



March 1, 2010

Dear Senate Homeland Security and Governmental Affairs Committee Member,

I am writing to express the support of the National Association of Chemical Distributors (NACD) for S. 2996, the Continuing Chemical Facilities Antiterrorism Security Act, introduced recently by Homeland Security and Governmental Affairs Committee Ranking Member Susan Collins and fellow Committee members Senators Mary Landrieu, Mark Pryor, and George Voinovich. S. 2996 would extend the authority of the Department of Homeland Security (DHS) to implement the Chemical Facility Anti-Terrorism Standards (CFATS) until October 4, 2015.

NACD has 243 distributor members and 127 Affiliates. NACD members purchase chemical products from manufacturers and process, re-package, warehouse, market, and transport these materials to an industrial customer base of approximately 750,000. Chemical distributors serve a wide variety of industries critical to the nation's health and economy ranging from food and drugs to water treatment to electronics to cosmetics to paints and coatings. Responsible distribution and customer service are key priorities for NACD members.

NACD's member companies have established themselves as leaders in health, safety, security, and environmental performance through implementation of Responsible Distribution, a third-party verified management practice established in 1991 as a condition of membership in the Association. NACD has adopted and implemented security measures as part of Responsible Distribution and has developed a security vulnerability assessment (SVA) that specifically addresses security issues relevant to chemical distribution facilities. NACD members have invested millions of dollars and substantial resources to safeguard their facilities and the transportation of their products.

S. 2996 is a reasonable chemical security bill that would allow the CFATS program to be implemented and evaluated before making changes to it. CFATS is a landmark new security regulation that has been in effect for less than three years. DHS has done a commendable job with limited resources in writing the regulations and setting up the internal infrastructure to be able to implement and enforce the new standards. Chemical facilities have already invested substantial resources into conducting security vulnerability assessments and developing site security plans through CFATS. Because of these efforts, real security measures are being implemented at facilities around the nation.

NACD believes that the approach taken under S. 2996 will enhance the security of chemical facilities much more efficiently and effectively than legislation such as H.R. 2868, the House-passed chemical security bill that includes inherently safer technology (IST) and other non-security related mandates.

NACD strongly opposes mandatory IST consideration and implementation. The act of conducting IST assessments would be extremely costly for chemical distributors. These assessments will require expertise with IST methods, the likelihood of these methods to reduce risk, and their costs. The majority

of NACD members are small businesses that do not have teams of chemical and process safety engineers on staff who would be able to conduct the IST assessments. These companies would be forced to hire consultants, who at rates of hundreds of dollar per hour, would easily drive the costs of the assessments into tens of thousands of dollars per facility.

In addition, while some chemical distributors may custom blend substances for customers, the majority do not manufacture chemicals. Their operations involve warehousing, repackaging, and transportation of materials to their customers. They maintain specific inventories of products in order to respond to the needs of these customers. For most facilities, an IST assessment would likely produce limited options that would not justify the cost and effort of the exercise itself. In cases where distributors might be required to reduce inventories of certain products, this would prevent these companies from effectively addressing their customers' needs. Particularly in these tough economic times, this could be the final straw to put some companies out of business, which would result in further job losses. In addition, an IST implementation requirement could lead to a rise in transportation activities, which would increase the likelihood of loading, unloading, or in-transit incidents, including potential security incidents.

The CFATS program already has a built-in incentive for facilities to use the safest methods and processes possible in order to be assigned to a lower risk tier or to completely tier out of the regulation. S. 2996 recognizes this and provides time for the real security measures in CFATS to be implemented and evaluated.

For all of these reasons, NACD strongly urges the Committee to support and approve S. 2996 and to refrain from adopting legislation that would impose IST mandates on facilities.

Thank you for your consideration. Please feel free to contact me or NACD's Vice President of Government Affairs Jennifer Gibson at [jgibson@nacd.com](mailto:jgibson@nacd.com) or 703/527-6223, ext. 3047 if you have any questions.

Sincerely,

Christopher L. Jahn  
President  
National Association of Chemical Distributors