

August 10, 2009

Via Regulations.gov

Philip Reitingger
Deputy Under Secretary
National Protection and Programs Directorate
Department of Homeland Security

Re: Docket No. DHS-2009-0026: Submission for Chemical Facility Anti-Terrorism Standards Personnel Surety Program Information Collection 1670-NEW

The American Trucking Associations (ATA)¹ is pleased to offer its comments on the Department of Homeland Security's National Protection and Programs Directorate's Office of Infrastructure Protection's Submission for Chemical Facility Anti-Terrorism Standards Personnel Surety Program Information Collection 1670-NEW.² As the primary representative of the trucking industry, ATA's member companies carry materials regulated in the Chemical Facility Anti-Terrorism Standards' (CFATS) Appendix A as well as other non-regulated loads to and from CFATS-regulated facilities.³

As part of the Risk Based Performance Standards (RBPS) mandated under the CFATS program, facilities must institute background checks and submit biographical information on all employees, vendors, and visitors that will have unescorted access to sensitive areas of the CFATS facility.⁴ This includes truck drivers who visit the facility. DHS exempts individuals who possess a credential that requires a DHS performed Security Threat Assessment (STA) from the facility background check on the grounds that these individuals have already been properly vetted by DHS. The credentials meeting this standard would include the Transportation Worker Identification Credential (TWIC), the Hazardous Materials Endorsement (HME) on a Commercial Driver's License, and the Free and Secure Trade (FAST) card. ATA supports these exemptions for commercial drivers who already have undergone one of the alternative STAs mentioned above. ATA believes that any of these DHS established STAs should continue to comply with the CFATS requirements without any further need for commercial drives to provide

¹ ATA is a federation of motor carriers, state trucking associations, and national trucking conferences that promotes and protects the interests of the trucking industry. Directly, and through its affiliated organizations, ATA represents more than 37,000 motor carriers of every size, type, and class in the U.S., Canada and Mexico.

² See 74 *Federal Register* 27555-27557 (June 10, 2009).

³ See 72 *Federal Register* 65395-65435 (November 20, 2007).

⁴ See 6CFR 27.230(a)(12).

additional information under a biographical submission process.⁵ Specifically ATA believes DHS should:

- Expand the RBPS Guidance document to make clear that all DHS-performed STAs, including TWIC, CDLs with HMEs and FAST cards, are acceptable credentials under the CFATS regulations; and
- include training for CFATS-regulated facility-personnel using the Chemical Security Assessment Tool (CSAT) that clearly notes that anyone holding any of the above forms of identification is not required to undergo a background check under the CFATS program.

Although the CFATS Final Rule clearly states that personnel holding any Department-issued credential issued after an STA would satisfy the requirements for a CFATS background check, the CFATS Risk-Based Performance Standards Guidance mentions TWIC as the only acceptable credential. DHS should revise this section of the Guidance to list all of the credentials that satisfy the personnel surety requirements. Other DHS-issued credentials that would meet this threshold include the STA for CDLs with HMEs, the FAST cards, SIDA cards, and any other credentials that require STAs equivalent to those required in 6 CFR 27.230(a)(12).

Furthermore, DHS should revise its Chemical Security Assessment Tool (CSAT) to make clear that facility-employees need not submit the biographical details for individuals holding a credential that was linked to a DHS performed STA. Lacking direct access to the CSAT portal, ATA cannot directly comment on specific changes to its operation. However, fields that hold the individual's name, the type of credential, and the credential number should meet the requirements for individuals holding an active, valid STA. The Department should also highlight these issues during any training or online help provided in the CSAT tool.

Thank you for considering ATA's concerns on the CSAT Information Collection. Adopting these minor changes to the CFATS program can have major impacts to facilitate the flow of commerce while preserving a high level of security. Should you have any questions related to these issues, please contact the undersigned at 703-838-7982 or bstephenson@trucking.org.

Respectfully submitted,



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⁵ See 72 *Federal Register* 17709 (April 9, 2007).