

New anti-terrorism standard requires action

By: MYRON CASADA And TOM MCCOIG
 Director, Risk Services Senior Security Consultant
 ABS Consulting ABS Consulting

On April 9, the U.S. Department of Homeland Security (DHS) issued the Chemical Facility Anti-Terrorism Standard (CFATS). Congress authorized this interim final rule (IFR) under Section 550 of the Department of Homeland Security Appropriations Act of 2007, directing the DHS to identify, assess and ensure effective security at high-risk chemical facilities.

The CFATS regulation (6 CFR part 27) requires any facilities handling quantities of specific chemicals over a threshold amount defined for each chemical to:

- > Register with DHS as a CFATS-covered facility.
- > Submit information via a Web-based process called Top-Screen to allow DHS to perform a preliminary risk ranking of the facility.
- > Conduct and submit a security vulnerability assessment (SVA) for DHS review and approval.
- > Develop and implement a site security plan (SSP) for DHS review and approval. The security measures in the plan

must address DHS-specified risk-based performance standards, which vary based on risk tier.

These steps (i.e., registration, Top-Screen, SVA and SSP) can be completed (or at least submitted) using a Web-based tool developed by DHS called the chemical security assessment tool (CSAT).

Coverage of a facility by the CFATS regulation is based on whether a facility contains more than a specific quantity of chemicals listed by DHS in Appendix A to the CFATS regulation. That list includes hazardous gases like ammonia, chlorine and phosgene, but many companies handling flammable gases like propane and butane or common industrial chemicals like acetone or nitric acid will be surprised to find themselves subject to this regulation.

However, the preliminary list provided in the April IFR is under revision, so facilities are not currently required to submit the Top-Screen information. Once DHS publishes a revised version of Appendix A, facilities with more than the threshold quantities of the listed chemicals will have 60 days to register and submit their Top-Screen information.

Because of pressure from Congress to

ensure that short-term improvements are made in chemical plant security, DHS has established other specific time limits on industry's opportunity to meet the new guidelines. These include:

- > The SVA must be submitted within 90 days after notification by DHS of a facility's risk tier assignment (which is based on the Top-Screen data).
- > The SSP must be submitted within 120 days of DHS providing the facility its final risk tier assignment (which is based on the SVA).

Facilities covered under the CFATS regulation are subject to inspection by DHS during the plan approval process and at other times deemed appropriate by DHS. DHS will inspect covered chemical facilities at regular intervals, with higher tier facilities being inspected first and more frequently. DHS may also inspect a facility at any time based on new information or security concerns. DHS will provide facilities with a minimum of 24-hours advance notice for compliance inspections unless specific security concerns or exigent circumstances demand immediate attention.

There are some specific exemptions to

the CFATS regulation. It does not apply to:

- > Facilities regulated under the Maritime Transportation Security Act.
- > Public water systems, as defined in the Safe Drinking Water Act.
- > Treatment works, as defined in the Federal Water Pollution Control Act.
- > Facilities owned or operated by the Department of Defense or the DOE.
- > Facilities subject to regulation by the Nuclear Regulatory Commission.

DHS is clearly committed to a cooperative approach for developing and implementing this regulation. For example, there is a CSAT help desk established for assistance with registration and CSAT implementation issues. Also, the CFATS regulation has specific measures defining an approach for consultation and assistance by DHS for the regulated industry. However, DHS has specifically noted that it expects all covered industry to comply as required for the level of risk DHS believes the various facilities pose, and there is the potential for a fine of \$25,000 per day for noncompliance.

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Some of the services we provide include:

- Prepare security vulnerability assessments (SVAs)
- Select security measures to satisfy risk-based performance standards
- Develop and implement site security plans



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