

**Supporting Statement for PRA Submission
Ammonium Nitrate Security Program
OMB Control Number 1670-NEW**

A. JUSTIFICATION

1. *Circumstances Making the Collection of Information Necessary*

Section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act amends the Homeland Security Act of 2002 and directs DHS to “regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.” See Pub. L. 110-161, Division E (2007). Section 563 amends the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) by adding in a new Subtitle J – Secure Handling of Ammonium Nitrate, sections 899A - 899J (to be codified from 6 U.S.C. § 488 to 6 U.S.C. § 488i). All references to 6 U.S.C. §§ 488 - 488i throughout this document refer to the corresponding sections in the Homeland Security Act of 2002, as amended by section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act. All references to “Subtitle J” throughout this document refer to Subtitle J of the Homeland Security Act of 2002, as created by the Fiscal Year 2008 Department of Homeland Security Appropriations Act.

The Department has issued a proposed rule for purposes of developing the Ammonium Nitrate Security Program and complying with Subtitle J. The Ammonium Nitrate Security Program will collect, via a web-based portal, personally identifiable information (PII) for the purpose of issuing AN Registered User Numbers. Possession of an AN Registered User Number will be required of any person seeking to sell, transfer, purchase, or obtain ammonium nitrate in the United States. Subtitle J explicitly requires the Department to conduct a check of identifying information of all prospective registrants against identifying information that appears in the Terrorist Screening Database (TSDB). See 6 U.S.C. § 488a(i)(2)

The Infrastructure Security Compliance Division (ISCD) within the Office of Infrastructure Protection (IP) of the National Protection & Programs Directorate (NPPD) implements the Ammonium Nitrate Security Program.

The Ammonium Nitrate Security Program does not require Part B to this Paperwork Reduction Act (PRA) justification to demonstrate consistency with the proposed statistical methods.

2. *By whom, how, and for what purpose the information is to be used*

There are eight instruments in this collection. These instruments will be used to manage the Ammonium Nitrate Security Program. The instruments that comprise this collection are as follows:

Ammonium Nitrate Registration

Information is collected through an online web portal directly from each applicant who wishes to apply for an AN Registered User Number. The information collected will be used to determine

if the applicant is eligible for an AN Registered User Number. Specifically, Subtitle J requires the Department to conduct a check of identifying information of all applicants against identifying information that appears in the TSDB. See 6 U.S.C. § 488a(i)(2)(A) The Department may deny an applicant an AN Registered User Number if his/her identifying information matches information contained in the TSDB. See 6 U.S.C. § 488a(i)(2)(B).

Consistent with 6 U.S.C. § 488a(i)(3)(A) and 6 U.S.C. § 488a(i)(3)(B), to the extent practicable, the Department intends to approve or deny each registration application, and to issue each registration number, not later than 72 hours after the time DHS receives a complete registration application. The Department proposes that AN Registered User Numbers will be disseminated to successful applicants via e-mail or through the proposed DHS web portal. The Department also proposes in section 31.235 of the proposed rule to make AN Registered User Numbers valid for a period of three years.

Each AN Facility must register at least one individual who is designated to act on behalf of the facility for purposes of compliance with this regulation. In addition, any individual who has an ownership interest in an AN Facility; is designated to act on behalf of a facility for purposes of compliance with this regulation, such as, a site manager, sales manager, or corporate officer; or is involved in the sale or transfer of ammonium nitrate at an AN Facility, such as a sales clerk or cashier, may register as an “AN Seller.” Additionally, any persons who individually perform sales or transfers of ammonium nitrate on behalf of an AN Facility must be registered. Finally, 6 U.S.C. § 488a(d) requires anyone who intends to purchase or obtain ammonium nitrate to register with the Department. These individuals are referred to in the proposed rule as “AN Purchasers.”

Appeals for Denial or Revocation of AN Registered User Numbers

Individuals who have had their AN Registered User Numbers denied or revoked may appeal the Department’s denial or revocation. An individual requesting an appeal is required to file a Request for Materials (requesting copies of the materials on which denial or revocation was based), a Request for Appeal (containing the rationale or information upon which he/she disputes the Department’s denial or revocation determination), and any other necessary filings.

Purchaser Verification

Prior to a sale or transfer of ammonium nitrate the AN Seller must always perform two verifications, and, depending on whether or not the prospective AN Purchaser opts to use an agent, some additional verification may be required. Not all of the verifications require information to be collected by the Department.

The AN Seller must always verify the currency and authenticity of the prospective AN Purchaser’s AN Registered User Number. The AN Seller will verify the currency and authenticity of a prospective AN Purchaser’s AN Registered User Number either electronically through a web-portal designed by the Department (the “Purchaser Verification Portal”) or telephonically through a call center maintained by the Department.

The AN Seller must also verify the prospective AN Purchaser's identity as required by DHS. The manner of verification of a prospective AN Purchaser's identity varies depending on whether or not the AN Purchaser opts to use an agent. If the AN Purchaser opts not to use an agent, then the AN Seller verifies the AN Purchaser's identity based upon the visual check of the AN Purchaser's photo identification. Such verification does not involve the collection of information by the Department. However, if the AN Purchaser opts to use an agent, then the AN Seller verifies the AN Purchaser's identity by submitting certain information (e.g., name; photo identification document number; AN Registered User Number) provided by the AN Purchaser to the Department, concurrently with the information necessary to verify the currency and authenticity of the prospective AN Purchaser's AN Registered User Number.

In the event a prospective AN Purchaser uses an agent to complete the transaction, the AN Seller must also verify both (1) the agent's identity based upon a visual check of the agent's photo identification, and (2) that the agent is acting on the approved AN Purchaser's behalf. An AN Purchaser may provide to the Department the names of any agents that might act on his/her behalf at the point of sale. Prior to transferring possession of ammonium nitrate to an agent, an AN Seller would need to verify with the Department that the prospective AN Purchaser has designated the agent as an approved agent to represent the AN Purchaser at the point of sale. If the AN Purchaser did not pre-register an agent, the proposed rule allows the AN Seller to verify that the agent is acting on the approved AN Purchaser's behalf directly with the AN Purchaser. Such verification does not involve the collection of information by the Department.

Ammonium Nitrate Helpdesk

The Ammonium Nitrate Helpdesk will (1) respond to questions from industry and the public about the Ammonium Nitrate Security Program, (2) support individuals seeking to comply with the Ammonium Nitrate Security Program and (3) as necessary, provide verification services to AN Sellers.

Electronic Recordkeeping Database

AN Facilities will be required to keep various records. However, the use of this recordkeeping instrument is voluntary. This instrument will allow the Department to offer AN Facilities the use of an electronic recordkeeping database which will comply with requirements proposed in section 31.315 of the proposed rule. AN Facilities that choose not to use the Electronic Recordkeeping Database must maintain records in some other manner.

Reporting Theft & Loss

To report a theft or loss of ammonium nitrate, an individual will contact the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Thefts and losses of ammonium nitrate are to be reported to ATF by telephoning a nationwide number, followed up with submission to ATF of a completed paper form or facsimile detailing the incident. The Department will work with ATF to determine the appropriate information to be reported and proper template for a form specific to reporting the theft or loss of ammonium nitrate. While Subtitle J does not require AN Facility Representatives or other registered individuals who have knowledge of a theft or unexplained

loss to report such incidents to local law enforcement, the Department encourages AN Facilities and individuals to do so in addition to reporting the theft or loss to ATF.

Adjudication or Appeal of an Order Assessing Civil Penalty

The information collected will be used to conduct hearings, adjudications, and appeals pursuant to the proposed rule. Section 31.700 of the proposed rule provides that any person or entity against whom an Order Assessing Civil Penalty has been issued is entitled to a hearing and adjudication by a Presiding Officer on any issue of material fact relevant to any civil penalty issued against such person or entity. Section 31.735(a) of the proposed rule states that any person or entity receiving an adverse adjudication decision has the right to appeal.

DHS anticipates that there will be fewer than 10 respondents annually.

Inspections and Audits

The information collected will be used to inspect and audit the records proposed in section 31.315 of the proposed rule. DHS may also inspect and audit any other records that pertain to misappropriation or preventing misappropriation of ammonium nitrate, and may inspect and audit any other records required by the Assistant Secretary to be maintained pursuant to Subtitle J. During an inspection or audit the Department may copy such records. DHS may also take original copies of pertinent records out of the subject AN Facilities for duplication. DHS may also perform remote inspections or audits, and require AN Facilities, AN Facility Representatives, and Designated AN Facility POCs to make the records available to the Department by facsimile, mail or email.

3. *Use of Improved Information Technology and Burden Reduction*

This collection will use information technology to reduce burden through the use of web-portals when: (1) individuals apply for AN Registered User Numbers, (2) AN Sellers choose to perform verifications required by statute or regulation through the Purchaser Verification Portal, and (3) AN Facilities choose to maintain records in the electronic recordkeeping database. The Ammonium Nitrate Security Program will also collect information through web-forms, phone, e-mail, and in person through inspections and audits as necessary.

4. *Efforts to Identify Duplication and Use of Similar Information*

The Ammonium Nitrate Security Program has two initiatives that seek to avoid duplication and reuse similar information. The first initiative would seek to reuse information collected from applicants already vetted against the TSDB as part of other DHS programs prior to submission of their AN Registered User Number applications. Under section 31.220(c)(1) of the proposed rule the Department may collect information necessary to enable it to verify applicants' enrollments in other TSDB vetting programs. Sections 31.220, 31.225, and 31.230 of the proposed rule would enable, but not require, DHS to recognize the results of TSDB vetting completed by other DHS programs as part of AN Registered User Number application reviews.

The second initiative will leverage the existing ATF infrastructure to collect reports of theft or loss of ammonium nitrate. The Department proposes to require that each theft/loss report be made to ATF in a manner prescribed by DHS after consultation with ATF, and contain information similar to that currently required by ATF for reports of theft or loss of explosives. This likely would involve modified versions of the process and tools established by ATF in support of the ATF regulations regarding the reporting of theft or loss of explosive materials.

5. *Impact on Small Business or Other Small Entities*

The Regulatory Assessment published concurrently with the Notice of Proposed Rulemaking for the Ammonium Nitrate Security Program examined the impact on small business and other small entities. Without the benefit of having the AN Registered User Number registration results, it is very difficult to know which entities will have to undergo the burden of verifying AN Registered User Numbers and maintaining records of ammonium nitrate transactions. After AN Sellers and AN Purchasers register with DHS there will be a better understanding of how many and which specific AN Facilities will be subject to the requirements of this proposed rule. The Department has offered some degree of flexibility when choosing the method of verifying AN Registered User Numbers and maintaining records. DHS expects that AN Facilities will take full advantage of this flexibility in order to minimize the cost this rule will have on their operations.

6. *Consequences of Collecting the Information Less Frequently*

Collecting the information less frequently would likely result in the failure to comply with Subtitle J and an increased risk of the misappropriation or use of ammonium nitrate in an act of terrorism.

7. *Special Circumstances Relating to the Guidelines under 5 CFR § 1320.5(d)(2)(ii)*

There are no special circumstances under this collection.

8. *Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency*

Notice will be published as part of the Ammonium Nitrate Security Program Notice of Proposed Rulemaking and Final Rule.

9. *Explanation of Any Payment or Gift to Respondents*

There is no offer of monetary or material value for this information collection.

10. *Assurance of Confidentiality Provided to Respondents*

As provided by the Privacy Act, 5 U.S.C. § 552a, DHS will publish a Privacy Impact Assessment (PIA) specifically for the PII collected by the Ammonium Nitrate Security Program.

DHS will publish a System of Records Notice (SORN) to cover the information collected by the Ammonium Nitrate Security Program.

11. *Justification for Sensitive Questions*

There are no questions of a sensitive nature.

12. *Estimates of Annualized Burden Hours and Costs*

The annual total estimate for reporting, recordkeeping, and cost burden under this collection is \$134,337,400. Individual burden estimates vary by instrument and are summarized in the table below:

Table 1: Estimates of Annualized Burden Hours and Costs

Instrument	Number of Respondents	Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Total Annual Respondent Cost (in dollars)
Ammonium Nitrate Registration	116,800	1	2.02	235,912	\$11,114,000
Appeals for Denial or Revocation of AN Registered User Numbers	223	1	6.00	1,336	\$49,500
Purchaser Verification	6,236	4705	0.08	2,445,001	\$93,262,600
Ammonium Nitrate Helpdesk	248,460	119	0.02	551,114	\$20,680,100
Electronic Recordkeeping Database	6,236	4705	0.02	448,992	\$8,591,600
Reporting of Theft & Loss	125	1	2.80	349	\$18,300
Adjudication or Appeal of an Order Assessing Civil Penalty	Less Than 10	N/A	N/A	N/A	N/A
Inspections and Audits	1559	1	12.00	18,708	\$621,100

13. *Estimates of Other Total Annual Cost Burden to Respondents and Record Keepers*

There are no other annual costs to respondents for this information collection.

14. *Annualized Cost to the Federal Government*

Initial Capital Costs for Web-Portals

The initial capital costs for the Ammonium Nitrate Security Program web-portals for registration and purchaser verification are estimated at \$1,500,000.

Registration Web-Portal Costs

The annual registration web-portal costs include: (1) Operating and Maintenance (O&M) costs estimated at \$750,000; and (2) the associated management and coordination costs for the web-portal activity estimated at \$165,900. (i.e., the fully loaded cost of employing one government employee at the GS-14 level).

Vetting Against The Terrorist Screening Database

Vetting information against the TSDB may result in potential matches to the TSDB. Potential matches require manual adjudication to confirm a positive match.

The estimated cost for vetting individuals applying for AN Registered User Numbers as outlined in the Regulatory Assessment against the TSDB is \$2,422,000 annually.

Table 2: Estimates of Annualized Costs for the Collection of Data for the Registration Portal

Expense Type	Expense Explanation	Annual Costs (in dollars)
AN O&M	Cost for O&M of AN Registration Portal	750,000
Direct Costs to the Federal Government	One DHS Project Manager (GS-14 or FTE) for the Registration Portal	165,900
Screening	Terrorist Screening Database Costs	2,422,000
Total		3,337,900

Purchaser Verification Portal Costs

The annual Purchaser Verification Portal costs include: (1) Operating and Maintenance (O&M) costs estimated at \$750,000 and (2) the associated management and coordination costs for the web-portal activity estimated at \$165,900 (i.e., the fully loaded cost of employing one government employee at the GS-14 level).

Table 3: Estimates of Annualized Costs for the Collection of Data for the Purchaser Verification Portal

Expense Type	Expense Explanation	Annual Costs (in dollars)
Direct Costs to the Federal Government	One DHS Project Manager (GS-14 or FTE) for the Purchaser Verification Portal	165,900
AN O&M	Costs for O&M of Purchaser Verification Portal	750,000
Total		915,900

Appeals for Denial or Revocation of AN Registered User Numbers Costs

The associated management and coordination costs for Appeals for Denial or Revocation of AN Registered User Numbers are equivalent to the fully loaded cost of employing two government employees at the GS-14 level and are estimated to be \$331,800.

Ammonium Nitrate Helpdesk Costs

Based upon historical experience, the annual cost to implement and manage a helpdesk is estimated to be \$2,400,000.

Electronic Recordkeeping Database Web-Portal

The annual Electronic Recordkeeping Database web-portal costs include: (1) Operating and Maintenance (O&M) costs estimated at \$750;000 and (2) the associated management and coordination costs for the web-portal activity estimated at \$165,900 (i.e., the fully loaded cost of employing one government employee at the GS-14 level).

Table 4: Estimates of Annualized Costs for the Electronic Recordkeeping Database Web-Portal

Expense Type	Expense Explanation	Annual Costs (in dollars)
Direct Costs to the Federal Government	One DHS Project Manager (GS-14 or FTE) for the Electronic Recordkeeping Database	165,900
AN O&M	Costs for O&M of Electronic Recordkeeping Database	750,000
Total		915,900

Reporting Theft and Loss

Funds to support the ATF activities associated with theft and loss reporting are estimated to be \$250,000.

Adjudication or Appeal of an Order Assessing Civil Penalty

Because DHS anticipates that there will be fewer than 10 respondents annually, no annual costs were estimated.

Inspections & Audits

The associated management and coordination costs for the information collected due to Inspections & Audits are equivalent to the fully loaded cost of employing two government employees at the GS-14 level and are estimated to be \$331,800.

Total Federal Government Costs

In sum, the estimated total annual operating cost to the United States Government for collecting and conducting screening of information under the Ammonium Nitrate Security Program is \$8,483,300 in addition to an estimated initial capital cost of \$1,500,000.

Table 5: Estimated Summary of Federal Government Annual Costs

Instrument	Federal Government Cost (in dollars)
AN Registration	3,337,900
Purchaser Verification	915,900
Appeals for Denial or Revocation of AN Registered User Numbers	331,800
Ammonium Nitrate Helpdesk	2,400,000
Electronic Recordkeeping Database	915,900
Reporting of Theft & Loss	250,000
Adjudication or Appeal of an Order Assessing Civil Penalty	N/A
Inspections and Audits	331,800
Total	8,483,300

15. Explanation for Program Changes or Adjustments

The Ammonium Nitrate Security Program is a new collection.

16. Plans for Tabulation and Publication and Project Time Schedule

No plans exist for the publication of data collected under this information collection for statistical use, tabulation, or statistical analysis.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

The Ammonium Nitrate Security Program will display the expiration date for OMB approval of this information collection.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

No exceptions are requested under this collection.