

December 11, 2017

Elena Ryan
Special Advisor
Programs and Policy Analysis
U.S. Department of Homeland Security
U.S. Customs and Border Protection
Office of Trade, Regulations, and Rulings
90 K St, NE, 10th Floor, MS1177
Washington, DC 20229

Via Electronic Filing at <http://www.regulations.gov>

RE: Reducing Regulation and Controlling Regulatory Costs, Docket No. USCBP-2017-0035

Dear Ms. Ryan:

The National Association of Chemical Distributors (NACD) submits the following comments in response to the Department of Homeland Security request for public comment regarding Docket No. USCBP-2017-0035, Reducing Regulation and Controlling Regulatory Costs.

About NACD

NACD is an international association of nearly 440 chemical distributors and their supply-chain partners. NACD members represent more than 85% of the chemical distribution capacity in the nation and generate 93% 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 in the United States. NACD members are predominantly small regional businesses, many of which are multi-generational and family owned.

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 performance improvement in every phase of chemical storage, handling, transportation, and disposal operations.

Regulatory burden reduction is a top priority for NACD. Our members need regulations that are clear, consistent, non-duplicative, and fairly and reasonably enforced. NACD supports the objectives of Executive Orders (EO) 13771 and 13777, Reducing Regulations and Controlling Regulatory Costs and Enforcing the Regulatory Reform Agenda, respectively.

Many of our member companies import chemicals from other countries and use significant resources to comply with the U.S. Customs Border Protection (CBP/Customs) regulations on those shipments. As CBP looks for regulations to remove or modify, NACD would like to share the following recommendations:

Customs Must Make Additional Efforts to Improve Information Sharing with Importers

Customs has the authority to inspect and detain an imported chemical or detain an imported chemical on behalf of another authorized agency, such as the U.S. Environmental Protection Agency, the U.S. Food and Drug Administration, and the U.S. Drug Enforcement Administration. From time to time, imported material is detained and most of the time is easily released. However, some NACD members have noticed a significant uptick in frequency of these holds and, distressingly, without prompt notice to the importing company. The businesses of chemical distributors are dependent on understanding the status of all imports to meet customer demand and for even a short delay will need proper notification. For example, one NACD member company did not receive notice that one of its imports was being detained until two weeks after the hold was put in place.

We recommend that Customs revise the Automated Commercial Environment (ACE) so that there will be a proactive “push” notification to shippers when material is put on hold, rather than shippers needing to go into ACE to “pull” updates on their shipments. This is a relatively straightforward way that Customs can be proactive about communicating with their regulated community. Even if the hold is placed by another agency, Customs should still notify the shipper promptly.

Additionally, the more information Customs can communicate via ACE, the easier it will be for shippers or importers to comply with requests. There is generally no information in ACE about the nature of a hold other than “CBP hold” or “pending intensive exam”. The earlier the shipper, importer or broker knows about the hold and the more details they know about it, the faster they can prepare additional information CBP or another agency may request.

If Customs provides additional information about the nature of the hold, the importer will be able to provide their transportation carrier and customer a more accurate timeframe for the availability of the container for pick-up as well as the freight’s arrival at the customer’s facility. This creates a ripple effect where better communication with the transportation carrier allows for more efficient scheduling, resulting in freight moving through the port at a faster pace. This will also help to eliminate demurrage fees and additional terminal fees that impact importers while their freight is being held. Frequently, these fees can exceed any profit the importer expected to make on the shipment.

In general, the more information Customs can provide, the better. This includes other kinds of outreach by Customs to assist shippers. It would be helpful for businesses if Customs would provide guidance documents, webinars, hotlines, seminars, and community outreach.

Customs Should Use ACE to Help Eliminate Duplicative Regulations

The creation of the ACE single window system by CBP has been extremely helpful for shippers trying to comply with multiple reporting requirements from federal agencies. Customs should encourage their partner government agencies to streamline import and export procedures further within the ACE framework as much as possible. Additionally, Customs should look for overlapping requirements or data inputs that may exist between agency regulations and search for a way to consolidate and simplify these reporting requirements within the ACE system.

CBP Should Increase Staffing and Reallocate Resources to Facilitate the Flow of Goods

As trade continues to increase, the U.S. needs a strong and dedicated CBP to meet the needs of U.S. manufacturers, importers, and exporters. The CBP's use of its resources to direct customs officers to areas where goods are routinely delayed would help speed up processing times and decrease costly delays. CBP should continue to increase the number of customs officers hired, ultimately allowing importers and manufacturers efficient access to raw goods and materials.

NACD Supports Preserving the Customs-Trade Partnership Against Terrorism Program

NACD's chemical distribution companies that participate in the Customs-Trade Partnership Against Terrorism Program (CT-PAT) have strongly touted the benefits of being in the program. CT-PAT remains a notable example of a voluntary incentives based government/private partnership that benefits both industry and government instead of burdening industry with prescriptive regulatory schemes. NACD gives our dedicated support for preserving CT-PAT in its current form.

Conclusion

NACD appreciates CBP's efforts to update and revise regulations. We believe the recommendations outlined above would significantly reduce regulatory burden upon businesses.

Thank you for the opportunity to comment on regulatory reform. If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,



Jennifer C. Gibson
Vice President, Regulatory Affairs