National Association of Chemical Distributors

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Docket Management System
U.S. Department of Transportation
Dockets Operations, M-30, Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

RE: DOCKET NO. PHMSA-06-26322 (HM-206F)

Dockets Section:

This letter responds to the *Federal Register* notice published July 2, 2007, regarding docket PHMSA-06-26322 on HM-206F, Hazardous Materials: Revision of Requirements for Emergency Response Telephone Numbers.

NACD is an international trade association headquartered in Arlington, Virginia, with more than 250 chemical distribution companies in the United States and Canada. These companies represent between 80% and 90% of the chemical distribution facilities in the nation and more than 90% of the industry's gross revenue. NACD member companies have established themselves as leaders in health, safety, security, and environmental performance through implementation of the Responsible Distribution Process℠ (RDP), established in 1991 as a condition of membership in NACD. RDP is a third-party verified management practice.

NACD members operate in every region of the country through approximately 1500 facilities. The membership includes small businesses as well as regional and national companies. Hazardous materials transportation is an integral part of the chemical distribution business. In 2005, NACD members made 6.5 million chemical distribution shipments, were responsible for 46 billion pounds of delivered product, and drove 172 million miles while distributing chemicals.

NACD recommends that the Hazardous Materials Regulations (HMR) **not** be amended to require the person who originally offers a hazardous material for transportation and who uses an emergency response service provider to be listed not only on the original shipping paper but also on all subsequent shipping papers.

The Notice of Proposed Rulemaking (NPRM) states that there have been "a number" of problems associated with emergency response numbers on shipping papers. NACD believes that the current requirements regarding emergency response telephone numbers work well, and

would be interested in knowing the full scope of the problem and whether it truly warrants a change in the HMR.

Requiring the original shipper to be listed as a product moves through the supply chain could be particularly problematic for chemical distributors. It is common for chemical distributors to have complex third-party agreements under which supply sources are kept confidential, and the proposed new requirement would disrupt these agreements.

The NPRM indicates that contract numbers for agreements between emergency response service providers and shippers may be used in lieu of the shipper's name. This opens the door to an alternative, less intrusive solution than the proposal outlined in the NPRM, to state that it is the shipper's responsibility to provide a phone number, and ***enable access*** to the needed information. This information could take the form of a contract number and product code combination established with the third-party information provider. Specifically, rather than amending Sec. 172.201(d) to say "identify the person who has the contractual agreement with the service provider," the language could be amended to say "identify the offeror by name or contract number of a service provider." While this would address some of the confidentiality concerns of chemical distributors, it could also raise the question of how this information should be presented on delivery tickets. For example, in cases of split shipments, it could be confusing to determine which contract number corresponds to what commodity.

An alternative way to address potential problems of emergency response telephone number service providers being unable to communicate product-specific information, is to make sure that the requirements of Sec. 172.604(b) are strictly enforced. Some of the current problems are likely caused by cases where a person lists the number of an emergency response service provider without actually having a contract with that entity. One way to remedy this is to require hazardous materials shippers to list their contract numbers with emergency response service providers on their Hazardous Materials Registration Forms. This would provide a strong incentive for shippers to comply with Sec. 172.604(b) as they would certainly not want to face the consequences of being caught for falsifying documents.

Thank you for the opportunity to comment. If you have any questions, or require any additional information, please do not hesitate to contact me at 703/527-6223.

Sincerely,

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