



Homeland  
Security

1 July 2016

Ms. Robyn Brooks  
The Chlorine Institute  
1300 Wilson Blvd, Suite 525  
Arlington, VA, 22209

Dear Ms. Brooks:

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 would like to take this opportunity to address the specific comments you raised on behalf of the Chlorine Institute (“CI” or the “Institute”) in your May 2016 letter.

- 1. Within CI membership, there is a wide array of company size and organizational structure. Some larger members have entire security departments with multi-person staff. On the other extreme, some smaller members have employees whose responsibilities for regulatory compliance and CFATS compliance is only a portion of their job. For those smaller members, when regulatory compliance standards or enforcement changes, the additional burden to resubmit Top Screens has a significant impact. One particular member was asked by DHS over a dozen times to resubmit Top Screens for facilities that already had approved plans, based on the 170-foot radius distance of concern. Each new Top Screen took approximately 20 minutes to complete and for the facilities requiring a new Security Vulnerability Assessment (“SVA”), an additional 2 hours. After this process was complete for each facility, the site security plan did not change.**

**This additional time burden was also difficult to forecast. To our knowledge, there was no announcement by DHS to warn regulated facilities that they may need to resubmit information. The aforementioned member has nearly 70 regulated facilities; after the first wave of resubmission requests came, there was no way to predict if the company would be subjected to resubmittals for every facility.**

The Department is aware of the scenario that you have described and would like to clarify that only facilities that had made an error on their Top-Screens related to their distance of concern, where the error was believed to potentially impact the tiering, were asked to submit an updated Top-Screen. This request was not related to a change in regulatory compliance standards or enforcement. Instead it was the direct result of the findings and recommendations of an audit by the Government Accountability Office (GAO). Although some facilities had an approved Site

Security Plan that did not require updating, the Department did need to ensure that facilities were tiered correctly for all chemicals of interest (COI). These corrections have resulted in previously reported untiered COI changing to tiered COI and tiered COI changing to untiered COI. Depending on the results of the new tiering, facilities that made these errors previously might need to adjust their authorized or approved Site Security Plans and to account for COI that is newly included in tiering, and, in cases where tiering no longer includes certain COI, they may choose to adjust their security posture.

- 2. CI requests DHS provide additional background information on the 170-foot radius in determining the distance of concern. Why has DHS chosen 170 feet, and not another distance? What is the basis for this number?**

The Department will no longer collect distance of concern information in the new Top-Screen survey; however the Department will continue to use the 170-foot radius to define the Area of Highest Quantity (AHQ).

In a worst case scenario attack an adversary could release the total onsite quantity of a COI. The Department feels that, although possible, this is not a likely scenario and believes that defining an AHQ for release toxic COI is a better approach for tiering. The Department has considered multiple attack scenarios, including vehicle borne improvised explosive devices and assault team scenarios, and has chosen the 170 foot radius because it is reasonable for these attack scenarios and provides the Department and the regulated community with a measurable and consistent area to report.

- 3. Executive Order 13650 – Improving Chemical Facility Safety and Security directed government agencies to create a means of “coordinated, flexible data-sharing process which can be utilized to track data submitted to agencies for federally regulated chemical facilities, including locations, chemicals, regulated entities, previous infractions, and other relevant information.” Therefore, it is likely that DHS will share distance of concern information with EPA and/or OSHA. With the new direction from DHS to calculate release scenarios from every container within a 170-foot radius, this will lead to downwind consequence values greater than reported to other agencies, who only consider the single largest container. CI is concerned that these reporting requirement discrepancies will create confusion as agencies share information. How does DHS plan to minimize the potential confusion?**

The Department does not share distance of concern information with other agencies. With the implementation of the new Top-Screen survey, the Department will employ an atmospheric dispersion model, thus eliminating the need for facilities to use the EPA RMP\*Comp Tool to calculate and submit distance of concern. Therefore, facilities will no longer be required to calculate the distance of concern for every container within the 170-foot radius as you suggest. The Department also believes the removal of the use of EPA’s tool should remove any confusion causing discrepancies in data, and will more appropriately address the risk about which the Department is concerned.

You and the Chlorine Institute 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,

A handwritten signature in blue ink, appearing to read 'D. Wulf', with a long, sweeping underline that extends down towards the text below.

David M. Wulf  
Director  
Infrastructure Security Compliance Division