



DECEMBER 2010

**OUTLOOK & ISSUES**  
**FOR 2011**

A GOVERNMENT AFFAIRS REPORT

**naccd**<sup>™</sup>  
National Association of  
Chemical Distributors



**While we may see more balanced policies in Washington in 2011,**

# A New Congress Brings Renewed Opportunity but not Sweeping Change

The 112<sup>th</sup> Congress will look dramatically different from the 111<sup>th</sup> Congress. With a Republican Majority in the House, and a diminished Democratic Majority in the Senate, the Administration will no longer have a Congress to rubber stamp an anti-business agenda. On November 2, proponents of more reasonable regulation and policies that will help businesses to grow and create jobs spoke loud and clear.

NACD members have played an important role in sending the pro-business message to Washington by participating in the Fly-In, contributing to the NACD Responsible Distribution PAC (RDPAC), hosting site visits with your members of Congress, writing to your Senators and Representatives, getting out to vote, and sharing election information with employees. These efforts made a difference. For example, of nearly 50 Congressional candidates (Democrats and Republicans) who received RDPAC contributions this cycle, only 5 lost their elections.

**our work is far from over.**

While we may see more balanced policies in Washington in

2011, our work is far from over. The new Congress will include 16 new Senators and more than 90 new House members who will need to learn about Responsible Distribution and issues important to chemical distribution. The issues of chemical security, Toxic Substances Control Act reform, hazardous materials transportation, and taxes are still on the table for consideration. Also, while the new Congress will serve as a check on the Obama Administration's regulatory activism, the Environmental Protection Agency, the Occupational Safety and Health Administration, and other agencies will surely continue to try to achieve through regulations what cannot be done legislatively.

Only by continuing to engage fully in advocacy will we be able to guide Congress and the Administration toward policies that will allow the chemical distribution industry to prosper.

We encourage you to remain involved!

Sincerely,  
NACD Government Affairs Committee

## What Did We Accomplish This Year?

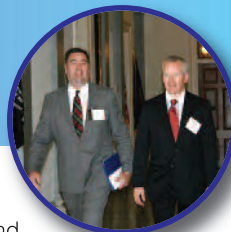
A substantial amount! NACD and the membership's grassroots efforts had tremendous success over the last 12-18 months. Together we:

- Hosted **five** key Members of Congress at member facilities.
- Attracted a record number of individuals to the 2010 Washington Fly-In, where we conducted **181** Congressional meetings.
- Raised over **\$137,000** in PAC funds, enabling us to contribute to numerous campaigns. NACD staff and members participated in over **40** events talking directly with the Senator or Congressman.
- Sent over **550** messages to Senators and Representatives on key issues.

## What's Next?

TSCA reform, chemical security, hazardous materials transportation, rail competition, and many other general business issues are still on the table. With an Administration that will continue to engage in regulatory activism, **it is critical that we remain engaged in the process.**

The election of more than 100 new Senators and Representatives represents a tremendous opportunity for our membership to make a great first impression, helping these new inductees understand what our membership contributes to the US economy and to their local communities/districts.



## Get Involved Today!

Your company can and should be a part of NACD's advocacy and grassroots process. As a constituent, both new and returning members of Congress want to hear from you directly. You can help:

- **Participate** in the Washington Fly-In on May 3-4, 2011
- **Host** a Representative or Senator at your facility
- **Send** NACD a list of where your facilities are located, and even better where your customers are located
- **Contribute** to the NACD Responsible Distribution PAC
- **Write** or call your Senators and Representatives on important issues
- **Visit** the NACD Chemical (RE)Actions Web site regularly to learn about the issues and how to establish a Political Action Plan at your company

To help the membership get started and develop a Political Action Plan, NACD created the Chemical (RE)Actions Advocacy Tool Kit, available at

[www.nacd.com/docs/advocacy/2010/pdf/AdvocacyToolKitFINAL.pdf](http://www.nacd.com/docs/advocacy/2010/pdf/AdvocacyToolKitFINAL.pdf)

The Tool Kit outlines basic steps you can take to protect your business interests. These steps also involve creating processes that will engage employees in the advocacy effort, including a **Political Action Plan** Progress Chart to monitor your company's development on these key action items. You'll see that these steps take very little time, but the impact on your business will be tremendous.

We survived a tough 2010. Now let's gear up to build on this success in 2011!



# NACD Responsible Distribution PAC (RDPAC) Report

A key element of NACD's advocacy success this year was high involvement in the NACD Responsible Distribution PAC. During the 2009-2010 election cycle, the PAC raised over \$137,000 through 179 contributions from individuals.

The PAC distributed almost \$100,000 to 50 Congressional candidates. Of these, 89% won their races. Through this process, NACD has developed relationships with many Senators and Representatives, and we are in a strong position going in to the 112<sup>th</sup> Congress.

## The Issues—A Snapshot

### Toxic Substances Control Act (TSCA) Reform

#### 2010 REVIEW

Reform of the Toxic Substances Control Act was a top priority for the House and Senate as well as EPA Administrator Lisa Jackson in 2010. Bills in the House and Senate would have made sweeping changes to the nation's chemical management laws.

The proposed bills would have required members to **submit to EPA extensive data** on hazard, use, and exposure of every new and existing chemical and required EPA to **order tests on the specific chemicals and establish a "priority list"** for even more scrutiny. In addition, manufacturers of new and existing chemicals would have been required to submit reports on the chemicals in their inventories and the destination of these chemicals, including the specific facilities or customers where they were sent.

NACD was in constant communication with key Capitol Hill offices to explain the devastating impact these TSCA bills would have had on chemical distributors. **This effort was successful as these complex proposals collapsed under their own weight** as the 111<sup>th</sup> Congress drew to a close.



#### 2011 OUTLOOK

With the Republicans now in control of the House, it is unlikely that drastic TSCA reform will be a priority, but if it is, business perspectives will likely receive more consideration.

It will be tougher on the Senate side with the Democrats still in charge. Senator Frank Lautenberg, Chairman of the Environment & Public Works Committee (EPW) subcommittee with jurisdiction over TSCA reform has made clear his intent to move his legislation in 2011. He will have support from EPW Committee Chair Barbara Boxer (D-CA) who just won re-election and has in the past declared her support for an EU-REACH-type chemicals management system in the U.S.

While NACD and many other organizations believe that TSCA needs modernization, this must be done through a truly risk-based approach that allows for continued innovation. NACD will continue to educate Congress about distributors' important role in the chemical supply chain and how proposals such as these would be devastating to the industry.

The EPA will also continue to seek regulatory reforms to TSCA. In August, EPA published a sweeping proposal to amend TSCA Inventory Update Reporting (IUR) to mandate the submission of far more information than is currently required, including retroactive reporting of certain information.

The agency plans to finalize and implement this rule in early 2011 and require that 2011 IUR reports be submitted in September.

Stay Tuned....

# The Issues—A Snapshot (continued)

## Chemical Security



### 2010 REVIEW

Despite House passage of a chemical security bill, H.R. 2868, in late 2009 that would have imposed burdensome new inherently safer technology mandates (IST) on the industry, established a citizen petition process for perceived lack of enforcement, and allowed states and localities to adopt additional measures, the Senate did not consider this legislation.

In July, the Senate Homeland Security and Government Affairs Committee (HSGAC) unanimously approved legislation that would have extended the current chemical security program, the Chemical Facility Anti-Terrorism Standards (CFATS), for three years. While the Senate did not take up this bill, it was a strong bipartisan statement in favor of allowing the CFATS program to be fully implemented and evaluated before making changes to the program, exactly the position advocated by NACD for the past few years.

### 2011 OUTLOOK

While the current chemical security program is now operating under temporary authority that must be renewed in annual appropriations bills, we believe that the House Homeland Security Committee and Senate HSGAC are likely to seek permanent authorization of the program with few changes.

NACD will continue to strongly support such an approach.

The CFATS program is a major new regulation that needs time to be fully implemented and evaluated before making changes to it.

## Hazardous Materials Transportation

### 2010 REVIEW

Most of the action in the 111<sup>th</sup> Congress took place in the House Transportation and Infrastructure (T&I) Committee, which held several hearings on perceived mismanagement at the Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) and included allegations that key PHMSA officials were too “cozy with industry,” despite a steady decline in hazardous materials incident rates.

As a result, numerous PHMSA employees with years of valuable experience and knowledge of the industry are no longer there.

In addition, new procedures have been developed for the DOT Special Permits program.



### 2011 OUTLOOK

As the T&I Committee and the Senate Commerce Committee consider hazardous materials transportation issues in the coming months, industry will have a much better opportunity to have our voice heard and let our outstanding safety record guide future policies.

This is primarily because House T&I Committee Chairman Jim Oberstar (D-MN) was defeated in the election so will not be the committee’s Ranking Democratic member in the new Congress.

# The Issues—A Snapshot (continued)

## Rail Competition

### 2010 REVIEW

It's no surprise that railroads have monopolies in many areas. Because of this, shippers, including chemical distributors, are subject to high rates and poor terms. In the 111<sup>th</sup> Congress, both the Senate and House Judiciary Committees approved legislation to eliminate the railroads' antitrust exemption.

The Senate Commerce Committee passed a bill to reform the Surface Transportation Board (STB) to give shippers more recourse in rate and term disputes with railroads.

These bills would have provided relief to shippers, and NACD supported them. Because of strong opposition from influential railroads, the legislation reached neither the Senate nor House floors for a vote.

### 2011 OUTLOOK

The outlook for the antitrust and STB reform bills in the 112<sup>th</sup> Congress is uncertain. The sponsors of these bills will all return to Washington, but they will now be in the minority.

NACD will continue to support the proposals as a way to make sure that chemical distributors have access to reasonable rail service.



## General Business Issues and Increased Regulatory Activity

In addition to the issues above, NACD will continue to follow a plethora of proposals that may be harmful not only to chemical distributors, but to the general business community, including increasing the federal government role in the delivery of health care, establishing a massive cap and trade program to reduce emissions, substantially increasing OSHA penalties, and more.

The Obama Administration will continue to try to implement various policies through regulations, rather than legislation in the coming months. For example:

Massive new EPA Greenhouse Gas emissions regulations are set to take effect on January 2, 2011.

The National Labor Relations Board has already issued several decisions that chip away at workers' rights to a secret ballot in union elections.

OSHA has announced substantial penalty increases and is actively considering burdensome new regulations.

While the new Congress may be able to slow some of this regulatory action, these will be tough battles requiring bipartisan support. NACD will continue to address these issues on behalf of industry by partnering with groups such as the U.S. Chamber of Commerce, National Association of Wholesaler-Distributors (NAW), and the Coalition for a Democratic Workplace.



**We survived a tough 2010.  
Let's gear up to build on  
this success in 2011!**



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