



Homeland
Security

1 July 2016

Ms. Cynthia Hilton
Institute of Makers of Explosives
1120 Nineteenth Street, NW, Suite 310
Washington, DC 20036

Dear Ms. Hilton:

The Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) has forwarded to the Department of Homeland Security your May 2016 letter regarding the April 2016 Chemical Security Assessment Tool (CSAT) Revised Information Collection Request (ICR).

Thank you for your thoughtful input. The Department appreciates your comments and would like to take this opportunity to address the specific comments you raised in your May 2016 letter:

- 1. The instruments that DHS produced and OMB posted are documents summarizing the information to be collected. These documents are not a substitute for seeing the actual questions again and provide no insight as to how they may have been further clarified.**

The Department feels that the instruments that were posted accurately represent the information that will be collected. The Department understands that these instruments do not mirror the appearance and feel of CSAT but do cover each piece of data that will be collected. The instruments were built so that a user can easily see the various pathways and information that is collected based on the selected pathway.

- 2. The posted document "CSAT Top-Screen Instrument" states, in section 4, that responders will be asked whether or not they manufacture any chemicals. In section 5, responders will be asked to identify COIs that the facility possesses. In section 6, only COIs at or above STQs are required to be identified. DHS only needs to know what COIs are present at or above their STQs in order to determine a facility's regulatory status under CFATS. If the actual questions in sections 4 and 5 are not phrased the way the information collection is summarized in section 6, the information request may be "unnecessary for the proper performance of the functions of the agency" and "the burden of the collection of information on those who are to respond" may be needlessly increased. At the same time, please know that IME has advocated for changes to the chemicals on the COI list and/or their STQs. DHS has also indicated support for updating the COI list and revalidating the STQs. To this end, it may be that DHS would benefit from the additional data it**

could collect under broader questions aimed at ascertaining the totality of chemicals manufactured or present at facilities, such as those summarized in sections 4 and 5. However, such information should be collected as part of agency rulemaking, not through an ICR that is limited to the support of existing program requirements.

Neither the information collection request nor the associated enhanced CSAT is intended as a substitute for rulemaking. The chemical manufacturing question in Section 4 is used for calculating threat. Since this is a facility-based question, it is not limited to the manufacturing of CFATS Appendix A chemicals. The Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 that amended the Homeland Security Act of 2002¹ (6 U.S.C. § 101 et seq.) with the addition of Title XXI - Chemical Facility Anti-Terrorism Standards required the Department to develop a tiering methodology that incorporates the relevant elements of risk, including threat, vulnerability, and consequence.

The Department has updated the language in Section 5 to clarify that, when completing the Top-Screen, a facility is to, “Select all of the CFATS Appendix A chemicals at or above the Screening Threshold Quantity that the facility possesses or plans to possess.” The Department believes that this language clarification will address your concerns about the information request being “unnecessary for the proper performance of the functions of the agency” and “the burden of the collection of information on those who are to respond”.

You and the Institute of Makers of Explosives have been leaders in furthering the overall objectives of the CFATS program, and the Department is appreciative of your continuing efforts to secure America’s highest-risk chemical facilities - efforts that are essential to the Nation’s critical infrastructure security and resilience.

Sincerely,



David M. Wulf
Director
Infrastructure Security Compliance Division

¹ Pub. L. 107-296 Stat. 2135, Nov. 25, 2002 is available at: <https://www.gpo.gov/fdsys/pkg/PLAW-107publ296/pdf/PLAW-107publ296.pdf>.
(Homeland Security Act of 2002)