

**WRITTEN TESTIMONY OF THE
NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS
ON THE HEARING OF THE
HOUSE SUBCOMMITTEE ON NATIONAL SECURITY,
EMERGING THREATS, AND INTERNATIONAL RELATIONS
TITLED “COMBATING TERRORISM:
CHEMICAL PLANT SECURITY”**

**February 23, 2004
Moon Township, Pennsylvania**

INTRODUCTION

The National Association of Chemical Distributors (NACD) is an international trade association headquartered in Arlington, Virginia. NACD represents 300 chemical distribution companies in the United States and Canada. These companies are believed to represent between 80 and 90% of the chemical distribution facilities in the nation and more than 90% of the industry's gross revenue.

NACD member companies process, formulate, blend, re-package, warehouse, transport, and market chemical products exclusively for an industrial customer base of approximately 750,000. Approximately \$18 billion of U.S. chemical industry sales are through chemical distributors, who are also actively engaged in various phases of import/export trade. Chemical distributors' industrial customers use these materials to produce such everyday items as computers, detergents, cosmetics and toiletries, food flavorings, perfumes, automobile parts, water purifiers, fiberglass, plastics, pharmaceuticals, paints and coatings, and many other products.

To become a member of NACD, chemical distribution companies must take title to product and adhere to management practices related to health, safety, security, and the environment outlined in the Association's industry practice known as the Responsible Distribution ProcessSM (RDP).

Before a company is admitted as a member, it must first be approved by successfully completing an independent, third-party verification of its written policies and procedures under RDP. To ensure continued compliance with RDP, every member must undergo an on-site verification by an independent third-party verifier once every three years. This mandatory practice has been in place since 1998 and members are currently undergoing their second on-site verification which will be completed at the end of 2005. NACD's Responsible Distribution ProcessSM is the most comprehensive and rigorous industry practice of any in the chemical industry primarily because of its requirement for independent third-party verification.

Although chemical distribution is a sector of the chemical industry, distribution facilities differ in numerous ways from chemical manufacturing facilities. One notable example is the release of toxic emissions from everyday operations. According to data compiled each year by the Environmental Protection Agency (EPA), chemical distribution is a minor source of environmental releases. Of all industrial sectors required to submit annual toxic release reports, including the chemical industry, chemical distribution is by far the lowest emitter of toxic emissions. The average yearly release per distribution facility is just over 3,000

pounds over a 12-month period. While the possibility of chemical releases exists at chemical distribution facilities, it is minimized because of several factors, not the least of which is adherence to the industry's environmental, health, safety, and security practice—Responsible Distribution ProcessSM—among NACD members.

Chemical distribution is also a safe industry in which to work. Industry data show that chemical distribution is a safe industry in terms of employee injuries and fatalities at NACD member companies as well as in transportation-related incidents. For example, last year among 18,150 workers employed by NACD member companies, there were 619 OSHA-reportable employee injuries that occurred within distribution facilities, down by 137 injuries the year before, and one fatality. Among transportation-related incidents, there were 28 injuries among member companies and two fatalities.

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My name is Jennifer Gibson and I am the Vice President of Government and Public Affairs of the National Association of Chemical Distributors (NACD). I am pleased to have the opportunity to appear before you today to address the state of security within the chemical distribution industry.

Security Has Always Been and Continues to Be a Focus

Before I address the three specific questions the subcommittee has posed to participants in today's hearing, let me begin by stating that security has always been a focus at chemical distribution facilities. Any facility that handles hazardous materials understands that their products have the potential to impact its employees, the local community, and the environment. Most chemical facilities are regulated by multiple federal, state, and local agencies, some of which have required security and risk management provisions for years. Mishandling our products means loss of revenue in an industry in which margins are very low and where the competition is very high.

Additionally, prior to September 11, 2001, NACD members adhered to policies and procedures outlined by the Association's Responsible Distribution ProcessSM (RDP), an industry practice that has been in place since 1991. Compliance with RDP is a condition of membership in NACD. These requirements have called for security and risk management considerations within and outside the distribution facility for the past thirteen years. However, our member companies go beyond simply adhering to a code of management practice. They are also required to complete two stages of independent, third-party verification of these policies and procedures, including an on-site third-party verification once every three years. Since 1998 when NACD began requiring on-site third-party audits, twenty companies have been found to be out of compliance with RDP and have subsequently been terminated from membership. Therefore, security is not a new issue for chemical distributors. It is a consideration that is a part of the industry every day.

NACD, as the leading association of chemical distributors, was the first chemical industry association to adopt new additional industry practices that address security following 9/11. In April 2002, NACD added security requirements to RDP within key distribution operations, specifically handling and storage of chemical products at facilities, carrier selection for distributing chemical products, and customer

qualification for chemical products of concern to various federal agencies. NACD's existing on-site, third-party verification requirement is currently being conducted to verify implementation of these new requirements at distribution sites. To date, 55 facilities have been verified with an additional 70 on schedule through 2004 and the remaining 175 to be verified before December 31, 2005.

On-site, third-party verifications at distribution companies with multiple facilities are randomly-selected from among the company's locations. The purpose of the random selection is primarily to assure that the company has successfully implemented RDP policies and procedures at all sites, not just company headquarters, which were verified in the first three-year cycle, 1999-2002.

If a company is found to be out of compliance by the verifier, the company has a maximum of twelve months to demonstrate it has rectified the findings of non-compliance through a second, full verification at the facility. If in the second verification the company fails again, it is terminated from membership. In some cases, a company can fail and be terminated from membership on the first verification if non-compliance of RDP requirements is systemic throughout the facility.

GAO's Report, *Homeland Security: Voluntary Initiatives Under Way at Chemical Facilities, but the Extent of Security Preparedness is Unknown, Did Not Cite Chemical Distribution as a Security Vulnerability.*

The General Accounting Office intentionally excluded chemical distribution from among the sectors of the chemical industry where additional security measures must be focused. To paraphrase a conversation we had with GAO's Peg Reese, who was a contact for the report, the GAO was aware of chemical distribution as a sector of the chemical industry, but, through its conversations with EPA and others, it concluded that distribution facilities are not high-risk facilities. Nevertheless, under RDP, NACD members continuously consider ways to enhance security.

NACD is working closely with FBI, DHS, other association partners through intelligence sharing and constant collaboration.

NACD is now and has been since September 2001 actively engaged with senior officials within the Federal Bureau of Investigation (FBI) and the Department of Homeland Security (DHS) regarding chemical distribution security. NACD and its members have met with FBI and DHS officials on numerous occasions over the past two years. We remain engaged and stand willing to support reasonable federal actions that achieve further security of distribution facilities.

I would now like to address the specific questions posed by the Subcommittee.

1. Generally speaking, we regard the current federal programs addressing security at chemical facilities as a good start. Specifically, NACD supports federal legislation that would mandate vulnerability assessments for chemical facilities and recognize the management practices already in place that provide for enhanced security of chemical manufacturing and distribution. However, we would like to see DHS develop a vulnerability assessment model for chemical distribution facilities as it did for the chemical manufacturing sector. While not specifically facility-related, the following statements address an integral part of the safe and secure storage and distribution of chemicals. We applaud programs underway to further close potential loopholes in the ability of commercial HazMat transport drivers who have committed felonies in the past to occupy truck driver positions at chemical distribution facilities unbeknownst to their employers. The plan to fingerprint all CDL holders with HazMat endorsements starting on April 1 is another positive step. We would strongly encourage the Subcommittee however, to encourage TSA and DHS to utilize the successful program of advance planning, preparation and implementation of fingerprinting used for all airport and aviation personnel occupying those facilities. That operation worked smoothly, efficiently and without complaints that these personnel were being unduly charged. The hazardous materials truck driver population is more than double the size of the aviation personnel that required fingerprinting. We again strongly encourage this Subcommittee to insist that Congress and the Executive Branch consult with the American Association of Airport Executives that designed, implemented and operated the aviation fingerprinting clearinghouse, to ensure that there will be no interruptions to the interstate transportation of chemicals because of the inability to process hazardous materials driver fingerprints. Fingerprinting of these drivers, originally scheduled to begin on November 1, 2003, is now scheduled to begin on April 1, 2004.
2. In the Event of a Catastrophic Event at a Chemical Distribution Facility, Federal Agencies Should Work Collaboratively with First Responders, Industry, and Incident Response Agencies. It is important that federal agencies work side-by-side with as many stakeholders as necessary to respond to any catastrophic event should it occur. Existing emergency response networks that are well-established and widely used by industry, namely CHEMTREC, play a vital role in crisis and incident management.
3. The only shortcoming we perceive in the area of federal support of local and state emergency response activities is a lack of regular communication and,

therefore, the ever-present possibility of uncoordinated activity. The federal government should take a leadership position in directing more formalized and regular communication among federally supported local and state emergency response personnel as well as individuals with similar responsibilities at chemical facilities. We greatly applaud the government's development of the Information Sharing and Analysis Center (ISAC) that includes the chemical sector as one of several with which it collaborates and shares information on related security issues.

Thank you for the opportunity to address the Subcommittee today. I would be happy to address any questions you have.