

# **Compliance Guide – Controlled Substances, Controlled Substance Analogues, Chemical Precursors, and Chemical Laboratory Apparatus MOU**



**The Texas A&M University System**

Program Name: General Safety & Security

Office Name: Risk Management & Safety

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Level 3

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### Concurrence and Approval

This document was developed for use by A&M System members and has been reviewed and approved by the following approvers.

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Date

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### Certification (if required by law or regulation)

N/A

### Change History

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## Section 1. Introduction

In 1989, the Texas legislature enacted a bill requiring control of chemical precursors and laboratory apparatus. Codified in the Health & Safety Code, Subtitle C, Chapter 481, chemical precursor and chemical laboratory apparatus are defined in §481.002 DEFINITIONS. The law then provides exceptions for higher education in §481.0621 but requires that the Texas Higher Education Coordinating Board (THECB) adopt a memorandum of understanding that establishes the responsibilities of higher education. The MOU is renewed every 10 years, with the latest MOU signed June 13, 2006.

Compliance with the Memorandum of Understanding between the Texas Department of Public Safety (DPS) and the Texas Higher Education Coordinating Board (THECB) is straightforward, since the MOU itself is concise (only 6 pages) and clearly written. Therefore, there is no need for A&M System members to prepare separate rules. The MOU also can generally suffice as a standard administrative procedure (SAP), but several of the items in the MOU suggest the need for standard operating procedures or protocols.

Therefore, the following compliance guide summarizes compliance requirements and needs, as well as offers several attachments to assist with compliance.


## Section 2. Scope

This guide is for all A&M System member locations, departments and offices where controlled substances, controlled substance analogues, chemical precursors, and/or chemical laboratory apparatus are managed, handled, used or stored. The chemical precursors and chemical laboratory apparatus covered by the MOU are listed in Table 1.

**Table 1. Chemical Precursors and Chemical Laboratory Apparatus**

Precursor Chemicals		Laboratory Apparatus	
1. Methylamine	10. N-Acetyl anthranilic acid	A. Condensers	I. Erlenmeyer flasks, two-necked flasks, single-necked flasks, round-bottom flasks, Florence flasks, thermometer flasks, and filtering flasks
2. Ethylamine	11. Pyrrolidine	B. Distilling apparatus	J. Soxhlet extractors
3. D-Lysergic acid	12. Phenylacetic acid	C. Vacuum dryers	K. Transformers
4. Ergotamine tartrate	13. Anthranilic acid	D. Three-necked flasks	L. Flask heaters
5. Diethyl malonate	14. Hypophosphorus acid	E. Distilling flasks	M. Heating mantles
6. Malonic acid	15. Ephedrine	F. Tableting machines	N. Adapter tubes
7. Ethyl malonate	16. Pseudoephedrine	G. Encapsulating machines	
8. Barbituric acid	17. Norpseudoephedrine	H. Filter funnels, Buchner funnels, and separatory funnels	
9. Piperidine	18. Phenylpropanolamine		
	19. Red phosphorus		
	Controlled Substance Analogue <sup>†</sup>		

<sup>†</sup> Substantially similar to a controlled substance or acts on the central nervous system to a similar or greater extent. Prescription and non-prescription medicines are exempted.

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### Section 3. Operations / Departments Affected

This guide affects all member locations who order, purchase, receive, deliver, manage, use, store, dispose, or sell the items in question. Key locations include, but are not limited to:

- Purchasing
- Receiving and stores
- Laboratories and stockrooms in all science and engineering departments
- Surplus

### Section 4. Regulatory and Policy References and Interpretations

The legal basis for the requirements covered by this guide is:

- Texas Health & Safety Code, Subtitle C, Chapter 481
- Controlled Substances, Controlled Substance Analogues, Chemical Precursors, and Chemical Laboratory Apparatus MOU between the Texas Department of Public Safety (DPS) and the Texas Higher Education Coordinating Board (THECB).

Based on review by the A&M System Office of General Council, it has been determined that inventory requirements listed in the MOU pertain to chemical substances but not to apparatus.

### Section 5. Structure and Responsibilities

The MOU requires that a person(s) be designated, renewed annually, as the member facility's contact person(s). Each member will decide for itself where this responsibility will reside in the organization.

### Section 6. Training and Licensing/Certification Requirements


Licenses are required for anyone who possesses controlled substances. Those licenses and the administrative procedures of both the member and the individual licensees are covered in a separate administrative procedure or protocol.

Compliance with this MOU does require broad-based awareness training of any and all employees and even students who use or come into contact with chemical precursors and chemical laboratory apparatus. Responsible persons may require a greater level of training in order to successfully administer the program.

### Section 7. Programs and Guidance - Compliance in a Nutshell

Members should compile, keep on file, and implement the following:

- **MOU** (Latest version), with highlights and notes on required actions (attached to this compliance guide)
- **MOU awareness guide / poster** describing compliance requirements and posted at appropriate location on campus (attached to this compliance guide)

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- **MOU awareness training**, either stand-alone or incorporated into laboratory safety or other required training
- **DPS forms** (attached to this compliance guide)
  - NAR-22 REPORT OF SALE OR TRANSFER OF CONTROLLED ITEMS and
  - NAR-91B REPORT OF THEFT, LOSS OR SUSPICIOUS ORDER OF PRECURSOR CHEMICAL/LABORATORY APPARATUS
- **Purchase records** of controlled substances, chemical precursors, and chemical laboratory apparatus
- **Chemical inventory** identifying controlled substances and chemical precursors on hand, including approximate amounts, locations, and owners (responsible persons)
- **Contact person(s)** appointed to be responsible for implementing the security measures established by the institution or site. This person or list of persons must be reported annually to THECB.
- **Campus security plan or guide** for chemicals and apparatus (may be stand-alone or a supplement to another campus laboratory safety or security plan)
- **Procurement guide** to (a) alert purchasing personnel to requests for controlled substances and chemical precursors and requiring prior authorization by a designated person or office and (b) ensure that purchased controlled substances and precursors are entered into the chemical inventory system
- **Sales / surplus guide** to ensure that the member's surplus office or others disposing of apparatus are aware of MOU restrictions and follow its reporting requirements for transfers to other parties.

## Section 8. Management, Monitoring and Measurement

A compliance calendar and task assignments should be developed and implemented to ensure ongoing compliance with the MOU. That calendar and the tasks should include:


- Annual report of contact person(s) submitted to THECB
- At least annual review of purchase records and inventories to ensure security and prevent or discover unauthorized uses or losses. Inventory reviews may be timed to coincide with other recurring reviews of other classes of chemicals / agents of concern (e.g., Tier 2 reporting; Department of Homeland Security Chemical Facility Antiterrorism standard; high hazard chemicals)
- Laboratory and/or other scheduled safety inspections that include security of controlled substances, controlled substance analogues, chemical precursors and chemical laboratory apparatus.

## Section 9. Records and Reporting

**Records.** The MOU requires records of purchases of all of the subject materials and equipment and inventory records for chemical substances.

**Reporting.** Contact person(s) are to be reported to THECB annually. Also, certain other reports are to be filed *as necessary* with DPS:

- Sale or transfer of controlled items; and/or
- Theft, loss or suspicious order of chemical precursors or apparatus.

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## Section 10. Change Management

The environmental health and safety office, vice president for research or other administrative office should be designated as the document and program custodian. This document and program should be reviewed, modified or corrected as needed, but no less often than triennially.

## Abbreviations, Acronyms and Definitions

Definitions and word usages are the same as those listed in Paragraph 1 of the MOU.