

Subpart B—Chemical Facility Security Program

§ 27.200 Information regarding security risk for a chemical facility.

(a) *Information to determine security risk.* In order to determine the security risk posed by chemical facilities, the Secretary may, at any time, request information from chemical facilities that may reflect potential consequences of or vulnerabilities to a terrorist attack or incident, including questions specifically related to the nature of the business and activities conducted at the facility; information concerning the names, nature, conditions of storage, quantities, volumes, properties, customers, major uses, and other pertinent information about specific chemicals or chemicals meeting a specific criterion; information concerning facilities' security, safety, and emergency response practices, operations, and procedures; information regarding incidents, history, funding, and other matters bearing on the effectiveness of the security, safety and emergency response programs, and other information as necessary.

(b) *Obtaining information from facilities.* (1) The Assistant Secretary may seek the information provided in paragraph (a) of this section by contacting chemical facilities individually or by publishing a notice in the FEDERAL REGISTER seeking information from chemical facilities that meet certain criteria, which the Department will use to determine risk profiles. Through any such individual or FEDERAL REGISTER notification, the Assistant Secretary may instruct such facilities to complete and submit a Top-Screen process, which may be completed through a secure Department Web site or through other means approved by the Assistant Secretary.

(2) A facility must complete and submit a Top-Screen in accordance with the schedule provided in § 27.210, the calculation provisions in § 27.203, and the minimum concentration provisions in § 27.204 if it possesses any of the chemicals listed in appendix A to this part at or above the STQ for any applicable Security Issue.

(3) Where the Department requests that a facility complete and submit a

Top-Screen, the facility must designate a person who is responsible for the submission of information through the CSAT system and who attests to the accuracy of the information contained in any CSAT submissions. Such submitter must be an officer of the corporation or other person designated by an officer of the corporation and must be domiciled in the United States.

(c) *Presumptively High Risk Facilities.*

(1) If a chemical facility subject to paragraph (a) or (b) of this section fails to provide information requested or complete the Top-Screen within the timeframe provided in § 27.210, the Assistant Secretary may, after attempting to consult with the facility, reach a preliminary determination, based on the information then available, that the facility presumptively presents a high level of security risk. The Assistant Secretary shall then issue a notice to the entity of this determination and, if necessary, order the facility to provide information or complete the Top-Screen pursuant to these rules. If the facility then fails to do so, it may be subject to civil penalties pursuant to § 27.300, audit and inspection under § 27.250 or, if appropriate, an order to cease operations under § 27.300.

(2) If the facility deemed "presumptively high risk" pursuant to paragraph (c)(1) of this section completes the Top-Screen, and the Department determines that it does not present a high level of security risk under § 27.205, its status as "presumptively high risk" will terminate, and the Department will issue a notice to the facility to that effect.

[72 FR 17729, Apr. 9, 2007, as amended at 72 FR 65418, Nov. 20, 2007]

§ 27.203 Calculating the screening threshold quantity by security issue.

(a) *General.* In calculating whether a facility possesses a chemical of interest that meets the STQ for any security issue, a facility need not include chemicals of interest:

- (1) Used as a structural component;
- (2) Used as products for routine janitorial maintenance;
- (3) Contained in food, drugs, cosmetics, or other personal items used by employees;