



# LEGAL ALERT: Homeland Security Issues Anti-Terrorism Chemical Standards

Helms Mulliss & Wicker, August 13, 2007

URL: <http://www.pr9.net/society/law/6114august.html>

*In May, the Department of Homeland Security issued its long-awaited rule on chemical security requirements. This rule imposes significant new requirements regarding the identification and management of potential security risks.*

PR9.NET August 13, 2007 - CHARLOTTE, N.C. - In May, the Department of Homeland Security issued its long-awaited rule on chemical security requirements. This rule imposes significant new requirements regarding the identification and management of potential security risks.

## Who is Subject to the Rule?

Whether a facility is subject to the new rule depends on what chemicals it has on site and in what quantity. The list of the Department's "chemicals of interest" is included as Appendix A to the rule. You can review the list at the following link:

[http://www.dhs.gov/xprevprot/laws/gc\\_1175537180929.shtm](http://www.dhs.gov/xprevprot/laws/gc_1175537180929.shtm)

If a facility has on site a "chemical of interest" in an amount greater than the "screening threshold quantity," then the plant must comply with the new rule.

## How Does the Rule Work?

Facilities subject to the rule must first complete an initial screening process called a "Top Screen." Among other things, the facility must provide information identifying the chemicals on hand, how they are stored and how they are used, along with information on the plant's security, safety and emergency response practices. The "Top Screen" is done through a secure web site provided by the Department of Homeland Security.

The Department will then use the "Top Screen" data to determine the relative risk ranking of the facility. There are four tiers with "Tier 1" being the highest risk sites and "Tier 4" being the lowest. For national security reasons, the Department is not publishing the ranking criteria.

The rule then requires the facility to prepare a "Site Vulnerability Analysis." This includes identification of critical assets; threat assessments; identification of potential security vulnerabilities; and analysis of countermeasures to a terrorist attack.

Finally, the facility needs to prepare a "Site Security Plan." The new rule specifies the "Site Security Plan" must address restricting access, preventing sabotage, conducting background and identity checks and address all vulnerabilities identified, but leaves it to the facility to determine how best to address these areas.

Both the "Site Vulnerability Analysis" and the "Site Security Plan" will be reviewed by the Department and require approval.

## When Does the Rule Take Effect?

The new rule took effect June 8, 2007. However, the list of chemicals and their thresholds is not finalized. Once the list is finalized, you will have 60 days to do the initial Top Screen process. Site Vulnerability Analyses and Site Security Plans must be submitted within 90 and 120 days, respectively, after the Department requests you to submit them.

## What Should I Do Now?

First, review the list of chemicals and their threshold quantities to see if the rule applies to you. If it does, begin reviewing how your current security assessments and plans compare to the rule's requirements so that you can begin to determine what changes you will need to make to comply with this new rule.

Second check the list site regularly so that you are not found out-of-compliance when the rule is fully enforced.

###

## About Helms Mulliss & Wicker

HMW is recognized as one of America's Best Law Firms by Corporate Board Member magazine, ranked as a Top Ten Bond Counsel by The Bond Buyer and is named a Go-To Law Firm by Corporate Counsel magazine. The firm employs more than 135 lawyers, 20 of whom have been designated Super Lawyers in the 2007 North Carolina Super Lawyers magazine. HMW focuses on three practice groups: commercial litigation, complex finance and corporate law. Within the practice groups, specialty areas include: government relations, securities, mergers & acquisitions, employer services, private equity and others. The firm represents Fortune 100 companies, the nation's largest financial institutions as well as many high-growth and start-up companies. Helms Mulliss & Wicker maintains offices in Charlotte, Raleigh and Wilmington, NC. For additional information, visit [www.hmw.com](http://www.hmw.com).

Website: <http://www.hmw.com>

