



December 23, 2009

U.S. Occupational Safety & Health Administration  
Docket Office  
Room N2625  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

**RE: OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION  
DOCKET NO. OSHA-H022K-2006-0062**

The National Association of Chemical Distributors (NACD) is pleased to provide the following input regarding the Proposed Rulemaking by the U.S. Occupational Safety and Health Administration (OSHA) on aspects of the Globally Harmonized System (GHS) of Classification and Labeling of Chemicals.

NACD represents more than 240 chemical distribution companies throughout North America. These companies operate approximately 1,500 facilities and employ over 20,500 people. NACD members represent between 80% to 90% of the chemical distribution facilities in the nation and more than 90% of the industry's gross revenue. NACD member companies have established themselves as leaders in health, safety, security, and environmental performance through implementation of the Responsible Distribution Process<sup>SM</sup> (RDP), established in 1991 as a condition of membership in NACD. RDP is a third-party verified management practice. Among the Guiding Principles of RDP, under which each NACD member must manage its business, is a commitment to operate every facility in a manner that protects the health and safety of employees, the public, and the environment. Additionally, each member pledges to work with customers, in accordance with manufacturer recommendations, on product stewardship including handling, use, transportation, and disposal of chemicals.

The NACD membership includes many small businesses as well as regional and national companies. Handling, storing, repackaging, and transporting hazardous substances is an integral part of the chemical distribution business. In 2008, NACD members delivered approximately 5.3 million chemical shipments, were responsible for 81 billion pounds of delivered product, and drove over 199 million miles while distributing chemicals. Most NACD members deal in domestic trade within the U.S. However, some members are involved in various import and export trade activities.

According to OSHA's annual data on workplace injuries and illnesses, chemical distribution is one of the safest industries in wholesale trade. Additionally, similar data annually collected by NACD show positive results in our members' health and safety performance. NACD publicly reports its membership's aggregate data at [www.ResponsibleDistribution.com](http://www.ResponsibleDistribution.com).

As outlined in the following comments, NACD supports the overall goals of the GHS. Over the years, NACD members have raised concerns about manufacturers' Material Safety Data Sheets (MSDSs), specifically the inconsistency from one to another among suppliers of the same chemical. NACD supports efforts to standardize these forms. However, members are also concerned about potential consequences of GHS, particularly the costs associated with re-designing labels and re-training employees. Members have also expressed concerns with the flat 3-year compliance deadline, which many believe will not provide sufficient transition time for small chemical distribution companies.

**COMMENTS BY THE  
NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS  
REGARDING THE U.S. OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION'S  
PROPOSED RULEMAKING SEEKING PUBLIC INPUT ON THE GLOBALLY  
HARMONIZED SYSTEM (GHS) OF CLASSIFICATION AND LABELING OF CHEMICALS  
[Docket No. OSHA-H022K-2006-0062]**

The following input was developed with and is based on information from NACD members, who have the technical expertise and first-hand experience in these areas.

1. NACD concurs with OSHA in that standardized label elements would be more effective in communicating hazard information. Also, the use of standardized headings and a consistent order of information would not only improve the utility of the Safety Data Sheets (SDSs), but also would eventually create a more efficient process for chemical distributors. However, as NACD noted in our comments on OSHA's Advanced Notice of Proposed Rulemaking (November 13<sup>th</sup>, 2006: DOCKET NO. H-022K), we continue to be concerned about the potential consequences of GHS, particularly the cost in re-designing labels and in re-training employees. We are also concerned that a flat compliance time period of three years with no phase-in time for downstream members of the supply chain might not be enough time for distributors.
  
2. A. Most workers in the chemical distribution industry would be affected, and nearly all workers at downstream user sites would be affected as well. All, or nearly all, SDSs would require revision. Although NACD believes that a standard SDS format will have an eventual positive impact on the chemical distribution industry, some NACD members have expressed the concern that there is insufficient time to transition towards one standard SDS, which could potentially cause a bottleneck in the distribution chain.  
  
B. NACD believes that there are benefits associated with preventing injuries, illnesses and fatalities through clearer and more accessible information. However, we do not have sufficient data to offer a more specific quantitative benefit.  
  
C and D. Chemical distributors will face some initial economic impact under the proposed rule. Currently, a revision of an SDS has been estimated to require about 100 hours. OSHA should also consider the time it takes to train employees after a revision is made to either a label or SDS when factoring economic impact. The initial cost for preparing a GHS SDS would be more than for preparing a current MSDS. An estimate of cost for converting an existing MSDS to the GHS format would be about 150 hours. Work hours would depend on the time allowed for the conversion process and the number of SDSs. For example, many

chemical distributors often process blended products. One NACD member in particular reported that the company processes over 1,000 custom-made blended chemicals, each with its own SDS.

While NACD does not have a precise cost or time estimate, the SDS revision process will require substantial amounts of financial and personnel resources for members.

3. NACD concurs with OSHA in that despite the initial cost transition to a GHS, the proposed changes would create a uniform standard for the presentation of risk information and, as such, would serve to improve the efficiency and effectiveness of the existing Hazard Communication System in the U.S. in the long term. However, NACD does not concur with OSHA's assessment that the proposed standard will not have a significant impact on small entities. Chemical distributors often have multiple suppliers for each product sold, as do their customers and therefore the impact of a change to SDS structure and reporting could result in hundreds of new or revised documents even for a small distributor or chemical user.
4. Chemical distributors are dependent on their suppliers to provide SDSs. If there is a straight three-year implementation deadline, and chemical manufacturers do not have their GHS SDSs developed until the deadline, downstream members of the supply chain will have no time to change their own systems. Therefore, NACD recommends a phased-in approach under which chemical manufacturers would have a set time such as three-years to adopt GHS SDSs and then chemical distributors and other downstream parties would have at least an additional 18 months make the transition to GHS SDSs. Also, a cost associated with this transition is the reengineering of the labels' symbols and language. NACD supports the suggestion in no. 29 (see below) regarding a database of chemical classification which would be developed and maintained to assist chemical manufacturers and importers in performing hazard classifications.
5. No suggestions at this time
6. No suggestions at this time
7. No suggestions at this time
8. No suggestions at this time
9. NACD disagrees with OSHA's statement that "one toxicological study" is sufficient for a finding of hazard for any health effect. OSHA should develop a process that reviews multiple studies and conducts repeat testing before classifying a chemical as a hazard.
10. No suggestions at this time
11. No suggestions at this time
12. No suggestions at this time
13. Requiring the frame on the label's pictogram to be presented in red will make warnings more noticeable and would be consistent with the overall goal of the GHS.

14. No suggestions at this time
15. No suggestions at this time
16. No suggestions at this time
17. Including OSHA permissible exposure limits (PELs) on the SDS would strengthen the GHS and improve worker and consumer safety.
18. No suggestions at this time
19. Several NACD members handle flammable liquids under Category 1 and 2. However, the proposed changes would result in few operational changes.
20. No suggestions at this time
21. NACD believes the proposed language does accurately convey the hazards.
22. No suggestions at this time
23. No suggestions at this time
24. No suggestions at this time
25. No suggestions at this time
26. OSHA should consider an additional 18-month phase in period for chemical distributors after the 3-year implementation date expires. This would allow for a more effective GHS while reducing any potential negative economic impact on small chemical distributors. Several NACD members have expressed concern that a three-year transition time for the entire value chain (suppliers, distributors, customers) presents the possibility of a bottleneck in the supply of chemicals. Specifically, small chemical distributors might have a harder time making the transition to a standard GHS SDS by the deadline after chemical suppliers have done so, particularly if these suppliers have not completed their own transitions until close to the deadline. Also, a cost associated with this transition is the reengineering of the labels' symbols and language.
27. NACD strongly believes one factor in establishing the phase-in approach is the size of the business. Larger companies may have more resources to apply to the conversion than a small business. They may be able to accomplish the conversion faster and with less disruption to the business. The impact will be influenced by the number of SDSs to be converted. Because many chemical distributors store many different chemicals at any given time in their inventories, an additional 18 months after the three year phase-in process should be considered for small businesses and especially those that store numerous different chemicals that would be covered under the GHS.

28. At least one NACD member suggests the continued use of the OSHA website to explain the changes to regulations. Outreach to regulated entities is strongly encouraged, such as having local OSHA field offices conduct free training courses their areas. Members report that this type of outreach was done when the Hazard Communication Standard was instituted and was extremely helpful in dispelling myths, getting facts out about regulatory requirements, and providing industry with the correct information in an efficient manner. Another suggestion is to provide regulated entities with DVDs or model templates to allow companies to develop SDSs. For employee training, OSHA should provide hard copy explanatory pamphlets. Electronic tools are preferred for training and preparing SDSs, while paper publications are preferred for employee handouts. NACD also recommends that OSHA develop and disseminate on-line training and webinars targeted to small entities, which are often unable to remove staff from everyday activities to attend off-site training because of cost and/or staffing constraints. Additionally, providing training in electronic formats, which can be done at points in time best suited to the individual entity, will help avoid safety issues such as short staff situations when handling hazardous materials.
29. NACD supports the development of a database of chemical classifications to assist regulated entities in performing hazard classifications. This database could be maintained by either OSHA or the National Institute for Occupational Safety and Health (NIOSH).
30. NACD supports the overall objectives of the GHS and believes voluntary implementation would be counterproductive. However, we reiterate from our previous responses to the above questions that chemical distributors, especially those who are classified as small businesses, be allowed an additional 18 months after the full implementation in order to allow for a complete and efficient transition.

Thank you for the opportunity to comment. If you have any questions, or require any additional information, please do not hesitate to contact me at 703/527-6223.

Respectfully Submitted,

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