

# AAPFCO Security Sub- Committee

Security Briefing

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# Ammonium Nitrate Security Program

- The rule continues to be under internal review at DHS.
- Once the DHS review is complete, the rule will go to the White House Office of Management and Budget (OMB) for review. It might happen this summer.
- In the meantime, TFI has formally requested the opportunity to review the Sandusky ammonium nitrate blast data, which was collected by the agency to inform some of the security procedures in the rule.



# Ammonium Nitrate Security Program - DHS

- On May 10, 2015 nine senators sent letter to Suzanne Spaulding, Under Secretary for the National Protection and Program Directorate, DHS urging DHS to issue a Supplemental Notice of Proposed Rulemaking to address the confusion within industry regarding the type of information required (such as vetting and verification components) and which product containing AN would be the most susceptible to misuse, or pose a high security risk, However, the proposed rule includes a definition for “mixture” that would go beyond the original intent of the law by covering certain agricultural products that are the least susceptible to detonation and would therefore be less attractive for misuse.
- US House of Representative Ranking Member Benny Thompson sent a letter to Jeh Johnson, DHS Secretary on July 10, 2015 the concern that the implementation of this program has had an eight (8) year delay. Representative Thompson has asked DHS to issue a supplemental Notice of Proposed Rulemaking.



# OSHA Exemption for Retail Facilities under PSM

29 CFR 1910.119

- On July 22, the Occupational Health and Safety Administration (OSHA) issued a revised policy for retail facility exemption under the Process Safety Management (PSM) Standard.
- Under OSHA's old policy, "retail facilities were exempt from PSM coverage if it derived more than 50% of its income from direct sales of highly hazardous chemicals to the end user."
- The new policy states: "Only facilities, or the portions of the facilities, engaged in retail trade as defined by the current and any future updates to sectors 44 and 45 of the NAICS Manual may be afforded the retail exemption under 1910.119(a)(2)(i)."
- The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy



# OSHA Exemption for Retail Facilities under PSM

29 CFR 1910.119

- Most agriculture retailers are registered under NAICS code 424910 (Farm Supplies Merchant Wholesales). Under this new policy, if an agriculture retailer is operating under anything but NAICS 44 or 45 and holds more than threshold quantities of a highly hazardous chemical (10,000 pounds of anhydrous ammonia), PSM requirements would apply to their operation.
- In its interim enforcement policy, OSHA states it will help newly covered facilities comply with the change for 6 months, before exercising enforcement discretion.
- Industry concern is that 6 months is not enough time for newly covered facilities to comply.





**Executive Order Improving Chemical Facility Safety and Security -  
August 1, 2013**

# Update on Implementation of Executive Order 13650

May 2015

- **OSHA**
- PSM Proposal: Agency plans to kick off a process to solicit feedback from the small business community on concepts addressed in the proposal. This is a formal process under the Small Business Regulatory Enforcement Fairness Act (SBREFA). OSHA will prepare briefing materials for this process and that the list of issues will include potential additions to the list of chemicals under the program in Appendix A, potential changes to the chemical threshold quantities and perhaps the inclusion of a reactive chemical category.
- Retail Facility Exemption (see prior slide)
- Concentrations for Chemicals in Appendix A – issuance of guidance on how concentration limitations for certain chemicals in Appendix A of the PSM rule impact the applicability of the rule



# Update on Implementation of Executive Order 13650

May 2015

- **Chemical Advisory: June 2015**
- **Safe Storage, Handling, and Management of Solid Ammonium Nitrate Prills**
- The Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) issued this advisory as part of an ongoing federal effort to improve chemical risk management, advance ammonium nitrate safety, and protect human health and the environment. This advisory contains information on incidents involving ammonium nitrate ( $\text{NH}_4\text{NO}_3$  - commonly referred to as “AN”), AN hazards, hazard management, and steps for emergency planning, and safe emergency response.



# Update on Implementation of Executive Order 13650

May 2015

- **EPA**

- Safer Alternatives – Agency is working on guidance or an alert addressing safer alternatives. While the document will not prescribe any specific technologies, it will not recommend or ban certain chemicals.
- Risk Management Plan Proposal – Agency is planning to issue proposed changes to the RMP program in late 2015..It appears that EPA is scaling down the potential scope of the proposed changes. If the agency conducts a formal SBREFA process, this can delay the process by months. The agency is not expected to add to the list of chemicals covered by the program, or changes to the chemical threshold quantities. The rule will retain its performance basis and emphasize ways to enhance the role of and communicate with LEPCs.



# Update on Implementation of Executive Order 13650

May 2015

- **DHS**
- CFATS –DHS still plans to issue some proposed changes to the CFATS program, though the timing and scope of the proposal is uncertain. DHS has issued guidance on expedited review of site security plans.
- ANSP – (see prior information).



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