

and explosives and improvised explosive device precursors),

(3) Sabotage and contamination, and

(4) Critical to government mission and national economy.

*Terrorist attack or terrorist incident* shall mean any incident or attempt that constitutes terrorism or terrorist activity under 6 U.S.C. 101(15) or 18 U.S.C. 2331(5) or 8 U.S.C. 1182(a)(3)(B)(iii), including any incident or attempt that involves or would involve sabotage of chemical facilities or theft, misappropriation or misuse of a dangerous quantity of chemicals.

*Tier* shall mean the risk level associated with a covered chemical facility and which is assigned to a facility by the Department. For purposes of this part, there are four risk-based tiers, ranging from highest risk at Tier 1 to lowest risk at Tier 4.

*Top-Screen* shall mean an initial screening process designed by the Assistant Secretary through which chemical facilities provide information to the Department for use pursuant to § 27.200 of these regulations.

*Under Secretary* shall mean the Under Secretary for National Protection and Programs, Department of Homeland Security or any successors to that position within the Department or his designee.

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

#### § 27.110 Applicability.

(a) This Part applies to chemical facilities and to covered facilities as set out herein.

(b) This Part does not apply to facilities regulated pursuant to the Maritime Transportation Security Act of 2002, Pub. L. 107-295, as amended; Public Water Systems, as defined by Section 1401 of the Safe Drinking Water Act, Pub. L. 93-523, as amended; Treatment Works as defined in Section 212 of the Federal Water Pollution Control Act, Pub. L. 92-500, as amended; any facility owned or operated by the Department of Defense or the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission.

#### § 27.115 Implementation.

The Assistant Secretary may implement the Section 550 program in a phased manner, selecting certain chemical facilities for expedited initial processes under these regulations and identifying other chemical facilities or types or classes of chemical facilities for other phases of program implementation. The Assistant Secretary has flexibility to designate particular chemical facilities for specific phases of program implementation based on potential risk or any other factor consistent with this Part.

#### § 27.120 Designation of a coordinating official; Consultations and technical assistance.

(a) The Assistant Secretary will designate a Coordinating Official who will be responsible for ensuring that these regulations are implemented in a uniform, impartial, and fair manner.

(b) The Coordinating Official and his staff shall provide guidance to covered facilities regarding compliance with this Part and shall, as necessary and to the extent that resources permit, be available to consult and to provide technical assistance to an owner or operator who seeks such consultation or assistance.

(c) In order to initiate consultations or seek technical assistance, a covered facility shall submit a written request for consultation or technical assistance to the Coordinating Official or contact the Department in any other manner specified in any subsequent guidance. Requests for consultation or technical guidance do not serve to toll any of the applicable timelines set forth in this Part.

(d) If a covered facility modifies its facility, processes, or the types or quantities of materials that it possesses, and believes that such changes may impact the covered facility's obligations under this Part, the covered facility may request a consultation with the Coordinating Official as specified in paragraph (c).

#### § 27.125 Severability.

If a court finds any portion of this Part to have been promulgated without proper authority, the remainder of this Part will remain in full effect.