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June 4, 2013

U.S. Department of Homeland Security
National Protection and Programs Directorate
245 Murray Lane, S.W.
Arlington, VA 20528

Re: Docket No. DHS-2012-0061; Department of Homeland Security, Information Collection Request; CFATS Personnel Surety Program.

To CFATS Program Manager:

The Chlorine Institute appreciates this opportunity to submit comments on the Department of Homeland Security (DHS) Information Collection Request (ICR) regarding the Chemical Facility Anti-Terrorism Standards (CFATS) Personnel Surety Program (PSP). The Chlorine Institute (CI) founded in 1924, is a 195 member, not-for-profit trade association of chlor-alkali producers worldwide, as well as packagers, distributors, users, and suppliers. The Institute's mission is the promotion of safety and the protection of human health and the environment in the manufacture, distribution and use of chlorine, sodium hydroxide, potassium hydroxide and sodium hypochlorite, plus the distribution and use of hydrogen chloride. The Institute's North American Producer members account for more than 93 percent of the total chlorine production capacity of the U.S., Canada, and Mexico.

CI appreciates that the Department has new provisions in this ICR that will help improve flexibility, increase efficiency and reduce burden for facilities. This is highlighted by DHS allowing for the expanded use of existing Federal vetting programs, specifically by recognizing the Transportation Worker Identification Credential (TWIC) Program and the Hazardous Materials Endorsement (HME) Program as viable compliance options to validate personnel security information. DHS also states facilities may use "other technology that is periodically updated using the Cancelled Card List," in order to vet personnel that do not hold valid TWIC Cards. CI also appreciates the additional leeway in assigning CSAT user roles to include third-party submitters and consolidated (corporate) submissions as well as exempting state and local law enforcement and emergency responders for requirements. However, there are changes that have been previously identified by stakeholders and which CI believes have not been adequately addressed in this ICR. They are addressed below.

The recently published ICR still states that in the event a match against the Terrorist Screening Database (TSDB) occurs, "High-risk chemical facilities may be contacted as part of law enforcement investigation activity, depending on the nature of the investigation." Without

notice of the results of vetting, facilities are unable to affirm that individuals with access to restricted areas do not present a security threat. Facilities will not be able to stop those with “terrorist ties” from entering, accessing and/or controlling critical infrastructure assets. As such, the PSP provides facilities no security value. RBSP 12 provides that “[a]ccess to restricted areas or critical assets is allowed after appropriate background checks have been successfully completed.” It is unclear how this standard will be met when the Infrastructure Compliance Security Division (ISCD) will not share the results of the TSDB review. We do not believe that it is in the best interest of other workers, the employer, or the public who remain in proximity to a suspect worker. At minimum, ISCD should give notice to the employer that reveals the name of any employee who has failed the TSDB assessment. We strongly encourage DHS to reconsider its position on this issue and develop a means to notify properly cleared and designated personnel within the owner/operator community should a match occur against the TSDB.

Along this same vein, the ICR maintains the previous requirement for companies to submit to DHS the names of personnel (e.g. employees, contractors and visitors) who are granted unescorted access to critical assets at least 48 hours prior to gaining access. CI believes that the 48-hour rule is a burdensome requirement whose benefit does not justify the hardship that it places on facilities. Without some assurance that DHS would notify a facility that the individual requesting access to a facility by submitting their PII 48 hours in advance and who might subsequently be a match against the Terrorism Screening Database (TSDB) there is no value to this time limit

The 48-hour rule impacts both large and small operations when dealing with the substitution of contract workers and service providers, to name a few, due to illness or business conditions. In areas where there is limited access to contractors the inability for flexibility of workers could literally shutdown a project or operation. While DHS has allowed for the alternatives to the 48-hour requirement this is not without its problems. For example the use of escorting non-vetted personnel where multiple projects are ongoing or at locations with limited staff and resources is not a viable or practical alternative. As stated previously, CI does recognize DHS’ efforts to reduce the reporting burden on facilities by allowing greater flexibility in assigning CSAT user roles to include third-party submitters and consolidated (corporate) submissions as well as exempting state and local law enforcement and emergency responders.

CI is also encouraged by the provisions in this ICR where DHS allows for the expanded use of existing Federal vetting programs, specifically by recognizing the Transportation Worker Identification Credential (TWIC) Program and the Hazardous Materials Endorsement (HME) Program as viable compliance options to validate personnel security information. CI would recommend that DHS go one step further and expand the TWIC program to CFATS. By leveraging the existing TWIC program and applying it to chemical facilities throughout the country, it will minimize security differences between facilities and allow for more fluid business operations. Facilities security programs will benefit by requiring all employees who have access to any restricted areas to hold a TWIC card, while also relieving reporting burdens since security requirements will be the same at all facilities. The TWIC program has already proven to be successful in implementation, meaning there would be minor adaptations to apply

it to the chemical sector and reduce the amount of time necessary to effectively implement the PSP.

The Chlorine Institute appreciates the opportunity to provide these comments on DHS' PSP proposal.

Respectfully

A handwritten signature in blue ink, appearing to read "Therese Cirone". The signature is fluid and cursive, with the first name "Therese" being more prominent than the last name "Cirone".

Therese Cirone

Vice President, Health Environment Safety and Security