

May 31, 2013



DHS/NPPD/IP/ISCD CFATS Program Manager  
Department of Homeland Security  
245 Murray Lane, SW  
Mail Stop 0610  
Arlington, VA 20528-0610

**RE: Information Collection Request; Chemical Facility Anti-Terrorism Standards Personnel Surety Program (78 Fed. Reg. 17,680); Homeland Security Docket No. DHS-2012-0061**

The International Liquid Terminals Association (ILTA) is pleased to respond to the Department of Homeland Security (DHS) Information Collection Request (ICR) published on March 22, 2013, relating to the Chemical Facility Anti-Terrorism Standards (CFATS) Personnel Surety Program (PSP), as submitted by the Infrastructure Security Compliance Division (ISCD).

ILTA is an international trade association that represents eighty-two commercial operators of aboveground liquid storage terminals serving various modes of bulk transportation, including tank trucks, railcars, pipelines, and marine vessels. Within the United States, these companies own more than six hundred terminal facilities and handle a wide range of liquid commodities, including crude oil, refined petroleum products, chemicals, biofuels, fertilizers, and vegetable oils. Customers who store products at these terminals include oil companies, chemical manufacturers, petroleum refiners, food producers, utilities, airlines and other transportation companies, commodity brokers, government agencies, and military bases. In addition, ILTA includes in its membership more than three hundred companies that are suppliers of products and services to the bulk liquid storage industry.

DHS previously solicited comments regarding PSP on June 10, 2009, and on April 13, 2010. ILTA responded to these requests on August 10, 2009, and on May 13, 2010, respectively. In the comments, ILTA opposed the overly prescriptive nature of DHS efforts to compel specific activity for complying with the requirement of Risk-Based Performance Standard (RBPS) 12 for the identification of people with terrorist ties. ILTA also co-signed an April 23, 2012 industry coalition letter to Cass Sunstein, Administrator of the Office of Management and Budget, objecting to DHS's Information Collection Request (201105-1670-002), which attempted to advance PSP despite broad industry opposition. The letter is attached for reference. DHS has failed to address our primary objections. We believe that DHS continues to pursue action that contravenes the statutory provision that prohibits DHS from disapproving a Site Security Plan (SSP) based on the presence or absence of a particular security measure.

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With one exception, the inclusion of Option 3 regarding the use of Transportation Worker Identification Credential (TWIC) Readers, the March 22, 2013 ICR is substantively unchanged from DHS's previous ICRs on PSP. Accordingly, ILTA does not support the approach put forth by DHS. The Department continues to attempt to circumvent the rulemaking process while exceeding the limits of its congressional authority regarding overall CFATS implementation.

As noted above, the prescriptive nature of elements within the PSP proposal exceeds the statutory authority provided to ISCD. This includes proposed "requirements," such as submitting Personally Identifiable Information (PII) on valid TWIC holders when a card reader is not available and requiring a 48-hour advance notice expectation for PII submissions. ILTA acknowledges that this latest ICR does not expressly prohibit facilities from proposing alternatives in their SSPs for DHS review. However, ISCD personnel have expressed opposition to any substantive departure from the exceedingly prescriptive program elements which are essentially unchanged in each ICR.

ILTA believes that the merits of a performance-based CFATS program have been severely compromised by ISCD's usurpation of a facility's ability to identify and then apply suitable security measures consistent with each RBPS, including RBPS 12. Furthermore, we believe that the Department has acted in an overly aggressive fashion and continues to demand a prescriptive approach to PSP despite longstanding, consistent, and well-founded industry objections.

Thank you for your consideration of these comments. Should you have any questions, please contact me at 703-875-2011 or [rpweaver@ilta.org](mailto:rpweaver@ilta.org).

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Peter Weaver', with a stylized flourish at the end.

R. Peter Weaver  
Director of Regulatory Compliance and Safety