

§ 27.405

6 CFR Ch. I (1–12 Edition)

(ii) *Exception.* Section 27.400(k)(2) does not require a State or local government agency to destroy information that the agency is required to preserve under State or local law.

§ 27.405 Review and preemption of State laws and regulations.

(a) As per current law, no law, regulation, or administrative action of a State or political subdivision thereof, or any decision or order rendered by a court under state law, shall have any effect if such law, regulation, or decision conflicts with, hinders, poses an obstacle to or frustrates the purposes of this regulation or of any approval, disapproval or order issued there under.

(1) Nothing in this part is intended to displace other federal requirements administered by the Environmental Protection Agency, U.S. Department of Justice, U.S. Department of Labor, U.S. Department of Transportation, or other federal agencies.

(2) [Reserved]

(b) State law, regulation or administrative action defined. For purposes of this section, the phrase “State law, regulation or administrative action” means any enacted law, promulgated regulation, ordinance, administrative action, order or decision, or common law standard of a State or any of its political subdivisions.

(c) *Submission for review.* Any chemical facility covered by these regulations and any State may petition the Department by submitting a copy of a State law, regulation, or administrative action, or decision or order of a court for review under this section.

(d) *Review and opinion*—(1) *Review.* The Department may review State laws, administrative actions, or opinions or orders of a court under State law and regulations submitted under this section, and may offer an opinion whether the application or enforcement of the State law or regulation would conflict with, hinder, pose an obstacle to or frustrate the purposes of this Part.

(2) *Opinion.* The Department may issue a written opinion on any question regarding preemption. If the question was submitted under subsection (c) of this part, the Assistant Secretary will notify the affected chemical facility and the Attorney General of the subject State of any opinion under this section.

(3) *Consultation with States.* In conducting a review under this section, the Department will seek the views of the State or local jurisdiction whose laws may be affected by the Department’s review.

§ 27.410 Third party actions.

(a) Nothing in this part shall confer upon any person except the Secretary a right of action, in law or equity, for any remedy including, but not limited to, injunctions or damages to enforce any provision of this Part.

(b) An owner or operator of a chemical facility may petition the Assistant Secretary to provide the Department’s view in any litigation involving any issues or matters regarding this Part.

APPENDIX A TO PART 27—DHS
CHEMICALS OF INTEREST

Appendix A to Part 27. -- DHS Chemicals of Interest¹

Chemicals of Interest (COI)	Synonym	Chemical Abstract Service (CAS) #	Release		Theft		Sabotage		Security Issue								
			Minimum Concentration (%)	Screening Threshold Quantities (in pounds)	Minimum Concentration (%)	Screening Threshold Quantities (in pounds unless otherwise noted)	Minimum Concentration (%)	Screening Threshold Quantities	Release - Toxic	Release - Flammables	Release - Explosives	Theft - CW/CWP	Theft - WME	Theft - EXP/IEDP	Sabotage/Contamination		
Chlorosarin	[o-Isopropyl methylphosphonochloridate]	1445-76-7			CUM 100g							X					
Chlorosoman	[o-Pinacoyl methylphosphonochloridate]	7040-57-5			CUM 100g							X					
Chlorosulfonic acid		7790-94-5					ACG	APA								X	
Chromium oxychloride		14977-61-8						ACG	APA							X	
Crotonaldehyde	[2-Butenal]	4170-30-3	1.00	10,000									X				
Crotonaldehyde, (E)-	[2-Butenal], (E)-	123-73-9	1.00	10,000									X				
Cyanogen	[Ethanedinitrile]	480-19-5	1.00	10,000	11.67	45							X				
Cyanogen chloride		506-77-4	1.00	10,000	2.67	15							X				
Cyclohexylamine	[Cyclohexanamine]	108-91-8	1.00	15,000									X				
Cyclohexyltrichlorosilane		98-12-4					ACG	APA								X	
Cyclopropane		75-19-4	1.00	10,000									X				
DF	Methyl phosphonyl difluoride	676-99-3			CUM 100g								X				
Diazodinitrophenol		87-31-0	ACG	5,000	ACG	400							X				
Diborane		19287-45-7	1.00	2,500	2.67	15							X				
Dichlorosilane	[Silane, dichloro-]	4109-96-0	1.00	10,000	10.47	45							X				
N,N-(2-diethylamino)ethanethiol		100-38-9			30.00	2.2								X			
Diethylchlorosilane		1719-53-5					ACG	APA						X			
o,o-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate		78-63-6			30.00	2.2								X			
Diethyleneglycol dinitrate		693-21-0	ACG	5,000	ACG	400								X			
Diethyl methylphosphonite		15715-41-0			30.00	2.2								X			
N,N-Diethyl phosphoramidic dichloride		1498-54-0			30.00	2.2								X			
N,N-(2-diisopropyl-(beta)-aminoethane thiol		5842-07-9			30.00	2.2								X			

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Ethyl nitrite	[Nitrous acid, ethyl ester]	109-95-5	1.00	10,000					X								
Ethyl phosphonyl difluoride		753-98-0			CUM	100g								X			
Ethylamine	[Ethanamine]	75-04-7	1.00	10,000										X			
Ethyldiethanolamine		139-87-7				220								X			
Ethylene	[Ethene]	74-85-1	1.00	10,000										X			
Ethylene oxide	[Oxirane]	75-21-8	1.00	10,000										X			
Ethylenediamine	[1,2-Ethanediamine]	107-15-3	1.00	20,000										X			
Ethylenimine	[Aziridine]	151-56-4	1.00	10,000										X			
Ethylphosphonothioic dichloride		993-43-1				2.2								X			
Ethyltrichlorosilane		115-21-9						ACG	APA								X
Fluorine		7782-41-4	1.00	1,000	6.17	15								X			
Fluorosulfonic acid		7789-21-1						ACG	APA								X
Formaldehyde (solution)		50-00-0	1.00	15,000										X			
Furan		110-00-9	1.00	10,000										X			
Germane		7782-65-2			20.73	45								X			
Germanium tetrafluoride		7783-58-6			2.11	15								X			
Guanyl nitrosaminoguanylidene hydrazine			ACG	5,000	ACG	400								X			
Hexaethyl tetraphosphate and compressed gas mixtures		757-58-4			33.37	500											X
Hexafluoroacetone		684-16-2			15.67	45											X
Hexanitrostilbene		20062-22-0	ACG	5,000	ACG	400								X			
Hexolite	[Hexoto]	121-82-4	ACG	5,000	ACG	400								X			
Hexyltrichlorosilane		928-65-4						ACG	APA								X
HMX	[Cyclotetramethylene-tetranitramine]	2691-41-0	ACG	5,000	ACG	400								X			

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HN1 (nitrogen mustard-1)	[Bis(2-chloroethyl)ethylamine]	538-07-8			CUM 100g						X					
HN2 (nitrogen mustard-2)	[Bis(2-chloroethyl)methylamine]	51-75-2			CUM 100g						X					
HN3 (nitrogen mustard-3)	[Tris(2-chloroethyl)amine]	555-77-1			CUM 100g						X					
Hydrazine		302-01-2	1.00	10,000												
Hydrochloric acid (conc. 37% or greater)		7647-01-0	37.00	15,000									X			
Hydrocyanic acid		74-90-8	1.00	2,500									X			
Hydrofluoric acid (conc. 50% or greater)		7664-39-3	50.00	1,000									X			
Hydrogen		1333-74-0	1.00	10,000												
Hydrogen bromide (anhydrous)		10036-10-6			95.33										X	
Hydrogen chloride (anhydrous)		7647-01-0	1.00	5,000	ACG 500										X	
Hydrogen cyanide		74-90-8			4.67										X	
Hydrogen fluoride (anhydrous)	[Hydrocyanic acid]	7664-39-3	1.00	1,000	42.53	45									X	
Hydrogen iodide, anhydrous		10034-85-2			95.33	500									X	
Hydrogen peroxide (concentration of at least 35%)		7722-84-1			35.00	400										X
Hydrogen selenide		7783-07-5	1.00	10,000	0.07	15									X	
Hydrogen sulfide		7783-06-4	1.00	10,000	23.73	45									X	
Iodine pentafluoride		7783-66-6														
Iron, pentacarbonyl-	[Iron carbonyl (Fe (CO) ₅), (TBS-1)-]	13463-40-6	1.00	10,000												X
Isobutane	[Propane, 2-methyl]	75-28-5	1.00	10,000												
Isobutyronitrile	[Propanitrile, 2-methyl-]	78-82-0	1.00	20,000											X	
Isopentane	[Butane, 2-methyl-]	78-78-4	1.00	10,000											X	
Isoprene	[1,3-Butadiene, 2-methyl-]	78-79-5	1.00	10,000												X

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Isopropyl chloride	[Propane, 2-chloro-]	75-29-6	1.00	10,000						X							
Isopropyl chloroformate	[Carbonochloridic acid, 1-methylethyl ester] [2-Propanamine]	108-23-6	1.00	15,000						X							
Isopropylamine		75-31-0	1.00	10,000													
Isopropylphosphonothioic dichloride		1498-60-8			30.00	2.2								X			
Isopropylphosphonyl difluoride		677-42-9				CUM 100g									X		
Lead azide		13424-46-9	ACG	5,000	ACG	400											X
Lead styphnate	[Lead trinitroresorcinate]	15245-44-0	ACG	5,000	ACG	400											X
Lewisite 1	[2-Chlorovinyl]chloroarsine	541-25-3				CUM 100g											X
Lewisite 2	[Bis(2-chlorovinyl)chloroarsine]	40334-69-8				CUM 100g											X
Lewisite 3	[Tris(2-chlorovinyl)arsine]	40334-70-1				CUM 100g											X
Lithium amide		7782-89-0														ACG	APA
Lithium nitride		26134-62-3														ACG	APA
Magnesium (powder)		7439-95-4															X
Magnesium diamide		7803-54-5														ACG	APA
Magnesium phosphide		12057-74-8														ACG	APA
MDEA	[Methylethanolamine]	105-59-9															X
Mercury fulminate		628-86-4	ACG	5,000	ACG	400											X
Methacrylonitrile	[2-Propenenitrile, 2-methyl-]	126-98-7	1.00	10,000													X
Methane		74-82-8	1.00	10,000													X
2-Methyl-1-butene		563-46-2	1.00	10,000													X
3-Methyl-1-butene		563-45-1	1.00	10,000													X
Methyl chloride	[Methane, chloro-]	74-87-3	1.00	10,000													X
Methyl chloroformate	[Carbonochloridic acid, methyl ester]	79-22-1	1.00	10,000													X
Methyl ether	[Methane, oxybis-]	115-10-6	1.00	10,000													X
Methyl formate	[Formic acid Methyl ester]	107-31-3	1.00	10,000													X

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Vinyl acetate monomer	[Acetic acid ethenyl ester]	108-05-4	1.00	10,000															
Vinyl acetylene	[1-Buten-3-yne]	689-97-4	1.00	10,000															
Vinyl chloride	[Ethene, chloro-]	75-01-4	1.00	10,000															
Vinyl ethyl ether	[Ethene, ethoxy-]	109-92-2	1.00	10,000															
Vinyl fluoride	[Ethene, fluoro-]	75-02-5	1.00	10,000															
Vinyl methyl ether	[Ethene, methoxy-]	107-25-5	1.00	10,000															
Vinylidene chloride	[Ethene, 1,1-dichloro-]	75-35-4	1.00	10,000															
Vinylidene fluoride	[Ethene, 1,1-difluoro-]	75-38-7	1.00	10,000															
Vinyltrichlorosilane		75-94-5																	
VX	[o-Ethyl-S-2-diisopropylaminoethyl methyl phosphonothiolate]	50782-69-9							CUM 100g										
Zinc hydrosulfite	[Zinc dithionite]	7779-86-4																	

¹ The acronyms used in this appendix have the following meaning: ACG = A Commercial Grade; APA = A Placarded Amount; CW/CWP = Chemical Weapons/Chemical Weapons Precursors; WME = Weapons of Mass Effect; EXP/IEDP = Explosives/Improvised Explosive Device Precursors

[72 FR 65420, Nov. 20, 2007]

PART 29—PROTECTED CRITICAL INFRASTRUCTURE INFORMATION

Sec.

- 29.1 Purpose and scope.
- 29.2 Definitions.
- 29.3 Effect of provisions.
- 29.4 Protected Critical Infrastructure Information Program administration.
- 29.5 Requirements for protection.
- 29.6 Acknowledgment of receipt, validation, and marking.
- 29.7 Safeguarding of Protected Critical Infrastructure Information.
- 29.8 Disclosure of Protected Critical Infrastructure Information.
- 29.9 Investigation and reporting of violation of PCII procedures.

AUTHORITY: Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); 5 U.S.C. 301.

SOURCE: 71 FR 52271, Sept. 1, 2006, unless otherwise noted.

§ 29.1 Purpose and scope.

(a) *Purpose of this Part.* This part implements sections 211 through 215 of the Homeland Security Act of 2002 (HSA) through the establishment of uniform procedures for the receipt, care, and storage of Critical Infrastructure Information (CII) voluntarily submitted to the Department of Homeland Security (DHS). Title II, Subtitle B, of the Homeland Security Act is referred to herein as the Critical Infrastructure Information Act of 2002 (CII Act). Consistent with the statutory mission of DHS to prevent terrorist attacks within the United States and reduce the vulnerability of the United States to terrorism, DHS will encourage the voluntary submission of CII by safeguarding and protecting that information from unauthorized disclosure and by ensuring that such information is, as necessary, securely shared with State and local government pursuant to section 214(a) through (g) of the CII Act. As required by the CII Act, these rules establish procedures regarding:

- (1) The acknowledgement of receipt by DHS of voluntarily submitted CII;
- (2) The receipt, validation, handling, storage, proper marking and use of information as PCII;
- (3) The safeguarding and maintenance of the confidentiality of such information, appropriate sharing of such

information with State and local governments pursuant to section 214(a) through (g) of the HSA.

(4) The issuance of advisories, notices and warnings related to the protection of critical infrastructure or protected systems in such a manner as to protect from unauthorized disclosure the source of critical infrastructure information that forms the basis of the warning, and any information that is proprietary or business sensitive, might be used to identify the submitting person or entity, or is otherwise not appropriately in the public domain.

(b) *Scope.* The regulations in this part apply to all persons and entities that are authorized to handle, use, or store PCII or that otherwise accept receipt of PCII.

§ 29.2 Definitions.

For purposes of this part:

(a) *Critical Infrastructure* has the meaning stated in section 2 of the Homeland Security Act of 2002 (referencing the term used in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)).

(b) *Critical Infrastructure Information*, or *CII*, has the same meaning as established in section 212 of the CII Act of 2002 and means information not customarily in the public domain and related to the security of critical infrastructure or protected systems, including documents, records or other information concerning:

(1) Actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, local, or tribal law, harms interstate commerce of the United States, or threatens public health or safety;

(2) The ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or