

November 13, 2014

James Jennings, Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9276

Re: Comments on proposed rules as mandated by 415 ICLS Section 22.57(d) of the Illinois Environmental Protection Act

The National Association of Chemical Distributors (NACD) is an international association of nearly 440 chemical distributors and supply-chain partners. NACD's membership comprises businesses representing in total more than 85% of the chemical distribution capacity in the nation and generating 90% of the industry's gross revenue. NACD members, operating in all 50 states through nearly 1,800 facilities, are responsible for more than 155,000 direct and indirect jobs. NACD members are predominantly small regional businesses, many of which are multi-generational and family owned. In Illinois, there are 23 NACD distributor members and over 60 facilities operating in the state. The typical chemical distributor has 26 employees and operates under an extremely low margin.

Chemical distributors play a unique and integral role in the supply chain. Manufacturers increasingly rely on chemical distributors to market and sell their products in a variety of packaging sizes to an incredibly varied customer base. Every seven seconds, an NACD member company is moving chemical products to and from their facility. This constant movement of those products results in chemicals being frequently added to and removed from inventory.

NACD distributor members are generally not considered manufacturers. However, when regulations apply to activities such as repackaging or blending, distributors can be subject to the same regulatory requirements as manufacturers.

The act defines *manufacturer* as follows:

“Manufacturer” means any person that produces or produced any perchloroethylene alternative that is sold or offered for sale in Illinois on or after the effective date of this Part.

NACD requests clarification on the definition of *produces or produced*, and whether distributors are exempt from the regulation.

Specifically, we would like answers to the following questions:

- If a “person” re-labels a supplier-packed material with private branded labels, is that activity included or exempt from the definition of *manufacturer* and *produces or produced*?

- If a “person” repackages a supplier-packed material into other containers for resale, is that activity included or exempt from the definition of *manufacturer* and *produces or produced*?
- If a “person” engages in non-reactive blending of relevant solvents, is that activity included or exempt from the definition of *manufacturer* and *produces or produced*?

The intent of the regulation to document and consider alternative products is well understood. As a general industry stakeholder, we support such efforts. However, requiring information from chemical distributors, which are neither manufacturers nor end users of the material, and their involvement or participation in this regulation would yield little or no data of value compared with obtaining information supplied by *true* manufacturers or end customers. As distribution is a lean industry by nature, it would also put additional tracking and reporting burdens on our members’ already limited resources.

We appreciate your consideration of our request to clarify the definition of *manufacturer*, and we also request exemptions for chemical distributors engaged in relabeling, repackaging, and non-reactive blending from this requirement.

Please contact me if there are questions. Thank you again for the opportunity to comment on the proposed rule.

Sincerely,



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