

February 27, 2008

Office of Information and Regulatory Affairs  
Office of Management and Budget  
Attention: Nathan Lesser, Desk Officer  
Department of Homeland Security/NPPD

**Re: ICR 1670-0007; Submission for Review Chemical Security Assessment Tool (CSAT)  
American Gas Association and Interstate Natural Gas Association of America**

Dear Mr. Lesser:

The American Gas Association (AGA) and the Interstate Natural Gas Association of America (INGAA) are pleased to offer the following comments on the U. S. Department of Homeland Security (DHS) submission to Office of Management and Budget (OMB) regarding the information collection request (ICR) as required by the Paper Work Reduction Act of 1995. AGA/INGAA represents nearly 250 companies involved in natural gas pipeline distribution and transportation throughout the United States (and, as such, could be adversely impacted by this requirement for information collection through CSAT). Together, we transport over 90 percent of the natural gas consumed in the United States, which accounts for 25 percent of the energy usage in our economy. You are requested to review our comments below to ensure an efficient and effective regulatory process.

We continue to encourage the identification of a single Federal regulatory entity responsible for natural gas pipeline security. It was our understanding that by way of the Aviation and Transportation Security Act (ATSA), Public Law 107-71, 115 Stat. 597 (November 19, 2001), the DHS Transportation Security Administration (TSA) is responsible for security in all modes of transportation, including **pipeline** systems. In addition, Congress passed the 9/11 Commission Recommendations Act of 2007 (H.R. 1) further formalizing the authority of TSA in DHS for pipeline security.

The term "pipeline facilities" has been clearly defined by Congress in TITLE 49—TRANSPORTATION SUBTITLE VIII—PIPELINES CHAPTER 601--SAFETY

Sec. 60101. Definitions.....

3) "gas pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation;

(21) "transporting gas"--

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but

(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or

village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term "transporting gas" includes the movement of gas through regulated gathering lines;

Based on these definitions, TSA has incorporated natural gas pipeline facilities in its Sector Specific Plan (SSP) of the National Infrastructure Protection Plan. Correspondingly, since natural gas pipelines transport energy, the Department of Energy has incorporated natural gas pipeline facilities in its SSP. **The natural gas pipeline facilities were not incorporated in the Chemical SSP.**

The language in the appropriations bill that established the Chemical Facility Anti-Terrorism Standards (CFATS) has a very generic definition, which has been interpreted by the DHS regulatory staff to include a wide breadth of facilities.

*That such regulations shall apply to chemical facilities that, in the discretion of the Secretary, present high levels of security risk...*

We believe that the CFATS regulatory staff has included facilities in this regulatory effort that were not intended by Congress, specifically natural gas pipeline facilities including underground natural gas storage.

As such, we are concerned that from a regulatory compliance perspective, CFATS in some instances, is duplicative and/or conflicts with other security-related rules, regulations and guidance issued by the DHS TSA. Including underground natural gas storage in CFATS is counterproductive in that it adds undue complexity, confusion and conflicting regulatory burden on the industry. With the passing of the 2007 DHS Appropriations Bill, DHS was given authority to regulate the security of "High Risk Chemical facilities". Section 550 requires the Secretary of Homeland Security to promulgate interim final regulations that "establish risk-based performance standards for security of chemical facilities by April 2007 and specified that the regulations shall apply to chemical facilities that present high levels of security risk". AGA/INGAA and its members support this mission for DHS and to coordinate in a collaborative partnership to secure our Nation's critical natural gas infrastructure.

However, given the broad nature of the final rule published on Nov. 20, 2007, the 400+ underground storage facilities, most of which are located in rural areas of the country, are unnecessarily covered by CFATS and are being required to conduct inventory and technical assessment and report information into the DHS CSAT system. We believe this is a significant departure from the Congressional intent for DHS to focus on "high risk chemical facilities". By including relatively low risk, remotely located underground natural gas storage facilities that pose minimal measurable security consequences to the surrounding community or to the national economy, the resources of DHS and of asset owners are not effectively focused on addressing measurably higher-risk security issues. We believe this information collection is not necessary for the proper performance of the agency and will not have any practical utility.

We also express concern regarding what appeared as overlooked protocol defined in the Administrative Procedures Act for effective promulgation of regulations. We understand that by

Congressional mandate DHS was given a tight timeline for the development of chemical security regulations. However, industry should have been given proper notice regarding the intention of DHS to include underground natural gas storage in the regulation so that public comment was permitted. Had this been done, industry would have been able to submit data demonstrating the relatively low consequence associated with the majority of storage facilities and the inability of the CSAT tool to accommodate data entry of storage volumes. Industry employs an application accepted across industry and government for determining pipeline facility (including, storage facility) consequence. This application is more operationally realistic than the results of the CSAT tool and significantly reduces the number of top screen submittals and number of man hours required of the operators to comply with the CFATS regulations – man hours that could have more effectively been dedicated to other business functions.

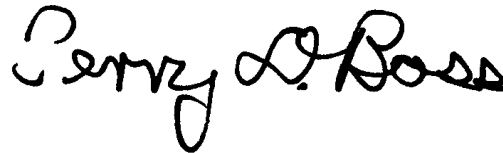
Looking forward, industry commends the DHS Chemical Security Compliance Division (CSCD) for initiating technical discussions with the industry by the mechanism of the Oil & Natural Gas Sector Coordinating Council. We believe that as long as we can keep this communication line open so that subject matter experts in the industry may contribute to the DHS consequence analysis and that DHS CSCD recognizes work already done by DOE and DOT, we may be able to maximize limited resources and most efficiently identify those facilities that meet the intent of the CFATS regulations.

Thank you for this opportunity to provide input into this important information collection request.

Sincerely,



Gary Gardner  
American Gas Association  
Vice President, Corporate Affairs and  
Corporate Secretary



Terry D. Boss  
Sr. Vice President, Safety and Environment  
Interstate Natural Gas Association of America

c: Jack Fox  
Steve Froelich