February 15, 2012

Re: Department of Homeland Security, Dockets DHS-2012-0057 through -0059

ICR Renewal Notices for CFATS, 77 Fed. Reg. 74677-74678;

Dear Sir or Madam:

The American Chemistry Council (ACC) appreciates the opportunity to provide input on the Department of Homeland Security's (DHS) Information Collection Requests (ICR) regarding the Chemical Facility Anti-Terrorism Standards (CFATS), CFATS Chemical-Terrorism Vulnerability Information (CVI), and the Chemical Security Assessment Tool (CSAT). In ACC's view, the retrospective review is a key mechanism to ensure that DHS's existing standards programs meet their objectives in the most efficient and effective way possible. Since the CFATS program has been in effect since 2007, this review provides an opportunity to collect more accurate data in order to improve the regulatory process and ensure such processes do not unnecessarily burden the chemical industry. Although ACC believes the new ICR estimates are more accurate than in the past, we believe there are some improvements that would help make the process more efficient.

ACC collected input from its members as well as from the American Fuels and Petrochemical Manufacturers. Based on this information and the information provided in the ICR notices, we believe that the new burden estimates are generally underestimated. The estimates are based on the time spent and number of respondents for the various tasks involved in completing and submitting the various DHS requirements including the CVI, the Chemical Security Assessment Tool (CSAT), Security Vulnerability Assessment (SVA)/Alternative Security Plan (ASP), and the Site Security Plan (SSP). DHS uses the time a facility is "logged in" to the various applications as a basis for calculating burden estimates for facilities when submitting this information. While these calculations are accurate in calculating the time it takes for a facility to physically fill out and submit the various assessments online, they are not proportionately accurate when calculating the total burden on a facility. DHS remains limited in its ability to accurately assess the "off-screen" time needed to prepare such assessments.

When preparing such assessment, chemical facilities must first gather the correct data throughout the facility, format the data, and then revise it before even starting to fill

out the online forms. Due to feedback from member surveys and from members, ACC recommends the following burden hours for the specified assessments:

1) CSAT Top Screen – 25 hours (vs. 6.75 hours)
2) SVA – 60 hours (vs. 39 hours)
3) SSP – 225 hours (vs. 200 hours)

We believe these estimates better account for the time spent by facility employees surveying, documenting, and recording the information required to complete the assessments. ACC does agree with DHS's time assessment for the CFATS Helpdesk and the CSAT User Registration calculations.

DHS also does not properly acknowledge this data collection process requires cooperation and input from a variety of individuals at a site. DHS refers to "clerical costs" when referring to costs of business in submission requirements when in actuality, based on site operations, facilities may utilize a variety of individuals or contractors with pay grades higher than clerical. These time and cost burden estimates are significant and require the use of many site resources. ACC believes that such estimates should be increased in order to accurately assess facility preparation and submission efforts.

Additionally, ACC found four inconsistencies in the ICR's, which result in miscalculations of estimates. First, in the Chemical-Terrorism Vulnerability Information (CVI) calculations for the tracking log, the time per respondent does not match the total burden when multiplied against the number of respondents. Since the total hours calculated is 30,000 hours and DHS assumes there are 30,000 respondents, the time per respondent should be equal to 1 hour, not 0.0833 hours. This increase in time spent per respondent then causes an increase in the total cost burden per respondent for the chemical sector.

Secondly, in the calculations for a Request for a Technical Consultation within the CFATS ICR, the time per respondent calculated does not match the total hours multiplied by the number of respondents. The Total Burden Hours, 69.37 hours, multiplied by 185 respondents should equal 0.37 hours/respondent, rather than 0.25 hours/respondent. This higher figure thereby increases the Total Burden Cost for each facility in addition to the Total Annual Burden for the sector. Thirdly, DHS uses multiple values when calculating the Paper-Based Recordkeeping costs per SSP/ASP. DHS first reports the Average Annual Cost for Paper-Based Recordkeeping to be $336 to account for a locked filing cabinet and the cost of printer ink/toner. Yet, in later calculations, it uses a value of $366 to account for these expenses. This difference in value is not significant, but does lead to different results when calculating total annual recordkeeping burden for facilities and therefore the Total Cost Burden.

Lastly, and most significant, there is a discrepancy in the values used for the total annual burden hours when submitting a SSP/ASP. DHS first calculates the total annual

burden hours to be a total of 145,860.75 hours. It is assumed each respondent uses 200 hours to submit an SSP, which is multiplied by the estimated number of respondents (486). DHS then multiplies this number by 1.5 to estimate for the 50% of facilities that will submit an additional SSP in order to reach a value of 145,800. DHS adds an additional 60.75 hours to this value to account for the additional time spent by the 243 facilities that will submit two SSP's. DHS reaches a final value of 148,860.75 hours for the Total Burden for SSP/ASP submission. When calculating the Annual Burden Cost for the sector, DHS uses a lesser value of 98,475.75 hours, rather than the earlier calculated 145,860.75 hours, to represent the total time burden for each facility. Using this value, DHS calculates a final total burden cost of $9,675,200.00. If the original, 145,860.75 hour value is used to calculate the Annual Burden Cost, the outcome is $13,749,280.50. Subsequently, the contradictory values lead to a difference of $4,075,110.00 between the two Total Annual Cost Burden estimates. This value is a significantly large discrepancy when determining the burden of submitting a SSP/ASP on a facility, which is an important figure when considering the demands placed on a facility.

In addition to improving the ICR burden estimates, ACC believes there are opportunities for technological improvements in order to minimize the burden and increase efficiency of submitting information for respondents. When filling out the various forms, it would be beneficial for respondents if an example of a potential response was included on the various forms. This would provide respondents with more direction on how to satisfy the DHS requirements. Furthermore, since many respondents are only updating facility information, ACC recommends DHS pre-populate the documents with a facility's previous data. This would provide the respondents with an accurate comparison to past figures and would also reduce the time spent entering information.

Most importantly, ACC recommends DHS makes all forms and assessments be available online for both data entry and final submission. In doing so, all documents should be easy to navigate by both page and section in order to decrease duplicative work and time spent when preparing the forms. ACC strongly recommends all forms have the ability to be submitted and revised online in various document formats (i.e. Word, PDF, PDF Visio, etc). This flexibility will allow for the submission of supplemental documents to occur at the same time as the required documents, thereby decreasing administrative time spent by both the respondent and DHS. It will also allow facilities to submit more detailed information, such as facility maps or diagrams, in order to better satisfy DHS requirements.

In conclusion, ACC supports the improvements in documentation requirements for the CFATS program; including CFATS, CVI, and CSAT. The first years of the program have provided DHS and industry with an opportunity to evaluate and improve the CFATS program in order to ensure all parties are meeting the proper regulatory

requirements. ACC believes that with more accurate burden estimates as well as technological improvements, the information collection and regulatory processes will benefit greatly.

ACC appreciates the opportunity to provide comments on DHS's CFATS program and information collecting tools. We look forward to working with the Department as the program further progresses. Please feel free to reach out to myself or my colleague, Alexa Burr at alexa_burr@americanchemistry.com if you have any questions.

Sincerely,

William Erny
Senior Director
American Chemistry Council