

## **New Executive Order Issued to Improve Safety at Chemical Manufacturing Facilities**

**By**

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On August 1, 2013, President Barack Obama issued Executive Order (EO) 13650, ordering federal agencies to review safety rules at chemical facilities in response to the April explosion at a West, Texas fertilizer plant that killed 15. The order, *Improving Chemical Facility Safety and Security*, seeks to close gaps in the regulation of facilities that the government believes contributed to the fatal accident. This column summarizes the EO.

### **Background**

The blast that killed 15 workers made international headlines and immediately attracted regulatory investigation. The federal government wasted no time in investigating the causes of the blast to ensure whatever caused the explosion does not happen again.

The investigation revealed a complex and often confusing network of federal and state regulations that the government concluded left holes in the regulation of such manufacturing facilities. The EO seeks to fill the holes in this patchwork of regulations by addressing four broad efforts: improve operational coordination with state and local partners; enhance federal agency coordination and information sharing; modernize policies, regulations, and standards; and work with stakeholders to identify best practices.

## **Improve Operational Coordination**

The EO creates a working group co-chaired by the Secretary of the Department of Homeland Security (DHS), the Administrator of the U.S Environmental Protection Agency (EPA), and the Secretary of the Department of Labor (DOL). Representatives from the U.S. Departments of Justice, Agriculture, and Transportation will be part of the group. The group will meet no less than quarterly and within 270 days will produce a status report to the President.

To communicate better with state and local officials, the working group will develop a plan within 90 days that identifies ways to ensure State homeland security advisors, State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), Tribal Emergency Planning Committees (TEPCs), State regulators, and first responders have access to key information in a useful format to prevent, prepare for, and respond to chemical incidents.

## **Information Sharing**

The EO calls for a pilot program to be implemented within 45 days that establishes best communication practices between federal agencies. The program will involve

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EPA, DOL, and DHS and will operate in one region, integrating state, local, and tribal entities where appropriate. For more effective rulemakings, the group is called upon to create an “innovative” information sharing system that eliminates duplicative efforts and streamlines reporting requirements.

### **Modernize Policies**

An expanded list of chemicals subject to various regulatory programs is likely to be one of the key results of the EO. Section 6 of the order seeks to improve safety by “modernizing key policies, regulations, and standards.” To reach this goal, the EPA Administrator and the Secretary of Labor will review chemicals covered under EPA’s Risk Management Program (RMP) of the Clean Air Act, and the Occupational Safety and Health Administration’s (OSHA) Process Safety Management Standard (PSM). It will then be determined if additional regulated substances or hazards will be added to the RMP or PSM within 90 days. In addition, the Secretary of Homeland Security will determine which, if any, chemicals need to be added to DHS’s Chemical Facility Anti-Terrorism Standards Chemicals of Interest list.

## **Enhance Stakeholder Outreach to Develop Best Practices**

Finally, the EO directs key federal agencies to convene a wide range of interested stakeholders, including representatives from industry, state, local, and tribal governments, non-governmental organizations, and the first responder community, to identify and share successes to date and best practices to reduce safety and security risks in the production and storage of potentially harmful chemicals, including, through the use of safer alternatives, adoption of best practices and potential public-private partnerships.

## **Conclusion**

The EO is an important development. It is expected to improve plant safety and help save lives. Its implementation will impact certain manufacturing facilities and raise the bar to ensure fatalities are averted to the greatest extent possible.

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