

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### 49 CFR Parts 1570 and 1572

[Docket No. TSA-2003-14610; Amendment No. 1572-1]

RIN 1652-AA17

#### Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License

**AGENCY:** Transportation Security Administration (TSA), Department of Homeland Security (DHS).

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** The Transportation Security Administration (TSA) is amending the Transportation Security Regulations to establish security threat assessment standards for determining whether an individual poses a security threat warranting denial of a hazardous materials endorsement for a commercial drivers license (CDL). TSA is also establishing procedures for seeking a waiver from the standards and for appealing a security assessment determination.

TSA is issuing this interim final rule in coordination with a separate interim final rule being issued by the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA rule amends the Federal Motor Carrier Safety Regulations governing commercial drivers licenses to prohibit States from issuing, renewing, transferring, or upgrading a commercial drivers license with a hazardous material endorsement unless the Department of Justice has first conducted a background records check of the applicant and the TSA has determined that the applicant does not pose a security threat warranting denial of the hazardous materials endorsement. These interim final rules implement the background records check requirements of section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and also establish requirements regarding the transportation of explosives in commerce.

**DATES:** This final rule is effective May 5, 2003. Comments must be received on or before July 7, 2003.

**ADDRESSES:** *Comments Submitted by Mail:* Address written, signed comments to the Docket Management System, U.S. Department of Transportation, Room

Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number TSA-2003-14610 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that TSA received your comments, include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. TSA-2003-14610." The postcard will be date-stamped and mailed to you.

*Comments Filed Electronically:* You may also submit comments through the Internet at <http://dms.dot.gov>.

*Reviewing Comments in the Docket:* You may review the public docket containing comments on this proposed rule in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For technical issues, Stephen Sprague, Office of Maritime and Land, Transportation Security Administration Headquarters, West Building, Floor 9, 400 Seventh Street, SW., Washington, DC 20590; e-mail: [patriotact@tsa.dot.gov](mailto:patriotact@tsa.dot.gov); telephone: 571-227-1500.

For legal issues, Dion Casey, Office of Chief Counsel, Transportation Security Administration Headquarters, West Building, Floor 8, TSA-2, 400 Seventh Street, SW., Washington, DC 20590; e-mail: [Dion.Casey@tsa.dot.gov](mailto:Dion.Casey@tsa.dot.gov); telephone: 571-227-2663.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

This interim final rule is being adopted without prior notice and prior public comment. However, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with TSA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

TSA will consider all comments received on or before the closing date for comments. Comments filed after the closing date will be considered to the extent practicable.

See **ADDRESSES** above for information on how to submit comments.

#### Availability of Rulemaking Document

You can get an electronic copy of this final rule using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>).

(2) On the search page type in the last digits of the docket number shown at the beginning of this document. Click on "search."

(3) On the next page, which contains the docket summary information for the docket you selected, click on the final rule.

You also may get an electronic copy by accessing the Government Printing Office's Web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html) or the TSA Laws and Regulations Web page at <http://www.tsa.dot.gov/public/index.jsp>, or by writing or calling the individuals listed in the **FOR FURTHER INFORMATION**

**CONTACT** section. You must identify the docket number of this rulemaking.

#### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this rulemaking document may contact the persons listed in "For Further Information Contact" for information. You can get further information regarding SBREFA on the Small Business Administration's Web page at [http://www.sba.gov/advo/laws/law\\_lib.html](http://www.sba.gov/advo/laws/law_lib.html).

#### Abbreviations and Terms Used in This Document

ATSA—Aviation and Transportation Security Act  
ATF—Bureau of Alcohol, Tobacco, Firearms, and Explosives  
CDC—Centers for Disease Control and Prevention  
CDL—Commercial drivers license  
DHS—Department of Homeland Security  
DOJ—Department of Justice  
DOT—Department of Transportation  
FMCSA—Federal Motor Carrier Safety Administration  
HSA—Homeland Security Act  
HMR—Hazardous Material Regulations  
MTSA—Maritime Transportation Security Act  
RSPA—Research and Special Programs Administration