

2007 National Agronomic Environmental Health and Safety School

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Legislative/Regulatory Update

Special Permit 13554

Farm Bill

Security – Chemical and Ammonium Nitrate

Transportation

Ammonia MSDS

Risk Management Program

Spill Prevention Control and Countermeasure
Program



Nurse Tank Inspections Special Permit 13554

- Current permit expires in October 2010.
- 934 locations have registered.
- 74 inspectors have registered.
- 13,398 inspection kits mailed.
- 254 tanks have failed –
 - 30 for pressure
 - 93 for thickness
 - 131 for visual



Nurse Tank Inspections (Cont.)

- National Transportation Safety Board decision in Calamus, Iowa accident.
- July 2004 made the following recommendation to the Department of Transportation (DOT):
 - “require periodic nondestructive testing to be conducted on nurse tanks to identify material flaws that could develop and grow during a tank’s service and result in a tank failure.”



Nurse Tank Inspections (Cont.)

- In June 2007 TFI was asked to meet with DOT.
- DOT under some pressure to implement the recommendations of the NTSB.
- NTSB has been briefed many times on DOT's work with TFI and the success of the NTIP.



Nurse Tank Inspections (Cont.)

- DOT, in the future, will need to act on the NTSB recommendations.
- DOT has requested that TFI begin working with the industry to collect the following data:
 - How many new tanks are constructed each year;
 - Age of current nurse tank fleet;
 - How many nurse tanks are currently in service;



Nurse Tank Inspections (Cont.)

- Would the industry consider developing a standard based on the special permit requirements in lieu of regulation?
- Are there enough certified inspectors?
- Should DOT set up training so facilities can train employees to do the testing?



Farm Bill

- Current farm bill expires Sept. 30, 2007.
- House passed its version by a vote of 231-191 – mostly along party lines.
- Alternative measure offered on House floor that would have reduced commodity programs in favor of conservation and nutrition – failed 117-309.
- Major changes in farm subsidies, conservation and nutrition.



Farm Bill - As Passed in House

- Farmers with more than \$1 million in adjusted gross income – barred from government subsidies.
- Farmers with income from \$500,000 to \$1 million would lose subsidies if less than 67 percent of their income came from farming.
- Farmers could only collect subsidies on one property.
- Direct payments would be increased to \$600,000 from \$40,000.



Farm Bill (Cont.)

- Current annual limit on marketing loan payments of \$75,000 would be lifted.
- USDA would be allowed to buy surplus sugar from Mexico for ethanol production.
- New enrollments in the CRP would be allowed starting in 2009.
- Current cap of 39.2 million acres in CRP retained.
- Farm bill now goes to the Senate.
- A one-year extension always possible.



Ammonium Nitrate

- H.R. 1680, the “Secure Handling of Ammonium Nitrate Act of 2007.”
- Introduced in the House by Rep. Bennie Thompson (D-Miss.), chairman of the House Homeland Security Committee.
- Passed favorably from Committee.
- Requires registration of those producing and selling, and those taking possession.



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Ammonium Nitrate (Cont.)

- Registration with the Department of Homeland Security (DHS).
- Registrants will be run through terror watch lists in an expedited fashion.
- Federal rules would preempt state laws if not as strict.
- S. 1463 introduced in the Senate by Sen. Mark Pryor (D-Ark.).



Ammonium Nitrate (Cont.)

- S. 1463 attached to the DHS Appropriations Act on July 27.
- DHS appropriations was passed by the Senate with a 89 to 4 vote just a few weeks ago.
- A conference will be held with House and Senate to work out differences.
- TFI is hopeful ammonium nitrate provisions will remain.



Chemical Security Legislation

- Congress drafted the first legislation on chemical facility security during the 107th Congress
- Additional proposals came during the 108th and 109th Congresses
- Original legislation took an environmental approach to chemical security
- Neither House or Senate bills advanced



FY 2007 DHS Appropriations Bill

- Congress added regulatory authority over chemical facility security to the FY 2007 DHS appropriations bill
- Bill requires DHS to promulgate risk-based performance standards for the nation's "highest risk" chemical facilities within 6 months of being signed into law
- Regulations have 3 year sunset provision



FY 2007 DHS Appropriations Bill

- DHS can regulate the nation's "highest risk" facilities.
- DHS must:
 - Develop risk-based performance standards
 - Require facilities to submit vulnerability assessments and security plans
 - Protect security sensitive chemical information
- DHS cannot disapprove a plan due to the absence of a specific measure.



Chemical Facility Anti-Terrorism Standards

- The Chemical Facility Anti-Terrorism Standards (CFATS) interim final rule was published on April 9.
- The interim final rule became effective on June 8.
- CFATS defines a chemical facility as “any establishment that possesses or plans to possess a quantity of a chemical substance determined by the Secretary to be potentially dangerous or that meets other risk-related criteria identified by the Department.”



CFATS

- CFATS requires all facilities possessing a quantity of chemical above the DHS threshold, to register and complete an online survey, known as the Top-Screen.
- Included in the draft Appendix A were anhydrous ammonia, 7,500 lb STQ; ammonia (conc. 20 percent or more), 15,000 lb. STQ; ammonium nitrate, 2,000 lb STQ; potassium nitrate, 2,000 lb. STQ; sodium nitrate, 2,000 lb. STQ; and urea, 2,000 lb STQ.



Step 1: CSAT Registration

- Chemical facilities subject to the rule must register with DHS using the Chemical Security Assessment Tool program.
- Companies can register each facility separately, or under one umbrella.
- Companies must designate an authorizer, submitter, and preparer for each facility.
- CSAT registration is open now!



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Step 2: Top-Screen

- Facilities possessing a chemical listed on DHS' Appendix A above the Screening Threshold Quantity (STQ) must complete a Top-Screen.
- Chemical facilities will have 60 days from publication of the final Appendix A to complete the Top-Screen.



Step 3: SVA

- “High Risk” facilities will be classified into one of four preliminary tiers, non-high risk facilities will fall out of the program.
- Tiered facilities must complete a Security Vulnerability Assessment (SVA) within 90 days of notification.
- Tiers 1 - 3 - must utilize DHS’ SVA
- Tier 4 - may submit an alternative security program in lieu of the DHS SVA



Step 4: Site Security Plan

- Following SVA submission, facilities will be given a final tier
- Facilities will then be required to complete a Site Security Plan (SSP) within 120 days of notification
- Compliance with SSP is subject to DHS inspection



What to expect in the 110th Congress?

“It concerns me that the regulations do not require chemical facilities to switch to safer technologies wherever feasible. Without such a requirement, I fear a significant gap remains in our chemical security efforts.”

~ Rep. Bennie Thompson (D-Miss.)

Chairman, House Homeland Security Committee



Transportation of Ammonia Railroads' Perspective

- Profit margins for ammonia are not worth the liability railroads face.
- Railroads “bet the farm” every day they carry toxic-by-inhalation products like ammonia.
- Companies should ship safer alternatives.
- Most pressure is on shippers – but receivers will also be affected.



Transportation of Ammonia (Cont.)

- Ammonia rates skyrocketing.
- Railroads have proposed a new tank car standard for ammonia and chlorine.
- Railroads want liability protection or relief of common carrier obligation.



Transportation of Ammonia (Cont.)

- Transportation Security Administration (TSA) proposed rulemaking in December 2006 –
 - Chain of custody – physical attendant at loading and unloading in high threat urban areas.
 - Railroads say they will require physical attendant regardless.
 - Rail security coordinator for each shipper and receiver required – 24/7.



Transportation of Ammonia (Cont.)

→ Railroads will no longer allow ammonia cars to be left outside the facility.

→ Demurrage charges of \$500 for the first day and \$1,000 for each additional day.

→ Railroads required to submit alternative routing plans to DOT.



Transportation of Ammonia (Cont.)

- TFI will continue to work with the railroads and the Federal Railroad Administration to improve safety in a cost-effective way.
- TFI submitted comments to the DOT proposals.
- TFI is looking into ways to find an accommodation between the railroads' and shippers' needs.



Ammonia Burns - MSDS

- Recently a member inquired about how companies were communicating treatment options for chemical (ammonia) burns.
- They noted that in several instances in the past, EMTs had treated a fresh burn with salves or ointments; increasing the severity of the injury.
- TFI polled members on how they were handling the issue in their MSDS and protocol.



MSDS Responses

- Most MSDSs are silent on the issue; and opinion was somewhat divided on whether recommending against was warranted (EHS will discuss at next meeting).
- However, the application of these products can cause numerous other problems, such as infection, it can hold in the chemicals not washed off of the skin and it can hold in any heat that needs to be released from the wound.
- If applied, there is greater potential for causing more severe burns. So, for basic first aid purposes an MSDS sheet for any chemical should not recommend applying salves or ointments to burns.



MSDS Responses

- Several felt that many ER doctors don't even know this and there are cases where they have complicated the injury.
- Chemical burns ideally should be treated by a burn specialist. They will be able to effectively identify the severity and evaluate and remove all of the contamination and damaged skin. A prescription called Silvadene Cream 1 percent may be applied by a professional (after wound is completely cleaned).
- The cream is used along with other medications to prevent and treat wound infections in people with second- and third-degree burns. This cream is not available to the ordinary layperson.



*my*RMP

- Revised guidance document for agricultural retailers now available.
- TFI and Asmark Institute worked with EPA on revisions.
- Letter of support to TFI from EPA.



*my*SPCC

- Tailored after the *my*RMP guidance.
- TFI and Asmark Institute working with EPA.
- Guidance document available soon.
- Hopeful for letter of support from EPA.



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