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DHS Releases Security Regulations for High Risk Chemical Facilities

The Department of Homeland Security (DHS) released an interim final rule on April 2nd that imposes the first comprehensive federal security regulations for high risk chemical facilities. DHS developed the regulations using a risk-based approach and estimates there could be as many as 7,000 facilities that will fall in the high-risk category in one of the four tiers. DHS expects there will probably be about 300 to 400 that will fall in the top two tiers.

First, DHS must determine which facilities are "high risk." DHS will require facilities with certain quantities of specified chemicals, such as ammonium nitrate, urea and anhydrous ammonia, to complete a preliminary assessment using the Chemical Security Assessment Tool (CSAT) which determines the level of risk associated with the facility. There are four tiers of risk, with Tier 1 being the highest and Tier 4 the lowest. If a chemical facility preliminarily qualifies as high risk, its owners will be required to prepare and submit a security vulnerability assessment and site security plan. For the highest tiers, security standards will be required to achieve certain levels of performance, such as securing the perimeter and critical targets, controlling access, deterring theft of potentially dangerous chemicals, and preventing internal sabotage. **Second**, DHS will categorize your facility and notify you of the requirements. We anticipate the typical retailer will not be placed in Tiers 1, 2 or 3 unless they have an unusual amount of a regulated chemical, are located in a densely populated area, or a combination of both. **Third**, once you are notified by DHS of any additional requirements, be prepared to complete them quickly and completely.

Note: Expect more information to become available as the following key dates pass. The final list of chemicals is expected to be published shortly after the comment period ends on May 9th. CSAT registrations can be done at any time, however, the program will not be ready to receive data till June 8th.

For more information, click here for the [final rule](#), the [proposed list of chemicals](#), the [preliminary screening assessment \(CSAT\)](#) and [CSAT registration](#).

DHS Proposed List of Chemicals Analyzed

Amber has compared the list of chemicals proposed by DHS to our ProFiles database of over 4,000 products typically used, sold or otherwise expected to be found at a typical retail farm center. The comparison reduced the list to 30 (from about 350) chemicals. We believe this number can be further reduced because several of the products appear to be old, obsolete or discontinued, and there may be several additional chemicals on the list that would not be an issue if DHS follows through with their stated intention to exclude any mixtures. DHS is accepting comments on the list until May 9, 2007. For informational purposes only, the final result of our comparison is included below.

Agribusiness Customers Benefit from EPA Pesticide Fees Regulations; Legislation Up for Reauthorization ... Manufacturers, formulators and distributors of all types of pesticides, along with environmental and public interest groups, have developed proposed legislation for reauthorizing the Pesticide

Registration Improvement Act (PRIA), which is set to expire in 2008. PRIA established specific decision times for pesticide registration actions and set fees to be paid by applicants to support work by the Environmental Protection Agency (EPA). In the last 3 years, PRIA has led to significant improvements in EPA's efficiency and more timely completion of registration applications. "PRIA has provided retailers with a broader selection of products for their customers as a result of more timely registrations," said Jay Vroom, President and CEO of CropLife America. "Product innovation and competition has increased; products reach the market quicker; and products are potentially safer and more effective for farmers." PRIA is considered a key public policy instrument to maintain and improve crop protection and provide safe, affordable and abundant food to Americans.

Secure Handling of Ammonium Nitrate Act of 2007 Advances

The Fertilizer Institute (TFI) praised **Rep. Bennie Thompson**, chairman of the House Homeland Security Committee, for his success in securing unanimous committee approval of the "Secure Handling of Ammonium Nitrate Act of 2007" (H.R. 1680). Rep. Thompson has indicated he will now seek approval by the House. "Through its creation of a uniform, national system for tracking ammonium nitrate sales, the committee is helping ensure that this valuable fertilizer remains available for its intended purpose," said **Ford West**, President of TFI. Specifically, the bill would require all producers, sellers and purchasers who take custody, to register with DHS. All registrations are to be checked against terrorist watch lists, and in this regard, the bill also includes provisions for expedited reviews of registration applications, notification of application status and appeals process. In addition, the bill would require producers and sellers to maintain records of all sales for two years, including the producer's name, address, phone number and registration number, and the date and quantity of ammonium nitrate sold. The bill, which does not preempt state law, requires all thefts or unexplained losses be reported to federal law enforcement within 24 hours.

Security-Sensitive Information Requirement.....Not Widely Recognized

The Department of Transportation's rules require that security-sensitive information be identified and marked with certain wording. The requirements of 49 CFR Parts 15 & 1520 are little-known requirements that were overlooked by most of industry. It requires that any security sensitive document must carry specific wording on the top and bottom of each page. Also, if filed in a three-ring binder, the cover must contain the specific wording "*Sensitive Security Information*" at the top. The bottom of each page must contain the following paragraph:

"WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520."

The Asmark Institute Security Vulnerability Assessment (SVA), Security Plan and Compliance Manual, carry this wording and have been in compliance with this requirement since it was finalized. The rule wasn't originally intended for industry, but rather representatives of government agencies who, in the course of performing their job, handled security-sensitive information. It became applicable to industry based on comments.

Work Progresses on SPCC Tool

The draft SPCC plan prepared by **Dustin Warder** has undergone an extensive review by a broad range of industry representatives. Comments are currently being reviewed and will be used to finalize the draft. Upon receiving approval on the final draft plan, our efforts will turn to developing the web-based module to retrieve the location's information and produce a SPCC plan personalized to the facility. SPCC stands for Spill Prevention, Control and Countermeasure plan and applies to facilities that store 1,320 gallons or more of petroleum products. The new web-based tool will be designed for facilities that have less than 10,000 gallons of petroleum products and who are eligible to self-certify. The Fertilizer Institute has asked us to partner with them on this project. The tool is expected to be launched by July 1, 2007.

FMCSA Issues Safety Information for Rail Crossings

We have learned of two fatalities recently due to applicators pulling into the path of an oncoming train. The Federal Motor Carrier Safety Administration (FMCSA) has issued a limited number of laminated pocket cards with hopes of reducing the more than 700 rail crossing deaths that occur each year. The colorful two-sided card contains safety procedures and emergency contact numbers for the major railroads. For more information or to view or download a copy of the card, please [click here](#).

"REAL ID"DHS Proposes Enhanced Driver Licenses

DHS has proposed to establish minimum standards for state-issued driver licenses and identification cards in compliance with the "REAL ID Act of 2005." The proposed regulations establish standards for states to meet the requirements of the REAL ID Act by incorporating additional security features into cards, verification of driver's information to establish their identity and lawful status in the United States, and require minimum physical security standards for the locations/offices where cards are issued. As proposed, a "REAL ID" driver's license will be required in order to access a federal facility, board federally-regulated commercial aircraft, and enter nuclear power plants. Because states may have difficulty complying by the proposed May 11, 2008 deadline, DHS has indicated plans to grant an extension of the compliance deadline until December 31, 2009.

Facial Recognition Required at Oregon DMV

Oregon's Driver and Motor Vehicle Services (DMV) has been mandated by July 2008 to use facial recognition software when issuing driver licenses and identification cards. The state law was designed to prevent the use of false names when obtaining a driver's license or state identification. Oregon's DMV will change from the over-the-counter issuance of cards to a centralized issuance. Individuals who qualify for a license or ID will be issued an interim license at the DMV. The state will run a facial recognition check on the resident prior to issuing a final card in the mail within 5 to 10 business days. The centralized issuance of cards will take effect in May and June of 2007, in order to fully implement the facial recognition program by the 2008 deadline.

"Kinder & Gentler" Forms Released

Over the past 18 years, we have developed driver qualification file forms that are geared specifically to the needs of the agricultural industry. While the forms generally meet with the normal level of acceptance of any government-mandated paperwork requirement, we find the fax communications, used to follow-up on incomplete, missing or expired forms, have increasingly been "enhanced" over the years. As the level of frustration in obtaining complete driver file forms increased, so did the wording on the follow-up communications, with some becoming quite "spirited" over the years. **Donna** and **Betty**, the ladies responsible for the driver qualification files, have completed their review of the fax communications and are pleased to announce the use of new "kinder & gentler" forms. The critical review of the sheer number and timing of fax forms used for follow-up, the content and clarity of the instructions, resulted in more user-friendly communications. Their efforts paid off with improvements being made to the DQF Database and some added automation. Thanks Betty and Donna!

Size and Weight Enforcement and Regulations

The Federal Highway Administration has issued a final rule that amends the regulations governing the enforcement of commercial vehicle size and weight. This final rule adds various definitions; corrects obsolete references, definitions, and footnotes; eliminates redundant provisions; amends numerical route changes to the National Highway designations; and incorporates statutorily mandated weight and length limit provisions. The final rule became effective March 22, 2007. [Click here](#) for more information.

Worth Repeating....

For future use with our new "auto attendant" system, Extensions are: **Allen** 201, **Amber** 213, **Betty** 207, **Carol** 214, **Cassie** 212, **Danielle** 215, **Dena** 218, **Donna** 208, **Dustin** 203, **Emmy** 204, **Kim** 205, **Michelle** 211, **Randy** 202, **Sherri** 206 and **Susan** 226. Callers have three ways to reach our staff members: Direct extension, by topic or by staff directory. If the person you are calling is away from their desk or on the phone, **a live person** should always answer during normal business hours. After hours, calls will be answered and directed to voicemail.

Chemical Facility Proposed Appendix A: DHS Chemicals of Interest

The following chemicals have been matched to one or more products used, sold or otherwise expected to be found present at a typical retail farm center. This list is not all-inclusive nor meant for any other reason than as information. Notes are provided for comparison purposes.

Chemical of Interest	Chemical Abstract Service (CAS) Number	Screening Threshold Quantity (STQ) (lbs)
Acetaldehyde (Ingredient in Deadline Bullets) Bait	75-07-0	7,500
Acetone (<1% ingredient in Acetylene gas)	67-64-1	2,000
Acetylene (Gas for shop)	74-86-2	7,500
Acrolein (Aqualin, Magnacide) Aquatic Product	107-02-8	3,750
Aluminum phosphide (Phostoxin, Weevil-Cide) Grain fumigant	20859-73-8	2,000
Ammonia (anhydrous) Fertilizer, Disinfectant	7664-41-7	7,500
Ammonia (conc. 20% or greater) Fertilizer	7664-41-7	15,000
Ammonium nitrate (nitrogen concentration of 28%34%) Fertilizer	6484-52-2	2,000
Chloropicrin (Telone, Chlor-O-Pic) Soil Fumigant	76-06-2	Any Amount
Dimethylamine (Banvel, Savage, 2,4-DB 200) Herbicide	124-40-3	7,500
Ethane (Color Ripe) Obsolete	74-84-0	7,500
Ethylene (Color Ripe) Obsolete	74-85-1	7,500
Ethylene oxide (Sterilant)	75-21-8	Any Amount
Formaldehyde (solution) (Pyramin FL, Termin 8)	50-00-0	11,250
Hydrochloric acid (conc. 37% or greater) (Muriatic Acid is 31%)	7647-01-0	11,250
Isopropylamine (Stalker, Chopper, Hasten) Herbicide	75-31-0	7,500
Magnesium phosphide (MagnaTox, Fumi-Cell) Fumigant	12057-74-8	2,000
Methane (Color Ripe) Obsolete	74-82-8	7,500
Methyl bromide (Brom-O-Gas) Soil Fumigant	74-83-9	Any Amount
Methyl chloride (0.2% ingredient in Methyl Bromide)	74-87-3	7,500
Methyl ether (0.2% ingredient in Methyl Bromide)	115-10-6	7,500
Methyl isocyanate (Vorlex) Soil Fumigant - Obsolete	624-83-9	11,250
Nitric acid (Fertilizer related)	7697-37-2	2,000
Phosgene (Pro-Gibb, Promalin) Plant Growth Regulator	75-44-5	Any Amount
Potassium nitrate (Fertilizer)	7757-79-1	2,000
Propane (Fuel)	74-98-6	7,500
Sodium chlorate (Dessicant, Herbicide)	7775-09-9	2,000
Sodium nitrate (Fertilizer)	7631-99-4	2,000
Triethanolamine (Cutrine Plus) Aquatic Use	102-71-6	Any Amount
Urea (Fertilizer)	57-13-6	2,000

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