

Fact Sheet: Chemical Facility Anti-Terrorism Standards: Appendix A

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General

- In 2005 and 2006, the Secretary of Homeland Security identified the need for legislation authorizing DHS to develop and implement a framework to regulate the security of high-risk chemical facilities in the United States. In October 2006, Congress passed and the President signed the Department of Homeland Security Appropriations Act of 2007, which in Section 550 authorizes DHS to require high-risk chemical facilities to complete security vulnerability assessments, develop site security plans, and implement risk-based measures designed to satisfy DHS-defined risk-based performance standards. The Act also authorized DHS to enforce compliance with the security regulations, including conducting audits and inspections of high-risk facilities, imposing civil penalties of up to \$25,000 per day, and shutting down facilities that fail to comply with the regulations.
- The Act gave DHS six months from the date the President signed the bill (i.e., until April 2007) to promulgate interim final regulations implementing this authority. DHS published an Advance Notice of Rulemaking (Advance Notice) on December 28, 2006, which invited public comments on DHS's proposed structure. After considering those comments, DHS published an Interim Final Rule (IFR), the Chemical Facility Anti-Terrorism Standards (CFATS), on April 9, 2007.
- Stakeholder input, both public and private, was critical to DHS's success in developing this new regulatory framework. In response to the Advance Notice, DHS received a total of 106 public comments totaling more than 1,300 pages. DHS extensively reviewed these comments and considered them before finalizing the regulation.
- Within the April 2007 IFR, DHS included a public comment period specific to "Appendix A," a proposed list containing the DHS chemicals of interest and their corresponding screening threshold quantities (STQ).
- The public comment period for Appendix A closed on May 9, 2007. DHS received approximately 4,300 comments, and almost 4,000 of those comments were related to issues surrounding propane. DHS closely and carefully considered those comments as it finalized Appendix A. Additionally, the department has conducted extensive outreach with many of those who made comments in order to better understand their specific concerns and issues.
- Under the rule, if a facility possesses a chemical of interest at or above the screening threshold quantity, the facility must complete and submit a consequence assessment known as a Top-Screen. A facility must do so within 60 calendar days of the publication of a final Appendix A or within 60 calendar days of coming into possession of the listed chemicals at or above the listed STQs.
- It is important to note that many facilities that will fill out the Top-Screen may not be subject to further regulation under CFATS by DHS. Appendix A and the Top-Screen will allow DHS to make preliminary determinations about whether facilities present a high level of security risk.
- The Top-Screen is an easy-to-use online tool, through which a facility, by answering a series of simple questions, will allow DHS to preliminarily determine if the facility presents a high level of security risk. The Top-Screen is part of the Chemical Security Assessment Tool (CSAT) process. To register to use the CSAT Top-Screen, facilities should visit www.dhs.gov/chemicalsecurity.
- CFATS will reach facilities not traditionally considered part of the chemical sector. It is important to note that each facility that is required to complete the Top-Screen possesses a potentially dangerous chemical in a quantity that suggests DHS should further inquire as to whether the facility presents a high level of security risk. Whether a facility produces a chemical that can be used in a terrorist attack, or uses it in its manufacturing process, or stores it, is of no consequence to the terrorist who might seek to employ that chemical to harm others.

Explosives and Flammables (Propane)

- Based on the input received during the comment period and direct outreach to the agricultural industry, DHS

modified Appendix A in a way that balances industry concerns with DHS' risk reduction mission.

- In finalizing the Appendix, DHS took into consideration the widespread agricultural use of propane, the safety rules the industry currently follows, the typical size of agricultural and poultry industry storage tanks, and their proximity to populated areas and potential consequences if used for acts of terror.
- Given these factors, DHS believes the STQ and calculation provisions for propane published in Appendix A reflect an appropriate balance.
- Most agricultural users of propane – with perhaps the exception of very large industrial-type agricultural concerns – will not likely be required to complete and submit a Top-Screen.
- With respect to propane and other explosive and flammable chemicals, the ultimate goal of the CFATS is to prevent a situation in which a terrorist would have access to enough of the chemical to pose a threat to the surrounding community or any nearby public gathering places (schools, shopping, malls, etc.) if it were ignited or detonated. Another possible scenario is the theft or diversion of these types of chemicals for use in improvised explosive devices (IEDS).

College and University Laboratories

- All facilities that possess chemicals listed in Appendix A in quantities at or above the STQs will have to complete and submit a Top-Screen. The Appendix A requirements for Top-Screen may require colleges and universities to comply. In addition, as with others facilities subject to this rule, it is possible that some colleges and universities will be required to take additional steps in the CSAT process, and will be contacted by DHS with instructions on how to proceed.