

motor carrier and to the security plan requirements in Subpart I of the HMR. When shipped in amounts that do not require placarding, such shipments do not pose a security risk when transported in commerce sufficient to warrant detailed employee background check requirements at this time.

Generally, we have determined that the placarding thresholds established in the HMR for explosives shipments represent explosives that pose the most significant security risk when transported in commerce. Explosives in the following quantities must be placarded in accordance with HMR requirements:

(1) Any quantity of Division 1.1, 1.2, or 1.3 explosives;

(2) More than 454 kg of Division 1.4, 1.5, or 1.6 explosives.

Examples of Division 1.4 explosives include toy caps, signal devices, flares, and distress signals. In quantities less than 454 kg, such explosives generally do not present a significant security threat involving their use during transportation for a criminal or terrorist act. Similarly, Division 1.5 and 1.6 explosives are sufficiently insensitive that, in amounts below 454 kg, they generally do not present a significant security threat.

To address implementation of SEA for Canadian transporters of explosives into the United States, TSA issued an interim final rule on February 6, 2003 (68 FR 6083), which took effect immediately. The regulation establishes temporary requirements for all Canadian motor carriers and rail carriers using certain aliens to transport explosives into the United States. In essence, the final rule prohibits a Canadian commercial transporter of explosives from entering the United States unless he or she is identified with a "known" status. A transporter is considered "known" by submitting specified information to Transport Canada, an agency within the Canadian government that oversees transportation safety and security. Transport Canada conducts checks to ensure that the transporter is a legitimate entity authorized to do business in Canada, and that there are no security concerns with the transporter. Transport Canada forwards this information to TSA, which may conduct additional security checks prior to forwarding the list of acceptable transporters to the U.S. Customs Service. The U.S. Customs service enforces the interim final rule by conducting checks at the U.S.-Canada border.

The HMR set forth provisions for the transportation by rail or highway of shipments of hazardous materials

coming into the United States from Canada. Generally, in § 171.12a, the HMR permit shipments that originate in Canada and either terminate in the United States or transit the United States to a foreign destination to conform to requirements in the Canadian Transportation of Dangerous Goods Regulations, with some exceptions and limitations.

For consistency with the TSA requirements applicable to Canadian carriers of explosives, in this final rule, we are amending § 171.12a to require Canadian motor carriers and railroads that transport explosives into the United States to comply with the TSA regulations at 49 CFR 1572.9 and 1572.11 concerning the transportation of explosives from Canada to the United States.

VI. Vessel and Port Security

The USCG is responsible for assuring maritime security. Primary statutory authority is set forth in Title 14, U.S. Code, the Ports and Waterways Safety Act, 33 U.S.C. 1221, *et seq.*, and the Espionage Act of 1917, as amended by the Magnuson Act of 1950, and most recently by the Maritime Transportation and Security Act of 2002, in addition to Executive Orders and Coast Guard regulations implementing the statutory authorities. Since the September 11, 2001, terrorist attacks on the United States, the Coast Guard has quickly adapted to the changed environment to protect our nation's ports and waterways.

Vessels. With respect to the treatment of aliens and felons, the USCG regulations (33 CFR 160 Subchapter C, as amended by 68 FR 9537 (February 28, 2003); 33 CFR part 6; and 33 CFR 160.111(a)) require commercial vessels to provide information on crew and passenger identity and certain dangerous cargo, including explosives, to the U.S. Coast Guard National Vessel Movement Center. The notification must take place at least 96 hours prior to arrival in port so that the Coast Guard can identify any potential security and safety risk. This includes an examination of the conditions under which aliens may lawfully transport, ship, receive, and possess explosives via commercial vessel into a U.S. seaport from any overseas location and between domestic ports. The information provided is checked with law enforcement and intelligence databases. The Coast Guard then makes a determination as to whether the vessel or any of the persons on board present a security or safety threat to the United States. Based on this threat assessment, the Coast Guard may decide to subject

a vessel to additional scrutiny, which may include boarding offshore and verification that neither the vessel nor the persons on board present a safety or security risk before they are allowed to enter U.S. territorial seas and ports.

The regulations in 33 CFR Part 6 provide the authority for the Coast Guard to board vessels and direct their movements for the purpose of security. In addition, the Coast Guard's authority to restrict and/or order movement of vessels is found in 33 CFR 160.111(a).

The Coast Guard has promulgated extensive regulations (46 CFR parts 10 and 12) to address which aliens, felons, ex-felons, non-citizens, persons who have been dishonorably discharged from the military, fugitives, persons who have been adjudged insane or otherwise determined by competent authority to be physically or mentally incompetent, drug users and ex-drug users may serve as licensed and unlicensed mariners on U.S. vessels. The licensing and documentation regime covers mariners that may handle explosives and other hazardous materials. Without such a license or document, an individual may not serve in a capacity requiring a license or document on any vessel of the United States. The regulations in 46 CFR part 10 apply to persons applying for a license as a deck or engineer officer or licensed operator of a vessel of the United States.

The Coast Guard carefully considers whether a felon or an ex-felon is sufficiently rehabilitated and whether a drug user or an ex-drug user is free from the use of dangerous drugs in order to determine if he or she should be entrusted with the responsibilities of service in the capacity for which he or she is seeking a license. With respect to felons, the review includes persons who are under indictment for felonies, as well as persons who have been convicted. The regulations at 46 CFR 10.201 contain a table of criminal offenses that are considered disqualifying depending on the crime and amount of time between application for the license and the conviction. The table of criminal offenses includes not only specific offenses, but also general categories of other crimes against property and public safety, for which an applicant may be denied a license depending on the circumstances. These general categories include, for example, arson and unlawful possession or use of a firearm or explosives. In addition, the regulations at 46 CFR 10.201 establish procedures an applicant must follow to prove citizenship. A person who has renounced his citizenship does not qualify for a Coast Guard license. Moreover, an application may be denied