanding approval of trainings externally offered and limiting the required number of RC asset area-specific requirements would make it easier for planners to maintain their RC certification.

Guidance and case studies. Members suggested that the current alternative planning guidance may give the impression that the process requires more effort than is necessary. Thus, a review and update of the guidance could encourage facilities to use this alternative. A member stated that the breadth of the requirements in the guidance documents is overwhelming and suggested better differentiating "nice-to-have" vs. "must-have" information. In contrast another attendee noted that although there are very few resource conservation plans being completed, this does not necessarily mean that facilities are not doing RC; they are just not formalizing this work into an RC plan. This individual did not think the language in the guidance was overwhelming and appreciated having the alternative planning options.

The Committee discussed that resource conservation planning may be poorly understood and encouraged the development of case studies on the benefits of RC planning, or of having an RC planner offer a training about it.

Importance of past or existing resource conservation. Attendees indicated that companies sometimes wish to be able to include their existing resource conservation accomplishments in their resource conservation plans, rather than limiting this option to new projects. They also suggested that independently pursued improvements should be eligible for "credit".

Requests for additional flexibility. An attendee asked about whether the TURA program has considered reducing planning or fee requirements for toxics that are recycled. For example, for asphalt companies, 25% is recycled, and federal and state requirements require its use. Program staff noted that Asset Area 5 allows planning on any other chemical/material and asked how better to encourage businesses to take advantage of that option.

Experiences with EMS option. Some members commented on their own experience of using the EMS option. For example, a member stated that their company uses EMS, and that their TUR planner believes that it is a good program. Another member stated that their company uses EMS and ISO 14000, and that EMS is perfect if low-hanging fruit opportunities have been exhausted. If a plan is in place, goals are set, and there is a rationale for not reducing the toxic chemical, that is sufficient. The member's facility does the EMS for that reason.

Relative value of RC vs. TUR. Some participants asked whether TURA was the right place for doing RC, or whether it is "extra credit" work, and suggested that it may be better to put more effort into creating excellent TUR plans.

Others noted the value of having an option to focus on chemicals that are not listed or are below threshold. For example, one member described keeping the below-threshold chemicals on their radar through the planning process, to ensure that they remain below threshold. Continuing the planning process for non-reportable levels helps to avoid the need to report in future years.

Potential negative effects on TUR planning. Some attendees suggested that allowing RC planning to substitute for TUR plans crowds out or distracts from TUR efforts. Potential negative outcomes of this approach could include an implication that TUR is not necessary every two years, and thus that planning could be perceived as "busy work."

Additional comments. Additional comments not covered by the themes above included the following.

- A member stated that they use software to become aware of certain chemicals that may have fallen under the radar or that affect other permits or regulations; those chemicals could be candidates for alternative planning.
- Reflecting on the discussion, a member summarized the opportunities: these include focusing on rewards and recognition, highlighting movement and progress in addition to the focus on periodic snapshot reporting, and thinking about the whole of facility environmental stewardship efforts more than the individual parts (such as energy, water, toxics reduction, and climate resiliency).
- A program member suggested the possibility of merging TUR and RC planning together.

Topic 3: Planners and Planning

Overview

Planning is at the core of the TURA program and was adopted as an alternative to a more stringent approach of banning or restricting specific chemicals. This policy approach has become widely recognized nationally and internationally as a best practice.

The role of the TUR Planner is essential to the planning-based model. Planners are qualified through a series of steps, which can include an initial training course, continuing education, work experience, and a certification exam.

TUR Planners: Qualifications and Training

General Practice Planners are certified to work with multiple businesses, while Limited Practice Planners are certified to work with just their own company. All planners are required to have 7 years of work experience in a relevant field. An individual can become either a Limited Practice or a General Practice Planner by completing the TUR Planner certification course and passing the MassDEP certification exam. Alternatively, an individual can become a Limited Practice Planner by meeting specific work experience requirements.

Toxics Use Reduction Planners are required to earn continuing education credits on a regular basis. The statute requires a two-year recertification cycle. Planners can meet these requirements by attending one TURA-sponsored conference per year. A variety of other options are also available for Planners who wish to meet their credit requirements through other activities.

TUR Planning Guidance

The Planning Guidance, developed and maintained by MassDEP, is revised periodically to address feedback from planners and to incorporate new policies or revised requirements**.** The guidance provides an overview of the process and its purpose, describes the regulatory requirements and associated exceptions, describes what must be included in the plan, and offers examples of individual elements of a TUR Plan.

Current Planner Universe

There are currently 115 General Practice Planners. The majority have been planning for over 10 years, with 40% certified at least 20 years ago. In addition, there are 63 active Limited Practice Planners, over half of whom have been planning for more than 10 years. Limited Practice Planners who have been certified in the past decade are more likely to have taken the planner course than those who were certified earlier.

Feedback from Planners: 2008-09 Program Assessment and 2019 Interviews

The TURA program gathers information from planners to inform TURA program offerings throughout the year. In 2008-09 the program gathered information on planners' experiences in a formal TURA Program assessment effort. In 2019, program staff gathered updated information about planners' experiences through small group meetings and a series of informal interviews. Among other results, the 2008-2009 program assessment found that facilities were using all six of the TUR techniques, and that just over half of respondents reported experiencing benefits related to "increased management attention to environmental practices" and "improved worker health and safety." Regarding the usefulness of TUR planning over time, 70% of respondents

"always" or "usually" found new TUR opportunities or options in their first planning cycle, while this percentage declined in the second and subsequent planning cycles.

In 2019, the TURA program met informally with a small group of General and Limited Practice Planners to hear their thoughts on the TUR planning process and to solicit their input on updates to the planning guidance. Following the series of informal meetings, TURA program staff conducted phone interviews with 20 Limited Practice Planners. Findings included the following.

- *Use of Guidance Document.* General Practice Planners often reference the planning guidance when working with a company. In contrast, more than half of the Limited Practice Planners interviewed said they do not use the guidance document.
- *Planning experience.* Interviewees indicated that the planning process can take anywhere from a few days to several months. Most planners mentioned the importance of developing a cross-functional team and engaging a variety of stakeholders in their planning effort. A few mentioned that they do not receive many suggestions for TUR as a result of the employee notification process, but that creating regular input opportunities and offering incentives can yield more employee input. Many planners mentioned that planning is more difficult over time, after the "low-hanging fruit" has been identified and the opportunity for creative engagement seems to dwindle. One Limited Practice Planner found the process to be very complicated and noted a special frustration with the electronic Plan Update submission process.
- *Planner Certification Course:* Some planners noted that they have gained valuable input from taking the planner certification course. One planner chose to take the course twice.
- *Benefits and challenges.* Benefits of TUR planning included organizational benefits (e.g. increased employee and management awareness of toxics), and challenges included administrative difficulties (e.g. difficulty completing specific TUR plan elements).

Review of Plan Quality

- Desk audits of selected TUR plans revealed a wide range of overall planning quality. Identified deficiencies included incomplete economic evaluations, incomplete process characterization, incomplete or missing documentation, and lack of an implementation schedule. In addition, the desk audits pointed to opportunities for TUR beyond those noted in the plan update summaries. For example, one plan showed that the facility was using several TURA chemicals under threshold; this pointed to an opportunity for additional work to eliminate these chemicals.

Outcomes of Planning

Many TURA filers have attested to the value of planning. The experiences of some of these facilities were highlighted in a TURA 25th Anniversary video and in a report on competitiveness impacts of the TURA program. Some facilities credit the planning process with keeping them in business under changing market conditions. Others described a broad set of benefits encompassing workers, customers, community, and corporate culture.

Ad Hoc Committee Discussion

The Ad Hoc Committee's discussion on planning and planners focused on the value of planning and broader goals of planning, ensuring high plan quality, developing and maintaining planners' skills, and planning guidance and planner (re)certification.

Value of Planning, Broader Goals of Planning, and Planning Timing

Some members noted the TURA program model is successful and advocated for expansion of staff and resources, and there were suggestions to provide training to help planners understand the communities that they work in, such as environmental justice communities. There were also members that challenged the effectiveness of planning over time. One member indicated that, based on her own outreach to selected manufacturers, 60% indicated no financial savings from the planning process and indicated a preference for longer planning cycles. One member suggested that companies will reduce toxics use over time with or without TURA. In contrast, another member argued that when TUR planning is working well, it is easy to feel that the timeline could be stretched out, yet that reducing the frequency of planning would reduce its effectiveness. Another member indicated the process of planning could support broader goals, stating that the TUR planning process is valuable because it can be used to facilitate any kind of change, and has used it with clients that are trying to align their EHS goals with internal goals. Other members noted that planning is essential for occupational health and safety and expanding TUR planning would increase worker participation in identifying solutions.

There was further discussion among members about incorporation of occupational health and worker safety into TUR plans and planning efforts. Members stated that although occupational safety and public health are goals of the TURA program, they are not explicit in the TUR plans, which focus on the quantities of emissions and byproduct. However, a member cited an example of TURA's work on near elimination of methylene chloride providing benefits to worker health and safety that were not realized from federal efforts, and pointed out that by working with OTA, companies can create benefits for worker health and safety.

Company representatives have encountered challenges with 2-year planning cycles and have indicated that this timeline may not be realistic for the pace of internal change within their companies, suggesting that while planning is most useful when a company first files under TURA, a 4- to 6-year planning cycle might be more feasible for veteran filers who have exhausted all TUR options.

Company representatives also noted that, for TURA filers reporting on the same chemicals over numerous cycles, the "low-hanging fruit" may already be exhausted and that there are diminishing returns for planning every two years after this point. In contrast, others stated that changes in technology or available alternatives mean that opportunities for improvement may be missed if planners are not reviewing options every two years. Some proposed that planners working with companies that have hit a "planning wall" could reach out to the TURA Program for assistance. One member asked whether companies are contacting OTA for assistance when they "hit a wall" and have a toxic that they would like to eliminate or whether planners that come across a company that isn't making headway suggesting OTA and the TURA program as resources.

Another member noted that changes in technology over time can make previously impractical toxics use reduction options feasible and new planners can review old recommendations that may now be much more feasible than they were in the past. This attendee recommended that the list of all TUR options chosen to be reviewed should be maintained for the life of the facility (instead of for only 5 years), so that new planners can review old recommendations that may now be feasible, even if they were not before.

One member raised a concern about limitations of military specifications which pose a challenge to reducing the use of some substances. Another member commended the work TURA has done to change military specs but felt companies should not be required to pay fees to reduce the use of substances that existing military specifications require.

Planner Education

The Committee generally supported the 2-year recertification cycle for TUR planners but noted that planners have often found it challenging to meet certain continuing education credit requirements (for instance, Solid Waste credits). One member stated she does not object to the 2-year cycle but suggests reducing the number of credits required for re-certification. Another member who supports the 2-year recertification cycle pointed out that to keep skills sharp, learn from peers, and keep abreast of frequent changes in a constantly changing environment a robust training program is essential. The Committee noted the importance of the TURA Program providing ample training opportunities across all required credits. Planners in attendance indicated that it is important for them to be able to get pre-approval for CEUs for external trainings in a timely manner, so that they can take time off from work to pursue training opportunities. They noted some challenges with the MassDEP pre-approval process for CEUs, such as MassDEP requesting materials that planners don't have in advance and requiring long lead times for pre-approval. One member suggested that planners who would like to develop a niche expertise should be permitted to propose a course of study tailored to their interests and come back with evidence of their learning.

The Committee agreed that it is important to ensure excellent training opportunities, and that in order to receive credits, planners must be able to demonstrate that the training concepts have been understood and learned. One member suggested strengthening the assessment of learning, particularly on fundamentals and basic knowledge, such as calculating byproduct. Another member added that reviewing the basics is valuable for all planners, even those with ample experience. Members debated whether double credits should be made available for non-TURA-program sponsored trainings if they meet certain requirements. They also debated the appropriate balance between fundamentals and advanced industry-specific topics for CE requirements. TURA program staff noted that planners can get credits anywhere and should feel free to request credit for relevant work. It was also noted that the CE conferences provide double credit because the whole TURA program is involved in the planning; therefore, the topics are pertinent and specific to the needs of Massachusetts TUR planners and Massachusetts businesses.

The Committee also discussed ensuring that part of the certification and education process is helping TUR planners to understand the communities they work in (e.g., integrating environmental justice principles). The TURA Program has begun adding environmental justice perspectives into the Continuing Education conference and plans to pursue other ways to integrate it in the future.

General Planning Guidance and Resources and Ensuring Plan Quality

Plan reviews were discussed as a potential opportunity for planner education. Reviewing plans through regular desk audits would allow MassDEP to identify planners who need assistance and offer them targeted support. TURA program staff shared that some desk audits have revealed several feasible TUR options that were not implemented and chemicals there were not addressed. A member added that if weaknesses are found in plans, MassDEP should be able to go back to the planner and discuss the shortcomings with them. Planners noted that it is helpful when

MassDEP provides specific examples of deficiencies identified in desk audits, and descriptions of what companies need to do to overcome them and demonstrate a good faith effort, to help support high-quality planning.

The Committee also discussed the potential benefits of reviewing the plan guidance periodically. Some attendees proposed updated planning guidance on TUR planners' responsibilities, general guidance/checklist to help companies understand what constitutes a good faith effort for identifying substances like PFAS, and more clearly differentiating "nice to haves" vs. "must haves" in resource conservation planning.

Other comments

In the meeting, members also made comments that were not directly related to planners and planning, such as comments about whether TURA filers should bear the cost of toxics use reduction through fees, and whether companies should be obligated to pay fees when they are required by law to use chemicals covered under TURA. These topics were also discussed in the meeting on fees.

Topic 4: TURA List of Toxic or Hazardous Substances

Overview

The TURA List of Toxic or Hazardous Substances was originally created by combining two federal lists: the Toxics Release Inventory (TRI) list created under the Emergency Planning and Community Right-to-Know Act (EPCRA 313) and the list of Hazardous Substances under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). There are over 1600 substances on the TURA list, including 60 categories; a total of 308 substances have been reported at any time in the TURA program's history.

Updates

The list was designed to be updated regularly over time, in tandem with updates to the federal lists upon which it was originally based. Over time, the total number of updates has been relatively small: fewer than 30 substances (including individual chemicals as well as categories) have been added to TRI between 1995 and 2019. Most recently, certain PFAS have been added under TRI.

As of April 2021, three substances have been added to the TURA list beyond those that were added automatically as a result of changes to federal lists: crystalline silica; n-propyl bromide (1-bromopropane) and the C1-C4 Halogenated Hydrocarbons/Halocarbons Not Otherwise Listed (C1-C4 NOL) category. More recently, the TURA Administrative Council has voted to add Certain Per- and Polyfluoroalkyl Substances Not Otherwise Listed (Certain PFAS NOL). Over the same time period, certain substances have also been removed from the list.

Substances Not Reportable to MassDEP

Certain substances are listed under TURA but are not currently reportable based on MassDEP reporting guidance. Specifically, MassDEP reporting guidance established in 1993 provided that categories drawn from the CERCLA list that do not have CERCLA reportable quantities would not be reportable under TURA. These include the phthalate esters, haloethers, halomethanes, and nitrosamines.[2] In 2012, MassDEP requested that the TURA Science Advisory Board (SAB) review the phthalate ester category and make a recommendation on whether this guidance should be changed to require reporting. The result was a report which helped define the category and human health effects of a range of phthalate esters.[3] No change in the guidance has been made to date.

Provisions in the 2006 Amendments

The 2006 amendments to TURA created the authority to designate Higher and Lower Hazard Substances within the larger list of Toxic or Hazardous Substances. The Higher Hazard Substance designation lowers the threshold for reporting, planning, and paying TURA fees to 1,000 pounds per year. Persistent, bio-accumulative, and toxic (PBT) substances, as defined by EPA, which have lower reporting thresholds, are also automatically designated as Higher Hazard Substances. The Lower Hazard Substance designation eliminates the per-chemical fee, leaving reporting and planning requirements for these chemicals unchanged.

The 2006 amendments also changed the program's approach to thresholds. Prior to the amendments, if any substance triggered any threshold, then all substances at the facility became subject to a 10,000 lb threshold. The 2006 amendments eliminated this provision. This change

led to a substantial decrease in TURA reports: Form S submissions decreased by more than 400 submissions per year (about 20%) after this statutory change.

SAB Process

When the SAB takes up consideration of a substance, TURI staff members collect information related to safety, human health, and the environment. In addition, a call for information goes out so that stakeholders can provide additional information. The substance is then discussed over a series of SAB meetings. For additional details, see *Decision-Making under TURA: Resources for the TURA Administrative Council and Advisory Bodies*.[4]

Updating the TURA List: Opportunities and Challenges

The statute provides for the TURA list to be updated in tandem with updates to the federal lists upon which the TURA list originally was based: TRI and CERCLA. In addition, the statute provides for Massachusetts to make its own updates independent of federal changes.

However, it is perceived that updates to federal lists have not kept pace with scientific evidence that has accumulated on health and environmental effects. At the same time, as additions to TRI and CERCLA have lagged, regulated chemical lists in other jurisdictions and states have grown and adapted accordingly to meet new scientific findings and emerging contaminants of concern. Thus, the TURA list is not up to date in comparison with other authoritative lists at the state level (such as California's Proposition 65 list) or in other parts of the world (such as lists created under the EU REACH regulation).

As a result, there are perceptions that Massachusetts residents and workers do not benefit from protections that could be achieved through a more complete list; businesses lack complete information to guide decision making; and there is a risk of regrettable substitutions.

Examining State Practices: Updating and Maintaining Lists of Chemicals of Concern

Several states have issued legislation on toxic chemicals in consumer products and children's products. These laws use lists of priority substances of concern for their implementation. In many cases, these lists were established by drawing upon other authoritative lists. Examples include:

- California's *Safer Consumer Products* (SCP) law;
- Washington's *Children's Safe Products* legislation;
- Vermont's *Act 188 Relating to the Regulation of Toxic Substances;* and
- Maine's *Toxic Chemicals in Children's Products* law.

Comparing the TURA List with Selected Authoritative Lists

TURI contracted with the Healthy Building Network (HBN) to assist in comparing the TURA list with 12 authoritative lists.

- For each list, HBN determined the chemicals that are on the authoritative list and not listed under TURA. This included an analysis of the 60 categories listed under TURA.
- For example, we compared the TURA list with three lists maintained by the National Toxicology Program; respectively, these lists contain 25 known carcinogens, 60 substances reasonably anticipated to be carcinogens, and 1 substance with clear evidence of developmental toxicity, that are not reported under TURA. Similarly, a comparison with IARC categories (Groups 1 [carcinogenic to humans] and 2A [probably

carcinogenic to humans]) identified, respectively, 35 and 26 substances that are not reported under TURA.
- Similar comparisons were conducted for three European Union lists and four state lists, collectively yielding hundreds of substances that are not listed under TURA.
- A comparison with the list of substances that have classified as GreenScreen Benchmark 1 (the highest level of concern) yielded 213 substances that are not reported under TURA.

We also looked at examples of substances that are present on several other lists, but that are not currently reported under TURA. For example:

- **Diisodecyl phthalate (DIDP)** is included on various state and EU lists and is listed by NTP as having clear evidence of developmental toxicity; under TURA, it is listed but not currently reportable to MassDEP.
- **Tributyltin** is included on certain EU lists but is not listed under TURA.
- **Bisphenol S** is present on Vermont and Washington lists, but not listed under TURA.

Options for Updating the TURA List

As summarized in the Background Document, there are several approaches the TURA program could take to updating the list. In addition to continuing to make updates based primarily on federal lists, the TURA Program could propose a streamlined method for updating the list, including drawing from other authoritative lists. In addition, without further changes to the list, the TURA Program could require reporting of already-listed categories drawn from CERCLA (e.g., phthalate esters). Some approaches to a streamlined update would differ from the current approach, in which the SAB conducts extensive research for each substance considered for listing.

HHS/LHS Designations

The TURA program has the authority to designate 10 per year in each category. However, to date, the program has averaged one to two designations per year, and there have been no designations in the past four years. Going forward, the program could continue this pace of designations, or could aim to complete a larger number of designations per year.

Appendices

Appendices A and B of the Background Document show Listing and Delisting Decisions, and Examples of Authoritative Lists, respectively.

Ad Hoc Committee Discussion

The Ad Hoc Committee's discussion on the TURA List of Toxic or Hazardous Substances included usability, updating the TURA list, thresholds, and other topics.

Usability

An attendee noted technical challenges with consulting the existing TURA list and requested that the TURA list and any advisory list-of-lists should support searching for CAS numbers with or without hyphens. Another mentioned that when searching for members of a category such as glycol ethers, some additional effort was involved in looking at a separate list to understand what is included in the category.

Updating the TURA List

Many attendees noted the importance of reconciling gaps in the TURA List and the challenges of adding substances in a manner that is responsive to the pace of advancements in toxicological research, in order to stay abreast of emerging contaminants and avoid regrettable substitution.

Considering the findings in the background paper related to substances not listed or reported under TURA, attendees discussed the need to harmonize the TURA Toxic or Hazardous Substance List with existing authoritative lists. Attendees noted that other state lists are updated on a regular basis and acknowledged that the TURA list has not been updated extensively.

Selected additional comments included:

- Several comments were offered about an expedited review process. For example, a participant observed that the SAB's work is excellent and thorough, but this makes it difficult to keep pace with emerging hazards as they are identified. Therefore, it would be helpful to develop a streamlined process for adding substances from authoritative sources. The member noted, as an example, that replacing BPA with BPS does not keep pace with toxicological knowledge, and that regrettable substitutions of this kind likely leads to wasted effort by both government agencies and industry.
- A comment was made that many facilities do not use the TURA list as their main resource (e.g., one member noted that their facility relies on an internal list, not the TURA list, when considering what chemicals to use; another noted that they use an EHS dashboard which draws upon a list of lists, allowing facilities to do a quick check of whether a chemical appears on those lists).
- A member noted that they draw upon many lists, including TURA. Lists of chemicals of emerging concern provide an early indication of possible future regulations.
- A member noted that the TURA list can be used for outreach and education, highlighting opportunities for public health protection. Other state-based and EU lists are also useful for this purpose.
- Members raised the concern that to the extent the list is incomplete, users could draw the conclusion that unlisted substances are safe.
- A comment was made that lists with regulatory force are most important for most businesses in MA, especially EU lists. Additional chemical lists of interest include ChemSecs's Substitute It Now (SIN) list as well as resources such as Pharos and the Health Product Declaration Collaborative.
- A member noted the statutory limitation of 10 listings or de-listings per year.

Choosing authoritative lists. There was some debate about which authoritative lists would be best to use; for example, general support existed for including substances on the EU REACH Substances of Very High Concern List. Attendees agreed that it would be important to ensure that standards were in step between the TURA list and any authoritative sources used for this expedited process; a member expressed concern over some authoritative list standards (this included concerns about lists such as IARC and Proposition 65).

Substances of interest. Attendees were asked if they were particularly concerned about any substances not currently on the TURA list, and several participants mentioned examples. These included Bisphenol S; PFAS NOL (already in progress); flame retardants (now being addressed

via MassDEP regulations); IARC group 1; other endocrine-disrupting chemicals; ortho-phthalates (already listed but not reportable); siloxanes; and alkyl phenols. The group did not create a comprehensive list of substances of particular concern, however.

Thresholds. Members noted that different thresholds may be appropriate for different exposure scenarios, and that a threshold suited for one scenario may not be appropriate in another. Participants noted that for substances such as engineered nanomaterials, lower thresholds would be necessary. The HHS designation is one pathway for this. An attendee proposed that the SAB consider water quality as a specific outcome and apply lower thresholds where impacts on drinking water contamination are possible.

Phthalate esters. Some attendees expressed support for revisiting the exemption under the 1993 reporting guidance that exempts reporting on phthalate esters.

Informational or Advisory List

Members discussed the idea of creating an advisory "list of lists" that would go beyond what is included on the TURA list. This would provide companies with an easily searchable tool they can use to identify not only TURA-listed chemicals, but chemicals of concern from other lists as well. Such a list would help avoid regrettable substitutions. In addition to the lists mentioned above and in the Background Document, members pointed to the CAMEO chemical list as a valuable tool for first responders, as well as to standards and lists such as Green Screen, ChemSec's Substitute It Now, and the Health Product Declaration Open Standard. An alternative to the TURA program creating its own list is for the TURA program to formally direct users to an existing list that is externally maintained. One option would be for the program to provide access to a well-maintained list of lists, such as Pharos. One member suggested that an informational list would be preferable to businesses because it would not carry regulatory obligations.

Selected additional comments:

A member noted that many businesses have watch lists and want to use a more precautionary approach. These businesses rely on lists such as IARC, Proposition 65, EPA PBTs, and lists created under REACH. The member noted the importance of staying ahead of the regulatory curve in order to accommodate customer needs and suggested it would be useful for TURA to provide access to an informational list that accommodates advancements in toxicology.

Other Topics

A member noted the value of TURA data in other contexts – for instance, if drinking water contamination is present, TURA data can inform point-source identification.

A member expressed support for thinking about how assistance provided to TURA companies could grow to handle these increasingly complex situations. Now that many companies have addressed "low-hanging fruit" toxics use reduction activities, the remaining issues include more difficult problems, like PFAS, with limited near-term paths to safer alternatives. The member posed the question of how the Program might address some of these more pressing and unique challenges.

A member observed that the discussion had touched on many important topics, including thresholds, lists of emerging chemicals of concern, and comparison of a variety of authoritative

lists with one another, and suggested these ideas could be explored further in a subcommittee or working group format.

Topic 5: Fees

Overview

Existing Fee Structure and Proposed Updates

Facilities subject to TURA requirements pay an annual fee. These fees are designated as retained revenue at the Department of Environmental Protection (MassDEP) through an annual appropriation in the state budget and are dedicated to the support of TURA program activities at MassDEP, OTA, and TURI.

Under the existing fee structure, facilities pay a base fee and a flat per-chemical fee for each listed chemical used above threshold. The base fee and maximum fee are tiered based on number of full time equivalent (FTEs) at the facility. Fees are capped at a maximum value. Current fee values are as follows:

Current Fee Structure			
FTE's	**Base Fee**	**Per Chemical**	**Maximum**
≥10 to <50	$1,850	$1,100	$5,550
≥50 to <100	$2,775	$1,100	$7,400
≥100 to <500	$4,625	$1,100	$14,800
≥500	$9,250	$1,100	$31,450

The TURA statute directed the Administrative Council to set the fees such that initial revenues would total between $4 and $5.5 million in 1989 dollars and provided for the fees to be adjusted annually. The fees shown above were designed with the goal of reaching this revenue target in 1991.

The TURA statute states that fees be annually adjusted to reflect changes in the Producer Price Index (PPI). However, this adjustment has never been implemented so the fees have not changed since 1991. Over the period 1991 to 2020, the PPI has increased by approximately 66%, and thus, program revenues would be considerably higher if the PPI adjustment had been applied.

The 2006 amendments provided the Administrative Council with the authority to change the fee structure, while retaining the structure of a base and per chemical fee, and a maximum fee. The amendments provided for the Council to consider potential revenues generated by the fees, the impact the fees would have on toxics users and their use of toxics, and the funding required for the program to meet its statutory obligations. The amendments also provided the Council with the authority to adjust the fee for Higher Hazard Substances.

Fee Revision Proposal: 2008-09

In 2008, the TURA program convened a subcommittee of the Advisory Committee to review the fee structure and propose updates. Based on the subcommittee's work, the Advisory Committee concluded that a fee increase was necessary. The goals of the subcommittee were to maintain the ability of the program to continue successful work, to minimize impacts on small businesses, and to take account of toxic chemical use in a more nuanced way than the original fee structure had done.

The group's final recommendation included four key elements: a one-time 50% increase to the base fee, per-chemical fee, and maximum fee to account for PPI changes to date, followed by an annual PPI adjustment; a reduction of the base and maximum fees for very small businesses; higher fees for Higher Hazard Substances; and an adjustment to reflect volume of chemical use.

Although the Advisory Committee completed its work on this topic, a formal proposal was not brought before the Council for a vote at that time.

Fee Revision Proposal: 2014

In 2014, the TURA program developed a simplified fee revision proposal. The Administrative Council voted to move forward with the proposed fee revision and the regulatory process was initiated. The Council invited public comments on alternatives to the proposed structure and requested feedback on whether the adjustment should be carried out in a single year or phased in over two years. The proposal was designed to bring program revenues back up to approximately $4 million/year. The proposed approach would have made a one-time increase to account for the PPI changes over the time period since 1991. After the one-time adjustment, the fees would be adjusted annually according to the statutory requirement. In addition, the proposal included three options for longer term changes: across-the-board 50% increase in fees without any other changes; a fee increase with adjustments to mitigate impacts on the smallest businesses; or a graduated increase in the base fee and additional adjustments to the maximum fees.

There was an extensive public consultation process related to the proposals outlined above. The Administrative Council discussed the fee adjustment options at three meetings, including opportunities for stakeholder input. After hearing comments, the Council voted to initiate the regulatory process, and the proposed regulations were published as draft in October 2014.

Comments received on the proposed draft regulations focused on four main topic areas: the regulatory development process; the need for and value of the TURA program; adverse impacts and equity of the fees; and the time frame and implementation of the fees. At the time, EEA developed a detailed response to comments but did not move forward to formally promulgate regulations to final. No further action was taken.

Other Issues: Fee Waivers

The statute includes a provision allowing any facility to request a fee waiver if the facility is facing financial hardship. In the past five years, one fee waiver request has been received. During previous Ad Hoc Committee meetings, some TURA filers have suggested that fee waivers should be provided for additional scenarios, such as military or government specifications requiring use of a specific chemical, or facilities facing any other customer requirements related to use of a listed chemical. This approach would pose some challenges, including definition of "required" uses, incentives for TUR, and the need to address societal costs from toxic chemical use.

Appendices A and B

The decline in resources has prompted three program agencies to carefully budget for staffing and funds that support technical assistance, training, grants and research in toxics use reduction and resource conservation, as well as implementation of the reporting and planning requirements and analysis and use of the TURA data, which has consequences for the goals of the program.

Appendices A and B in the posted Fees Background Document provide additional detail on the fee adjustment options proposed in 2014 and their potential benefits.

Ad Hoc Committee Discussion

The Ad Hoc Committee's discussion on TURA Fees included fee adjustments, TURA program support, capturing more toxics users, and fee waivers.

Fee Adjustments

TURA requires annual fee adjustments according to the PPI, which the program has not implemented since inception. In discussion, Ad Hoc Committee members expressed reasons both for and against adjusting fees at this time. Some members noted that the issue has been postponed many times and stated that it should not be postponed again, and that continuing to violate the statutory requirement is untenable. Others expressed concerns about adverse financial impacts from a fee increase. Many noted that if increases are adopted, they should be implemented gradually. Attendees noted the challenges of ensuring equity in fee structure while avoiding unnecessary complexity and emphasized the importance of transparency. Some also suggested the possibility of pairing a fee increase with a relaxation of planning requirements.

Additional comments included the following:

- A member expressed appreciation that the program is seeking to balance the efficacy of the act without being overly burdensome. The member commented that the TURA program has a history of trying to be fair to the regulated community, and that both crude and fine approaches to a fee adjustment were considered in order to achieve that balance. The member noted that the present discussion is a further illustration of the care taken by the program to collect feedback, and that no fee changes were made in the past. Another member noted "we have punted each time" the fees have been considered, and it is important to move forward on fee updates.

TURA Program Support

Some attendees expressed the opinion that TURA program activities should be underwritten by general funds rather than by TURA fees. Others responded that the share of the state budget dedicated to environmental programs has been decreasing for many years, and that TURA fees are an important component of funding the statutory requirements of TURA. Questions also emerged about the availability of grant funding to pay for TURA programmatic work. To this question, program staff clarified that grant funding is used to encourage broader adoption of toxics use reduction and is not designed to replace TURA funding for core program activities.

- Several attendees noted that this Committee's recommendations include a many program activities that would likely have many benefits, but will cost money.
- Attendees also noted that funding for TURA program activities is mandated under the statute, which supersedes a discussion over whether more funding is needed or how it would be used.

Capturing More Toxics Users

Several Committee members observed that the universe of TUR filers is small relative to the total number of facilities using toxic chemicals in the Commonwealth. There was broad interest form members in the possibility of expanding the universe of TURA-covered SIC codes to other

users of toxics that are not currently subject to TURA. Some believed this should apply to all users of toxics (including, for instance, nonprofit organizations such as universities), while others believed it should apply only to for-profit users of toxics. Some proposed that as TUR yields public health benefits, the cost of the program should be covered by general taxpayer dollars rather than by toxics users. Others noted that the program is designed to be funded by toxics users and believe it is appropriate for the cost to be borne by these users, because the TURA Program mitigates toxics use that impacts the surrounding community.

- Responding to a discussion about which sectors benefit from TURI and OTA activities, a member noted that compliance with environmental and public health regulations should not be transactionally contingent on benefits for industries but should be pursued as a matter of public interest.
- A member suggested that additional business sectors making a profit from use of toxic chemicals should be added to the program.
- Another attendee noted that it should not matter who is using a toxic chemical; any user should be making TUR efforts and should be involved with the program.
- An attendee noted that if an effort is made to add additional industries to the program, it will be important to show how the program can help these additional industries. In addition to adding SIC codes, it will be important to tailor the services offered by the program.

Fee Waivers for Federal or State Specifications

Facilities using TURA-listed substances that are required by federal or state contract specifications (for instance, under mil spec) proposed the idea of fee waivers or other financial relief in these situations, arguing that the state should not both assess fees and require reporting for the use of substances while it is also mandating the use of those substances for specific applications. Others present responded that because the TURA Program does not prohibit the use of listed substances, it is reasonable for the state to require reporting and fees for these substances even when their use is required for certain applications. Others noted that companies should seek assistance from OTA and TURI to ensure that they have no further TUR options or research opportunities, and that TURA Program agencies should continue to work with the standard-setting entities to encourage alteration of specifications that require TURA-listed substances. There was broad support for this kind of collaboration with standard-setting entities.

Appendix I. Questions and Answers from Compliance and Enforcement Meeting

Members asked a number of questions that the program staff researched after the session. These questions and answers are shown below.

Questions about desk audit results:

Question: Do the desk audits represent a cross-section of filers (large and small, numerous chemicals vs. only one, newer vs. more experienced TUR planners)?

Answer: The 12 facilities that were part of the recent desk audit were selected based on facility size (50 FTE to >500 FTE), number of chemicals used (1 to >20), and the TUR Planner's experience (limited/general, newly certified/over 20 years). However, because of the small sample size, this represents only a small subset of TURA filers.

Question: Regarding deficiencies identified in desk audits, were the problems coming more from facilities or from planners?

Answer: The regulations state that the facility is responsible for plan development, and the TUR Planner is responsible for reviewing the plan to ascertain that it meets the regulatory requirements. Therefore, both parties are responsible for any deficiencies in the plan.

Question: Are we finding violations coming from Limited Practice or General Practice TUR Planners? Could we get information on the percentage of violations coming from each group?

Answer: MassDEP found violations associated with both General and Limited Practice TUR Planners from the limited sample examined. The facilities examined thus far are not sufficient for a comprehensive analysis.

Question: Regarding major deficiencies identified in plans (i.e., deficiencies in the cost analysis), was there follow-up with those facilities?

Answer: Yes, there was follow-up communication with several facilities, asking for clarifications supporting the audit. Based on the results of the audit, MassDEP issued NONs to two facilities and the facilities' TUR Planners. In addition, MassDEP is preparing a Quick Reference Guide with helpful hints to address key deficiencies found during the desk audit. This will be posted on the TURA website.

Question: In the desk audits, were people issued a NON for organizational/clerical issues (e.g., lack of table of contents)?

Answer: No, in the desk audits, MassDEP did not issue NONs to facilities that had only organizational/clerical problems in their TURA Plan.

Question/comment: Can you explain more regarding MassDEP follow-up after desk audits and enforcement?

Answer: When there is enforcement issued based on a desk audit, the enforcement documents are sent from the Boston Office with a copy to the regional office. The

enforcement document states the specific number of days within which the facility must remedy the violations and return to compliance. The Boston office is responsible for follow-up to ensure that violations have been remedied. Once the facility has returned to compliance, the enforcement action is closed in the database.

Questions related to enforcement information:

Question: DEP previously distributed information about recent enforcement actions on the MassDEP website. This no longer exists, and filers are instead directed to the EEA Data Portal, which does not include information about the reasons for enforcement actions. Could the TURA Program begin sharing this information again?

Answer: The TURA program recognizes that sharing summarized enforcement information is valuable for filers and will investigate possible mechanisms for sharing this information.

Questions related to amnesty:

Question: The TURA Amnesty Program identified approximately 144 companies that came forth, that should have been filing. It was an effective mechanism. Is it possible to bring it back, mostly because of its effectiveness?

Answer: MassDEP will take this idea to senior management. MassDEP does have a TURA Self-Disclosure policy in place. The policy is located on the website.