Good afternoon. I am Elvin Montero, director with the Chemistry Council of New Jersey. I am here today representing 75 chemistry manufactures in the state of New Jersey that employ more than 50,000 people, and are a part of the state’s $25.3 Billion industry, committed to a better quality of life through science.

I want to thank the members of the National Working Group for this opportunity to share the Chemistry Council of New Jersey’s viewpoints on this important issue of improving the safety and security at our chemical facilities, something that the members I represent take very seriously. And thank you for coming to New Jersey, a state that has worked closely with industry, security professionals, safety experts and industry executives.

The industry’s commitment to ongoing safety training and awareness has resulted in lower recordable occupational injury and illness incidence rates. In New Jersey, that rate is 2.3 for the entire chemistry industry – 36% less than all of manufacturing in the state. And when we look at Responsible Care® companies, the incidence rates drops to 0.85, averaging less than one OSHA recordable injury or illness per 100 employees. This record-low total recordable injury rate is lower than the retail, agriculture, food store, and general merchandising business sectors.

In addition to occupational and workplace safety, we remain vigilant about our industry’s impact on the environment. Earlier this month, EPA released its new Toxic Release Inventory data demonstrating that New Jersey’s more than 122 chemical sector facilities reduced its emissions by 36% compared to the year prior. In New Jersey, the chemistry industry is known for its ability to partner and collaborate with various stakeholders to improve safety and security at our sites. In fact, we have partnered with government agencies and labor organizations, to design and implement ongoing safety and security training to workers at chemical facilities.

Our members also engage their local communities to earn and sustain their trust. For example, Community Advisory Panels which number about 10 throughout the state are made up of local community leaders, elected officials, emergency responders and citizens. Meetings are held regularly and they receive firsthand information and updates about the local facility. Community Advisory Panels are essential to disseminating accurate information and dispelling rumors and misconceptions.

As an industry, both here in New Jersey and nationally, we are committed to working with you and your staff to share information and insight to help you carry out the directives of Presidential Executive Order 13650.

Both the CCNJ and the American Chemistry Council have offered various recommendations to the Working Group to utilize existing regulatory authority to further improve chemical facility safety and security in coordination with owners and operators. However, recent attention to adopting a federal approach to the New Jersey’s Toxic Catastrophe Prevention Act program (or the TCPA program), in particular the Inherently Safer Technology Assessment requirement, is raising concern among the industry both here in New Jersey and nationally.
Under Executive Order 13650, the EPA is considering nationalizing the NJ IST program through its authority under section 112 (r) of the Clean Air Act, Risk Management Program (RMP) Rule. Currently the RMP regulated community includes more than 12,000 businesses, both large and small; including family owned and operated establishments such as bakeries, food storage and processing facilities, distribution warehouses, dry cleaners and hair stylists. Nationalizing the New Jersey IST program would provide very little practicable benefit for reducing risk beyond what is already required through existing regulations and could be potentially detrimental.

The increased attention to proposals related to “safer alternatives” will ultimately distract from work on many other pieces of the Executive Order, and lead to unnecessary and duplicative regulatory obligations that do not enhance safety or security.

As you know, there are numerous existing regulatory programs that focus the attention of owners and operators to operate a safe and secure facility, such as OSHA’s PSM standard, EPA’s RMP Rule and DOT’s Hazmat regulations and DHS’s CFATS program. All of these programs, as they exist today, require operators to meet safety standards set by regulators by taking a hard look at the operations and to do what it takes to make them safe and secure. Explicit “safer alternatives” mandates are not needed.

IST is a complex concept. As described in the Center for Chemical Process Safety and the American Institute of Chemical Engineers final report regarding the definition of (IST), “safer” only has utility when placed in proper context. Various factors such as risk shifting, unintended consequences, feasibility, and economic impact must also be a part of a holistic risk assessment approach. No one regulatory program or government agency can adequately address the broad range of factors that must be considered when choosing an effective risk management strategy. Especially when you consider all of the various site-specific scenarios for the approximately 12,000 facilities that could be impacted by an IST requirement under the RMP rule.

While the close to 100 covered facilities in New Jersey have complied with the IST assessment requirement, CCNJ agrees with the American Chemistry Council that it should not be nationalized.


The NJDEP’s review of the IST Assessments completed by chemical facilities confirmed what industry has been saying all along: inherently safer approaches to chemical manufacturing processes have been and will continue to be considered by businesses as a matter of course. It is our understanding after conducting the review that the state came to fully appreciate that indeed IST is an ongoing practice of the industry and to further mandate implementation would be counterproductive. Each business organization, and each facility, needs to determine – working with its local communities and other stakeholders – which steps will most effectively and efficiently reduce its vulnerability and fully meet its regulatory obligations.
Piling on additional regulations that focus on IST is not only unwarranted but potentially harmful by overemphasizing one specific safety measure over other, more potentially appropriate safety techniques.

The chemical industry encourages you to not only review this small part of New Jersey’s TCPA program, but to learn from how industry has partnered with government and non-governmental agencies to improve communication, coordination and training among all regulators and first responders at all levels of government. We encourage the Working Group to look at New Jersey’s program holistically so that you may focus on facilities that may have previously been “off the radar” that truly need help with security and safety measures.

Thank you for this opportunity to share our thoughts about New Jersey’s programs and we look forward to working with you to tackle the issue that the Executive Order was intended to address.