

July 30, 2014

FDA Docket Office
Docket No. FDA-2013-N-0013, RIN 0910-AG98
Division of Dockets Management
HFA-305
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

Via Electronic Submission: <http://www.regulations.gov>

**Re: Docket No. FDA-2013-N-0013, RIN 0910-AG98,
Sanitary Transportation of Human and Animal Food**

The National Association of Chemical Distributors (NACD) submits the following comments in response to the notice of proposed rulemaking published in the February 5, 2014 *Federal Register* issue regarding **Docket Number FDA-2013-N-0013, RIN 0910-AG98, Sanitary Transportation of Human and Animal Food**.

About NACD

NACD is an international association of more than 420 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 1,700 facilities, are responsible for more than 150,000 direct and indirect jobs in the United States. NACD members are predominantly small regional businesses, many of which are multi-generational and family-owned. 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 Responsible Distribution®, NACD's third-party verified environmental, health, safety, and security (EHS&S) program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous improvement in every phase of chemical storage, handling, transportation, and disposal operations. NACD members have achieved a strong safety record under Responsible Distribution. Member companies' safety rating is

consistently better than non-member companies in the Chemical & Allied Merchant Wholesale Industry and nearly twice as good as all manufacturing combined.¹

Transportation is an integral part of the chemical distribution business. In 2012, NACD members collectively drove more than 143.2 million miles and safely and securely delivered 1.03 tons of product every second to their customers, who represent virtually every industry sector in the U.S.

Some NACD members utilize their own private fleets, others utilize only third-party carriers or a combination of the two. In each of these situations, the safe and secure transportation of products is a top priority. Code III of NACD's Responsible Distribution program is Carrier Selection and Private Fleet. Under this code, each NACD member must develop and implement its own processes as well as processes for selecting third-party carriers to transport chemicals that include carrier safety and fitness, security, and regulatory compliance, including ongoing performance reviews.

NACD member companies train and certify their personnel for the safe handling, storage, and transportation of chemicals and food grade materials. This practice is listed in Code II, Compliance Review and Training, of Responsible Distribution.

In addition, Code IV consists of procedures for Handling and Storage. NACD members have measures for ensuring containers and transportation equipment are appropriate for the chemical being shipped, comply with regulatory requirements, and are free from leaks and visible defects. Each company has criteria for inspecting, cleaning, returning, re-conditioning, and re-using containers and transportation equipment, and for the proper disposal of cleaning residues. These items apply to packaging, bulk trucks, tank containers, and rail cars.

NACD Comments of Support

NACD commends the FDA for building on current safe food transport practices in the proposed rule on the Sanitary Transportation of Human and Animal Food. NACD members safely store and transport food grade materials in enclosed containers using best practices outlined in the above codes of Responsible Distribution.

NACD supports the FDA's proposal excluding shelf-stable foods from the scope of the proposed rule. Shelf-stable foods, including food ingredients and food additives, fall within the general definition of foods regulated by the FDA. As the proposed rule affirms, shelf-stable food is not potentially adulterated during transportation because the food is not exposed to the environment; therefore, the FDA rightfully designates this category of food exempt from this proposed rule. There are limited routes of contamination for unexposed packaged foods due to

¹ Based on 2012 data reported by 100% of NACD Member Companies, and the most recent data from the U.S. Bureau of Labor Statistics and the U.S. Bureau of Economic Analysis

the protective nature of the food's packaging. Shelf-stable food additives completely enclosed by a container are at minimal risk for contamination during transportation. For these reasons, transportation operations should exclude activities associated with the transportation of shelf-stable food. These exemptions preserve the purpose of the proposed rule to protect the health and safety of humans and animals from risk of food contamination.

To protect public health and safety, requirements for sanitary transportation practices are not necessary for shelf-stable foods. NACD members continue to use best practices concerning cleaning, inspection, maintenance, loading and unloading, and operation of vehicles and transportation equipment to ensure food grade materials are transported under the conditions and controls necessary to prevent contamination and other safety hazards.

Additional Comments

NACD appreciates the opportunity to comment in support of the FDA's proposal to exclude shelf-stable foods from the proposed rule. Should comments in opposition to our position be received, we ask for the opportunity to have further dialogue with the FDA. We look forward to working with the FDA.

Please do not hesitate to contact Jennifer Gibson for further information on NACD's Responsible Distribution program and best practices or clarification on NACD's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer C. Gibson". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer C. Gibson
Vice President, Regulatory Affairs
National Association of Chemical Distributors
1560 Wilson Blvd., Suite 1100
Arlington, VA 22209
(703) 527-6223