

CHEMICAL SECTOR COORDINATING COUNCIL

COMMENTS ON APPENDIX A
DHS-2006-0073
MAY 9, 2007

May 9, 2007

IP/CSCD

Mr. Dennis Deziel
Mail Stop 8100
Department of Homeland Security
Washington, D.C. 20528-8100

Re: *Comments on Department of Homeland Security's Chemical Facility Anti-Terrorism Standards; DHS-2006-0073, Appendix A*

Dear Mr. Deziel,

The Chemical Sector Coordinating Council (CSCC) is pleased to provide the following comments regarding Appendix A of the U.S. Department of Homeland Security's (DHS) interim final rule on Chemical Facility Anti-Terrorism Standards.

The CSCC is a coordinating body comprising eighteen trade associations that represent chemical sector businesses engaged in the production of chemicals, as well as those engaged in the storage, transportation, delivery and use of chemicals. The CSCC is recognized by DHS and other federal agencies as the initial point of contact with the chemical sector for security purposes.

The following comments represent CSCC consensus on those issues discussed in this document, though individual associations represented by the CSCC are free to individually comment on those issues of particular interest to the individual association.

Moreover, these comments are provided with the understanding that the chemical listings in Appendix A generally apply to the pure chemical compound, rather than to the chemical compound when contained in a mixture. The CSCC understands that this is DHS' intent, and the remainder of these comments is written based on that understanding.

The CSCC appreciates the opportunity to provide comment on Appendix A and commends DHS on its efforts to this end.

Sincerely,

American Chemistry Council
America Forest & Paper Association
American Petroleum Institute
Agricultural Retailers Association
Chemical Producers & Distributors Association
Compressed Gas Association
CropLife America
Independent Liquid Terminals Association
Institute of Makers of Explosives

International Institute of Ammonia Refrigeration
National Association of Chemical Distributors
National Paint & Coatings Association
National Petrochemical and Refiners Association
Synthetic Organic Chemical Manufacturers Association
The Adhesive and Sealant Council
The Chlorine Institute, Inc.
The Fertilizer Institute
The Society of Plastics Industry, Inc.

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6 CFR PART 27 DHS-2006-0073

❖ *Neat Substances*

The CSCC supports DHS' inclusion of neat or pure substances on the list of chemicals of interest.

❖ *Use of phrase "any amount"*

The use of the phrase "any amount" to define screening threshold quantities for certain chemicals leaves too much room for confusion and misinterpretation for most, if not all, of the stated chemicals for which this quantity definition is used.

The SCC encourages DHS to use a quantity approach such as is determined in Schedules 1-3 of the Chemical Weapons Convention (CWC), which classifies chemicals based on the quantities of the substance produced, processed, consumed, exported or imported commercially for legitimate purposes vs. its use as a weapon itself or use in the manufacture of weapons. Using this classification system, DHS could replace "any amount" with the corresponding CWC chemical thresholds with the understanding that, unlike CWC thresholds, DHS will apply these screening threshold quantities on a "possess at any one time" basis.

❖ *Threshold quantity*

The CSCC understands that the interpretation of the term "threshold quantity" is meant to state that the quantity of a given chemical present at any one time cannot exceed the threshold quantity, *not* that the cumulative amount received or produced over some period of time cannot exceed this amount.

❖ *Non-isolated, Transient Intermediate Chemicals*

The CSCC requests that DHS declare that the regulation will not apply to chemicals in a closed-loop production process. These chemicals are created and used in a process without ever being stored in isolation. Thus, they do not present an attractive target to terrorists.

Examples of these types of intermediate chemicals in closed loop systems include NO in nitric acid plants, SO₂ and SO₃ in sulfuric acid plants and hydrogen, methane, and ethane in the synthesis gas loop of ammonia plants.

❖ *Individual Chemicals*

The CSCC encourages DHS to re-visit the placement of certain individual chemicals listed in Appendix A, as the application of some of these chemicals for legitimate commercial use can far exceed the threshold quantity listed. The amount of propane, for example, to heat a facility and run equipment will exceed the stated threshold quantity of 7500lbs.