



## New Department of Homeland Security (DHS) Rules on Chemicals

**Propane and Anhydrous Ammonia are included on this list!**

**If your facility manufactured, processed, used, stored or distributed a quantity greater than the threshold quantity of these or several hundred other chemicals listed in Appendix A, your company needs to register as a chemical facility.**

**Appendix A can be found at:** [http://www.dhs.gov/xprevprot/laws/gc\\_1175537180929.shtm](http://www.dhs.gov/xprevprot/laws/gc_1175537180929.shtm).

Any facility that **manufactured, processed, used, stored or distributed** chemicals listed in Appendix A at or above the Screening Threshold Quantity (STQ – **7500 lbs** for either Propane or Anhydrous Ammonia; levels vary for other chemicals in the Appendix) must complete and submit a Chemical Security Assessment Tool (CSAT) Top-Screen. The Top-Screen asks a series of questions regarding the chemical(s) manufactured, processed, used, stored at or distributed by the facility in order to determine whether the facility meets DHS' definition of a "high risk" facility. The Department will place covered "high risk" facilities in one of four risk-based tiers, ranging from highest risk facilities in Tier 1 to lowest risk facilities in Tier 4. A "high risk" facility is defined in the DHS rules as one where the potential that a terrorist attack involving the facility could result in significant adverse consequences for human life or health, national security or critical economic assets.

The Department of Homeland Security (DHS) may also notify facilities – either directly or through a Federal Register notice – that they need to complete and submit a CSAT Top-Screen.

The rules, which were finalized on April 9, 2007, require any facility that manufactured, processed, used, stored or distributed one or more of these chemicals to submit a Top-Screen questionnaire. If the facility is a high risk as determined by the DHS Assistant Secretary, the facility will also be required to prepare a security plan.

Very briefly, the rules require:

- Any facility that manufactured, processed, used, stored or distributed a chemical in **Appendix A** in greater than a threshold quantity (also listed in 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**. In the future, chemical facilities will be required to file a Top-Screen within 60 calendar days of coming into possession of any such Chemical of Interest at or above the STQ 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 (SVA) and a Site Security Plan (SSP).
- 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 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 using 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).

The Federal Register issue with the information on these rules & regulations may be found at: <http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/E7-6363.htm>

Susan M. Hays, CMP, Executive Director  
Wild Bird Feeding Industry  
1305 N. Tahoe Trail  
Sioux Falls SD 57110  
[shays@wbfi.org](mailto:shays@wbfi.org)  
Phone: 888.839.1237  
Fax: 605.275.6697

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