

NASF Washington Forum 2010

Chemical Security Developments/ Prospects for TSCA Legislation

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Chemical Facility Anti-Terrorism Standards

- DHS to finish all final tiering decisions on original universe of Top-Screen submissions ~July.
- Final tiering letter will include requirement to file Site Security Plan w/in 120 days.
 - Once you get letter, DHS unlikely to let you out before you submit an SSP, so file new Top Screen/Request for Redetermination first!
 - Get your technical consultations while you can
 - SSPs thus far too skimpy to be approvable on “paper”

Chemical Facility Anti-Terrorism Standards

- DHS also being rigid about “material modifications”
 - Not every modification is “material”
 - Spell out possible scenarios in your SSP
- DHS began “preauthorization” inspections in January
 - Hope to do all Tier 1s in calendar 2010
 - “Compliance” office runs day-to-day implementation

Chemical Facility Anti-Terrorism Standards

- Personnel Surety capability in “CSAT” still in the works – April 13 FR notice is latest
 - “Likely” less vetting for people with TWIC cards, maybe comm’l drivers licences w/ haz mat endorsements
- CFATS legislation
 - H.R. 2868 - mandatory IST, etc. Passed House 11/6.
 - S. 2996 – 5-year extension of current CFATS
 - Expect another 1-year reauth. in FY11 spending bill

DOT Haz Mat Rule Amendment

- March 9 – effective October 1
- Amends HM-232 re security training & plans
 - Conforms list of hazmats to TSA list of “Highway Sensitive Hazardous Materials”
 - Some more detail re plans (e.g. vulnerability assessment in writing)
 - Some ambiguity about who must receive in-depth security training

TSCA Amendments?

- S. 3209 – Lautenberg
- House discussion draft – Rush/Waxman
 - 8 stakeholder meetings over 4 weeks
- Two main issues:
 - Can EPA possibly do this?
 - Effect on innovation

TSCA Amendments?

- Can EPA possibly do this?
 - Make “safe for intended use” determinations, incl. consideration of aggregate/cumulative risks, for
 - 300 existing chemicals within 6 months
 - 1-2,000 new chemicals/year within 9 months
 - What EPA does now for pesticides, FDA does now for drugs, food additives
 - But pesticides office has ~900 FTEs, TSCA office has ~350
 - Pesticides take years; new chemicals now approved in 90 days

TSCA Amendments?

- Effect on innovation
 - Minimum data set for every chemical?
 - 50% of PMNs chemicals are never commercialized.
 - Most are innocuous
 - New use approvals exclusive?
 - Have to make new application for every new “use”
 - Significant increase in manufacturing or processing is new use?
 - ~65k new patents in last five years; ~30k from U.S. applicants

TSCA Amendments?

- Markups? Floor debate? Election year?