

NACD and TSCA Reform

The National Association of Chemical Distributors (NACD) represents over 240 chemical distribution companies, employing 20,000 individuals, and who serve approximately 750,000 customers each year. NACD's membership represents 85% of the chemical distribution facilities in the nation and more than 90% of the industry's gross revenue. Members of NACD operate in every region of the country and in Mexico, Canada and Puerto Rico through more than 1,500 facilities.

NACD's membership includes small businesses as well as regional and national companies. Annually NACD members deliver approximately 5.3 million chemical distribution shipments, are responsible for 72 billion pounds of delivered product, and drive close to 175 million miles while distributing chemicals.

As a condition of membership, all NACD members must comply with the Responsible Distribution Process (RDP), which is a separate chemical industry code of management practice that requires companies to continuously improve performance in the environment, health, safety, and security. NACD members pledge to adhere to several RDP principles, including:

1. To recognize and respond to community concerns about chemicals, their handling, and transportation.
2. To make health, safety, security, and environmental considerations a priority in our planning for all existing and new operations, products, processes, and facilities.
3. To inform emergency response officials, employees, customers, and the public of manufacturer's information on chemical-related health or environmental hazards, and the manufacturer's recommendations on protective measures.
4. To work with customers, in accordance with manufacturer's recommendations, on product stewardship including handling, use, transportation, and disposal of chemical products.
5. To operate our plants and facilities in a manner that protects the health and safety of our employees, the public and the environment.
6. To cooperate in resolving problems created by past handling and disposal of hazardous chemicals.
7. To participate with government and others in creating responsible laws, regulations, and practices to help safeguard the community, workplace, and environment.
8. To promote the principles and practices of Responsible Distribution Process by sharing experiences and offering assistance to others who produce, handle, use, transport, or dispose of chemicals.

Any effort to reform TSCA must take in to account the positive role distribution companies are playing in the chemical industry through the Responsible Distribution Process.

NACD Key Points on TSCA Reform:

EPA Should Have Clear Authority to Regulate Chemicals in the Marketplace

NACD recognizes the need to update the Toxic Substances Control Act (TSCA). TSCA was written over thirty years ago, and in some cases has proven to be ineffective in regulating chemicals in the United States. Indeed EPA has claimed on multiple occasions that the current system makes it difficult to monitor and effectively regulate new and existing chemicals in the marketplace. NACD agrees that TSCA should be reformed and EPA should have more authority to regulate both new and existing chemicals in the marketplace. However, in reforming TSCA, EPA should focus on the highest priority of chemicals based on risk and exposure considerations.

Reform Should Embrace a Risk-Based Model and Reject the Precautionary Principle

NACD is concerned with approaches such as the European Union's Registration, Evaluation, Authorization, and Restriction of Chemicals (REACH) program, which follows the "precautionary principle," creating a cumbersome bureaucracy that could stifle innovation. As such, any chemical management reform must embrace a true risk-based model that effectively manages chemicals in the United States while acknowledging the innovations and safe processes of the chemical distribution industry.

Chemical Distribution Companies Should Only Report Readily Available Use and Exposure Information

Chemical distribution companies act essentially as middlemen, receiving chemicals from manufacturers and distributing these chemicals to customers from a wide variety of industries, including agriculture, textiles and pharmaceuticals. Many NACD members import chemicals and are subject to TSCA regulations, while others do not import at all. Many small business distributors that import chemicals are already subject to Inventory Update Reporting (IUR) requirements under current TSCA law. New reporting and testing requirements on existing chemicals in the marketplace might improve the overall effectiveness of TSCA. However, chemical distribution companies generally do not have the expertise and resources needed to conduct testing of chemicals due to their role as middlemen and as small businesses. Therefore, chemical distribution companies should only be required to report data that is readily available through such resources as Material Safety Data Sheets (MSDS), or other readily available information.

Higher Costs Should Not Be Levied on Responsible Distributors

The problems associated with TSCA today are largely a result of a framework that hinders EPA's ability to effectively manage the safety of chemicals in the marketplace. Fixing these problems is critical, but the result should not include a new regulatory scheme that places a

heavy cost burden on chemical distributors, who have not been the root cause of any real problems with the current chemicals management system.

In order to keep the cost burden down for chemical distribution companies, as well as other entities in the supply chain, any reform of TSCA must prioritize those chemicals based on risk and exposure considerations. This would create a more effective and modern chemical management framework.

Confidential Business Information (CBI) Must Be Protected

Protection of CBI is essential to maintain innovation in the marketplace, and fair competition among entities within the supply chain. EPA must have all appropriate information necessary to make sound science-based judgments on chemicals, as long as that information does not compromise any confidential business information of chemical distribution companies.

Existing TSCA Preemption Provisions Must Be Maintained

NACD believes that federal preemption is an important element of any reform of our nation's chemicals management effort. Lack of a strong national standard will result in a patchwork of different chemical management laws throughout the nation, which would make compliance confusing for any company that does business across state lines, which is the industry norm, and would not be in the best interest of our nation's chemical customers and users.