



**Privacy Impact Assessment Update
for the**

**Chemical Facility Anti-Terrorism
Standards (CFATS) Personnel Surety
Program, Initial Implementation**

DHS/NPPD/PIA-018(a)

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Abstract

The Department of Homeland Security (DHS) / National Protection and Programs Directorate (NPPD) is updating the Chemical Facility Anti-Terrorism Standards (CFATS) Personnel Surety Program's Privacy Impact Assessment (PIA) to account for changes to the Program since the publication of the program's original PIA on May 4, 2011.

Overview

On October 4, 2006, the President signed the Department of Homeland Security (DHS) Appropriations Act of 2007 (the Act).¹ Section 550 requires DHS to regulate the security of high-risk chemical facilities. DHS promulgated regulations implementing Section 550, the Chemical Facility Anti-Terrorism Standards (CFATS).²

Section 550 also requires that DHS establish risk-based performance standards (RBPS) for high-risk chemical facilities. DHS promulgated 18 RBPS under CFATS. RBPS 12 – Personnel Surety – requires high-risk chemical facilities to:

Perform appropriate background checks on and ensure appropriate credentials for facility personnel, and as appropriate, for unescorted visitors with access to restricted areas or critical assets, including, (i) Measures designed to verify and validate identity; (ii) Measures designed to check criminal history; (iii) Measures designed to verify and validate legal authorization to work; and (iv) Measures designed to identify people with terrorist ties.³

The ability to identify affected individuals (i.e., facility personnel or unescorted visitors with or seeking access to restricted areas or critical assets at high-risk chemical facilities) who have terrorist ties is an inherently governmental function and necessarily requires the use of information held in government-maintained databases that are unavailable to high-risk chemical facilities. Thus, under RBPS 12(iv), which requires high-risk chemical facilities to take measures to identify people with terrorist ties, DHS and high-risk chemical facilities must work together to satisfy the "terrorist ties" aspect of the Personnel Surety performance standard.⁴

Each chemical facility that DHS determines to be high-risk must submit a Site Security Plan (SSP), or an Alternative Security Program (ASP) for DHS approval that satisfies each applicable RBPS.

¹ Department of Homeland Security Appropriations Act of 2007, Pub. L. 109-295, 120 Stat. 1355 (2006).

² See 6 CFR Part 27.

³ See 6 CFR § 27.230(a)(12).

⁴ See 6 CFR § 27.230(a)(12)(iv).



Options for facilities to comply with RBPS 12(iv):

Under the CFATS Personnel Surety Program, a high-risk chemical facility has at least three options under RBPS 12(iv) for each affected individual:

- *Option 1* – Direct vetting: High-risk chemical facilities (or their designees⁵) may submit information to NPPD about an affected individual to be compared against identifying information of known or suspected terrorists contained in the Federal Government’s terrorist watchlist, the Terrorist Screening Database (TSDB), which is maintained by the Department of Justice (DOJ) Federal Bureau of Investigation’s (FBI) Terrorist Screening Center (TSC)⁶, and/or
- *Option 2* – Use of vetting conducted under other DHS programs: High-risk chemical facilities (or their designees) may submit information to NPPD about an affected individual’s enrollment in the Transportation Security Administration (TSA) Transportation Worker Identification Credential (TWIC) Program⁷; TSA Hazardous Materials Endorsement (HME) Program⁸; or the U.S. Customs and Border Protection (CBP) NEXUS, Secure Electronic Network for Travelers Rapid Inspection (SENTRI), Free and Secure Trade (FAST), and Global Entry Trusted Traveler Programs (Trusted Traveler Program).⁹ Each of those programs conducts recurrent vetting, which is equivalent to the terrorist ties vetting conducted under Option 1, and/or
- *Option 3* – Electronic verification of TWIC: High-risk chemical facilities may electronically verify and validate an affected individual’s TWIC¹⁰ through the use of TWIC readers (or other technology that is periodically updated with revoked card

⁵ Third parties or organizations employing affected individuals that provide services to high-risk chemical facilities.

⁶ For more information about the TSDB, see DOJ/FBI – 019 Terrorist Screening Records System, 72 FR 47073 (August 22, 2007).

⁷ See DHS/TSA/PIA-012 - Transportation Worker Identification Credential (TWIC) Program, available at www.dhs.gov/privacy. See also DHS/TSA 002 - Transportation Security Threat Assessment System, 75 FR 28046 (May 19, 2010).

⁸ See DHS/TSA/PIA-002 - Hazardous Materials Endorsement (HME), available at www.dhs.gov/privacy. See also DHS/TSA 002 - Transportation Security Threat Assessment System, 75 FR 28046 (May 19, 2010).

⁹ See DHS/CBP/PIA-002 - Global Enrollment System (GES), available at www.dhs.gov/privacy. See also DHS/CBP-002 - Global Enrollment System, 78 FR 3441 (Jan. 16, 2013). U.S. Customs and Border Protection (CBP) has introduced SENTRI and Global Entry as Trusted Traveler Programs since the publication of CFATS in April 2007. DHS, therefore, intends to enable high-risk chemical facilities (or their designees) to submit information about affected individuals’ SENTRI and Global Entry enrollments to DHS under Option 2, even though SENTRI and Global Entry were not listed along with the other Trusted Traveler Programs in the CFATS Interim Final Rule preamble. See 72 FR 17688, 17709 (April 9, 2007).

¹⁰ Verification and validation of an affected individual’s TWIC requires authentication that the affected individual’s TWIC is (1) a valid credential issued by TSA, and (2) contains the Card Holder Unique Identifier and correct digital signature.



information)¹¹, rather than submitting information about the affected individual to NPPD.

In addition to the options described above for satisfying RBPS 12(iv), high-risk chemical facilities may propose alternative or supplemental options not described in this PIA in their SSPs or ASPs. NPPD will assess the adequacy of alternative or supplemental options on a facility-by-facility basis, in the course of evaluating each facility's SSP or ASP.¹²

Recurrent vetting

Under Options 1 and 2, facilities (or their designees) will submit information about affected individuals through NPPD's Chemical Security Assessment Tool (CSAT) Personnel Surety application. As long as the individual is an affected individual, he or she will undergo recurrent vetting. Recurrent vetting compares an affected individual's information against new or updated TSDB records as those new or updated records become available. A facility is required to notify NPPD when an affected individual no longer has access to restricted areas or critical assets, so that DHS can stop vetting the individual under the CFATS Personnel Surety Program. A facility (or its designee) can notify NPPD by entering a future date during the initial data submission, or as an update, indicating when the individual will no longer need access.

TSA's Office of Transportation Threat Assessment and Credentialing (TTAC), which conducts vetting of information against the TSDB for several DHS programs, conducts the recurrent vetting on behalf of NPPD under Option 1.¹³ TTAC compares the information pertaining to affected individuals to information listed in the TSDB. TTAC determines whether each individual's personally identifiable information (PII): 1) does not match a TSDB record; or 2) is a potential match to a TSDB record. Each potential match to the TSDB is then manually vetted to determine whether a match has occurred.

TTAC forwards results of all positive matches to FBI's TSC, which makes final match determinations. Upon final determination by TSC that an individual is a positive match, TSA notifies other divisions/offices within FBI and DHS (NPPD) as appropriate.

¹¹ The Department currently offers two ways to determine if a TWIC has been revoked (or reported lost or stolen). One is the Canceled Card List (CCL), the other is the Certificate Revocation List (CRL). More information about the CCL may be found at http://www.tsa.gov/sites/default/files/publications/pdf/twic/canceled_card_list_ccl_faq.pdf. More information about the CRL may be in the TWIC Notice of Proposed Rulemaking published on March 29, 2009, at 74 FR 13364, which may be accessed at <https://www.federalregister.gov/articles/2009/03/27/E9-6852/transportation-worker-identification-credential-twic-reader-requirements#p-122>.

¹² High-risk chemical facilities have wide latitude in how they chose to comply with RBPS 12(iv). The choice will likely be based on how the facility has established its operational and business processes, which will vary from facility to facility. Facilities have the ability to leverage any of the options, propose an alternative, or use a combination of options.

¹³ Under Option 2, however, TTAC is not conducting vetting on behalf of NPPD but rather NPPD works with TSA and CBP to confirm an affected individual's enrollment in one of the other DHS programs.



Federal response to a positive match

In the event that there is a potential match, DHS will have procedures in place that it follows to confirm the match and coordinate with appropriate law enforcement entities as necessary.

When notified that an affected individual has known or suspected terrorist ties, NPPD will review the records within its possession and provide information to appropriate individuals and agencies about:

- To which high-risk chemical facility(ies) the affected individual with known or suspected terrorist ties may have access; and
- Relevant information about the facility that may be pertinent to investigations about the affected individual with known or suspected terrorist ties, or to other terrorism investigations.

Appropriate offices within DHS will obtain references to or information about the affected individual from other government law enforcement and intelligence databases, as well as other relevant databases that may contain terrorism information. DHS will use the information to assess the risk the affected individual poses to the high-risk chemical facility(ies) at which the affected individual with known or suspected terrorist ties may have access. DHS shares the determination of risk to the high-risk chemical facility by the affected individual with known or suspected terrorist ties with appropriate individuals and agencies for further coordination.

DHS's design of the CFATS Program is intended to promote and enhance the security of high-risk chemical facilities; the Personnel Surety Program is one element of the larger CFATS Program. To prevent a significant threat to a facility or loss of life, a high-risk chemical facility will be contacted where appropriate and in accordance with federal law and policy, as well as law enforcement and intelligence requirements.

CSAT Personnel Surety Application Reports

Facilities will have the ability to download reports from the CSAT Personnel Surety application. These reports may be customized to include information submitted about affected individuals. These reports are official government records and the information contained within the reports is covered under the Privacy Act of 1974, as amended, and therefore must be protected (as described in more detail later in this PIA).



Reason for the PIA Update

This PIA Update addresses several specific updates and improvements to the CFATS Personnel Surety Program since the publication of the program's original PIA on May 4, 2011.¹⁴ NPPD is publishing a PIA Update for several reasons, including:

General Program updates

- To limit the information collection, and to limit initial CFATS Personnel Surety Program implementation, to only Tier 1 and Tier 2¹⁵ high-risk chemical facilities.
- To accept credential information for the Global Entry Trusted Traveler Program and to permit high-risk chemical facilities to electronically verify and validate affected individuals' TWICs, through the use of TWIC readers (or other technology that is periodically updated with revoked card information), rather than submitting information about them to NPPD through CSAT.
- To provide a description of what information will be provided to high-risk chemical facilities and their designees after NPPD attempts to verify an affected individual's enrollment in any of the Trusted Traveler Programs, the HME Program, or the TWIC Program.
- To more clearly describe the CFATS Personnel Surety Program recurrent vetting and positive match processes.

Program Updates with Privacy Impact

- To outline the reduction of privacy risks associated with collecting and submitting information to NPPD by leveraging data already collected through the facility's standard business practices.
- To clarify expectations NPPD has of high-risk chemical facilities and their designees for protecting information about affected individuals used as part of background checks required under RBPS 12.
- To clarify the record retention policy for records about affected individuals that have been input into the CSAT Personnel Surety application, but that have not been submitted to NPPD.
- To provide a revised sample Privacy Act Statement for high-risk chemical facilities opting to implement Options 1 and 2. See Attachment 1.
- To provide a sample Privacy Notice for high-risk chemical facilities opting to implement Option 3. See Attachment 2.
- To outline expectations NPPD has for CSAT users when safeguarding PDF reports

¹⁴ See DHS/NPPD/PIA-018 Chemical Facilities and Anti-Terrorism Standards Personnel Surety, *available at* www.dhs.gov/privacy.

¹⁵ See 6 CFR § 27.105.



generated from the CSAT Personnel Surety application that contain information about affected individuals.

- To provide a copy of the new CSAT Personnel Surety application Rules of Behavior. See Attachment 3.
- To clarify the expectations NPPD has of high-risk chemical facilities for managing user roles within the CSAT Personnel Surety application and limiting access to information pertaining to affected individuals only to individuals who have a need-to-know.
- To clarify the expectations NPPD has for conducting data accuracy reviews and audits under the CFATS Personnel Surety Program.

DHS will continue to update the CFATS Personnel Surety Program PIA, as necessary in response to any future program changes or developments.

Privacy Impact Analysis

In each of the below sections consider how the system has changed and what impact it has on the below fair information principles. In some cases there may be no changes and indicate as such.

Authorities and Other Requirements

There have been no changes to authorities since the original PIA. Section 550 provides DHS the authority to regulate high-risk chemical facilities.¹⁶ The implementing regulations for Section 550 require that high-risk chemical facilities implement “measures designed to identify people with terrorist ties.”¹⁷ The CFATS Personnel Surety Program will provide the capability for high-risk chemical facilities to meet this requirement to ensure all affected individuals are recurrently vetted against the TSDB through at least three Options.

Characterization of the Information

The data collected under the CFATS Personnel Surety Program has not changed since the publication of the program’s original PIA. Biographic information, such as Name, Date of Birth, Citizenship, Gender or Unique Credential Information is collected as required data and information such as Aliases, Place of Birth or Redress Number is optional.¹⁸ However, NPPD has added options a facility has for complying with RBPS 12(iv). Specifically, NPPD added the addition of the Global Entry Trusted Traveler Program under Option 2, and the electronic verification of TWIC under Option 3, which are described below.

¹⁶ Department of Homeland Security Appropriations Act of 2007, Pub. L. 109-295, § 550, 120 Stat. 1355, 1388 (2006).

¹⁷ See 6 CFR § 27.230(a)(12)(iv).

¹⁸ For a complete list of required and optional data for Options 1 and 2, please refer to the original PIA published on May 4, 2011. See DHS/NPPD/PIA-018 Chemical Facilities and Anti-Terrorism Standards Personnel Surety, available at www.dhs.gov/privacy.



Sources of information and how the information is collected and used

Under the CFATS Personnel Surety Program, a high-risk chemical facility would have at least three options under RBPS 12(iv) for each affected individual:

Option 1 – Direct vetting (no changes since original PIA)

High-risk chemical facilities (or their designees) may submit information to NPPD about an affected individual to be compared on a recurrent basis against information about known or suspected terrorists contained in the TSDB.

How information is used under Option 1

PII that pertains to affected individuals that high-risk chemical facilities (or their designees) submit to NPPD is then transmitted electronically by NPPD to TSA. TSA's TTAC, which conducts vetting of information against the TSDB for several DHS programs, conducts the recurrent vetting on behalf of NPPD.

TTAC compares the information pertaining to affected individuals to information listed in the TSDB. TTAC determines whether each individual's PII: 1) does not match a TSDB record; or 2) is a potential match to a TSDB record. Each potential match to the TSDB is then manually vetted to determine whether a match has occurred.

TTAC forwards results of all positive matches to the FBI's TSC, which makes final match determinations. When TSC determines that an individual is a positive match, TSA notifies other divisions/offices within FBI and DHS (NPPD) as appropriate.

Option 2 – Use of vetting conducted under other DHS programs (change since original PIA includes addition of Global Entry Trusted Traveler Program)

High-risk chemical facilities (or their designees) may submit information to NPPD about an affected individual's enrollment in the TWIC Program,¹⁹ HME Program,²⁰ or a Trusted Traveler Program.²¹ Each of those programs conducts recurrent vetting, which is equivalent to the terrorist ties vetting conducted under Option 1.

How information is used under Option 2

DHS uses information about an affected individual submitted by, or on behalf of, high-risk chemical facilities under Option 2 to verify enrollment in a Trusted Traveler Program, the HME Program, or the TWIC Program.

¹⁹ See DHS/TSA/PIA-012 - Transportation Worker Identification Credential (TWIC) Program, available at www.dhs.gov/privacy. See also DHS/TSA 002 - Transportation Security Threat Assessment System, 75 FR 28046 (May 19, 2010).

²⁰ ²⁰ See DHS/TSA/PIA-002 - Hazardous Materials Endorsement (HME), available at www.dhs.gov/privacy. See also DHS/TSA 002 - Transportation Security Threat Assessment System, 75 FR 28046 (May 19, 2010).

²¹ ²¹ See DHS/CBP/PIA-002 - Global Enrollment System (GES), available at www.dhs.gov/privacy. See also DHS/CBP-002 - Global Enrollment System, 78 FR 3441 (Jan. 16, 2013).



NPPD verifies an affected individual's enrollment in a Trusted Traveler Program by transmitting the affected individual's unique program identification number (i.e., PASS ID Number) to CBP. CBP returns the biographic enrollment information associated with the PASS ID Number and NPPD then compares the biographic data elements to determine if there is a match. If there is a match, NPPD has verified the affected individual's enrollment in the Trusted Traveler Program. NPPD then notifies the Submitter²² that it verified the individual's enrollment in a Trusted Traveler Program. If the affected individual's enrollment in a Trusted Traveler Program has been verified, NPPD will periodically re-verify the affected individual's continued enrollment. If the affected individual's enrollment is no longer verified, then NPPD may transmit the information about the affected individual to TSA for vetting under Option 1. NPPD will also notify the high-risk chemical facility, or its designee. The high-risk chemical facility is responsible for taking action in accordance with its SSP or ASP, which may include submitting new or updated information on that affected individual.

NPPD verifies an affected individual's enrollment in the HME Program by transmitting at a minimum the required data elements, which include: the affected individual's unique program identification number (i.e., State-issued Commercial Driver's License Number) along with the issuing State, the affected individual's full name, and date of birth to TSA. TSA compares the affected individual's data against the Security Threat Assessments TSA has performed for individuals currently active in the HME program. TSA provides NPPD the results of its analysis as to whether there is a matching Security Threat Assessment. If there is a current and active Security Threat Assessment that matches the biographic data NPPD received from a Submitter, NPPD has verified the affected individual's enrollment in the HME Program. NPPD then notifies the Submitter that it verified the affected individual's enrollment in the HME Program. If an affected individual's enrollment in the HME Program has been verified, NPPD will periodically re-verify the affected individual's continued enrollment. If the affected individual's enrollment is no longer verified, then NPPD will notify the high-risk chemical facility, or its designee. NPPD may initiate vetting under Option 1, as appropriate. The high-risk chemical facility is responsible for taking action in accordance with its SSP or ASP, which may include submitting new or updated information on that affected individual.

NPPD verifies an affected individual's enrollment in the TWIC Program by transmitting to TSA at a minimum the required data elements, which include: the affected individual's full name, date of birth, and the expiration date displayed on the TWIC.²³ TSA compares the affected individual's data against the Security Threat Assessments TSA has performed for individuals currently active in the TWIC program. TSA provides the results of its analysis as to

²² A submitter is a facility employee, corporate employee, or third-party designee that submits vetting information directly to NPPD on behalf of a facility.

²³ NPPD will also transmit to TSA the following optional data elements for TWIC and HME if provided by the Submitter: Gender, Citizenship, Aliases, Place of Birth, Alien Registration Number, and Passport Number.



whether there is a matching Security Threat Assessment. If there is a current and active Security Threat Assessment that matches the biographic data NPPD received from a Submitter, NPPD has verified the affected individual's enrollment in the TWIC Program. NPPD then notifies the Submitter that it verified the individual's enrollment in the TWIC Program. If an affected individual's enrollment in the TWIC Program has been verified, NPPD will periodically re-verify the affected individual's continued enrollment. If the affected individual's enrollment is no longer verified, then NPPD will notify the high-risk chemical facility, or its designee. NPPD may initiate vetting under Option 1, as appropriate. The high-risk chemical facility is responsible for taking action in accordance with its SSP or ASP, which may include submitting new or updated information on that affected individual.

Option 3 – Electronic verification of TWIC (new since original PIA)

High-risk chemical facilities may electronically verify and validate an affected individual's TWIC through the use of TWIC readers (or other technology that is periodically updated with revoked card information), rather than submitting information about the affected individual to NPPD.

How information is used under Option 3

NPPD will not collect information about affected individuals in the possession of TWICs if a high-risk chemical facility chooses to implement Option 3. Rather, high-risk chemical facilities may use a TWIC Reader, in accordance with its SSP or ASP to electronically verify the affected individual's current enrollment in the TWIC Program.

DHS believes that under this option, a high-risk chemical facility is implementing an adequate security measure to ensure affected individuals do not have terrorist ties because the TWIC in the affected individual's possession is being electronically verified and validated.

Summary

High-risk chemical facilities have discretion as to which option(s) to use for an affected individual. For example, even though a high-risk chemical facility could comply with RBPS 12(iv) for certain affected individuals by using Option 2 because they are existing credential holders, the high-risk chemical facility could choose to use Option 1 for those affected individuals instead because the facility feels that Option 1 may be easier to manage under their existing business processes. Similarly, a high-risk chemical facility, at its discretion, may choose to use either Option 1 or Option 2 rather than Option 3 for affected individuals who have TWICs. High-risk chemical facilities also may choose to combine Option 1 with Option 2 and/or Option 3, as appropriate, to ensure that adequate terrorist ties checks are performed on different types of affected individuals (e.g., employees, contractors, unescorted visitors). Each high-risk chemical facility will need to describe how it will comply with RBPS 12(iv) in its SSP or ASP.



In addition to the options described above for satisfying RBPS 12(iv), high-risk chemical facilities may propose alternative or supplemental options not described in this PIA in their SSPs or ASPs. NPPD will assess the adequacy of such alternative or supplemental options on a facility-by-facility basis, in the course of evaluating each facility's SSP or ASP. If there are any changes to the options for complying with RBPS 12(iv), the PIA will be updated as appropriate.

Federal response to a positive match

The PIA is being updated to provide a clearer description of the CFATS Personnel Surety Program positive match process. In the event that there is a potential match, regardless of the option, DHS has procedures in place that it follows to confirm the match and coordinate with appropriate law enforcement entities as necessary.

DHS's design of the CFATS Program is intended to promote and enhance the security of high-risk chemical facilities; the Personnel Surety Program is one element of the larger CFATS Program. To prevent a significant threat to a facility or loss of life, a high-risk chemical facility will be contacted where appropriate and in accordance with federal law and policy, as well as law enforcement and intelligence requirements.

Reduction of privacy risks associated with collecting and submitting information to NPPD by leveraging data already collected through the facility's standard business practices

In general, NPPD expects that high-risk chemical facilities or their designees will already possess much, if not all, of the necessary information about affected individuals as a result of standard business practices related to employment or managing of service contracts. In the event that high-risk chemical facilities, or their designees, need to collect any additional information for the purpose of complying with RBPS 12(iv), they have significant flexibility in how to collect this information since CFATS does not prescribe how to do so.

Expectations NPPD has of high-risk chemical facilities and their designees for protecting information about affected individuals used as part of background checks required under RBPS 12

This PIA update aims to clarify NPPD's expectations around the protection of information under RBPS 12(i)-(iii)²⁴ and RBPS 12(iv).

RBPS 12(i)-(iii)

The information collected by a high-risk chemical facility pursuant to RBPS 12(i)-(iii) is not submitted to NPPD. Thus, the information is not covered under the Privacy Act of 1974. NPPD expects that the high-risk chemical facilities and their designees safeguard information

²⁴ RBPS 12(i)-(iii) are not the subject of this PIA, however they are discussed in certain sections for context to assist in explaining the implementation of RBPS 12(iv).



they collect and maintain. The sensitivity of PII related to background checks is evident by the federal and state laws pertaining to background checks, state privacy laws, the Fair Credit Reporting Act²⁵, and the Driver's Privacy Protection Act²⁶, which seek to protect individuals against the misuse of data or fraud. High-risk chemical facilities are required to protect information under these existing laws (as applicable), which provide protections for the information that has been collected by the facility in order to comply with RBPS 12(i)-(iii). While under CFATS, no specific controls are required for information collected by high-risk chemical facilities with regard to RBPS 12(i)-(iii), NPPD expects that high-risk chemical facilities will protect and safeguard the information in accordance with any other federal, state, or local privacy laws that are applicable to the collection of the information, just as they would for other similar information collected under a facility's normal business practices that is not related to the CFATS Program.

RBPS 12(iv)

The information collected by a high-risk chemical facility pursuant to RBPS 12(iv) may be submitted to NPPD under Option 1 or Option 2. Information collected or retained by the facility that has not been submitted to NPPD and facility-generated copies of information that have been submitted to NPPD are not considered government records and therefore are not covered under the Privacy Act of 1974. However, any information about affected individuals that is obtained from the CSAT Personnel Surety application is a government record and subject to the Privacy Act of 1974. Generally, the information obtained from the CSAT Personnel Surety application will be marked with the following banner:

WARNING: This document contains sensitive personally identifiable information and is subject to the Privacy Act of 1974, 5 U.S.C. § 552a. This document, and any information copied or removed from it, (1) must not be disclosed or shared with individuals unless they have a need-to-know, and (2) must be protected as stated in the DHS CSAT Personnel Surety application Rules of Behavior.

Record retention for un-submitted records about affected individuals in the CSAT Personnel Surety application

The CSAT Personnel Surety application will delete records of affected individuals input into the CSAT Personnel Surety application but not submitted to NPPD after 14 days.

²⁵ See 15 U.S.C § 1681 et seq., available at <http://www.ftc.gov/sites/default/files/fcra.pdf>.

²⁶ See 18 U.S.C. § 2721, available at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap123-sec2721.pdf>.



Notice

Revised sample Privacy Act Statement for high-risk chemical facilities opting to implement Option 1 and 2

As described in the May 4, 2011 PIA, high-risk chemical facilities and their designees must provide notice to affected individuals prior to submitting any PII to NPPD. The requirements for the notice have not changed. In Attachment 2 of the previous PIA, NPPD provided a sample notice, which high-risk chemical facilities may choose to use to provide notice to affected individuals under Option 1 and Option 2. NPPD has revised the sample.²⁷

Sample Privacy Notice for a high-risk chemical facility opting to implement Option 3

A high-risk chemical facility will not submit information to NPPD if the facility opts to electronically verify and validate affected individuals' TWICs through the use of TWIC readers (or other technology that is periodically updated with revoked card information). A high-risk chemical facility that opts to implement this option, if authorized or approved in its SSP or ASP, must provide notice to the affected individual whose TWIC is being verified and validated. Although Option 3 allows high-risk chemical facilities to comply with RBPS 12(iv) without submitting information to NPPD, DHS feels that appropriate notice should still be given to those individuals so that they know their TWICs are now being used to comply with 6 CFR § 27.230(a)(12)(iv). A sample notice is attached to this PIA.²⁸

Information Sharing

Under the CFATS Personnel Surety Program, NPPD shares information to facilitate the TSDB vetting and positive match processes, as well as to ensure compliance with RBPS 12(iv). This PIA provides an update regarding NPPD sharing information with a high-risk chemical facility, through the facility's ability to generate PDF reports from CSAT, for the purposes of ensuring that information on all affected individuals submitted by or on behalf of the facility has been appropriately submitted to DHS. These PDF reports are copies of the official government record of the information that the high-risk chemical facility, or its designee, has provided to NPPD about affected individuals with access to that facility as well as status of enrollment in other DHS programs. These PDF reports contain Sensitive Personally Identifiable Information (Sensitive PII).

Each user of the CSAT Personnel Surety application will be required to affirm a Rules of Behavior prior to being granted access to the CSAT Personnel Surety application.²⁹ PDF reports generated by high-risk chemical facilities or their designees may be shared only as authorized by

²⁷ See Attachment 1.

²⁸ See Attachment 2.

²⁹ See Attachment 3.



the Privacy Act of 1974. PDF reports must be secured during storage and transmission commensurately with DHS guidance outlined in the *DHS Handbook for Safeguarding Sensitive Personally Identifiable Information*³⁰ and the CSAT Personnel Surety application User Guide (which will be published prior to program implementation), and must display the following Privacy Warning language:

WARNING: This document contains sensitive personally identifiable information and is subject to the Privacy Act of 1974, 5 U.S.C. § 552a. This document, and any information copied or removed from it, (1) must not be disclosed or shared with individuals unless they have a need-to-know, and (2) must be protected as stated in the DHS CSAT Personnel Surety application Rules of Behavior.

This external sharing of information with high-risk chemical facilities and their designees is specifically covered in the updated Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records Notice (SORN).³¹

Auditing and Accountability

The auditing and accountability of CSAT, the system in which the CSAT Personnel Surety application resides, is covered by the overarching CFATS Program PIA.³²

Ensuring need-to-know is appropriately managed under the CFATS Personnel Surety Program

Within DHS, only individuals with a need-to-know will have access to information under the CFATS Personnel Surety Program. Information will only be disclosed to individuals outside of DHS in accordance with the Routine Uses listed in the Chemical Facility Anti-Terrorism Standards Personnel Surety Program SORN.³³

This PIA is being updated to clarify the expectations NPPD has of high-risk chemical facilities for managing need-to-know. This will assist with auditing and accountability purposes to ensure that information is only being used in accordance with the stated practices in this PIA Update. High-risk chemical facilities will be responsible for managing their user roles and determining what access each user may have within the CFATS Personnel Surety application to ensure that only the appropriate users have access to the information about affected individuals

³⁰ See DEPARTMENT OF HOMELAND SECURITY, HANDBOOK FOR SAFEGUARDING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION (2012), available at https://www.dhs.gov/sites/default/files/publications/privacy/Guidance/handbookforsafeguardingsensitivePII_march_2012_webversion.pdf. This Handbook provides guidance on how to safeguard Sensitive PII at DHS, but can be used as a reference by facilities and their designees.

³¹ DHS is publishing the updated SORN concurrently with this PIA. See also DHS/NPPD-002 – Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records, 76 FR 34732 (June 14, 2011).

³² See DHS/NPPD/PIA-009 - Chemical Facility Anti-Terrorism Standards (CFATS), available at www.dhs.gov/privacy.

³³ DHS is publishing the updated SORN concurrently with this PIA. See also DHS/NPPD-002 – Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records, 76 FR 34732 (June 14, 2011).



being submitted to NPPD.

NPPD currently has Information Sharing Agreements (ISA) with TSA and with CBP, which describe how the CSAT Personnel Surety application interfaces with the TSA and CBP systems. DHS will review any future requests, both internal and external, to access the CSAT Personnel Surety application, and when appropriate, establish an ISA or other appropriate vehicle necessary to share information.

Conducting data accuracy reviews and audits under the CFATS Personnel Surety Program

Finally, this PIA is being updated to clarify how NPPD may conduct data accuracy reviews and audits as part of the CFATS Personnel Surety Program. High-risk chemical facilities may propose to maintain different sorts of records or information related to RBPS 12 as part of their SSPs or ASPs, and NPPD expects that the records or information available could vary from one high-risk chemical facility to another. The types of information NPPD could request from high-risk chemical facilities as part of data accuracy reviews or audits could thus vary from facility to facility, based on each facility's standard business practices and SSP or ASP. The records requested may contain information pertaining to affected individuals that was previously provided to NPPD by the high-risk chemical facility.

Responsible Official

David Wulf
Director, Infrastructure Security Compliance Division
Office of Infrastructure Protection, National Protection and Programs Directorate
Department of Homeland Security

Approval Signature

Original signed and on file with the DHS Privacy Office

Karen L. Neuman
Chief Privacy Officer
Department of Homeland Security



ATTACHMENT 1

Sample Privacy Act Notice to Individuals Regarding a High-Risk Chemical Facility's Compliance with 6 CFR § 27.230(a)(12)(iv) and Participation in The CFATS Personnel Surety Program

This is a sample Privacy Act notice, which high-risk chemical facilities may choose to use to provide required notice to affected individuals. DHS may review notices for adequacy, as appropriate, under CFATS. This updated notice replaces the sample notice that was published as Attachment 2 in the original PIA on May 4, 2011.

(To be provided by a High-Risk Chemical Facility to Affected Individuals prior to the submission of PII to DHS under Option 1 and Option 2 for purposes of compliance with 6 CFR § 27.230(a)(12)(iv))

The Department of Homeland Security (DHS) requires [INSERT NAME OF CFATS-COVERED FACILITY] to comply with DHS Chemical Facility Anti-Terrorism Standards (CFATS) program requirements to identify affected individuals with terrorist ties. [INSERT NAME OF CFATS-COVERED FACILITY] has opted to comply with this requirement by collecting and submitting the personally identifiable information (PII) of affected individuals to DHS for the purpose of comparing that PII against information pertaining to known and suspected terrorists maintained by the federal government in the Terrorist Screening Database (TSDB). Affected individuals are: (1) facility personnel (e.g., employees and contractors) with access, or seeking access, (unescorted or otherwise) to restricted areas or critical assets; and (2) unescorted visitors with access, or seeking access, to restricted areas or critical assets. Affected individuals will undergo recurrent vetting against the TSDB.

In certain cases, DHS may require [INSERT NAME OF CFATS-COVERED FACILITY] to collect and submit additional information (e.g., visa information) about affected individuals in order to clarify data errors or to resolve potential matches (e.g., in a situation in which an affected individual has a common name, additional information could assist DHS in distinguishing that individual from known or suspected terrorists with similar names). Such requests will not imply, and should not be construed to indicate, that an individual has been confirmed as a match to the TSDB.

DHS conducts CFATS Personnel Surety Program activities pursuant to section 550 of the Homeland Security Appropriations Act of 2007, and section 27.230(a)(12)(iv) of the Chemical Facility Anti-Terrorism Standards (CFATS).

DHS may share information provided by [INSERT NAME OF CFATS COVERED FACILITY, AND OF THIRD PARTY SUBMITTER (IF APPLICABLE)] about you with law enforcement or intelligence agencies under its Privacy Act System of Records Notice published



in the Federal Register. To view this System of Records Notice (Department of Homeland Security/National Protection and Programs Directorate – 002 Chemical Facility Anti-Terrorism Standards Personnel Surety Program System of Records) and for more information on DHS privacy policies, please see the DHS Privacy Office website at <http://www.dhs.gov/privacy>.

DHS may also share your information and information about you with [INSERT NAME OF CFATS COVERED FACILITY, AND OF THIRD PARTY SUBMITTER (IF APPLICABLE)].

Please note that DHS will not make available certain information about you that was not supplied by [INSERT NAME OF CFATS COVERED FACILITY, AND OF THIRD PARTY SUBMITTER (IF APPLICABLE)], but may provide credential status to [INSERT NAME OF CFATS COVERED FACILITY, AND OF THIRD PARTY SUBMITTER (IF APPLICABLE)] for affected individuals whose information was submitted by them to electronically verify and validate enrollment in a Trusted Traveler Program, the HME Program, or the TWIC Program.

ACCESS & CORRECTIONS:

If you would like access to the information provided by [INSERT NAME OF CFATS COVERED FACILITY, AND OF THIRD PARTY SUBMITTER (IF APPLICABLE)] about you, you may contact [INSERT CONTACT NAME & NUMBER OR EXPLAIN INTERNAL PROCEDURE]. If your information contains errors, you should inform [INSERT NAME OF CFATS COVERED FACILITY], which is obligated to correct your information and resubmit it to DHS.

You may also write to the NPPD Freedom of Information Act (FOIA) Officer at 245 Murray Lane SW, Washington, D.C. 20528-0380, to obtain access to your information, and if necessary to correct inaccurate or erroneous information. The requirements for filing such a request may be found at 6 CFR § 5.21(d) or accessed from the DHS Privacy Office website at <http://www.dhs.gov/foia>.

REDRESS:

If you believe that the information submitted by [INSERT NAME OF CFATS COVERED FACILITY AND OF THIRD PARTY SUBMITTER (IF APPLICABLE)] has been improperly matched by DHS to the identity of a known or suspected terrorist, you may write to the NPPD FOIA Officer at 245 Murray Lane SW, Washington, D.C. 20528-0380. You may also request an administrative adjudication under CFATS.³⁴

³⁴ See 6 CFR 27.310(a)(1).



ATTACHMENT 2

Sample Notice to an Individual Whose TWIC Is Being Electronically Verified And Validated Through The Use of a TWIC Reader For Purposes of Compliance with 6 CFR § 27.230(a)(12)(iv) and Participation in The CFATS Personnel Surety Program

Prior to electronically verifying and validating an affected individual's TWIC for purposes of compliance with 6 CFR § 27.230(a)(12)(iv), a high-risk chemical facility should provide notice to affected individuals informing them that their TWIC will now be used for compliance with 6 CFR § 27.230(a)(12)(iv).

This is a sample notice, which high-risk chemical facilities may choose to use. NPPD may review notices for adequacy, as appropriate, under CFATS.

(To Be Provided by a High-Risk Chemical Facility to Affected Individuals Prior to verify and validating an affected individuals TWIC for purposes of compliance with 6 CFR § 27.230(a)(12)(iv))

Notice to individuals regarding use of the Transportation Worker Identification Credential (TWIC) under the Chemical Facility Anti-Terrorism Standards (CFATS) Personnel Surety Program:

The Department of Homeland Security (DHS) requires [INSERT NAME OF CFATS COVERED FACILITY] to comply with the DHS Chemical Facility Anti-Terrorism Standards (CFATS) program requirement to identify affected individuals with terrorist ties. [INSERT NAME OF CFATS COVERED FACILITY] has opted to comply with this requirement by electronically verifying and validating TWICs using a [INSERT TWIC READER OR NAME OF OTHER TECHNOLOGY]. Affected individuals are: (1) facility personnel (e.g., employees and contractors) with access, or seeking access, (unescorted or otherwise) to restricted areas or critical assets; and (2) unescorted visitors with access, or seeking access, to restricted areas or critical assets. If your TWIC is successfully verified and validated, no information about you will be submitted to DHS under the CFATS Personnel Surety Program. If your TWIC cannot be successfully verified and validated, [INSERT NAME OF CFATS COVERED FACILITY] will [DESCRIBE THE PROCEDURES THAT THE FACILITY HAS AGREED TO UNDERTAKE IN ITS ASP OR SSP IN THIS SITUATION]. You may also visit the Transportation Security Administration TWIC Program web page at: <http://www.tsa.gov/stakeholders/transportation-worker-identification-credential-twic> for more information regarding your TWIC.

DHS conducts CFATS Personnel Surety Program activities pursuant to section 550 of the Homeland Security Appropriations Act of 2007, and section 27.230(a)(12)(iv) of CFATS.



ATTACHMENT 3

DHS CSAT Personnel Surety Application Rules of Behavior

The following rules of behavior apply to users of the Department of Homeland Security (DHS) Chemical Security Assessment Tool (CSAT) Personnel Surety application in support of the Chemical Facility Anti-Terrorism Standards (CFATS) Personnel Surety Program.

The rules of behavior apply to users regardless of work location (e.g., chemical facility, home) or IT equipment used and do not replace any established IT or information security policies governing their local IT equipment or networks.

Application Access

- I understand that I am given access to only the portions of CSAT applications for which I require access to perform my official or authorized duties.
- I will not attempt to access CSAT applications I am not authorized to access, nor perform actions I am not authorized to do.

Passwords

- I will choose passwords that meet or exceed the complexity requirements of the IT system and that are at least eight characters long and have a combination of letters (upper- and lower-case), numbers, and special characters.
- I will protect passwords from disclosure.
- I will not share passwords or provide my passwords to anyone, including system administrators.
- I will not record passwords on paper or in electronic form and store them on or with workstations, laptop computers, or portable electronic devices (PED).
- I will shield my keyboard from view as I enter my password to prevent others from “shoulder surfing.”
- I will promptly change a password whenever the compromise of that password is known or suspected.

Data Protection

- I understand that certain information entered into the CSAT Personnel Surety application about affected individuals is considered sensitive personally identifiable information (PII). I understand that this application, and any information copied or removed from it, is subject to the Privacy Act of 1974.³⁵ I will protect the information contained in this application, and any information copied or removed from this application, and will not disclose or share it with individuals unless they have a need-to-know.

³⁵ 5 U.S.C. § 552a.



- I understand that information copied or removed from the CSAT Personnel Surety application is an official DHS record and I will only use it to ensure compliance with the CFATS Personnel Surety Program.
- I will refer to the [DHS Handbook for Safeguarding Sensitive Personally Identifiable Information](#) to ensure the protections in place for handling sensitive PII are commensurate with those outlined in DHS Privacy Policy. For example:
 - Encrypt or password-protect electronic files containing sensitive PII.
 - When there is a need to print, copy, or extract sensitive PII from a larger data set, limit the new data set to include only the specific data elements needed to perform the task at hand.
 - Physically secure sensitive PII (e.g., in a locked drawer, cabinet, desk, or safe) when not in use or not otherwise under the control of a person with a need-to-know.
 - If there is a need to create duplicate copies of sensitive PII (e.g., a PDF Report of detailed PII about affected individuals) to perform a particular task or project, delete or destroy any copies (e.g., using a shredder) when they are no longer needed.

Incident Reporting

- I will promptly report IT security incidents (e.g., a compromise of my CSAT Personnel Surety application username and password) to the CFATS Help Desk at 866-323-2957.
- I will report a privacy incident (i.e., any suspected or confirmed loss or compromise of the information contained in this application, and any information copied or removed from this application) immediately upon discovery or detection to the CFATS Help Desk at 866-323-2957.

Affirmation Statement

I affirm that I have read the rules of behavior, I understand them, and I will comply with them. I understand that failure to comply with these rules could result in a verbal or written warning, removal of system access, or legal action.