

December 11, 2014

Rich Bizzozero
Executive Director TUR Administrative Council
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: TUR Administrative Council proposal to increase TURA compliance fees

Dear Mr. Bizzozero,

The National Association of Chemical Distributors appreciates the opportunity to comment on the proposed TUR Administrative Council action to raise TURA compliance fees.

The National Association of Chemical Distributors (NACD) is an international association of nearly 440 chemical distributors and supply-chain partners. NACD's membership comprises businesses representing in total more than 85% of the chemical distribution capacity in the nation and generating 90% of the industry's gross revenue. NACD members, operating in all 50 states through nearly 1,800 facilities, are responsible for more than 155,000 direct and indirect jobs. NACD members are predominantly small regional businesses, many of which are multi-generational and family owned. The typical chemical distributor has 26 employees and operates under an extremely low margin. In Massachusetts, 14 NACD distributor members operate through approximately 20 facilities.

Chemical distributors play a unique and integral role in the supply chain. Manufacturers increasingly rely on chemical distributors to market and sell their products in a variety of packaging sizes to an incredibly varied customer base. Every seven seconds, an NACD member company moves chemical products to and from their facility. This constant movement of those products results in chemicals being frequently added to and removed from inventory.

NACD has several concerns about the proposed TURA fee increase. Many members of the association would be adversely impacted by the increase.

- Significant fee increases on reduced number of companies filing. The proposal before the TUR Administrative Council would raise base fees, per chemical fees and maximum fees approximately 50% for small and large companies. These fee increases are substantial for individual filers, especially small businesses. The number of TURA filers has decreased greatly over the past two decades, leaving fewer than 500 companies filing today. This decrease in the number of filers leaves the remaining companies paying the increased fees to subsidize the TURA program.
- Onerous impact on chemical distributors. The dramatic fee increase will hit chemical distributors particularly hard. Distributors, who are in the business of selling chemicals to customers in and around Massachusetts, typically do not have the option of using alternative chemicals or technologies because their materials are based on the needs and specifications of

their customers. Competition in the chemical distribution marketplace is difficult. Adding more overhead onto companies trying to compete not only in the national marketplace but globally will be detrimental to NACD small businesses.

- Lack of impact analysis on companies with no alternative to TURA-regulated chemicals use. While the Administrative Council sought to mitigate the increase for smaller companies, there is no evidence of an analysis on the impact on companies such as distributors that have no alternatives but to use TURA-regulated chemicals. The proposed fee increase will include additional costs to comply with the statutory mandate. TURA fees are just one of the many costs of doing business in the Commonwealth of Massachusetts. NACD members must also pay for environmental permits, training fees, and consultant fees for regulatory compliance assistance. In addition to state-specific chemical regulations, NACD members must also pay fees for transporting hazardous materials.
- No statutory allowance for cumulative increase in fees. The regulatory justification for the proposed TURA fee increase is that the fee should have been increased minimally each year, based on the Producer Price Index, since the inception of the program. The current proposed fee increase is to assess the twenty-year increase in one year. The fact the fees have not been raised in decades does not give the Council the same authority to raise fees all at once based on a cumulative increase in the Producer Price Index. The plain reading of Section 19 of the statute only allows for an annual increase and does not permit a cumulative increase because the allowed increase was not taken.
- Lack of adequate notification of hearing. Finally, the TUR Administrative Council failed to notify impacted businesses adequately. In September, stakeholders were provided a 10-day notice of the Administrative Council Hearing on the recommendations in Boston. The 10-day notice was insufficient notice for the business community to investigate the issues and develop a coherent response.

NACD opposes the proposed TURA fee increases until the Commonwealth conducts a thorough review of the impact these increases would have on all businesses in Massachusetts. If the Council must impose a fee increase, NACD urges the Council to remain within the bounds of its statutory authority and raise fees only in accordance with the Producer Price Index for the latest year.

Thank you for the opportunity to comment on this proposal. If you have questions, please do not hesitate to contact me.

Sincerely,



Jennifer C. Gibson
Vice President, Regulatory Affairs