

August 24, 2018

U.S. Environmental Protection Agency
Attention: Docket ID No. EPA-HQ-OLEM-2018-0024
Ms. Stacey Yonce
Office of Emergency Management
Mail Code 5104A
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Via Electronic Submission: <http://regulations.gov>

The National Association of Chemical Distributors (NACD) is pleased to submit the following comments in response to the U.S. Environmental Protection Agency's (EPA) Proposed Action, **Clean Water Act Hazardous Substances Spill Prevention, Docket ID No. EPA-HQ-OLEM-2018-0024, 83 Fed. Reg. 29,499 (June 25, 2018).**

About NACD

NACD is an international association of nearly 450 chemical distributors and their supply-chain partners. NACD members represent more than 85 percent of the chemical distribution capacity in the nation and generate 93 percent of the industry's gross revenue. NACD members, operating in all 50 states through more than 2,800 facilities, are responsible for nearly 130,000 direct and indirect jobs in the United States. NACD members are predominantly small regional businesses, many of which are family owned and multi-generational. The typical chemical distributor has 26 employees and operates under an extremely low margin.

NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution®, the association's third-party-verified environmental, health, safety, and security program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous improvement in every phase of chemical storage, handling, transportation, and disposal operations.

Owners and operators of NACD member companies have a personal stake in the safety and security of their employees, companies, and communities. They demonstrate this through their commitment to Responsible Distribution, relationships with employees, involvement in local communities, including participation in Local Emergency Planning Committees, and careful compliance with numerous environmental, safety, and security regulations at the federal, state, and local levels.

NACD Supports EPA's Proposed Action to Establish No New Requirements

NACD strongly supports EPA's proposal to establish no new requirements under Section 311 of the Clean Water Act (CWA). As EPA outlined in the June 25, 2018, *Federal Register* notice, additional measures are unnecessary and would be duplicative of existing federal and state requirements.

In its CWA hazardous substance discharge history and impact analysis¹, EPA demonstrated that the number of discharges that could be prevented by a new spill prevention rule is minimal. Out of almost 286,000 releases reported to the National Response Center between 2007 and 2016, only 9,416 (3.3%) involved hazardous substances; and of these, 2,491 (fewer than 1% of the total reports) originated from non-transportation sources. Further, of the 2,491 CWA hazardous substances discharges to water, only 117 involved impacts such as evacuations, injuries, waterway closures, and water supply contamination. While the impacts of these 117 discharges over the 10-year period may have been significant for some of the individual cases, it is a small number on which to justify a major new federal regulatory framework.

As EPA references, there are numerous federal and state regulations currently in place addressing prevention and response to hazardous substances spills. These include the CWA's own National Pollutant Discharge Elimination System and Spill Prevention Control and Countermeasure rules. Other related EPA regulations include the Risk Management Program, the Resource Conservation and Recovery Act, the Emergency Planning and Community Right-to-Know Act, and the Federal Insecticide, Fungicide, and Rodenticide Act. Other relevant federal regulations under the purview of other agencies include the Occupational Safety and Health Administration's Process Safety Management Standard, Hazardous Waste Operations and Emergency Response program, and Hazard Communication Standard and the Department of Transportation's Hazardous Materials Regulations. In addition to these federal requirements, several states have their own substance spill prevention and response rules.

With all these existing rules in place, any new EPA hazardous substance spill prevention program would inevitably be duplicative of these requirements. One of the major challenges for businesses, particularly small operations like most NACD members, is dealing with duplicative regulations. While there would ideally be synergies among the rules, the reality is that they all have enough unique requirements that consume time and human resources, impose different reporting schedules and methods, and have different inspection schedules and expectations. A new hazardous substances spill prevention regulation would only exacerbate this situation for already highly regulated industries such as chemical distribution while producing extremely limited benefits.

Conclusion

NACD supports EPA's proposal to establish no new CWA regulatory requirements, and we appreciate the opportunity to provide these comments.

If you have questions or require additional information, please do not hesitate to contact me.

Sincerely,



Jennifer C. Gibson
Vice President, Regulatory Affairs
National Association of Chemical Distributors
1560 Wilson Blvd, Suite 1100
Arlington, VA 22209

¹ Federal Register, Vol. 83, No. 122, June 25, 2018, page 29502