

# EXECUTIVE ORDER 13650



## Executive Order 13650 Regulatory Programs Overview

The May 2014 *Executive Order (EO) 13650 Actions To Improve Chemical Facility Safety and Security – A Shared Commitment*, report to the President outlines improvement actions and activities identified by the EO Chemical Facility Safety and Security Working Group. The actions and activities outlined are intended to improve operational coordination with state, local, tribal, and territorial partners; enhance federal agency coordination and information sharing; modernize chemical facility safety and security policies, regulations, and standards; and work with stakeholders in identifying best practices to reduce safety and security risks in the production and storage of potentially harmful chemicals.

Still other chemical safety and security issues fall outside the scope of the EO and the federal plan of action. The Working Group will continue to coordinate actions with existing efforts in the Federal Government to address these additional issues, such as transportation incidents involving hazardous materials and petroleum products and the effects these incidents have on communities.

The purpose of this overview is to increase awareness of select federal regulatory programs among state regulators, facilities, stakeholders, and other non-Working Group federal agencies.

## What regulations affect chemical facilities?

### Department of Homeland Security

- Chemical Facility Anti-Terrorism Standards (CFATS) [6 CFR Part 27] – In October 2006, Congress passed Section 550 of the DHS Appropriations Act of 2007, Pub. L. 109-295, authorizing and requiring the Department of Homeland Security (DHS) to regulate security at chemical facilities that DHS determines, in its discretion, are high-risk. To implement this authority, DHS issued the CFATS regulation (6 CFR Part 27) in 2007. On December 18, 2014, the President signed into law the *Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014*, which reauthorizes the CFATS program for four years.

CFATS is a risk-based performance program that sets standards for security at the Nation's highest risk chemical facilities. Appendix A to the CFATS rule contains a list of 322 chemicals of interest (COI) that give rise to one or more security issues: release, theft/diversion, and sabotage/contamination. Under the CFATS rule, if a facility possesses an Appendix A COI at or above the applicable Screening Threshold Quantity (STQ), the facility must complete and submit a Top-Screen to DHS within 60 calendar days of coming into possession of the COI. Facilities determined to be high-risk under CFATS are required to draft and implement Site Security Plans that address 18 security risk-based performance standards.

- Maritime Transportation Security Act (MTSA) [33 CFR Subchapter H Part 105] – Within DHS, the U.S. Coast Guard regulates waterfront facilities that meet certain applicability factors under the implementing regulations of the Maritime Transportation Security Act (MTSA) of 2002. These regulations put the U.S. in compliance with international treaty obligations under the International Ship and Port Facility Security (ISPS) Code implemented by the United Nations' International Maritime Organization. Some of the regulated facilities may, from time to time, have chemicals on board that would otherwise be regulated under CFATS, but are exempt from CFATS compliance by virtue of their compliance with the security requirements of the MTSA regulations.

## Department of Labor

- Process Safety Management (PSM) standard [29 CFR 1910.119] – OSHA’s PSM standard, mandated by the Clean Air Act Amendments of 1990 and issued in 1992, sets requirements to prevent and minimize hazards associated with catastrophic releases of flammable, explosive, reactive, and toxic chemicals that may endanger workers. The PSM standard covers the manufacturing of explosives and processes involving threshold quantities of flammable liquids and flammable gasses, as well as 137 other highly hazardous chemicals.
- Explosive and Blasting Agents standard [29 CFR 1910.109] – OSHA’s 1910.109 standard sets requirements for manufacturing, keeping, having, storing, selling, transporting, and using explosives, blasting agents, and pyrotechnics. The standard also states that the manufacturing of explosives and pyrotechnics shall also meet the requirements of PSM. The standard specifically covers ammonium nitrate storage in paragraph (i), describing requirements for general storage, bulk storage, contaminants, electrical protection, and fire protection.
- Flammable and Combustible Liquids standard [29 CFR 1910.106] – OSHA’s 1910.106 standard is primarily based on the National Fire Protection Association’s (NFPA’s) publication NFPA 30, Flammable and Combustible Liquids Code. The standard applies to the handling, storage, and use of flammable and combustible liquids with a flash point below 200°F. There are two primary hazards associated with flammable and combustible liquids: explosion and fire. To help prevent these hazards, this standard addresses the primary concerns of design and construction, ventilation, ignition sources, and storage.

Additionally, OSHA has several standards associated with emergency response: Emergency Action Plans [29 CFR 1910.38], Fire Brigade [29 CFR 1910.156], and Hazardous Waste Operations and Emergency Response (HAZWOPER) [29 CFR 1910.120].

## Environmental Protection Agency

- Emergency Planning and Community Right-to-Know Act (EPCRA) [40 CFR Parts 350, 355, 370, and 372] – EPCRA establishes requirements for federal, state, and local governments; Indian tribes; and industry regarding emergency planning and “Community Right-to-Know” reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public’s knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. EPCRA requires EPA to publish implementing regulations, a list of chemicals, and reporting thresholds.

EPCRA has four major provisions: (1) Emergency Planning and Notification, (2) Emergency Release Notification, (3) Hazardous Chemical Inventory Reporting, and (4) Toxic Chemical Release Reporting. Each of these provisions is different with its own list of chemicals and reporting thresholds. The notification and reports required under the first three provisions are submitted to the state, tribal, and local agencies. State and local emergency planners are required to use the information provided by facilities to develop or modify the local emergency response plan to protect the community as well as responders from releases of hazardous chemicals. The reports under the fourth provision, Toxic Chemical Release, are submitted to EPA and the state or tribal agencies.

- Clean Air Act (CAA) [40 CFR Part 68] – Section 112 (r) of the CAA requires the EPA to publish rules and guidance for chemical accident prevention. These rules require owners and operators of any facility (stationary source) that manufactures, uses, stores, or otherwise handles more than a threshold quantity of a regulated substance in a process to implement a risk management program and submit a risk management plan (RMP) for all covered processes at the facility to EPA. The list of regulated substances contains 77 toxic and 63 flammable substances with threshold quantities ranging from 500 to 20,000 pounds.

Owners and operators of a facility (stationary source) that manufactures, uses, stores, or otherwise handles more than a threshold quantity of a regulated substance in a process must implement a risk management program and submit a single RMP for all covered processes at the facility. “Process” means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of such substances, or combination of these activities. The regulations do not apply to transportation, including storage incident to transportation. However, transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source are considered part of the stationary source, and are potentially covered by the regulations. The list of regulated substances and Risk Management Program provisions are found at 40 CFR Part 68.

## Department of Justice

- **Federal Explosives Laws and Regulations [27 CFR Part 555]**– The Department of Justice, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is responsible for enforcing the provisions of Title XI of the Organized Crime Control Act of 1970 (the Act) under Title 18 U.S.C. Chapter 40, with the implementing regulations at 27 CFR Part 555. The Act requires that any person who wishes to engage in the business of manufacturing, importing, or dealing in explosives, or who wishes to receive or transport explosive materials, must first obtain a license or permit from ATF.

Further, all federal explosives licensees and permittees are required to adhere to certain recordkeeping, storage, and conduct of business requirements.

The recordkeeping provisions require certain information, including explosive materials marks, to be maintained by license and permit holders for a period of five years. The regulations contain provisions that classify explosives and specify construction and security standards for explosives storage magazines. ATF routinely conducts inspections of explosives licensees and permittees to ensure compliance with the federal explosives law and regulations.

## For more information

- **ATF** – Contact the Explosives Industry Programs Branch (EIPB) at [eipb@atf.gov](mailto:eipb@atf.gov) or call (202) 648-7120. EIPB is responsible for the classification of explosive materials and the interpretation of the regulations codified under 27 CFR Part 555.
- **CFATS** – For more information, visit [www.dhs.gov/critical-infrastructure-chemical-security](http://www.dhs.gov/critical-infrastructure-chemical-security), email [cfats@hq.dhs.gov](mailto:cfats@hq.dhs.gov), visit the CFATS Knowledge Center and Frequently Asked Questions at <http://csat-help.dhs.gov>, email the Chemical Security Assessment Tool (CSAT) Help Desk at [csat@hq.dhs.gov](mailto:csat@hq.dhs.gov), or call the CFATS Tip Line at 1-877-394-4347 (1-877-FYI 4 DHS).
- **EO 13650** – For more information, visit: <https://www.osha.gov/chemicalexecutiveorder>. The Working Group can be contacted via email [eo.chemical@hq.dhs.gov](mailto:eo.chemical@hq.dhs.gov).
- **EPA** – For regulations and guidance documents on EPCRA and Section 112 (r) (Risk Management Program), visit EPA’s Office of Emergency Management website at <https://www.epa.gov/epcra> and <https://www.epa.gov/rmp>, respectively. You may also contact the Superfund, TRI, EPCRA, RMP & Oil Information Center at (800) 424-9346 or (703) 412-9810.
  - Substance Registry Services (SRS) is the central system for information about substances that are tracked or regulated by EPA or other sources. It is the authoritative resource for basic information about chemicals, biological organisms, and other substances of interest to EPA and its state and tribal partners. The SRS makes it possible to identify which EPA data system, environmental statutes, or other sources have information about a substance and which synonym is used by that system or statute. It becomes possible therefore to map substance data across EPA programs regardless of synonym. For more information on the Substance Registry Services, visit [https://ofmpub.epa.gov/sor\\_internet/registry/substreg/home/overview/home.do](https://ofmpub.epa.gov/sor_internet/registry/substreg/home/overview/home.do).
- **MTSA** – For more information, visit the U.S. Coast Guard’s website at <http://homeport.uscg.mil>.
- **OSHA** – Visit <http://www.osha.gov> or call 1-800-321-OSHA (6742) [Toll Free U.S.].