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Fuel & Petrochemical  
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**RE: Chemical Security Assessment Tool Revised Information Collection Request --  
Docket No. DHS-2015-0058**

To Whom It May Concern:

The American Fuel & Petrochemical Manufacturers (AFPM)<sup>1</sup> is pleased to respond to the Department of Homeland Security's (DHS or the Department) notice requesting public comment on the revised Information Collection Request (ICR) for the Chemical Facility Anti-Terrorism Standards (CFATS) Chemical Security Assessment Tool (CSAT), which includes the CFATS Top-Screen, Security Vulnerability Assessment (SVA) and Site Security Plan (SSP) questionnaires.<sup>2</sup> Many AFPM members are subject to CFATS and are very familiar with the CSAT tools.

## **I. General Comments**

AFPM generally supports this revised ICR, which is integral to the performance of the CFATS regulatory program. DHS has measurably improved the CSAT's ability to gather the data needed to support the CFATS regulation. DHS is to be commended for the improvements it has made to these tools in response to numerous stakeholder outreach meetings.

Notwithstanding our general support of the CSAT, DHS must clarify certain language in the Top-Screen Tool. The Department's proposed language has the potential to significantly increase not only the regulated entities' burden, but also DHS's burden in analyzing the data

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<sup>1</sup> AFPM is a national trade association representing more than 400 companies, including a majority of all U.S. refiners and petrochemical manufacturers. AFPM members operate 120 U.S. refineries comprising more than 95 percent of U.S. refining capacity and 98 percent of petrochemical production.

<sup>2</sup> 81 *Federal Register* 21887 (April 13, 2016).

provided. Due to the absence of explanatory information relating to specific questions and proposed forms within the CSAT, affected operators will be unable to provide feedback on the quality of proposed estimates of the burden of hours for using these tools.

## **II. Language Clarification**

When a user logs into the revised CSAT system to enter data in the new Top Screen and opens the Appendix A list screen, a drop down list with the Chemical Abstract Service (CAS#) identifiers provides a simple, rapid method of locating the Appendix A listed Chemicals of Interest (COI). This is a great new feature for which AFPM advocated and we appreciate its addition to the Top-Screen Tool. However, the wording within the tool (Question 1.30.010 COI at the Facility) states, “Select all of the CFATS Appendix A chemicals at the facility.” AFPM is concerned that users of the tool will interpret this language as a requirement to **report all** COIs present at the facility (including those below the screening threshold quantity). AFPM is concerned that without clarifying that facilities must report only COIs that are present at the facility **above the screening threshold quantity**, facilities will erroneously report all chemicals that are on the Appendix A list to DHS regardless of their quantity. This would be an impermissible expansion of the CFATS regulatory reporting requirement that has the potential to increase the reporting burden placed on regulated facilities and would run afoul of the Paperwork Reduction Act.

The first question DHS asks in the revised ICR is whether the information is necessary for the proper performance of the functions of the Department. The likely reporting of COIs below the regulatory thresholds exceeds the regulation’s scope. DHS offers no explanation for this potential broadening of scope, or the agency’s intended use of the additional information. The expanded data collection would increase the burden on regulated entities and DHS staff, exceed the Department’s legal authorization, and deviate from the regulation’s objectives. For these reasons, AFPM strongly urges DHS to clarify the instructions in the CAS# dropdown menu.

## **III Burden Estimates**

AFPM is concerned that without the language clarification addressed above, the regulated community from providing DHS with quality burden estimates. In that regard, AFPM requests the Department consider the following burden estimate concerns:

1. In the absence of DHS clarifying the scope of the materials subject to the reporting requirements, it is impossible for an individual to estimate the time and costs associated with the submission of the revised Top-Screen, Security Vulnerability Assessment (SVAs), or Site Security Plan (SSP) documents. Although the revised document is available to DHS and a very limited audience of invited industry members, the specific questions have not yet been published and this information is not currently available for interested entities.

2. DHS's assumption that Site Security Officers are the only individuals responsible for submitting Top-Screens in many instances is not a valid assumption and tends to understate the actual burden associated with this information collection request. There are sometimes significant costs associated with other individuals that may be involved in the process and in other designated positions such as "submitters." The regulation requires the Submitter be an officer of the company, or delegated by an officer. This is generally a higher level management position in organizations due to the potential legal ramifications relating to the duties assigned to the person holding this position. The cost burden associated with the participation of these individuals is much greater than is represented in the estimates within the notice.

3. In general, the proposed cost estimates within the notice are based on time spent inputting data of Appendix A listed chemicals above the Screening Threshold Quantity (STQ). These estimates do not include the application of the CSAT to non-regulated quantities of listed materials, the cost of the field work to gather and verify data, or the on-going tracking and maintenance of 60-day reviews of inventory fluctuations, which is required in CFATS. Broadening the scope of reporting these materials has the potential to significantly increase a facility's reported hourly burden.

## **VI. Conclusion**

AFPM is very appreciative of DHS's commitment to improve the CSAT Tools. We also applaud the Department for its outreach efforts.

As described above, DHS must clarify the instructional language within the tool and all associated guidance documents, to ensure facilities are not needlessly collecting, managing and submitting non-regulatory information that goes beyond the Department's statutory authorization.

AFPM looks forward to working with DHS as revisions to these important tools of the CFATS program are initiated. If you have questions or need further information please contact me at [jgunnulfesen@afpm.org](mailto:jgunnulfesen@afpm.org) or at 202-552-4371.

Respectfully submitted,



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