

6 CFR Part 27

Section 550 of the DHS Appropriations Act of 2007 grants the Department the authority to regulate chemical facilities that “present high levels of security risk.” The Chemical Facility Anti-Terrorism Standards (CFATS) Interim Final Rule, published April 9, 2007, establishes a risk-based approach to screening and securing chemical facilities determined by DHS to be “high risk.” In order to make that determination, CFATS requires facilities in possession of specific quantities of DHS defined Chemicals of Interest (COI) to complete a Top-Screen questionnaire. After reviewing the Top-Screen, DHS determines which facilities are preliminarily high risk. The CFATS regulation then requires each preliminary high risk facility to submit a Security Vulnerability Assessment (SVA). The facilities still considered high risk after a review of their SVA are provided a final tier and required to complete a Site Security Plan (SSP) that meets DHS’ risk-based performance standards. CFATS does allow some chemical facilities to submit Alternative Security Programs (ASPs) in lieu of DHS’ SVA and SSP. Certain types of facilities (e.g., facilities regulated under the Maritime Transportation Security Act) are exempt under Section 550 and CFATS.

Any facility that manufactures, uses, stores or distributes any of the DHS COI at or above a specified quantity, and does not fall into an exemption, must complete and submit a Top-Screen questionnaire as a first step in complying with CFATS.

Questions?

For more information, contact

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Chemical Facility Anti-Terrorism Standards



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Facilities that are required to comply with at least some provisions of the CFATS regulation will largely fall into the following categories:

- chemical manufacturing, storage, and distribution;
- energy and utilities;
- agriculture and food;
- paints and coatings;
- explosives;
- mining;
- electronics;
- plastics;
- universities and research institutions; and
- healthcare and pharmaceuticals.

Chemicals of Interest

Appendix A to the CFATS Interim Final Rule contains DHS' COI that give rise to one or more security issues, namely: release, theft/diversion, and/or sabotage/contamination. Under the CFATS rule, if a facility possesses an Appendix A COI at or above the applicable Screening Threshold Quantity (STQ), the facility must complete and submit a Top-Screen to DHS within 60 calendar days of coming into possession of the COI.



Risk-Based Tiering

Consistent with Section 550, the CFATS regulation follows a risk-based approach that allows DHS to focus its resources on high risk chemical facilities in accordance with their specific level of risk. First, DHS will examine facility information submitted through the Top-Screen. After analyzing Top-Screen data from facilities, DHS will preliminarily assign high risk facilities to one of four risk-based tiers. High risk facilities will receive their final risk-based tiering assignments after DHS reviews their SVAs.

Risk-Based Performance Standards

Section 550 directed the Department to issue regulations "establishing risk-based performance standards for the security of high risk chemical facilities." CFATS establishes Risk-Based Performance Standards (RBPSs) for security issues such as perimeter security, access control, personnel surety, and cyber security. However, not all high risk facilities will need to take action to satisfy each RBPS. A facility's SSP will be tailored to its specific tier level, security issues, risks, and circumstances, as determined by DHS' review of its SVA.



Inspections Process

The Department will inspect high risk chemical facilities at regular intervals with higher tiered facilities being inspected first and more frequently. The Department may also inspect a high risk facility at any time based on new information or security concerns. A minimum

of 24 hours advance notice typically will be provided to facilities unless specific security concerns demand immediate attention. The DHS staff who will conduct inspections have completed a rigorous training program, incorporating both classroom and on-site facility instruction by experts in chemistry, emergency response, terrorism, and industrial security.

Compliance and Enforcement

The CFATS regulation provides that if DHS believes any facility is in violation of the regulation, the Department may issue an appropriate order to the facility specifying the violation and steps that must be taken to correct the noncompliance. Violation of such a compliance order may result in additional orders assessing civil penalties of \$25,000 per day or to cease operations.



Chemical-Terrorism Vulnerability Information

Chemical-Terrorism Vulnerability Information (CVI) is a new program created by the CFATS regulation to protect information created or maintained under the regulation. Access to CVI requires proper training and the "need to know." Civil penalties may apply for the improper use or disclosure of this information. CVI training can be accessed at www.dhs.gov/chemicalsecurity.