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If you have any questions about this alert or would like to discuss these topics further, please contact your Foley attorney or any of the following individuals:

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## New Homeland Security Rules Require Prompt Action

The United States Department of Homeland Security (DHS), acting under a congressional mandate, has finalized interim rules to regulate security at any facility possessing a threshold quantity of a long list of chemicals. The rules, which were finalized on April 9, 2007, require any facility that possesses one of these chemicals to submit a Top-Screen questionnaire. If the facility is a high risk, the facility will also be required to prepare a security plan. Very briefly, the rules require:

- Any facility that possesses a chemical on a list called Appendix A in greater than a threshold quantity (also listed on Appendix A), is considered a chemical facility. Appendix A contains over 300 chemicals.
- All chemical facilities are required to complete an on-line questionnaire called a Top-Screen within 60 days of the date that DHS publishes the final version of Appendix A. DHS expects to publish the final Appendix A in early June 2007, which would then mean that the Top-Screens will be due in early August 2007. DHS estimates the Top-Screen will take between 30 and 40 hours to complete.
- The Top-Screen must be submitted by an officer of the corporation, or by someone designated by an officer, and that person must attest to the accuracy of the information.
- In the alternative, DHS will be contacting certain facilities directly and asking them to submit a Top-Screen according to a schedule provided by DHS.
- After completing the Top-Screen, a facility may be notified to take further actions, including submission of a Security Vulnerability Assessment and a Site Security Plan.
- Chemical facilities may be subject to inspection by DHS officials. Inspectors may review records, take photographs, and talk with employees. However, unlike EPA inspections, the materials that DHS obtains will remain in a confidential file.

These new chemical security rules do overlap with the Tier Two Hazardous Chemical Inventories that are provided to the state and local governments each March and with the hazard communication program required by the Occupational Safety and Health Administration (OSHA). However, Appendix A contains different chemicals and different thresholds than the U.S. Environmental Protection Agency (EPA) and OSHA requirements, so

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it will require an independent review.

In addition, many companies have already made significant investments in security plans, particularly since September 11, 2001. The interim final rules recognize this and allow DHS to approve pre-existing security plans that provide an "equivalent level" of security. As a result, it may not be necessary for every covered facility to prepare a new security plan.

Because these regulations are interim final, DHS may make additional changes to the requirements. In the meantime, these regulations are applicable now. Appendix A can be found at:

[http://www.dhs.gov/xprevprot/laws/gc\\_1175537180929.shtm](http://www.dhs.gov/xprevprot/laws/gc_1175537180929.shtm). The online submission tool for the Top-Screen Questionnaires (called the CSAT system) can be found at [http://www.dhs.gov/xprevprot/programs/gc\\_1169501486197.shtm](http://www.dhs.gov/xprevprot/programs/gc_1169501486197.shtm).

**Proposed Appendix A (as of April 2, 2007)**

Chemical of Interest	Chemical Abstract Service (CAS) Number	Screening Threshold Quantity (STQ) (lbs)
1,1,3,3,3-pentafluoro-2-(trifluoromethyl)-1-propene	382-21-8	Any Amount
1,1-Dimethylhydrazine	57-14-7	11,250
1,2-bis(2-chloroethylthio)ethane	3563-36-8	Any Amount
1,3-bis(2-chloroethylthio)-n-propane	63905-10-2	Any Amount
1,3-Butadiene	106-99-0	7,500
1,3-Pentadiene	504-60-9	7,500
1,4-bis(2-chloroethylthio)-n-butane	142868-93-7	Any Amount
1,5-bis(2-chloroethylthio)-n-pentane	142868-94-8	Any Amount
1-Butene	106-98-9	7,500
1-Chloropropylene	590-21-6	7,500
1H-Tetrazole	16681-77-9	2,000
1-Pentane	109-67-1	7,500
2,2-Dimethylpropane	463-82-1	7,500
2-Butene	107-01-7	7,500
2-Butene-cis	590-18-1	7,500
2-Butene-trans	624-64-6	7,500
2-chloroethylchloromethylsulfide	2625-76-5	Any Amount
2-Chloropropylene	557-98-2	7,500
2-Chlorovinylchloroarsine	541-25-3	Any Amount
2-Methyl-1-butene	563-46-2	7,500
2-Methylpropene	115-11-7	7,500
2-Pentene, (Z)-	627-20-3	7,500
2-Pentene,(E)-	646-04-8	7,500
3,3-dimethyl-2-butanol	464-07-3	Any Amount
3-Methyl-1-butene	563-45-1	7,500
3-Quinuclidinyl benzilate (BZ)	62869-69-6	Any Amount
5-Nitrobenzotriazol	2338-12-7	2,000
Acetaldehyde	75-07-0	7,500
Acetone	67-64-1	2,000
Acetone cyanohydrin, stabilized	75-86-5	2,000
Acetyl bromide	506-96-7	2,000
Acetyl chloride	75-36-5	2,000
Acetyl iodide	507-02-8	2,000
Acetylene	74-86-2	7,500
Acrolein	107-02-8	3,750
Acrylonitrile	107-13-1	15,000

Acrylyl chloride	814-68-6	3,750
Allyl alcohol	107-18-6	11,250
Allylamine	107-11-9	7,500
Allyltrichlorosilane, stabilized	107-37-9	2,000
Aluminum bromide, anhydrous	7727-15-3	2,000
Aluminum chloride, anhydrous	7446-70-0	2,000
Aluminum phosphide	20859-73-8	2,000
Ammonia (anhydrous)	7664-41-7	7,500
Ammonia (conc. 20% or greater)	7664-41-7	15,000
Ammonium nitrate (nitrogen concentration of 28%34%)	6484-52-2	2,000
Ammonium perchlorate	7790-98-9	2,000
Ammonium picrate	131-74-8	2,000
Amyltrichlorosilane	107-72-2	2,000
Antimony pentafluoride	7783-70-2	2,000
Arsenous trichloride	7784-34-1	Any Amount
Arsine	7784-42-1	Any Amount
Barium azide	18810-58-7	2,000
bis(2-chloroethyl)ethylamine	538-07-8	Any Amount
bis(2-chloroethyl)methylamine	51-75-2	Any Amount
bis(2-chloroethyl)sulfide	505-60-2	Any Amount
bis(2-chloroethylthio)methane	63869-13-6	Any Amount
bis(2-chloroethylthioethyl)ether	63918-89-8	Any Amount
bis(2-chloroethylthiomethyl)ether	63918-90-1	Any Amount
bis(2-chlorovinyl)chloroarsine	40334-69-8	Any Amount
Boron tribromide	10294-33-4	2,000
Boron trichloride	10294-34-5	Any Amount
Boron trifluoride	7637-07-2	Any Amount
Boron trifluoride compound with methyl ether (1:1)	353-42-4	11,250
Bromine	7726-95-6	7,500
Bromine chloride	13863-41-7	Any Amount
Bromine pentafluoride	7789-30-2	2,000
Bromine trifluoride	7787-71-5	2,000
Bromotrifluoroethylene	598-73-2	7,500
Butane	106-97-8	7,500
Butene	25167-67-3	7,500
Butyltrichlorosilane	7521-80-4	2,000
Calcium dithionite	15512-36-4	2,000
Calcium hydrosulfite	15512-36-4	2,000
Calcium phosphide	1305-99-3	2,000

Carbon disulfide	75-15-0	15,000
Carbon monoxide	630-08-0	Any Amount
Carbon oxysulfide	463-58-1	7,500
Carbonyl fluoride	353-50-4	Any Amount
Carbonyl sulfide	463-58-1	Any Amount
Chlorine	7782-50-5	1,875
Chlorine dioxide	10049-04-4	2,000
Chlorine monoxide	7791-21-1	7,500
Chlorine pentafluoride	13637-63-3	Any Amount
Chlorine trifluoride	7790-91-2	Any Amount
Chloroacetyl chloride	79-04-9	2,000
Chloroform	67-66-3	15,000
Chloromethyl ether	542-88-1	750
Chloromethyl methyl ether	107-30-2	3,750
Chloropicrin	76-06-2	Any Amount
Chlorosulfonic acid	7790-94-5	2,000
Chromium oxychloride	7803-51-2	2,000
Crotonaldehyde	4170-30-3	15,000
Crotonaldehyde, (E)-	123-73-9	15,000
Cyanogen	460-19-5	Any Amount
Cyanogen chloride	506-77-4	Any Amount
Cyclohexylamine	108-91-8	11,250
Cyclohexyltrichlorosilane	98-12-4	2,000
Cyclopropane	75-19-4	7,500
Cyclotetramethylenetetranitramine	2691-41-0	2,000
Diazodinitrophenol	87-31-0	2,000
Diborane	19287-45-7	Any Amount
Dichlorosilane	4109-96-0	Any Amount
Diethyl ethylphosphonate	78-38-6	Any Amount
Diethyl N,N-dimethylphosphoramidate	2404-03-7	Any Amount
Diethyl phosphate	762-04-9	Any Amount
Diethyldichlorosilane	1719-53-5	2,000
Diethyleneglycol dinitrate,	693-21-0	2,000
Difluoroethane	75-37-6	7,500
Dimethyl ethylphosphonate	6163-75-3	Any Amount
Dimethyl methylphosphonate	756-79-6	Any Amount
Dimethyl phosphate	868-85-9	Any Amount
Dimethylamine	124-40-3	7,500
Dimethyldichlorosilane	75-78-5	2,000

Dimethylphosphoramidodichloridate	677-43-0	Any Amount
Dinitrogen tetroxide	10544-72-6	Any Amount
Dinitroglycoluril	55510-04-8	2,000
Dinitrophenol	25550-58-7	2,000
Dinitroresorcinol	35860-51-6	2,000
Dinitrosobenzene	25550-55-4	2,000
Diphenyl-2-hydroxyacetic acid (aka benzilic acid)	76-93-7	Any Amount
Diphenyldichlorosilane	80-10-4	2,000
Dipicryl sulfide	2217-06-3	2,000
Dodecyltrichlorosilane	4484-72-4	2,000
Epichlorohydrin	106-89-8	15,000
Ethane	74-84-0	7,500
Ethyl acetylene	107-00-6	7,500
Ethyl chloride	75-00-3	7,500
Ethyl ether	60-29-7	7,500
Ethyl mercaptan	75-08-1	7,500
Ethyl nitrite	109-95-5	7,500
Ethyl phosphonyl dichloride	1066-50-8	Any Amount
Ethyl phosphonyl difluoride	753-98-0	Any Amount
Ethylamine	75-04-7	7,500
Ethyldiethanolamine	139-87-7	Any Amount
Ethylene	74-85-1	7,500
Ethylene oxide	75-21-8	Any Amount
Ethylenediamine	107-15-3	15,000
Ethyleneimine	151-56-4	7,500
Ethyltrichlorosilane	115-21-9	2,000
Fluorine	7782-41-4	Any Amount
Fluorosulfonic acid	7789-21-1	2,000
Formaldehyde (solution)	50-00-0	11,250
Furan	110-00-9	3,750
Germane	7782-65-2	Any Amount
Germanium tetrafluoride	7783-58-6	Any Amount
Guanyl nitrosaminoguanylidene hydrazine		2,000
Guanyl nitrosaminoguanyltetrazene	109-27-3	2,000
Hexaethyl tetraphosphate and compressed gas mixtures	757-58-4	Any Amount
Hexafluoroacetone	684-16-2	Any Amount
Hexanitrodiphenylamine	35860-31-2	2,000
Hexanitrostilbene	20062-22-0	2,000
Hexolite	121-82-4	2,000

Hexotonal	107-15-3	2,000
Hexyltrichlorosilane	928-89-2 6	2,000
Hydrazine	302-01-2	11,250
Hydrochloric acid (conc. 37% or greater)	7647-01-0	11,250
Hydrocyanic acid	74-90-8	1,875
Hydrogen	1333-74-0	7,500
Hydrogen bromide, anhydrous	10035-10-6	Any Amount
Hydrogen chloride (anhydrous)	7647-01-0	Any Amount
Hydrogen cyanide	74-90-8	Any Amount
Hydrogen fluoride/Hydrofluoric acid (conc. 50% or greater)	7664-39-3	750
Hydrogen iodide, anhydrous	10034-85-2	Any Amount
Hydrogen peroxide (concentration of at least 30%)	7722-84-1	2,000
Hydrogen selenide	7783-07-5	Any Amount
Hydrogen sulfide	7783-06-4	Any Amount
Iodine pentafluoride	7783-66-6	2,000
Iron, pentacarbonyl-	13463-40-6	1,875
Isobutane	75-28-5	7,500
Isobutyronitrile	78-82-0	15,000
Isopentane	78-78-4	7,500
Isoprene	78-79-5	7,500
Isopropyl chloride	75-29-6	7,500
Isopropyl chloroformate	108-23-6	11,250
Isopropylamine	75-31-0	7,500
Lead azide	13424-46-9	2,000
Lead styphnate	15245-44-0	2,000
Lithium amide	7782-89-0	2,000
Lithium nitride	26134-62-3	2,000
Magnesium aluminum phosphide		2,000
Magnesium diamide	7803-54-5	2,000
Magnesium phosphide	12057-74-8	2,000
Mannitol hexanitrate, wetted	15825-70-4	2,000
Mercury fulminate	628-86-4	2,000
Methacrylonitrile	126-98-7	7,500
Methane	74-82-8	7,500
Methyl bromide	74-83-9	Any Amount
Methyl chloride	74-87-3	7,500
Methyl chloroformate	79-22-1	3,750
Methyl ether	115-10-6	7,500
Methyl formate	107-31-3	7,500

Methyl hydrazine	60-34-4	11,250
Methyl isocyanate	624-83-9	11,250
Methyl mercaptan	74-93-1	Any Amount
Methyl phosphonyl dichloride	676-97-1	Any Amount
Methyl phosphonyl difluoride	676-99-3	Any Amount
Methyl thiocyanate	556-64-9	15,000
Methylamine	74-89-5	7,500
Methylchlorosilane	993-00-0	Any Amount
Methyldichlorosilane	75-54-7	2,000
Methyldiethanolamine	105-59-9	Any Amount
Methylphenyldichlorosilane	149-74-6	2,000
Methyltrichlorosilane	75-79-6	2,000
N,N-diisopropyl-2-aminoethyl chloride hydrochloride	4261-68-1	Any Amount
N,N-diisopropyl-,aminoethanol	96-80-0	Any Amount
N,N-diisopropyl-,aminoethyl chloride	96-79-7	Any Amount
Nickel Carbonyl	13463-39-3	750
Nitric acid	7697-37-2	2,000
Nitric oxide	10102-43-9	Any Amount
Nitro urea	556-89-8	2,000
Nitrocellulose	9004-70-0	2,000
Nitrogen trioxide	10544-73-7	Any Amount
Nitroglycerine	55-63-0	2,000
Nitroguanidine	556-88-7	2,000
Nitromethane	75-52-5	2,000
Nitrostarch	9056-38-6	2,000
Nitrosyl chloride	2696-92-6	Any Amount
Nitrotriazolone	932-64-9	2,000
Nonyltrichlorosilane	5283-67-0	2,000
o,o-diethyl S-[2-(diethylamino)ethyl] phosphorothiolate	78-53-5	Any Amount
Octadecyltrichlorosilane	112-04-9	2,000
Octolite	68610-51-5	2,000
Octonal	124-13-0	2,000
Octyltrichlorosilane	5283-66-9	2,000
o-ethyl-N,N-dimethylphosphoramido-cyanidate	77-81-6	Any Amount
o-ethyl-o-2-diisopropylaminoethyl methylphosphonite	57856-11-8	Any Amount
o-ethyl-S-2-diisopropylaminoethyl methyl phosphonothiolate	50782-69-9	Any Amount
o-isopropyl methylphosphonochloridate	1445-76-7	Any Amount
o-isopropyl methylphosphonofluoridate	107-44-8	Any Amount
Oleum (Fuming Sulfuric acid)	8014-95-7	7,500



o-pinacolyl methylphosphonochloridate	7040-57-5	Any Amount
o-pinacolyl methylphosphonofluoridate	96-64-0	Any Amount
Oxygen difluoride	7783-41-7	Any Amount
Pentaerythrite tetranitrate or PETN	78-11-5	2,000
Pentane	109-66-0	7,500
Pentolite	8066-33-9	2,000
Peracetic acid	79-21-0	7,500
Perchloromethylmercaptan	594-42-3	7,500
Perchloryl fluoride	7616-94-6	Any Amount
Phenyltrichlorosilane	98-13-5	2,000
Phosgene	75-44-5	Any Amount
Phosphine	7803-51-2	Any Amount
Phosphorus	7723-14-0	Any Amount
Phosphorus oxychloride	10025-87-3	Any Amount
Phosphorus oxychloride	10025-87-3	2,000
Phosphorus pentachloride	10026-13-8	Any Amount
Phosphorus pentachloride	10026-13-8	2,000
Phosphorus pentasulfide	1314-80-3	2,000
Phosphorus trichloride	7719-12-2	Any Amount
Phosphorus trichloride	7719-12-2	2,000
Piperidine	110-89-4	11,250
Potassium chlorate	3811-04-9	2,000
Potassium cyanide	151-50-8	2,000
Potassium nitrate	7757-79-1	2,000
Potassium perchlorate	7778-74-7	2,000
Potassium phosphide	20770-41-6	2,000
Propadiene	463-49-0	7,500
Propane	74-98-6	7,500
Propionitrile	107-12-0	7,500
Propyl chlorofromate	109-61-5	11,250
Propylene	115-07-1	7,500
Propylene oxide	75-56-9	7,500
Propyleneimine	75-55-8	7,500
Propyltrichlorosilane	141-57-1	2,000
Propyne	74-99-7	7,500
Quinuclidine-3-ol	1619-34-7	Any Amount
RDX and HMX mixtures	121-82-4	2,000
Selenium hexafluoride	7783-79-1	Any Amount
Silane	7803-62-5	7,500

Silicon tetrachloride	10026-04-7	2,000
Silicon tetrafluoride	7783-61-1	Any Amount
Sodium chlorate	7775-09-9	2,000
Sodium cyanide	143-33-9	2,000
Sodium dinitro-o-cresolate	25641-53-6	2,000
Sodium dithionite	7775-14-6	2,000
Sodium hydrosulfite	7775-14-6	2,000
Sodium nitrate	7631-99-4	2,000
Sodium phosphide	7558-80-7	2,000
Sodium picramate	831-52-7	2,000
Stibine	7803-52-3	Any Amount
Strontium phosphide	13450-99-2	2,000
Sulfur dichloride	10545-99-0	Any Amount
Sulfur dioxide (anhydrous)	7446-09-5	Any Amount
Sulfur monochloride	10025-67-9	Any Amount
Sulfur tetrafluoride	7783-60-0	Any Amount
Sulfur trioxide	7446-11-9	7,500
Sulfuryl chloride	7791-25-5	2,000
Sulfuryl fluoride	2699-79-8	Any Amount
Tellurium hexafluoride	7783-80-4	Any Amount
Tetrafluoroethylene	116-14-3	7,500
Tetramethyllead	75-74-1	7,500
Tetramethylsilane	75-76-3	7,500
Tetranitroaniline	53014-37-2	2,000
Tetranitromethane	509-14-8	7,500
Tetrazol-1-acetic acid	21732-17-2	2,000
Thiodiglycol	111-48-8	Any Amount
Thionyl chloride	7719-09-7	Any Amount
Thionyl chloride	7719-09-7	2,000
Titanium tetrachloride	7550-45-0	2,000
Toluene 2,4-diisocyanate	584-84-9	7,500
Toluene 2,6-diisocyanate	91-08-7	7,500
Toluene diisocyanate (unspecified isomer)	26471-62-5	7,500
Trichlorosilane	10025-78-2	2,000
Triethanolamine	102-71-6	Any Amount
Triethanolamine hydrochloride	637-39-8	Any Amount
Triethyl phosphite	122-52-1	Any Amount
Trifluoroacetyl chloride	354-32-5	Any Amount
Trifluorochloroethylene	79-38-9	Any Amount

Trimethyl phosphite	121-45-9	Any Amount
Trimethylamine	75-50-3	Any Amount
Trimethylchlorosilane	75-77-4	2,000
Trinitroaniline	26952-42-1	2,000
Trinitroanisole	606-35-9	2,000
Trinitrobenzene	99-35-4	2,000
Trinitrobenzenesulfonic acid	2508-19-2	2,000
Trinitrobenzoic acid	129-66-8	2,000
Trinitrochlorobenzene	88-88-0	2,000
Trinitrofluorenone	129-79-3	2,000
Trinitro-meta-cresol	602-99-3	2,000
Trinitronaphthalene	558101-17-8	2,000
Trinitrophenetole	4732-14-3	2,000
Trinitrophenol	88-89-1	2,000
Trinitroresorcinol	82-71-3	2,000
Trinitrotoluene	118-96-7	2,000
Tris(2-chloroethyl)amine	555-77-1	Any Amount
Tris(2-chlorovinyl)arsine	40334-70-1	Any Amount
Tritonal	54413-15-9	2,000
Tungsten hexafluoride	7783-82-6	Any Amount
Uranium hexafluoride	7783-81-5	2,000
Urea	57-13-6	2,000
Urea nitrate	124-47-0	2,000
Vinyl acetate monomer	108-05-4	11,250
Vinyl actylene	689-97-4	7,500
Vinyl chloride	75-01-4	7,500
Vinyl ethyl ether	109-92-2	7,500
Vinyl fluoride	75-02-5	7,500
Vinyl methyl ether	107-25-5	7,500
Vinylidene chloride	75-35-4	7,500
Vinylidene fluoride	75-38-7	7,500
Vinyltrichlorosilane	75-94-5	2,000
Zinc dithionite	7779-86-4	2,000
Zinc hydrosulfite	7779-86-4	2,000
Zirconium picramate	63868-82-6	2,000