



### CFATS Has Made our Nation and Communities More Secure

The Department of Homeland Security (DHS) continues to strengthen security at the Nation's high-risk chemical facilities through the Chemical Facility Anti-Terrorism Standards (CFATS) program. CFATS is a risk-based regulatory program that sets the standards for security at the Nation's high-risk chemical facilities. One standard that facilities must meet is the performance of background checks on certain people with access to restricted areas or critical assets at high-risk chemical facilities. Under the CFATS regulation, these activities are part of Risk Based Performance Standard (RBPS) 12 – Personnel Surety.

Personnel Surety—verifying the background of certain persons with access to restricted areas and critical assets of high risk chemical facilities—is a key component of facility security. RBPS 12 – Personnel Surety addresses the need for a high-risk chemical facility to ensure that certain individuals allowed access to restricted areas or critical assets have suitable backgrounds for their level of access. Many facilities have already made America more secure through their own personnel surety measures that review the backgrounds of those who have access to our nation's dangerous chemicals. Such reviews verify their workers' identities, check their criminal histories, and validate their legal authorizations to work.

The outstanding aspect of personnel surety is RBPS-12(iv), the vetting of individuals for terrorist ties. DHS has developed a Personnel Surety Program, a key component of facility security, under which facilities will submit personnel information for screening against the Terrorist Screening Database. Screening individuals for terrorist ties is an inherently governmental function, therefore DHS is creating a program to provide facilities with the means to comply with RBPS-12(iv). Through this Personnel Surety Program, certain persons with access to high-risk chemicals—as well as those who are attempting to access those chemicals—will be screened for potential terrorist ties in order to prevent potential harm and threats to national security.

Facilities are required to perform four types of background checks on both facility personnel (e.g., employees and contractors) who have access to restricted areas or critical assets and on unescorted visitors who have access to restricted areas or critical assets:

- 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
- iv. Measures designed to identify people with terrorist ties

The March 22, 2013 60-Day Notice in the *Federal Register* focuses on RBPS 12 (iv) - vetting of facility personnel and unescorted facility visitors for terrorist ties. The Notice is available for comment at <https://www.federalregister.gov/articles/2013/03/22/2013-06184/information-collection-request-chemical-facility-anti-terrorism-standards-personnel-surety-program>

### Options for Facilities

The Department is committed to finalizing the outstanding aspect of personnel surety and implementing a program that provides flexibility to facilities as the final piece to the overarching chemical security program. In the notice the Department describes at least three options to comply with RBPS-12(iv):

1. Submit information about an affected individual to be compared against information about known or suspected terrorists in the Terrorist Screening Database through the CSAT tool; or
2. Submit information through the CSAT tool about an affected individual who participates in a program with existing background checks conducted through other DHS programs that require a terrorist ties check equivalent to that required by the CFATS Personnel Surety Program; or
3. Electronically verify and validate an affected individual's TWIC, through the use of TWIC readers, rather than submitting information about the affected individual to DHS.

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In addition to those three options described above for satisfying RBPS 12(iv), in their Site Security Plans or Alternative Security Programs, high-risk chemical facilities may propose alternative or supplemental options not described in DHS's 60-day PRA notice in their Site Security Plans or Alternative Security Programs. The Department will assess the adequacy of such alternative or supplemental options on a facility-by-facility basis, in the course of evaluating each facility's Site Security Plan or Alternative Security Program.

## Changes in the Information Collection Request Based on Stakeholder Input

In creating the Personnel Surety Program, DHS has analyzed best practices from other Federal screening programs and has worked to incorporate feedback gained from engagement with the chemical sector and security partners. To collect information to fulfill RBPS-12 (iv), NPPD previously submitted to OMB an Information Collection Request in June 2011, but withdrew the Request in order for the Department to further engage with our security partners and with stakeholders in the regulated community about the CFATS Personnel Surety Program given their concerns about the proposed collection. Over the past six months, the Department invited industry associations to participate in CFATS Personnel Surety conference calls and subsequently met with leadership and members of the Chemical Sector Coordinating Council as well as the Oil and Natural Gas Sector Coordinating Council to identify their primary issues of concern with the CFATS Personnel Surety Program.

As a result of input from stakeholders, the Department made numerous changes to the proposal, which now includes:

- A third option for complying with RBPS-12(iv) - electronically verify and validate an affected individual's TWIC, through the use of TWIC readers.
- In addition to the three options offered by DHS, high-risk chemical facilities are welcome to propose alternative or supplemental options for DHS consideration in their Site Security Plans or Alternative Security Programs.
- The Information Collection Request will only pertain to Tier 1 and Tier 2 facilities.
- High-risk chemical facilities may be contacted by DHS or federal law enforcement as a part of law enforcement investigation activity.
- The option for CFATS covered facilities to identify third parties to enter information into the web portal for the Personnel Surety Program. A facility may identify both third parties and facility employees to submit information to DHS on its behalf.
- A discussion about emergency or exigent circumstances where individuals require access to restricted areas or critical assets without visitor escorts or without the background checks listed in RBPS 12.

The 60-day notice on the information collection request is open to public comment on March 22, 2013. After the 60-day comment period, the Department will publish a 30-day notice to solicit additional comments and submit the information collection request to OMB for their consideration.

## Contact

For more information, visit [www.dhs.gov/chemicalsecurity](http://www.dhs.gov/chemicalsecurity) or call 1-866-323-2957.

## About CFATS

*In October 2006, Congress passed Section 550 of the DHS Appropriations Act of 2007, Pub. L. 109-295, authorizing and requiring the Department of Homeland Security (DHS) to regulate security at chemical facilities that DHS determines, in its discretion, are high-risk. To implement this authority, DHS issued the Chemical Facility Anti-Terrorism Standards regulation (CFATS) in 2007. The CFATS program is focused on making our Nation and communities more secure by regulating high-risk chemical facilities to ensure they have security measures in place to reduce the risks associated with their identified chemicals of interest.*

*Under CFATS, facilities that have been finally determined by DHS to be high-risk are required to develop and implement Site Security Plans or Alternative Security Programs that meet applicable risk-based performance standards (RBPS). High-risk facilities contain Chemicals of Interest that give rise to one or more security issues to include: release of toxic chemicals, theft or diversion of chemicals, and chemicals that can be used for sabotage or contamination.*