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Sixty Days Starts Now: Homeland Security Publishes Final Rule on Chemical Security

Manufacturing, Research, Chemical, Agriculture, and Food Production Sectors Impacted

The U.S. Department of Homeland Security (DHS) has published a Final Rule on Chemical Security, including a final version of the list of “Chemicals of Interest” (COI). Affected facilities — of which there are many — have 60 days from publication of this final rule in the Federal Register, expected this week, to submit required information to the DHS.

DHS published an interim rule on chemical security in April 2007, but for most facilities the requirements did not take effect until DHS finalized its list of COI, called “Appendix A.” DHS received over 4,000 comments on the interim rule and the proposed Appendix A, and responded with a number of significant modifications to both the rule and the list of chemicals. Now that Appendix A has been finalized, any facility that stores a COI above a “screening threshold quantity” (STQ) has 60 days to submit a “Top-Screen” questionnaire to DHS via an Internet-based tool called the “Chemical Security Assessment Tool” (CSAT). The final rule is expected and intended to reach many facilities *outside* the chemical sector. The manufacturing, research, agriculture, and food production sectors are all impacted by this rule.

Although the final rule is very broad, its impact has been narrowed substantially from the initial version. Two very common chemicals used in manufacturing, acetone and urea, were removed from Appendix A. In addition, screening threshold quantities for propane, chlorine, and ammonium nitrate were changed in order to exempt most — but not all — agricultural facilities. Exemptions also were introduced for chemicals present in certain solid wastes and for some laboratory uses.

In addition, calculating the STQ for each COI has become more complicated. Each COI may have up to three separate STQs, each keyed to a particular risk: Theft, release, or sabotage. Different types of use and storage at a facility may count for one STQ, but not another. For example, the “theft/diversion” STQ generally only considers quantities of chemicals that have been packaged for transportation. If a facility possesses a COI in an amount that exceeds any one of the STQs,

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then it is subject to the rule and must complete a Top-Screen questionnaire. The final rule also clarifies how to consider mixtures, by establishing a minimum concentration percentage for each COI. The minimum concentrations vary from one percent to commercial grade.

The good news for many facilities is that completion of the Top-Screen questionnaire will be the end of their obligations under these rules. DHS will use the Top-Screen questionnaires to prioritize which facilities will need to proceed with preparing Security Vulnerability Assessments and Site Security Plans, and it anticipates that a large number of facilities will never be required to complete these steps. Meanwhile, many companies have a good deal of work ahead of them in the next 60 days.

Additional information on chemical security, including the full [Appendix A: Chemicals of Interest List](#), is available on the [DHS Web site](#).