



Homeland
Security

The Chemical Facility Anti-Terrorism Standards - Update

April 30, 2009

Chemical Facility Anti-Terrorism Standards (CFATS): Overview

- ▶ Section 550 of the DHS Appropriations Act of 2007 gave the Department authority to regulate the security of “high-risk” chemical facilities
- ▶ Facilities regulated under the Maritime Transportation Security Act (MTSA) or by the Nuclear Regulatory Commission (NRC), facilities owned or operated by the Department of Defense (DOD) or the Department of Energy (DOE), public water systems (as defined by section 1401 of the Safe Drinking Water Act), and water treatment works (as defined by section 212 of the Federal Water Pollution Control Act) are currently statutorily exempt from regulation under Section 550
- ▶ DHS was given 6 months from the time Section 550 was enacted (Oct. 4, 2006) to plan, build, and begin implementing a complex new regulatory regime
- ▶ DHS published a proposed rule for public comment in December 2006, and the CFATS Interim Final Rule was published on April 9, 2007, and went into effect on June 8, 2007
- ▶ Appendix A to CFATS was published November 20, 2007, and scopes the rule--A chemical facility that possesses any Appendix A chemical of interest (COI) at or above its Screening Threshold Quantity (STQ) must complete and submit a Top-Screen to DHS
- ▶ Publication of the final Appendix A triggered the Top-Screen requirement for facilities with only Appendix A COI at or above the STQ and brought the CFATS rule into full effect

CFATS Process

- ▶ Top Screen
- ▶ Preliminary Tiering Notification (Chemicals of Interest and Security Issues)
- ▶ Security Vulnerability Assessment
- ▶ Final Tiering Determination
- ▶ Site Security Plan
- ▶ Plan Review and Acceptance
- ▶ Inspection

Top-Screen

- ▶ Top-Screen provides an initial consequence-based assessment for issuing a preliminary tiering determination
- ▶ Initial Estimated Covered Facilities (5,000-8,000)
 - Tier 1: 200
 - Tier 2: 500
 - Tier 3: 1800
 - Tier 4: 2500
- ▶ Top-Screens were due January 22, 2008 – 36,257 received to date
- ▶ June 23, 2008 – Preliminary Tiering Notifications and SVA due dates issued to 7010 facilities
- ▶ Current Preliminary Tiering 6409 total facilities
 - Tier 1: 182
 - Tier 2: 680
 - Tier 3: 1612
 - Tier 4: 3935
- ▶ Still receiving approximately 10 Top-Screens per week

Security Vulnerability Assessment

- ▶ Security Vulnerability Assessment (SVA) assesses a facility's security measures and vulnerability to attack that results in a facility being designated as high-risk and placed in a final tier or being considered not high-risk and thus excluded from further regulation
- ▶ SVA submission deadlines (5664 submitted to date):
 - Tier 1: September 25, 2008 – final tiering notifications pending
 - Tier 2: October 31, 2008 – final notifications 5/09
 - Tier 3: November 24, 2008 – final notifications 7/09
 - Tier 4: January 12, 2009 – final notifications 9/09
- ▶ SVA Review Process and Tiering Engine
 - SME reviews of each for chemical, physical and cyber security
 - Tiering engine assigns overall risk score (CxVxT), ensuring consistent application of methodology and appropriate final tiering demarcation points
 - Review process identifying facilities/companies needing immediate action

Site Security Plan

- ▶ Site Security Plan (SSP) captures specific security measures the facility has or will implement to meet the Risk-Based Performance Standards (RBPS) based on the facility's specific tier, security issues and other circumstances
- ▶ Once notified of final tiering determination, facilities will have 120 days to submit the SSP
- ▶ SSP Working Group developed template – nine facilities (various types) voluntarily piloted
- ▶ SSP Template and Instructions ready to go online
- ▶ RBPS Guidance Document – approved by OMB 4/23
- ▶ CVI Manual and Training module updated and online 9/22/08
- ▶ Personnel Surety portal status (TSDB check for RBPS 12, Personnel Surety)
 - Working with SCO and TSA to build portal
 - PIA and SORN under review
 - Scheduled to be operational in 10/09

Risk Based Performance Standards (RBPS): Continued

1. Restrict area perimeter
2. Secure site assets
3. Screen and control access
4. Deter, detect, delay
5. Shipping, receipt, and storage
6. Theft and diversion
7. Sabotage
8. Cyber
9. Response
10. Monitoring
11. Training
12. Personnel surety
13. Elevated threats
14. Specific threats, vulnerabilities, or risks
15. Reporting of significant security incidents
16. Significant security incidents and suspicious activities
17. Officials and organization
18. Records

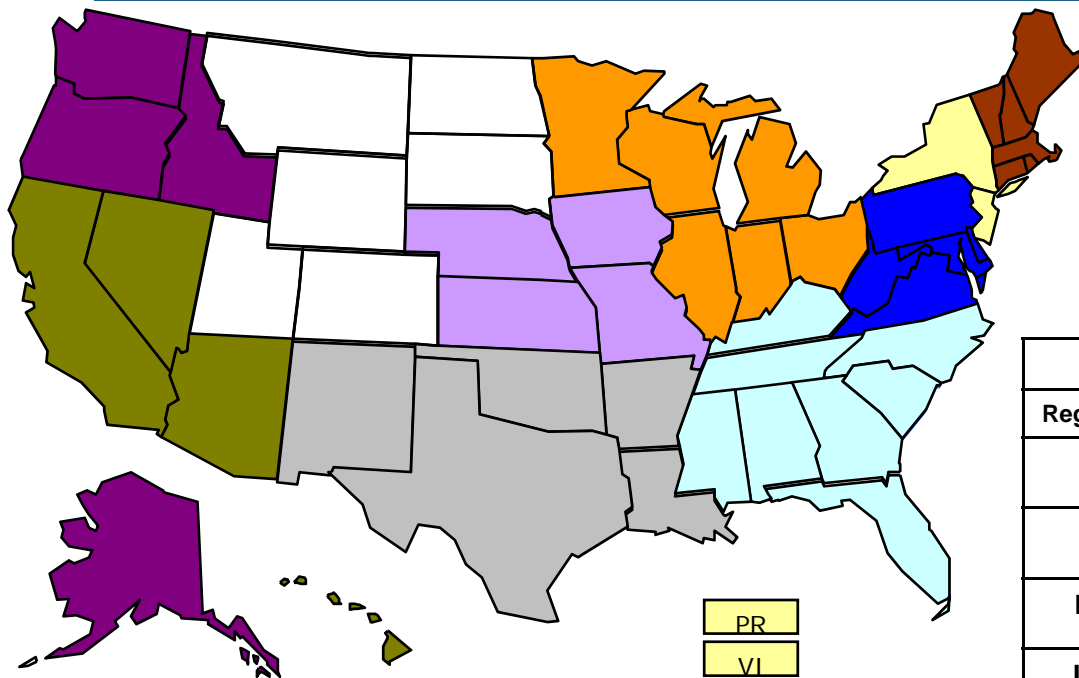
Program Issues

- ▶ Hiring/training/equipping/housing the workforce
 - 96 FTE have been hired/are on boarding
 - 09 hiring adds Inspectors, to total of 223 FTE (139 Area Commanders/Inspectors/84 HQ and support); 10 hiring to 268 (174 field/94HQ)
 - Inspector selections being made; Chemical Security Academy being scheduled
- ▶ Ammonium Nitrate (AN) Regulations
 - Section 563 of FY 08 Appropriation requirement
 - Working to leverage Personnel Surety portal development effort for registration system
 - ANPRM public comment period closed December 29, 2008
 - Task Force drafting NPRM
- ▶ Indefinite Agricultural Production Facilities Top-Screen Extension
 - Issued December 20, 2007 for possession of COI solely for preparation for treatment of or during application to crops, feed, land or other areas on an agricultural production facility
 - Developed supplemental Ag-focused questions targeted at distributor community
 - Voluntary engagement to learn more about end user community did not yield results anticipated
 - Path forward:
 - *Use current CFATS authority to direct distributors to complete supplemental Ag-focused questions*
 - *Evaluate regulatory approach based upon data review (possibly set Ag COI STQs)*

Program Issues, cont'd











- ▶ Gasoline storage facilities
 - Industry disagreed with coverage, citing exemption from EPA RMP
 - Only 13% of those facilities that submitted Top-Screen were preliminarily tiered (approx. 450), primarily as Tier 3 and 4
 - Worked with industry to explain rationale and deliberate attack (vs. safety) focus of CFATS
 - Noticed over-reporting of consequence in Top-Screens
 - Provided opportunity to re-submit Top-Screen, with additional Top-Screen questions, 384 Top-Screens resubmitted
- ▶ Harmonization of chemical security authorities with US Coast Guard and TSA
 - Working with USCG to confirm exemptions to CFATS
 - Have agreed to develop an intra-agency agreement and/or Standard Operating Procedure (SOP) with USCG to delineate clear lines of jurisdictional authority for sites subject to both CFATS and MTSA
 - Need to harmonize performance criteria for CFATS and MTSA facilities that present the same level of risk
 - Working with TSA to define “Rail Secure Area” per their new rule and potential application of CFATS RBPS to those areas of fixed facilities
- ▶ Identification of Outliers
 - Pilot with NY and NJ
 - Follow up on water/wastewater treatment facility exemptions
 - EPA RMP list under review
 - Tipline

Regional Approach



► Areas chosen for:

- Chemical clustering
- Inspector workload distribution
- Alignment with other federal regions

ISCD Areas			
Region	City	Includes	Map
I	Boston	CT, ME, NH, RI, VT, MA	
II	Trenton	NY, NJ, PR, VI	
III	Philadelphia	DE, DC, MD, PA, VA, WV	
IV	Atlanta	AL, FL, GA, KY, MS, NC, SC, TN	
V	Chicago	IL, IN, MI, MN, OH, WI	
VI	Houston	AR, LA, NM, OK, TX	
VII	St. Louis	IA, KS, MO, NE	
VIII	Denver	CO, MT, ND, SD, UT, WY	
IX	Los Angeles	AZ, CA, GU, HI, NV, CNMI, AS	
X	Seattle	AK, ID, OR, WA	



BACK UP SLIDES

Preliminary Tiering Results (as of June 23, 2008)

Preliminary Tier		Preliminary High-Risk Facilities	Percentage of Preliminary High-Risk Facilities	Percentage of all Facilities that have submitted Top-Screens to date
Tier 1		219	3.1%	0.7%
Tier 2		756	10.8%	2.6%
Tier 3		1,712	24.4%	5.8%
Tier 4		4,323	61.7%	14.7%
Total High-Risk		7,010	100%	23.8%

**Total Top-Screens
Received**

29,453

*Facilities claiming exclusions are not counted. Currently, 1,093 facilities claim an exclusion.

Secure Handling of Ammonium Nitrate

- ▶ Section 563 of the 2008 Consolidated Appropriations Act, Subtitle J, “Secure Handling of Ammonium Nitrate” assigns DHS the mission to *“regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility....to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.”*

- ▶ The regulations developed to implement Section 563 must include the following activities:
 - Registration Activities
 - *Registration of ammonium nitrate (AN) facilities and AN purchasers*
 - *Vetting of applicants against the Terrorist Screening Database (TSDB)*
 - *Issuance of registration numbers to all approved AN facilities and AN purchasers*
 - Point-of-Sale Activities
 - *Seller verification of purchaser’s registration and identity*
 - *Recordkeeping by AN facilities*
 - Additional Regulatory Activities/Requirements
 - *Reporting of theft or loss of AN by both AN facilities and AN users*
 - *Inspections/audits of AN facilities*
 - *Guidance materials and informational posters*
 - Administrative Activities
 - *Penalties and appeals*
 - *Establishment of a threshold level of AN in a substance*