

EXECUTIVE ORDER 13650



In follow up to the tragedy that struck West, Texas, in April 2013, the President issued Executive Order 13650 - *Improving Chemical Facility Safety and Security* (EO) on August 1, 2013 to improve chemical facility safety and security in coordination with owners and operators. The EO directs the Department of Homeland Security (DHS), the Environmental Protection Agency (EPA), the Department of Labor (DoL), the Department of Justice (DoJ), the Department of Agriculture (USDA), and the Department of Transportation (DoT) to identify ways to improve operational coordination with State and local partners; enhance Federal agency coordination and information sharing; modernize policies, regulations and standards in order to enhance safety and security in chemical facilities; and work with stakeholders to identify best practices to reduce safety and security risks in the production and storage of potentially harmful chemicals. The EO also established a Chemical Facility Safety and Security Working Group, which includes each of these agencies.



Since the EO was issued, the Working Group has taken important steps towards substantial improvements in practices, operations, protocols, and policies to improve chemical facility safety and security. This fact sheet provides a brief update on Working Group progress and is intended to supplement ongoing public engagement. Agencies will continue to work on improving chemical facility safety and security as outlined within the EO.

Stakeholder Input

Engaging and partnering with State regulators, State, local, and tribal emergency responders, chemical facility owners and operators, and local and tribal communities is critical to improving chemical facility safety and security. The Working Group has scheduled listening sessions across the country as well as conducted two webinars in order to solicit comments, best practices and suggestions from stakeholders on issues pertaining to improving chemical facility safety and security. Nearly two hundred individuals attended the first four sessions, which were held in Texas City, TX, Washington, DC, Springfield, IL, and Orlando, FL. Announcement of the sessions was published in the Federal Register [Docket No. DHS–2013–0075], posted online, and shared with stakeholders who have expressed interest in participating in the EO process. Moving forward, the Working Group will seek additional input on a range of preliminary options for action. The Working Group has developed a web page to provide information and receive comments from interested parties - visit www.osha.gov/chemicalexecutiveorder/index.html. Stakeholders can also submit written input to eo.chemical@hq.dhs.gov. Suggestions and ideas provided by stakeholders will serve as the basis for developing the Working Group's plan for implementing practical and effective improvements to chemical facility risk management.

Coordination with State and Local Partners

Federal, State, local, and tribal governments have different responsibilities in addressing risks associated with chemical facilities, including response planning for potential emergencies. To improve the effectiveness and efficiency of risk management and response measures, the Working Group has made progress in coordinating operations and sharing information among Federal agencies and State, local, and tribal partners with jurisdiction over chemical facility safety or security. The Working Group is drawing on input provided by these partners through listening sessions, a pilot program in New York and New Jersey, State and local responder participation with Federal agencies on Regional Response Teams, as well as other mechanisms. Using this input, the Working Group has identified needs and developed a matrix of programs that could address these needs and support communities in their safety and security efforts. The matrix includes programs to better engage facilities in the local planning process, additional training for first responders, technical support to State Emergency Response Commissions (SERCs) and Local Emergency Planning Commissions (LEPCs), and improving data management and sharing. An initial draft plan to support and further enable Federal, State, and local entities and industry in their efforts to work together to improve chemical safety and security will be completed in early 2014. Subsequently, the Working Group will seek further input with all stakeholders, via listening sessions and stakeholder meetings, with the goal of bringing local entities and industry together and providing tools to address chemical risk in their communities.

In addition, as directed by the EO, the DoJ Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and DHS assessed their ability to more effectively share data with SERCs, Tribal Emergency Planning Committees (TEPCs), and LEPCs in order to ensure key information is readily available to assist with preparedness planning while providing necessary protection of sensitive materials. For example, ATF is exploring opportunities to share explosive licensing and permitting data with vetted members of the SERCs who have explosive storage in their jurisdiction. ATF also is working to update regulations to require any person who stores explosive material to notify local fire officials on an annual basis. DHS is exploring opportunities to share certain Chemical Facility Anti-Terrorism Standards (CFATS) data with vetted members of the SERCs, LEPCs, and TEPCs. Presently that information is available to certain personnel within Federal agencies, State and local government, and State fusion centers that manage the flow of information and intelligence across levels and sectors of government to integrate information for analysis. DHS is continuing to evaluate information sharing mechanisms for CFATS data in coordination with the stakeholder community to ensure the appropriate protection of sensitive information. In addition to the work that ATF and DHS are doing in accordance with the EO, EPA and OSHA also are continuing to identify ways to improve information sharing with SERCs, TEPCs, and LEPCs. As a next step, the Working Group will continue to gather feedback during the listening sessions and evaluate best practices identified through the New York and New Jersey pilot program to inform the development of a standard operating procedure of a unified Federal approach for integrating with State, local, and tribal assets, for identifying and responding to risk in chemical facilities.

Federal Coordination and Information Sharing

In August 2013, the EO Working Group launched a pilot program in the New York and New Jersey region, the *Effective Chemical Risk Management Project, Federal Region Two*. The pilot program was established to evaluate best practices and test innovative methods for interagency collaboration on chemical facility safety and security. The pilot's objectives include developing innovative and effective methods of collecting, storing, and using facility information to determine, locate and manage chemical risks; drafting an operating plan for Federal, State, local, and tribal governments for collection, storage, and use of facility information as well as methods for effective outreach to stakeholders; and, determining the challenges and opportunities in conducting joint inspections of high risk facilities. Under the pilot program, the Working Group currently is formulating an understanding of chemical facility risk throughout the region, ensuring that local responders have access to key information, and evaluating processes and protocols for sharing of information. The pilot also is improving coordination of inspections, such as sharing inspection schedules, cross-training inspectors, and inter-agency referrals of possible regulatory non-compliance as it begins development of a unified Federal approach for identifying and responding to risks in chemical facilities. As part of that effort, EPA, ATF, and OSHA officials continue to hold discussions with the Chemical Safety Board (CSB) to improve coordination and exchange of information during investigations of chemical incidents.

Collection and Interagency exchange of information

The Working Group is exploring ways to harmonize the collection and exchange of information to streamline enforcement processes, inform decision-makers at all levels of government and first responders, and avoid duplication of regulatory requirements. The Group also is assessing methods that Federal and State agencies can use to identify chemical facilities that have not met their regulatory obligation or are otherwise out of compliance with important safety and security requirements. To date, the EO Working Group members have exchanged data to help evaluate chemical facility compliance with existing Federal requirements and identify appropriate enforcement actions. Additionally, these Agencies have defined data collection and sharing needs, such as establishing terminology that would be used by all agencies in referring to and collecting the same data; identified a tool to assist with integrating and searching regulatory databases; and developed protocols to facilitate the sharing of information with Federal, State, local, and tribal entities. These findings are guiding work over the next 90 days to produce a proposal for a coordinated, flexible data-sharing process. Specifically, the findings will be used to make facility information more readily accessible, propose a common way to identify facilities and chemical substances, and identify mechanisms to ensure information is available to those who need it without compromising facility security. Lastly, the findings will be used to formulate a proposal for a way to increase Federal efficiency and decrease the burden to those required to submit information by creating a single data input point for regulated or potentially regulated chemical facilities, so that data provided by a facility can be provided once and used by all relevant Federal agencies.

Modernizing policies, programs, and requirements

The Working Group has identified options to improve chemical facility risk management practices through agency programs, private sector initiatives, government guidance, outreach, standards, and regulations. For example, the Working Group is specifically considering options to improve the safe and secure storage, handling, and sale of ammonium nitrate; opportunities to address additional regulated substances and hazards under EPA's Risk Management Program (RMP) regulation, OSHA's Process Safety Management (PSM) standard and revisions to DHS' CFATS chemicals-of-interest list; as well as other potential improvements. We developed these options by reviewing existing programs, lessons learned from major incidents, recommendations from safety and security communities, and feedback from EO listening sessions. The Working Group intends to engage stakeholders and collect public comments on these options. We will use that input to develop a plan for implementing practical and effective improvements to chemical risk management.

Further supporting this effort, EPA, OSHA, and ATF issued an interim chemical advisory on August 30 (www.epa.gov/emergencies/guidance.htm#rmp) focused on the safe storage, handling, and management of ammonium nitrate. The advisory provides facility owners and operators, as well as emergency planners and first responders, the lessons learned from recent ammonium nitrate incidents, including the explosion in West, TX. The advisory will be updated, as necessary, with any new information from stakeholders regarding the safe storage, handling, and management of ammonium nitrate.

In another important step, OSHA released a request for information (RFI) related to modernization of PSM and related standards to meet the goal of preventing major chemical accidents. The OSHA RFI, <https://www.federalregister.gov/articles/2013/12/09/2013-29197/process-safety-management-and-prevention-of-major-chemical-accidents>, also seeks input on specific areas of interest including application of the PSM standard to ammonium nitrate, reactive chemicals, or certain retail facilities that handle highly hazardous chemicals.

Chemicals and the facilities that manufacture, store, distribute and use them are essential to our economy. However, recent incidents have reminded us that the handling and storage of chemicals present serious risks to communities and the public that must be addressed. The EO Working Group has taken positive steps to improve safety and security and build on Federal agencies' ongoing work to reduce the risks associated with hazardous chemicals.