§ 488d. Theft reporting requirement

Any person who is required to comply with section 488a(e) of this title who has knowledge of the theft or unexplained loss of ammonium nitrate shall report such theft or loss to the appropriate Federal law enforcement authorities not later than 1 calendar day of the date on which the person becomes aware of such theft or loss. Upon receipt of such report, the relevant Federal authorities shall inform State, local, and tribal law enforcement entities, as appropriate.

(Pub. L. 107–296, title VIII, § 899E, as added Pub. L. 110–161, div. E, title V, § 563(a), Dec. 26, 2007, 121 Stat. 2088.)

§ 488e. Prohibitions and penalty

(a) Prohibitions

(1) Taking possession

No person shall purchase ammonium nitrate from an ammonium nitrate facility unless such person is registered under subsection (c) or (d) of section 488a of this title, or is an agent of a person registered under subsection (c) or (d) of that section.

(2) Transferring possession

An owner of an ammonium nitrate facility shall not transfer possession of ammonium nitrate from the ammonium nitrate facility to any ammonium nitrate purchaser who is not registered under subsection (c) or (d) of section 488a of this title, or to any agent acting on behalf of an ammonium nitrate purchaser when such purchaser is not registered under subsection (c) or (d) of section 488a of this title.

(3) Other prohibitions

No person shall—

(A) purchase ammonium nitrate without a registration number required under subsection (c) or (d) of section 488a of this title;

(B) own or operate an ammonium nitrate facility without a registration number required under section 488a(c) of this title; or

(C) fail to comply with any requirement or violate any other prohibition under this part.

(b) Civil penalty

A person that violates this part may be assessed a civil penalty by the Secretary of not more than $50,000 per violation.

(c) Penalty considerations

In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature and circumstances of the violation;

(2) with respect to the person who commits the violation, any history of prior violations, the ability to pay the penalty, and any effect the penalty is likely to have on the ability of such person to do business; and

(3) any other matter that the Secretary determines that justice requires.

(d) Notice and opportunity for a hearing

No civil penalty may be assessed under this part unless the person liable for the penalty has been given notice and an opportunity for a hearing on the violation for which the penalty is to be assessed in the county, parish, or incorporated city of residence of that person.

(e) Delay in application of prohibition

Paragraphs (1) and (2) of subsection (a) shall apply on and after the date that is 6 months after the date that the Secretary issues a final rule implementing this part.

(Pub. L. 107–296, title VIII, § 899F, as added Pub. L. 110–161, div. E, title V, § 563(a), Dec. 26, 2007, 121 Stat. 2088.)

§ 488f. Protection from civil liability

(a) In general

Notwithstanding any other provision of law, an owner of an ammonium nitrate facility that in good faith refuses to sell or transfer ammonium nitrate to any person, or that in good faith discloses to the Department or to appropriate law enforcement authorities an actual or attempted purchase or transfer of ammonium nitrate, based upon a reasonable belief that the person seeking purchase or transfer of ammonium nitrate may use the ammonium nitrate to create an explosive device to be employed in an act of terrorism (as defined in section 3077 of title 18), or to use ammonium nitrate for any other unlawful purpose, shall not be liable in any civil action relating to that refusal to sell ammonium nitrate or that disclosure.

(b) Reasonable belief

A reasonable belief that a person may use ammonium nitrate to create an explosive device to be employed in an act of terrorism under subsection (a) may not solely be based on the race, sex, national origin, creed, religion, status as a veteran, or status as a member of the Armed Forces of the United States of that person.

(Pub. L. 107–296, title VIII, § 899G, as added Pub. L. 110–161, div. E, title V, § 563(a), Dec. 26, 2007, 121 Stat. 2089.)

§ 488g. Preemption of other laws

(a) Other Federal regulations

Except as provided in section 488f of this title, nothing in this part affects any regulation issued by any agency other than an agency of the Department.

(b) State law

Subject to section 488f of this title, this part preempts the laws of any State to the extent that such laws are inconsistent with this part, except that this part shall not preempt any State law that provides additional protection against the acquisition of ammonium nitrate by terrorists or the use of ammonium nitrate in explosives in acts of terrorism or for other illicit purposes, as determined by the Secretary.

(Pub. L. 107–296, title VIII, § 899H, as added Pub. L. 110–161, div. E, title V, § 563(a), Dec. 26, 2007, 121 Stat. 2089.)

§ 488h. Deadlines for regulations

The Secretary—

(1) shall issue a proposed rule implementing this part not later than 6 months after December 26, 2007; and