



September 28, 2007

Mr. Jim Nussle
Director
Office of Management and Budget
Executive Office of the President
725 17th Street, NW
Washington, DC 20503

Dear Director Nussle:

As members of the Midwestern Governors Association, we are writing to highlight concerns we have with an administrative rule recently issued by the Department of Homeland Security (DHS) that will regulate stored quantities of propane. If implemented, this regulation threatens to place a significant regulatory burden upon rural homeowners, farmers, and small business in our region. Therefore, we ask that you modify these regulations to exclude amounts of stored propane that are commonly used by individual homeowners, farmers, and small businesses that operate in rural areas. A limited exemption to this rule is necessary to accomplish the goals of homeland security while not impeding the success or quality of life of rural small business and homeowners who use propane to carry on their daily lives.

DHS published the Chemical Facility Anti-Terrorism Standards Interim Final Rule (herein CFATS or Final Rule) on April 9, 2007, and it became effective on June 8, 2007. The Final Rule sets standards for sites that store chemicals above a threshold quantity and requires their registration with DHS. Under the rule, these sites must register with DHS and conduct a Chemical Security Assessment Tool (CSAT) consequence assessment known as "Top Screen."

Attached to the Final Rule is Appendix A which lists the chemical of interest and the threshold quantities that triggers the initial Top Screen requirement. Currently, Appendix A lists propane as a chemical of interest when stored in quantities greater than 7,500 pounds. Based upon this threshold, any individual or business that keeps quantities greater than or equal to 7,500 pounds of propane would be required to complete the online Top Screen within 60 days of enactment. According to DHS's own regulatory analysis, this Top Screen requirement would likely cost between \$2,300 and \$3,500 per survey depending on the size and type of facility.

While we agree that protecting chemical facilities across the country should be one of the priorities for DHS, we are concerned with the scope of these regulations and the undue burden it may place upon rural Midwesterners. Propane tanks are used by virtually all rural homes, farms, and rural small business across the country in areas not commonly supplied by natural gas. Given the current listed aggregate propane threshold of 7,500 pounds (approx. 1,785 gallons), many rural homes that have more than one 1,000 gallon propane tank that provides heat and cooking fuel would be required to fill out the Top Screen analysis. Further, many rural small businesses and agricultural facilities that use propane to heat their businesses and for agricultural uses such as drying grain will also be required to complete to Top Screen analysis. As such, this Final Rule and proposed Appendix A places an undue regulatory burden that disproportionately impacts rural homeowners, farmers, and small businesses across the country just because they store propane as opposed to receiving pipe supplied natural gas.

444 North Capitol Street, NW
Suite 401
Washington, DC 20001-1512
Tel: 202.624.5460
Fax: 202.624.5452

Regional Office
701 East 22nd Street
Suite 110
Lombard, Illinois 60148
Tel: 630.925.1922
Fax: 630.925.1930
www.midwesterngovernors.org

Chair
Jim Doyle
Wisconsin

Vice Chair
M. Michael Rounds
South Dakota

Past Chair, 2005
Rod Blagojevich
Illinois

Matt Blunt
Missouri

Chester J. Culver
Iowa

Mitch Daniels
Indiana

Jennifer Granholm
Michigan

Dave Heineman
Nebraska

Past Chair, 2004
John Hoeven
North Dakota

Past Chair, 2006
Tim Pawlenty
Minnesota

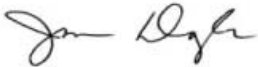
Kathleen Sebelius
Kansas

Ted Strickland
Ohio

Appendix A is not yet finalized and DHS still has time to amend the threshold quantities of propane in Appendix A. Allowing Appendix A to become a final addendum to the CFATS Final Rule with the current threshold of 7,500 pounds of propane would place a serious hardship upon thousands of law abiding Americans who use propane to heat their homes and run their businesses. The Office of Information and Regulatory Affairs (OIRA) at OMB concluded a review the CFATS regulations has not been felt. Accordingly, as the Acting Director of the Office of Management and Budget, we ask that OMB review the impact Appendix A of the CFATS Final Rule will have and ensure that DHS includes a limited exemption for rural home, agricultural, and small businesses uses.

Thank you for your prompt attention to this matter and for considering the disproportionate impact this CFATS Final Rule and Appendix A may have on Midwestern homeowners, farmers, and small businesses.

Sincerely,



Jim Doyle
Governor of Wisconsin
Summit Co-Host and MGA Chair



M. Michael Rounds
Governor of South Dakota
MGA Vice-Chair