

Security in the Fertilizer Industry

Good Morning and thank you. This morning I have been asked to talk about security in the fertilizer industry. A lot has been going on in Washington since Sept. 11 and I'll highlight some of the regulatory and legislative issues.

I will focus this morning on issues from the Department of Transportation, Federal Motor Carrier Safety Administration, Transportation Security Administration, the U.S. Coast Guard, and of course, the U.S. Congress.

DOT in March this year issued final regulations for security in transportation. Anyone who offers and transports hazardous materials that require a placard must have a security plan for the transportation of those products by September 25, 2003. A security assessment must be done, a plan implemented, and employees must receive training on the security plan. For fertilizer, anhydrous and aqua ammonia, ammonium nitrate, sulfuric acid, nitric acid, and potassium nitrate are covered.

The plans are very flexible. DOT asks that personnel be assessed – that can be as simple as checking previous employment records for your hazmat employees; access to vehicles must be assessed – do you remove keys from loaded hazmat vehicles, do you lock them up at night; and you must assess en-route transportation – do you have a means to track your drivers, do you require proof of delivery.

There are two training requirements under the rules – awareness training (this would be for office workers and any others who don't have any direct contact or responsibility for the hazmats you handle; and in-depth training – this training would be for any employee with direct loading or unloading responsibility or direct involvement in anyway with the hazmat you handle.

Farmers must have a security plan but if they come to a facility to pick up a placarded load of hazmat, you have no responsibility to verify if they have or don't have a security plan. Foreign entities operating in the United States must have a security plan for transporting that hazmat within the U.S.

The Transportation Security Administration's (TSA) proposed rules for fingerprinted background checks for individuals with a commercial drivers license hazmat endorsement have been delayed until April 2004. At that time, state drivers licensing agencies must conduct fingerprinted background checks for individuals coming in to apply for a new, renewed, or transferring a CDL with a hazmat endorsement. Licenses cannot be issued until TSA notifies the state that the applicant is cleared.

The Coast Guard issued 5 interim rules covering area maritime security, vessel security, and facility security. The final rules have just been issued and compliance is due December 31, 2003. The threat levels in the Coast Guard rules are similar to the national levels and increased security is required as the higher levels. Vessels and facilities covered under the rules must do a security vulnerability assessment, develop a security

plan, and both must be submitted to the Coast Guard. The rules cover facilities under, on, adjacent to navigable waters of the United States – facilities covered under Coast Guard regulations in 33 CFR Part 126, 127, and 154. For fertilizer facilities those products are anhydrous ammonia, ammonium nitrate, UAN, ammonium polyphosphate solution, ammonium thiosulfate solution. Facilities must designate a facility security officer, address each vulnerability identified, describe increased security measures at increased threat levels, conduct drills every three months and exercises yearly, and train employees.

Two other Coast Guard regulations recently issued are notice of arrival in U.S. ports – 24 hour prior notification is required for vessels carrying packaged ammonium nitrate. Another rule for inland waterway barge and towing vessels requires a 4-hour notification before originating a voyage and position reporting if carrying certain dangerous cargo. Currently a certain dangerous cargo designation has been given to packaged ammonium nitrate that requires a DOT permit and anhydrous ammonia. The Coast Guard is considering the addition of all ammonium nitrate fertilizers in bulk as a certain dangerous cargo.

Other security initiatives TFI has been involved with: The White House Homeland Security Council and DOT are studying “unreasonable vulnerabilities” in transportation of certain toxic by inhalation chemicals. TFI has provided the White House and DOT with information anhydrous ammonia as requested.

In Congress there still remains to be worked out chemical facility security legislation. Sen. Jon Corzine (D-NJ) introduced S. 157 and Sen. James Inhofe (R-Okla), and chairman of the Senate Environment and Public Works Committee, introduced S. 994. The committee did mark-up S. 994 and it was favorably reported out of the committee. The bill still has some problems but looks a lot better than what we could have gotten in S. 157. S. 994 has a provision for consideration of alternative approaches, gives authority to the Department of Homeland Security (not EPA), requires security assessments and plans, has protection under the Freedom of Information Act, gives credit for equivalent programs, and credit if covered under other federal programs.