

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS  
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Massachusetts Executive Office of Energy and Environmental Affairs, under its authority pursuant to M.G.L. Chapter 21I, Sections 4, 9 in conformance with M.G.L. 30A, will hold a public hearing on proposed amendments to 301 CMR 41.00 *Toxic or Hazardous Substance List*. These regulations implement changes to the list of chemicals made by the Administrative Council on Toxics Use Reduction, pursuant to the statutory amendments to the Toxics Use Reduction Act (TURA, Chapter 21I) made in 2006. **Please note that this meeting is being conducted remotely.**

The proposed amendment is mandated by the Toxics Use Reduction Act (TURA, MGL Chapter 21I), which requires that changes made by the United States Environmental Protection Agency (USEPA) to the EPCRA Section 313 Toxic Chemical List be mirrored in the TURA Toxic or Hazardous Substance List. Specifically, on April 25, 2024, the Administrative Council voted to list seven per- and polyfluoroalkyl substances (PFAS), added by USEPA to the Toxics Release Inventory (TRI) under EPCRA Section 313 Toxic Chemical List in 2024.

A public hearing will be conducted via Zoom meeting at 1 p.m. on August 9, 2024 to receive comments on the proposed amendments. Testimony may be presented orally or in writing at the hearing. Meeting access information is below:

**Public Hearing on Revisions to TURA Toxic or Hazardous Substance List**

Time: Aug 9, 2024 01:00 PM Eastern Time (US and Canada)

Join Zoom Webinar: <https://zoom.us/j/94816593840>

Webinar ID: 948 1659 3840

Find your local number: <https://zoom.us/u/azd3dmqeG>

Written testimony will be accepted until 5 p.m. on August 9, 2024. Written testimony should be submitted via email to Tiffany Skogstrom at [tiffany.skogstrom@mass.gov](mailto:tiffany.skogstrom@mass.gov) or via mail to: Tiffany Skogstrom, Executive Director TURA Administrative Council, Executive Office of Energy and Environmental Affairs, 100 Cambridge Street, 10<sup>th</sup> Floor, Boston, MA 02114. Copies of the proposed regulations are available on the Executive Office of Energy and Environmental Affairs web site at <https://www.mass.gov/doc/proposed-revisions-to-301-cmr-41-tri-additions-2024/download>, or may be obtained by sending an email or calling Tiffany Skogstrom at 857-275-1561.

To obtain this information in alternative format, you may contact Melixza Esenyie, Executive Office of Energy and Environmental Affairs, Non-Discrimination Coordinator, at 617-626-1282, 100 Cambridge Street, 10<sup>th</sup> Floor, Boston, MA 02114.

## Small Business Impact Statement

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

**CMR No.: 301 CMR 41:00 Toxic or Hazardous Substance List**

**Estimate of the Number of Small Businesses Impacted by the Regulation: 0 to 3**

**Select Yes or No and Briefly Explain**

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p><b>Will small businesses have to create, file, or issue additional reports?</b></p> <p>A principal reason for TURA's success is that manufacturers covered by the program are required to develop and use a chemical tracking system. The tracking system helps manufacturers understand their use of chemicals and where losses occur in the manufacturing process. Manufacturers annually report their chemical use and the waste generation from that use to the Massachusetts Department of Environmental Protection (MassDEP).</p> <p>These same manufacturers develop plans that identify options and evaluate alternatives that would reduce or eliminate the use of these hazardous chemicals and the waste they generate. Manufacturers are not required to adopt the toxics use reduction techniques they identify, but when alternatives that make good business sense are available, manufacturers will frequently adopt these cost-effective strategies, which leads to more efficient chemical use and a reduction in waste generation. Manufacturers provide the MassDEP with a progress update on their planning activity every other year.</p> <p>All small manufacturers 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.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p><b>Will small businesses have to implement additional recordkeeping procedures?</b></p> <p>The manufacturers are required to develop and use a chemical tracking system. They will need to keep track of the amount of the reportable chemical 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. However, manufacturers already must track chemical use for federal annual waste and emissions reporting for substances that are already on the EPA EPCRA 313 list.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p><b>Will small businesses have to provide additional administrative oversight?</b></p> <p>The annual reports and plan update summaries that are submitted to the MassDEP are reviewed and signed by a senior management official at the company.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p><b>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</b></p> <p>Most manufacturers prepare the annual report and toxics plan using in-house expertise and staff. About half the manufacturers 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.</p>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</b> A toxics use reduction plan must be certified by a MassDEP certified toxics use reduction planner (TURP). Most manufacturers prepare the chemical evaluation plan using in-house expertise and staff (in-house planner) and some choose to use/hire a general practice TURP (a consultant from outside the manufacturer).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</b> Manufacturers subject to TURA are not required to make any capital investment to comply with the regulation. Program evaluation has shown that manufacturers are likely to adopt and implement options evaluated in the planning process that have a positive economic benefit (manufacturers adopt alternatives when they make good business sense).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Are performance standards more appropriate than design standards?</b> 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 manufacturer 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 <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?</b> Massachusetts manufacturers 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 <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Will the regulation have the effect of creating additional taxes and/or fees for small businesses?</b> 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 <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</b> 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 manufacturer. A manufacturer that hires an outside consultant to certify its plan does not bear the costs of this education.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</b> The regulation is not likely to deter the formation of small businesses in Massachusetts. The regulation supports the formation and maintenance of responsible manufacturing. For those manufacturers 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.

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</b> The regulation may encourage the formation or location in Massachusetts of manufacturers providing safer alternatives to the relevant toxic chemicals.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Can the regulation provide for less stringent compliance or reporting requirements for small businesses?</b> TURA specifically exempts manufacturers with fewer than ten full-time equivalent employees. All large quantity toxics users above this threshold are subject to the same reporting and compliance requirements, but the fee varies by the size of the manufacturer (number of employees), with smaller manufacturers paying significantly less than larger manufacturers. The law also allows manufacturers to remove themselves from the regulatory requirements by reducing use below threshold amounts.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</b> 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 manufacturers 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 manufacturers to overcome barriers to toxics use reduction and identify opportunities for financial savings.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the compliance or reporting requirements be consolidated or simplified for small businesses?</b> 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 manufacturers covered by the Act by targeting assistance services, outreach, research, and grant programs to users of substances on the TURA List.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can performance standards for small businesses replace design or operational standards?</b> 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 manufacturer, 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 manufacturer.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</b> None have been identified by the program that are within its statutory discretion.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe</b>  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. Those contacted included stakeholders and trade associations such as the American Chemistry Council (ACC), Associated Industries of Massachusetts (AIM), Massachusetts Chemistry and Technology Alliance (MCTA), and companies that distribute products that contain these chemicals.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Are there regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation?</b>  No.