



# The Fertilizer Institute

Nourish, Replenish, Grow

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*Vice President,*  
*Member Services*

Deputy Chief Information Officer Scott Libby  
Department of Homeland Security  
245 Murray Lane, SW, Mail Stop 0610  
Arlington, VA 20528-0610

Re: Docket DHS-2012-0061: Information Collection Request: Chemical Facility Anti-Terrorism Standards Personnel Surety Program

Dear Deputy Chief Information Officer Libby:

The Fertilizer Institute (TFI) submits the following comments in response to the US Department of Homeland Security (DHS) Infrastructure Security Compliance Division's (ISCD) information collection request (ICR) that deals with personnel surety requirements under risk-based performance standard (RBPS) 12 of the Chemical Facility Anti-Terrorism Standards (CFATS) program.

## **Statement of Interest**

TFI represents the nation's fertilizer industry including producers, importers, retailers, wholesalers and companies that provide services to the fertilizer industry. Its membership is served by a full-time Washington, DC, staff in various legislative, educational and technical areas as well as with information and public relations programs. Many of our facilities handle fertilizers regulated under the CFATS program.

TFI was pleased that DHS withdrew the previous Personnel Surety Program (PSP) proposal from the Office of Management and Budget last year. It is positive that DHS adopted some of the regulated community's recommendations to create an efficient and effective PSP. However, it is our view that more needs to be done to create a flexible program that is consistent with the base standard outlined in Risk Based Performance Standard 12. There is also need for ongoing public-private collaboration. Without a workable PSP, the department will be unable to approve a covered facility's security plan.

## **TFI Comments**

First, among the changes to the personnel surety proposal, it is constructive that DHS intends to limit initial implementation of the PSP to tier 1 and tier 2 chemical facilities. The department also intends to allow covered facilities and third-party contractors to leverage the Transportation Worker Identification Credential (TWIC). However, it would be useful for DHS to further clarify its thinking behind the PSP in relation to facilities' need for transparency and

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proper personnel assurance.

CFATS requires that companies vet individuals' personal information against the Terrorist Screening Database (TSDB) before they are granted access to restricted areas or critical assets of a high-risk chemical facility. However, DHS does not necessarily plan to notify facility owners and managers when there are positive matches against the TSDB, which seems to run contrary to CFATS' intent, which is to mitigate risks to facilities and nearby communities.

TFI believes that facilities should have the option of being notified when an individual is listed on the TSDB. (In a similar vein, the PSP needs to provide a means of allowing personnel to challenge indications that they are a security risk.) It seems reasonable that companies should have the right to be made aware of when individuals have been screened against the TSDB and cleared *before* they access facilities' sensitive areas.

Second, the prescribed nature of submitting data to the government cuts against the performance-based design of CFATS—which is intended to set the desired outcome but leaves the specific measures or techniques to achieve that outcome up to the discretion of the regulated entity. Specifically, there is seemingly limited value in submitting information to DHS 48 hours in advance of individuals visiting a facility if the department is not going to notify owners and operators that personnel have been properly vetted and cleared prior to entry.

Third, DHS continues to underestimate the workload involved in compiling personnel information for submission to authorities. Federal programs like CFATS generally put the onus on individuals to submit their information to the government. In contrast, the PSP process puts the weight of collecting and submitting data directly to DHS squarely on businesses.

As a remedy, TFI believes that DHS should possibly establish a secure online portal (optional) for allowing individuals to submit their information directly to the department. Such an initiative would help reduce the burdens on the regulated facilities for collecting and keeping persons' information, which could have unwanted privacy and legal implications. An online portal would remove or substantially limit businesses' role in collecting and sending private information to federal officials.

If you have any questions regarding these comments, please contact me by telephone at (202) 515-2704 or via e-mail at [pguffain@tfi.org](mailto:pguffain@tfi.org)