



Chemical Facility Anti-Terrorism Standards: Regulatory and Legislative Update

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Agenda

- Chemical Facility Anti-terrorism Standards (CFATS) Overview
- Regulatory Status
- On-going Discussions and Debates

CFATS – Purpose & Scope

Authority

- Section 550, FY07 DHS Appropriations (P.L. 109-295)
 - High Risk Chemical Facilities
 - Conduct Security Vulnerability Assessment (SVA)
 - Prepare Site Security Plan (SSP)
 - Implementing Risk Based Performance Standards (RBPS)
- Interim Final Rule, April 9, 2007 (effective 6/8/07)
- Appendix A Chemicals of Interest (COI) List:
 - Proposed – April 9, 2007
 - Final – September 2007

CFATS – Purpose & Scope

Prevent Terrorist from Using Chemicals or Chemical Facilities as Weapons

High Risk Chemical Facilities:

- Possess **Chemicals of Interest** – manufacture, use, store or distribute-any kind of facility
- At or above the **Screening Threshold Quantity (STQ)**
- Serious **Consequences** from Successful Attack:
 - Human Health & Safety
 - Government Mission in Time of Emergency
 - National or Regional Economy

CFATS – Purpose & Scope

- High Risk Chemical Facilities -- Exemptions
 - MTSA facilities*
 - Public Drinking Water Systems*
 - Waste Water Treatment Facilities*
 - DOE & DOD facilities
 - NRC-regulated facilities*

*Partial Exemptions Possible

- Portion of facility subject to MTSA
- On-site water treatment facility
- Small radioactive sources

CFATS – Appendix A Chemicals of Interest

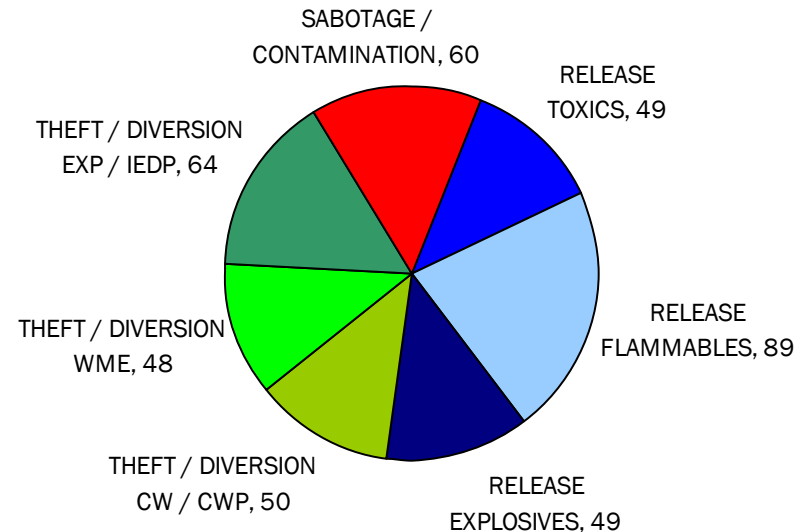
1. Release – 187 chemicals

- Toxics
- Flammables
- Explosives

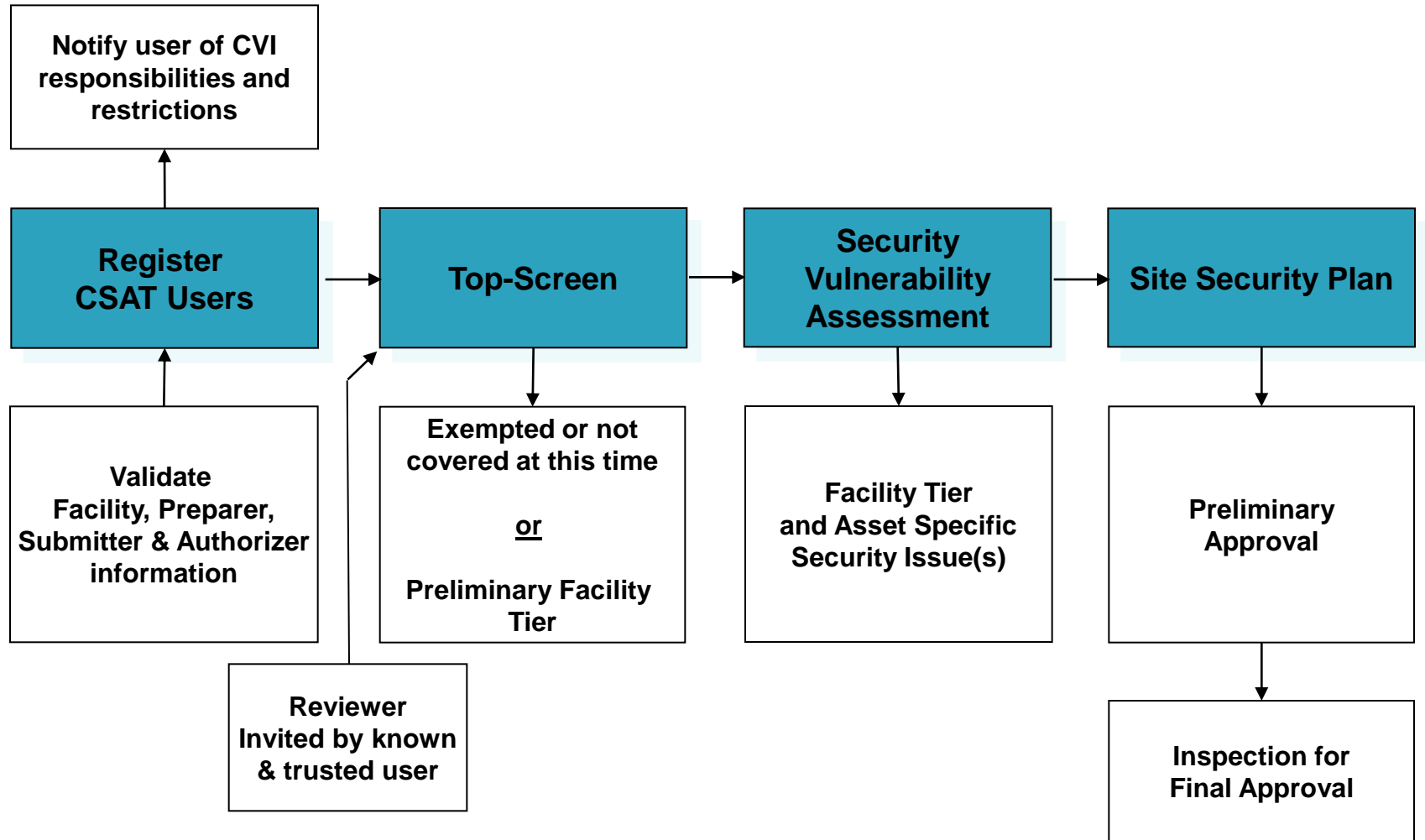
2. Theft and Diversion – 162 Chemicals

- Chemical Weapons (CW)/
Chemical Weapon Precursors (CWP)
- Weapons of Mass Effect (WME)
- Explosives (EXP)/Improvised Explosive Device Precursor (IEDP)

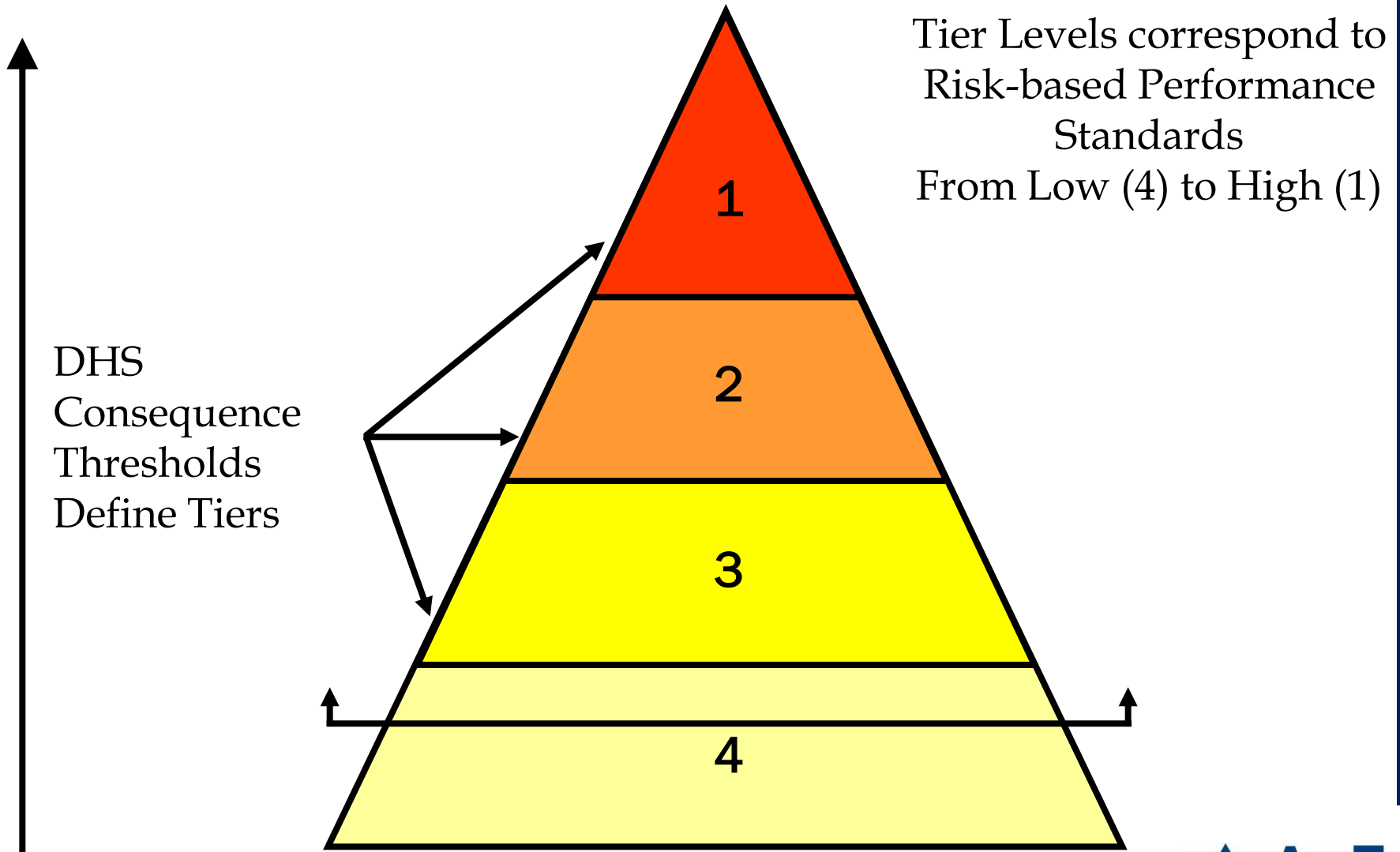
3. Sabotage/Contamination – 60 Chemicals



CFATS Compliance Process



CFATS Risk-Based Tiers



Status

- 37,000 Top-Screens received
 - 7,010 received preliminary tier letters
 - 6,300 SVAs received
- Most Tiers 1, 2, 3 SVAs reviewed
- Some Tier 4 SVA reviews are ongoing
- About 500 Final Tier Notifications are made monthly
- Inspections are beginning and are expected to focus on Tier 1 facilities during FY 2010
- Some facilities have been notified that they are no longer high risk

Status

- Tier 1 (225 have final tier, 5 awaiting final tier)
- Tier 2 (515 have final tier, 48 awaiting final tier)
- Tier 3 (1064 have final tier, 67 awaiting final tier)
- Tier 4 (1703 have final tier, 2296 awaiting final tier)

(As of March 1, 2010)

Purpose of the Top-Screen

- Identify facilities with the potential for serious consequences from successful intentional attack:
 - Human Health and Safety impacts from releases of toxic, flammable or explosive chemicals
 - Theft or diversion
 - Sabotage or contamination
 - Government mission
 - National or regional economy

Which Facilities Complete a CSAT SVA?

- Formal Notification from DHS in a Preliminary Tier Letter
 - Need to complete SVA
 - Completion date (typically 90 days)
 - Overall Preliminary Tier Level for the facility
 - COI and Security Issues to include in the SVA
- Tier 1 – Tier 3 facilities must use CSAT SVA
- Tier 4 facilities have the option to upload a Alternative Security Program (ASP) to meet the SVA requirements
 - Typical industry SVA methodology that must include DHS threats & assumptions

DHS Attack Scenarios

Attack Scenarios

Chemicals of Interest		Aircraft	Maritime*	Vehicle	Assault Team	Standoff	Theft	Diversion**	Sabotage
Release	Toxic (include the Mitigation Measures page with these attack scenarios)	X	X	X	X	X			
	Flammable	X	X	X	X	X			
	Explosive	X	X	X	X	X			
Theft/Diversion	EXP/IEDP						X	X	
	WME						X	X	
	CW/CWP						X	X	
	Sabotage								X

* Only if facility is on navigable waterway [Q:2.92-3313]

** Only if Primary COI shipped offsite.

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Answer the scenarios based on what type of primary COI you have selected for the asset. Use the table above to determine what sections should be answered for a specific asset.

Only fill out the Maritime section if the facility is located on a navigable waterway [Q:2.92-3313].

Only fill out the Diversion section if the facility ships the Primary-COI offsite.

The online application requires the user to annotate the CSAT facility imagery (or upload and annotate imagery for the facility), to indicate each asset location, attack location, and the radius of the damage zone for each scenario.

SVA Consequence Estimation (example)

- Predefined damage zones for each attack scenario type
- Inner damage zone for estimating additional release of COI
- Outer damage zone for estimating onsite personnel

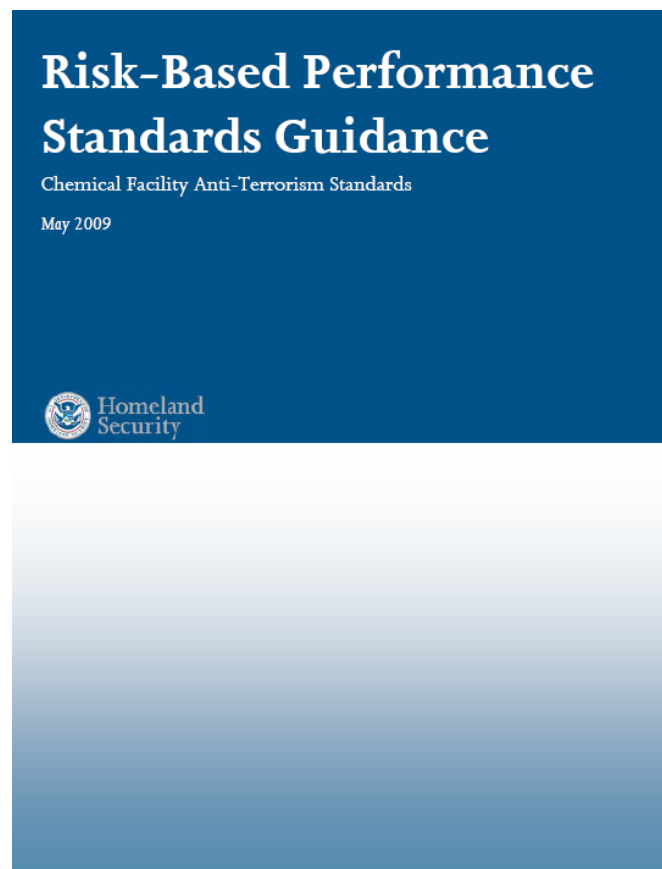


Which Facilities Complete a CSAT SSP?

- Formal Notification from DHS in a Final Tier Letter
 - Need to complete SSP
 - Completion date (typically 120 days)
 - Overall Final Tier Level for the facility
 - COI and Security Issues specific Tier Levels
 - SSP must describe how the facility will meet the appropriate RBPS for its Tier Level (existing, planned, proposed measures)
- Facilities at all tiers have the option to upload a Alternative Security Program (ASP) to meet the SSP requirements
 - ASP may be beneficial for a company with multiple, similar facilities – Tier Level and COI/ Security Issues

Risk Based Performance Standards

- DHS established “risk-based performance standards” for securing CFATS regulated facilities
- Provides individual facilities the flexibility to address their unique security challenges
- Security expectations based on each facility’s unique:
 - Security Issues
 - COI
 - Final Tier Determination
- Security can be achieved at the facility level, at the specific asset or a combination.



CFATS Risk Based Performance Standards

1. Restricted Area Perimeter
2. Securing Site Assets
3. Screening & Access Controls
4. Deter, Detect, and Delay
5. Shipping, Receipt & Storage
6. Theft and Diversion
7. Sabotage
8. Cyber
9. Response
10. Monitoring
11. Training
12. Personnel Surety
13. Elevated Threats
14. Specific Threats, Vulnerabilities, or Risks
15. Reporting of Significant Security Incidents
16. Significant Security Incidents & Suspicious Activities
17. Officials & Organizations
18. Records
19. Others as determined by DHS

- **Each RBPS is less demanding as you move from Tier 1 to Tier 4**
- **DHS will issue non-binding guidance explaining its interpretation of level of performance required by each RBPS by tier**

Additional Work Beyond the SSP

- Conditional SSP approval
- Disapproval of the SSP
- DHS Inspection (verification of the SSP) – Final SSP approval
- Resubmittal of Top-Screen and the SVA and SSP, as required:
 - Every 2 years for Tiers 1 and 2
 - Every 3 years for Tiers 3 and 4
 - Material modification
- Annual audit of SSP

Ongoing Developments

- International Liquid Terminals Association (ILTA) petition to DHS (May 30, 2009):
 - Applicability of CFATS regulations to aboveground fuels storage tanks (gasoline)
 - Challenged DHS approach on the hazards of gasoline, consequence assessment process and tiering
- DHS Response
 - Initially - Extended indefinitely the SSP submission requirements for above ground gasoline storage facilities (e.g., fuels terminals)
 - Currently – FR notice describing the DHS position with comments due by March 15, 2010

Chemical Security Legislation

- CFATS has a “sunset” date
- Was reauthorized (continued) in its current form until October 2010
- In November of 2009, the US House passed HR 2868 –Chemical and Water Security Act of 2009
 - Eliminate MTSA exemption
 - Add drinking water and wastewater provisions
 - Require an Inherently Safety Technology (IST) assessment for highest tiered facilities in program
- In February 2010, a bipartisan bill was introduced (S. 2969) to make the CFATS authority permanent
 - Add Chemical Security Training Program and Chemical Security Exercise Program
- HR 2868 and S 2969 must be reconciled before they can become law

Summary

- CFATS is an iterative process, each step builds on the previous and can easily go astray if errors are made or identified later
- CFATS requirements can overlap other requirements at a facility
 - DOT HM-232
 - TSA Rail regulations
 - MTSA (for parsed facilities)
 - Voluntary security programs (Responsible Care, C-TPAT, etc.)
- Harmonization efforts are underway (MTSA)
- How your facility is managing CFATS needs to be documented
- CFATS has requirements outside the plant gates (e.g., emergency response planning, coordination, drill and exercises)

Questions?

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