

April 13, 2011

Dear House Homeland Security Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies Member,

On behalf of the National Association of Chemical Distributors (NACD), I am writing to express the Association's support for H.R. 901, the Chemical Facility Anti-Terrorism Security Authorization Act, which the subcommittee will mark-up on Thursday morning.

NACD has 250 chemical distributor members and over 100 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. Most NACD members are small businesses. The typical member has \$26 million in annual sales, three facilities, and 28 employees.

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.

NACD supported the 2006 legislation that resulted in the creation of the Chemical Facility Anti-Terrorism Standards (CFATS) and now strongly supports H.R. 901, which would extend the program for seven years with no changes. H.R. 901 is common sense legislation that would allow time for the full implementation and evaluation of CFATS before changes to this important program are considered.

Because CFATS is a major regulation, based upon performance standards for each facility rather than a one-size-fits-all mandate, it is taking time for DHS to evaluate the more than 4100 site security plans submitted under CFATS and to inspect the facilities. However, this approach has the advantages of designing plans to address each facility's unique situations while avoiding the creation of a single roadmap for potential terrorists. Real security measures are being implemented at facilities around the nation because of CFATS. This program is a major

regulatory commitment for covered facilities. NACD members are willing to invest the time and resources to comply with this important regulation and would welcome the certainty of a clean, long-term extension.

Some prior CFATS proposals included measures that would have been counterproductive to the good progress that has been made. The most disruptive of these would have required all CFATS-covered facilities, including chemical distributors, to conduct inherently safer technology (IST) assessments, and for those in the highest risk tiers to implement these measures. Such a mandate would shift the focus away from real security and force companies to consider full scale engineering and product changes.

**NACD opposes mandatory IST consideration as well as implementation.** The act of conducting IST assessments would be extremely costly for NACD members and would not reduce risk. For most NACD members, IST assessments would have to be outsourced at significant cost and would produce limited options. Chemical distributors maintain specific inventories in order to respond to customers' needs. If distributors are required to reduce inventories of certain products, this would prevent them from meeting these customer needs. Particularly in these tough economic times, and in addition to the myriad of regulations that already affect chemical distributors, this could be the final straw to put some companies out of business, which would result in further job losses. Required inventory reductions would also transfer risk to transportation and increase the likelihood of product handling incidents.

CFATS currently provides incentives for facilities to use the safest possible methods so they can be assigned to a lower risk tier. In fact, over 1200 facilities have reduced their security risk so much that they have tiered out of the program. Many more facilities have been assigned to lower tiers.

**NACD supports H.R. 901 to extend the current chemical security program for seven years and opposes any amendments that would disrupt the implementation of this important program.** A clean extension will both provide regulatory certainty and allow for continued progress in implementing real security measures at facilities.

Thank you for your consideration. Please feel free to contact me at [jgibson@nacd.com](mailto:jgibson@nacd.com) or 703/527-6223, ext. 3047 if you have any questions.

Sincerely,

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National Association of Chemical Distributors