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DEPARTMENT OF HOMELAND SECURITY

**Notice of Request for Revision to and Extension of a
Currently Approved Information Collection for Chemical-
terrorism Vulnerability Information (CVI)**

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 30-Day Notice and request for comments; Revision of
Information Collection Request: 1670-0015.

AUTHORITY: 6 U.S.C. §§ 621-629.

SUMMARY: The Department of Homeland Security (DHS or the Department), National Protection and Programs Directorate (NPPD), Office of Infrastructure Protection (IP), Infrastructure Security Compliance Division (ISCD), will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this ICR in the ***Federal Register*** on April 19, 2017 at 82 FR 18466 and allowed for a 60-day public comment period. DHS received one comment during the 60-day public comment period. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until
[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE

FEDERAL REGISTER]. This process is conducted in accordance with 5 CFR 1320.8.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments must be addressed to the OMB Desk Officer, Department of Homeland Security, National Protection and Programs Directorate via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806. All submissions must include the agency name and OMB Control Number 1670-0015.

Comments that include trade secrets, confidential commercial or financial information, Chemical-terrorism Vulnerability Information (CVI),¹ Sensitive Security Information (SSI),² or Protected Critical Infrastructure Information (PCII)³ should not be submitted to the public regulatory docket. Please submit such comments separately from other comments in response to this notice. Comments containing trade secrets, confidential commercial or financial information, CVI, SSI, or PCII should be

¹ For more information about CVI see 6 CFR 27.400 and the CVI Procedural Manual at http://www.dhs.gov/xlibrary/assets/chemsec_cvi_proceduresmanual.pdf.

² For more information about SSI see 49 CFR Part 1520 and the SSI Program webpage at <http://www.tsa.gov>.

³ For more information about PCII see 6 CFR Part 29 and the PCII Program webpage at <http://www.dhs.gov/protected-critical-infrastructure-information-pcii-program>.

appropriately marked and packaged in accordance with applicable requirements and submitted by mail to the DHS/NPPD/IP/ISCD CFATS Program Manager at the Department of Homeland Security, 245 Murray Lane, S.W., Mail Stop 0610, Arlington, VA 20528-0610. Comments must be identified by OMB Control Number 1670-0015. The Department will forward all comments received by the submission deadline to the OMB Desk Officer.

FOR FURTHER INFORMATION CONTACT: CFATS Program Manager, 866-323-2957, cfats@dhs.gov.

SUPPLEMENTARY INFORMATION:

This information collection notice was previously published in the *Federal Register* at 82 FR 18466 (April 19, 2017) and provided a 60-day public comment period. DHS received 1 comment in response to the 60-day notice. To access and review all documents related to this information collection, please visit the Federal eRulemaking Portal site at <http://www.regulations.gov> and enter Docket Number DHS-2017-0015 in the search box.

DHS PROPOSED REVISIONS FOR THIS COLLECTION ARE SUMMARIZED BELOW:

- Removal of the following instruments: (1)

"Determination of CVI"; (2) Determination of a "Need to Know" by a Public Official"; (3) "Disclosure of CVI Information; (4) Notification of Emergency or Exigent Circumstances"; and (5) "Tracking Log for CVI Received" from this collection. As required by 5 CFR 1320.5, the Department reevaluated the continued need for each instrument in this collection. This evaluation resulted in a finding these instruments have been used and collected rarely within the last 3 years.

- DHS also proposes to extend this collection with revisions to reduce the estimated burden for the remaining instrument in this collection. DHS proposes a reduction of the number of respondents for the CVI Authorization instrument from 30,000 to 20,000. This estimate is based on historical data and the anticipated impact of the Department's revision of its Chemical Security Assessment Tool (CSAT) and enhancement of its risk tiering methodology for the CFATS program. See 81 FR 47001 (Jul. 20, 2016).

RESPONSE TO COMMENT RECEIVED DURING 60-DAY COMMENT PERIOD

Comment: The one comment received concerning the 60-day PRA notice for this proposed information collection raised a concern that guidance provided in the DHS "Safeguarding

Information Designated as Chemical-Terrorism Vulnerability Information (CVI)" manual ("CVI Procedural Manual") and the CFATS regulation (at 6 C.F.R. 27.400(d)(7)) appear to require collection of information using three instruments identified by DHS for removal. The Commenter also asserted that the investigatory exception under 44 U.S.C. 3518(c) does not justify the Department's collection of information as part of these three instruments without an OMB-approved information collection request. Based on these reasons, the comment suggested retaining the "Disclosure of CVI Information," "Notification of Emergency or Exigent Circumstances," and "Tracking Log for CVI Received" instruments in this information collection with adjusted burden levels.

Response: The Department's proposal to remove five instruments from this collection, including the three identified by the commenter, is based mainly on an evaluation of the historical usage of those instruments. As noted in DHS's 60-day notice, "these instruments have historically been used rarely." 82 FR 18467. More specifically, DHS's review indicated that at no time has the Department collected information under any of these five instruments on ten or more occasions during any given calendar year. Additionally, the Department expects that

this historical pattern would continue during the next three years if the instruments were to be retained. Consequently, none of the instruments proposed for removal qualify as a "collection of information" subject to the requirements of the Paperwork Reduction Act (see 44 U.S.C. § 3502 (3) (A) (i)). Also, if this proposed information collection is approved, DHS would only collect the information currently covered by the three instruments identified by the commenter as part of an administrative action or investigation, which would exempt these instruments from the requirements of the Paperwork Reduction Act (if they were not also exempt for other reasons).

In addition, removal of the five instruments proposed is consistent with DHS guidance provided in the DHS CVI Procedural Manual and the requirements specified in 6 CFR 27.400. Per the specific marking on the footer of each page, the DHS CVI Procedural Manual "does not create or confer any new rights or obligations on any person or entity or otherwise operate to bind the public." Rather, the DHS CVI Procedural Manual describes and encourages the public's use of best practices for complying with the regulatory requirements associated with maintaining, safeguarding, and disclosing CVI set out in 6 CFR 27.400.

DHS developed some of the instruments in this collection as part of these best practices, but their use is not mandatory. If this proposed collection is approved, the Department will consider updating its guidance materials to clarify this aspect of the CVI Program.

To the extent that reporting certain information to the Department is required by 6 CFR 27.400(d)(7), that reporting requirement will remain in effect. However, as described in the paragraph above detailing historical usage of the instruments proposed for removal from this collection, DHS expects to receive fewer than ten such reports per year and the Department would likely seek unique pieces of information related to each unauthorized release of CVI, not standard pieces of information.

OMB is particularly interested in written comments from the public that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Address how the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

ANALYSIS:

The Department continues to rely on the analysis and resulting burden estimates provided in the 60-day notice for the instruments included in this ICR.

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division

Title: CFATS Chemical-terrorism Vulnerability Information

OMB Number: 1670-0015

Instrument: Chemical-terrorism Vulnerability Information Authorization

Frequency: "On occasion" and "Other"

Affected Public: Business or other for-profit

Number of Respondents: 20,000 respondents (rounded estimate)

Estimated Time per Respondent: 0.50 hours

Total Burden Hours: 10,000 annual burden hours

Total Burden Cost (capital/startup): \$0

Total Recordkeeping Burden: \$0

Total Burden Cost: \$677,200

Dated: July 20, 2017.

David Epperson,
Chief Information Officer.

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