



FEDERAL REGION 4 STATUS REPORT:

Presidential Executive Order 13650 on

Improving Chemical Facility Safety and Security

BACKGROUND

The August 2013 Executive Order 13650 was established in large part to prevent accidents similar to the April 2013 fertilizer explosion in a small rural community known as West, TX. This accident resulted in 15 fatalities, injured more than 200 citizens and caused ~ \$100 M in property damage.

EO 13650 mandated unified Federal action to improve chemical facility safety and security. It established a multi-agency framework tri-chaired by EPA, OSHA and DHS.

The framework aligns federal operations for EPA's accident prevention program, OSHA's process safety management program and DHS's chemical facility security program.

Prior to EO 13650, federal cross-agency compliance monitoring operational awareness was very limited.



50 unit Apartment Complex Damaged by an Ammonium Nitrate Explosion at the West Fertilizer Company, April 17th, 2013

West, TX Population ~ 2800

Impacts:

- 15 Fatalities
- > 200 injured
- 120 homes destroyed
- 200 homes damaged
- 3 schools damaged
- ~ \$100 M in damages

ESTIMATED EO 13650 FACILITY UNIVERSE

DHS CFATS Facilities

Tier 1 = 102 (**Highest Chemical Security Risk**)

Tier 2 = 539

Tier 3 = 1290

Tier 4 = 2638

National Total = 4569

EPA RMP Facilities

Georgia = 277; Chatham County = 10 (GA is the implementing agency)

1900 (**Highest Chemical Safety Risk**)

National Total = 12542

OSHA PSM Facilities

National Total ~ 29000

- Includes the estimated 4800 facilities affected by OSHA's revised interpretation that only facilities in NAICS codes 44 and 45, the retail trade, are eligible for the PSM retail exemption. Such facilities previously registered as RMP Program level 2, will now be subject to RMP Program level 3 requirements.

EPCRA Section 312 Facilities

Georgia = 5064 (Chatham County = 240)

National Total = 850000

Federal Region 4 (R4) Executive Order 13650 Implementation Plan

Contains information on:

- The R4 Working Group (RWG4) and its support structure
- R4 EO 13650 Standards of Operation for:
 1. Plan Administration
 2. Unified Federal Compliance Assurance Operations
 3. Federal Support to State and Local Emergency Planners/Responders

The Plan is publically available at:
www.epaosc.org/EO13650Region4

NOTICE: This Document is Subject to Change Controls



FEDERAL REGION 4 IMPLEMENTATION PLAN

Executive Order 13650
Improving Chemical Facility Safety and Security



Catastrophic chemical facility incidents in the United States prompted a federal mandate to improve the safety and security of chemical facilities, and thereby reduce chemical accident risks to owners/operators, workers, and communities. This Implementation Plan provides the operational framework for federal, state, tribal, and local partners to achieve this mandate within Federal Region 4.

UNIFIED FEDERAL COMPLIANCE ASSURANCE OPERATIONS:

Actions on Identifying Chemical Facility Risks

- **Cross-Agency Program Awareness** – Annual Tri-Agency cross-program training of inspectors on the top 10 chemical facility safety/security concerns for each agency, to provide an increased level of awareness and present the opportunity of a broader reach in identifying risks.
- **Bad Actor Focus** – Annual Tri-Agency program support staff collection of severe violator/potentially non-compliant facility information from other federal regions to share with their EO counterparts.
- **Reporting Assurance** – Quarterly Tri-Agency program support staff cross-checks of facility information in the RMP*Info system, EPCRA Tier II E-Plan system, FIFRA production database, DHS CFATS Share system, and the OSHA Integrated Management Information System inspection database for facility applicability/reporting inconsistencies.
- **Inspection Efficiency** – Quarterly inspection schedule sharing among Tri-Agency program support staff for operational awareness. Rather than joint compliance monitoring efforts, the goal is to maximize federal monitoring through cross-agency program awareness and referrals.

UNIFIED FEDERAL COMPLIANCE ASSURANCE OPERATIONS: Actions on Communicating Chemical Facility Risks

- **Enforcement Assurance** – Quarterly Tri-Agency program support staff exchange of information relating to inspection targeting schemes, complaints, inspection outcomes, investigations, violations, penalties, or other legal actions taken to enforce laws and regulations, and other information necessary to ensure effective communications and coordinated regulatory enforcement authority operations.
- **Effective Communications** – Quarterly Tri-Agency program support staff exchange of information on planned outreach and stakeholder engagements in order to integrate efforts on communicating risks at chemical facilities.

FEDERAL SUPPORT TO EMERGENCY PLANNERS AND FIRST RESPONDERS

- **Online EPCRA Training** – EPA's Office of Emergency Management has developed a web based training designed for informing SERC/TERC/LEPC staff on the requirements of EPCRA. The training is now available at:
http://epawebconferencing.acms.com/epcranon313nonepa/event/event_info.html.
- **Industry Outreach** – R4 plans to conduct outreach to regulated Industry to ensure timely updates to their "Emergency Contacts" listed on their Tier 2 Reports, and encourage prompt reporting of new chemical arrivals to ensure new chemical arrivals are reported to first responders within 3 months as required under EPCRA Section 311.
- **Expert Connections** – R4 plans to launch an initiative to connect federal and state subject matter experts to emergency planners and first responders for technical assistance on chemical security and chemical emergency preparedness and prevention program matters, including the information contained in, and how to access and use, the various relevant chemical facility databases.

THE NATIONAL TRI-AGENCY EXECUTIVE ORDER 13650 WEBSITE

Contains information
on:

- The May 2014 Status Report to the President
- The June 2015 National EO Progress Report
- OSHA and EPA Requests for Information on Potential Revisions to the PSM and RMP Regulations
- DHS Advance Notice of Proposed Rulemaking for updates to the CFATS regulations

Please visit the Website:
<https://www.osha.gov/chemical/executiveorder/>



EXECUTIVE ORDER 13650
ACTIONS TO IMPROVE CHEMICAL
FACILITY SAFETY AND SECURITY –
A SHARED COMMITMENT

REPORT FOR THE PRESIDENT

May 2014



A SAMPLE FROM THE QUESTIONS EPA ASKED AS PART OF THE CLOSED RMP REQUEST FOR INFORMATION (RFI) – Incorporating the concept of inherently safer process technologies and/or process alternatives

- If EPA were to require facilities to undertake an evaluation of the potential to incorporate safer alternatives, what minimum criteria should this evaluation be required to meet?
- How would the evaluation determine if a particular alternative is feasible, cost effective and results in less risk?
- What requirements or incentives, if any, should there be for implementation of identified safer alternatives?
- How should any such requirements be structured and enforced?
- How should EPA and facilities address the risk tradeoffs that could result when changing a process to incorporate safer alternatives?
- What barriers exist for industry to adopt safer alternatives?

For more information on the EPA RMP RFI go to:

<https://www.federalregister.gov/articles/2014/07/31/2014-18037/accidental-release-prevention-requirements-risk-management-programs-under-the-clean-air-act-section>

The proposed Rule is projected for a March 2016 publish date

OSHA PSM Retail Exemption Policy Change - Interim Enforcement Policy issued December 23, 2015

OSHA's Process Safety Management (PSM) Standard states that its requirements do not apply to "retail facilities." 29 CFR 1910.119(a)(2)(i). On July 22, 2015, OSHA issued a memorandum entitled "Process Safety Management of Highly Hazardous Chemicals and Application of the Retail Exemption (29 CFR 1910.119(a)(2)(i))" (Memorandum).

In the Memorandum, OSHA interpreted the term "retail," as used in the PSM standard, to apply to facilities "engaged in retail trade as defined by the current and any future updates to sectors 44 and 45" of the North American Industry Classification System Manual. This reflected a change from OSHA's prior interpretation of "retail" to apply to facilities that obtain more than half of their income from direct sales to end users.

Through September 30, 2016, OSHA will not cite employers for violations of the PSM standard at facilities that it would not have cited applying the interpretation of the term "retail" that was in place prior to July 22, 2015.

CFATS Personnel Surety Program – Risk-Based Performance Standard (RBPS) 12

On December 18, 2015, a notice was published in the in Federal Register to inform Tier 1 and Tier 2 high-risk chemical facilities covered under CFATS of the implementation of the CFATS Personnel Surety Program. The notice provides information on:

- Statutory and regulatory history
- Four options available to facilities in order to comply with RBPS 12(iv)
- Program requirements and details
- Chemical Security Assessment Tool (CSAT) user roles and responsibilities; and
- Privacy considerations

For more information on the CFATS RBPS 12 go to:

<https://www.federalregister.gov/articles/2015/12/18/2015-31625/chemical-facility-anti-terrorism-standards-personnel-surety-program>

EPA Proposed Change to Hazardous Waste Generator Regulations – Incorporation of the Phrase Local Emergency Planning Committee

- On September 25, 2015, EPA published a Proposed Rule for revisions to the hazardous waste generator regulations under the Resource Conservation and Recovery Act (RCRA). Based on EPA's Regulatory Impact Analysis, EPA estimates the affected universe is between 353,000 and 543,000 entities.
- The Proposed Rule Subpart VIII.H, if adopted, would affect the relationship among small and large quantity generators with their respective LEPCs and/or local fire department or other emergency responders.
- This Proposed Rule would add to the RCRA regulations a new reference to LEPCs, and an explicit statement that small and large quantity generators must enter into agreements with local emergency planning officials, rather than just attempt to enter into agreements. Such agreements would include "arrangements" that involve familiarizing local emergency planning officials with the layout of the facility, properties of the hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes.

For more information on the RCRA Proposed Rule go to:
<https://www.federalregister.gov/articles/2015/09/25/2015-23166/hazardous-waste-generator-improvements>

THE EO NATIONAL WORKING GROUP (NWG) IS SEEKING INFORMATION ON CHEMICAL SAFETY AND SECURITY BEST PRACTICES

Stakeholders interested in submitting practices for consideration should complete the Chemical Safety and Security Best Practice Submission Form.

Email EO.chemical@hq.dhs.gov to request the submission form.

Completed forms should be submitted electronically to EO.chemical@hq.dhs.gov. Include *Chemical Safety and Security Best Practice Submission* in the subject line of the message.

A NWG representative may follow up if additional information is needed. All submissions will be reviewed by the NWG prior to inclusion in the forum.

For more information on best practices go to:

<https://www.osha.gov/chemicalexecutiveorder/LLIS/index.html>



Victor L. Weeks

U.S. EPA R4

Chemical Emergency Preparedness and Prevention Coordinator

Email: weeks.victor@epa.gov

Phone: 404-562-9189