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DHS Site Visit Raises Chemical Storage Concerns, Prompting School Evacuation

Agency continues to implement CFATS with the impending release of the SSP and RBPS Guidance

The Associated Press reported April 17 that a Department of Homeland Security (DHS) investigator discovered flaws in storage tanks that hold 30,000 gallons of hydrofluoric acid at a chemical plant in southern Arkansas. The discovery was made during a Chemical Facility Anti-Terrorism Standards (CFATS) compliance assistance site visit. No leak has been reported, but a local school district was closed as a precaution while the Arkansas Department of Environmental Quality inspects the tanks.

Though the discovery was not made during a formal CFATS inspection, today's events demonstrate that DHS is seeking to identify facilities that are not in compliance with CFATS, and to enforce the CFATS obligations of covered facilities.

Soon all facilities subject to site security obligations under CFATS will have to develop a Site Security Plan (SSP) that complies with the Risk-Based Performance Standards (RBPS). The RBPS are 18 risk-based standards that were established by DHS in connection with CFATS. DHS will shortly release the final guidance on the RBPS, which is designed to help chemical facilities subject to CFATS select and implement appropriate protective

measures and practices to meet the applicable RBPS. The SSP guidance will assist covered facilities in the development of their SSPs. Once these guidance documents are released, DHS will be notifying facilities of their final tiering status, at which point they will have 120 days to complete and submit their SSPs.

"This is a clear example of what the DHS chemical security regulations are intended to accomplish," said Bob Stephan, former Assistant Secretary for Infrastructure Protection, DHS, and currently Managing Director at Dutko Worldwide. "The excellent work of the DHS field inspection cadre has identified a potentially significant risk to a local community and is working with a variety of agencies, some federal and some locally based, to mitigate the risk through timely action. This also proves that the DHS chemical regulations have teeth and that the department will act to do the right thing."

About Our Practice

The Hunton & Williams chemical facility security regulation practice has extensive homeland security and federal government regulatory experience. The firm has worked with chemical sector clients on the

enabling legislation and DHS's CFATS regulatory requirements. We advise corporate clients on CFATS compliance and analysis of the legal issues and risk profiles arising from these new federal regulatory requirements. Our clients seek the most efficient way to implement and evaluate compliance

with CFATS, including integration with existing compliance programs and effective internal audits. We review site security and vulnerability assessments to ensure completion and to identify potential legal issues. We can also assist in the process of appealing DHS decisions within the agency. If

you have questions regarding any aspect of the Chemical Facility Anti-Terrorism Standards or their impact on your business, please contact us.

For more information, please visit:

[Chemical Facility Security Regulation](#)

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