

April 14, 2016

The Honorable Steve Chabot  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
2361 Rayburn House Office Building  
Washington, DC 20515

The Honorable Nydia Velazquez  
Ranking Member  
Committee on Small Business  
U.S. House of Representatives  
2361 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Chabot and Ranking Member Velazquez:

I am writing today in support of your effort underlying the hearing titled “Regulation: The Hidden Small Business Tax.” The regulatory burden on small businesses in the United States is astounding. Small companies are spending too much time trying to comply with complex rules rather than focusing on how to grow their businesses. Accordingly, we applaud your effort to learn more about this issue and help chart a path forward to reduce this burden on small businesses.

National Association of Chemical Distributors (NACD) and its nearly 440 member companies are vital to the chemical supply chain providing products to over 750,000 diverse companies such as aerospace, agriculture, cosmetics, detergents, electronics, automotive, plastics, paints and coatings, pharmaceuticals, food ingredients, water treatment, and more. These member companies make a delivery every six seconds while maintaining a safety record that is more than twice as good as all manufacturing combined. 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. The typical chemical distributor has 26 employees and operates under an extremely low margin.

In over 43 years of service to its members, NACD has placed its highest priority on the health, safety, and security of employees, communities, and the environment. In December 1991, the member companies of NACD undertook the association’s most important mission ever – the inception of Responsible Distribution, developed by NACD members for NACD members. Responsible Distribution is a mandatory third-party-verified environmental, health, safety and security program that lets members demonstrate their commitment to continuous performance improvement in every phase of chemical storage, handling, transportation, and disposal. Responsible Distribution also serves to demonstrate NACD members’ sensitivity and responsiveness to public concerns and helps them be leaders in their communities, eager to work with local, state, and federal legislators.

Chemical distributors play a unique and integral role in the supply chain. Bulk quantity chemical manufacturers increasingly rely on chemical distributors to market and sell their products in a variety of packaging sizes (smaller quantities) to an incredibly varied customer base.

Because of this broad reach, the chemical distribution industry is highly regulated. A chemical distributor with 10-20 employees in many instances has to comply with hundreds of rules

enforced by dozens of agencies and sub-agencies. Oftentimes, the person charged with the daunting task of ensuring compliance with all of these regulations has other operational or administrative roles within the company. Accordingly, it is essential for agencies to appreciate the structure of a small business when promulgating costly regulations.

One way for agencies such as the Occupational Health and Safety Administration (OSHA) and the Environmental Protection Agency (EPA) to appreciate the impact of regulations on small businesses is through input from Small Business Advocacy Review (SBAR) panels. SBAR panels were created under the Small Business Regulatory Enforcement Fairness Act of 1996 and are designed to collect input on the impact of proposed rules on small businesses and recommend regulatory alternatives to accommodate small businesses. EPA and OSHA are required to review these recommendations and make appropriate revisions to the rule.

Unfortunately, this process has broken down in recent years. Agencies like EPA and OSHA set their sights on regulation and are intent on moving forward without properly considering the impact on small businesses. For example, EPA recently proposed a rule on the Risk Management Program (RMP). While EPA did convene an SBAR panel to review the RMP proposal before it was officially released, EPA sent the Proposed Rule to the Office of Management and Budget *less than two weeks after the deadline for the SBAR Small Entity Representatives to submit comments to the SBAR Panel and two months before the SBAR Panel submitted its recommendations to EPA*. The regulated community now has until May 13, 2016, to submit comments on RMP because EPA has refused to grant an extension to the deadline. This demonstrates EPA's mission to finalize a rule this year rather than to consider carefully the views and concerns of impacted small businesses.

Additionally, OSHA is currently convening an SBAR Panel to review comments on an extensive Process Safety Management proposal at the same time the regulated community has to provide comments to EPA for the proposed rule on RMP. So, not only are actual regulations an encumbrance on small businesses, but the process through which small businesses have a voice is becoming a burden as well. A small company does not have time to review hundreds of pages of proposed regulations from two separate agencies, provide comments on said regulations, and run its day-to-day operations at the same time.

This sort of reckless disregard for small businesses within the regulated community is dangerous. Agencies must not rush through the rulemaking process to meet an arbitrary or political deadline at the expense of America's small businesses. I encourage you to look closely and consider effective solutions to this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric R. Byer". The signature is fluid and cursive, with a large initial "E" and "B".

Eric R. Byer  
President

cc: U. S. House of Representatives Committee on Small Business Members