

check in order to renew a hazardous materials endorsement, at least 180 days prior to the expiration of the endorsement. Also, the State must inform the individual that he or she may initiate the security assessment at any time, but no later than 90 days before the expiration date. TSA will put forth every effort to prevent any CDL holder from losing a hazardous materials endorsement as a result of insufficient time to complete the background check. As long as the drivers complete the application and submit fingerprints at least 90 days prior to the expiration of his or her endorsement, TSA and the State should be able to complete the review process and renew the endorsement, where appropriate.

Paragraph (c)(3) provides that between six and 12 months after the effective date of the rule, if TSA is conducting a security threat assessment on an individual applying to renew a hazardous materials endorsement, the State may extend the expiration of a hazardous materials endorsement until TSA informs the State of TSA's final determination that the individual does not pose a security threat. If the individual is applying for a new endorsement, the State may not issue the endorsement until TSA determines the individual does not pose a security threat. This time period is necessary to ensure that TSA will have sufficient time to perform the security threat assessment.

Paragraph (d) of § 1572.5 establishes the standards TSA applies to determine whether an individual poses a security threat that warrants denial of a hazardous materials endorsement. The individual does not pose a security threat if he or she meets the citizenship requirements set forth in § 1572.105; does not have a disqualifying criminal offense described in § 1572.103; has not been adjudicated as a mental defective as prescribed in section § 1572.109; and after an analysis of other databases described in § 1572.107, TSA determines that the individual does not pose a security threat. This paragraph also states that the security threat assessment will be based on a combination of the individual's fingerprints, name, and other identifying information.

Paragraph 1572.5(d)(3) states that TSA will not issue a Notification of No Security Threat and will notify the FMCSA and the pertinent State if an applicant's criminal history records indicate a violation of 49 CFR 383.51. Section 383.51 of the FMCSA regulations prohibit an individual from driving a commercial motor vehicle for prescribed time periods for offenses

such as driving under the influence, leaving the scene of an accident, and a felony involving the use of a commercial vehicle. This information is pertinent to whether an individual is fit to hold or obtain a hazardous materials endorsement, and should be shared with the State and FMCSA.

Paragraph (d)(4) provides that TSA may, under certain circumstances, direct a State to immediately revoke an individual's hazardous materials endorsement. If TSA determines that, in conducting the security threat assessment, it is necessary to immediately revoke the individual's hazardous materials endorsement, TSA and the State must have the authority to remove the individual from hazardous materials service. This scenario will not occur frequently, and only where sufficient legal and factual grounds exist that warrant immediate action. The individual may appeal the revocation following surrender of the endorsement, pursuant to the procedures set forth in § 1572.141(i).

Paragraph 1572.5(e) specifies the information each State application must request, and each applicant must complete when applying for a new, renewal, or transfer hazardous materials endorsement.²² This information includes the individual's name; current residential address, and all other residential addresses from the previous seven years; date of birth; social security number, or alien registration number, if the applicant is an alien; gender; city of birth, State and country of birth; and citizenship. This information will be used to verify the individual's identity and determine whether they meet the security threat assessment standards.

Other information provided in the application process includes: (1) A list of disqualifying crimes specified in 49 CFR 1572.103; (2) a certification that the applicant does not have a disqualifying criminal offense, as described in 49 CFR 1572.103; (3) a certification that the individual has not been adjudicated to have a mental defect or committed to a mental institution; (4) a statement informing the applicant that Federal regulations impose a continuing obligation on the applicant to disclose to the State if the applicant has committed a disqualifying criminal offense while he or she has a hazardous materials endorsement; (5) a statement concerning any military service the applicant may have completed and the kind of discharge he or she received; (6)

statements required by the Privacy Act regarding the authority for collecting information from the individual, the purpose of collecting the information, and routine uses of the information; and (7) a statement that the information provided by the applicant is true, complete, and correct, and that the applicant understands that a knowing and willful false statement can be punished by fine or imprisonment, or both, and may be grounds for denial of a hazardous materials endorsement. The State also must advise the individual that TSA will provide a copy of the individual's criminal history record to him or her, if he or she requests the record in writing. The applicant must sign and date the application.

Paragraph (f) of this section states that if the criminal history records check discloses an arrest for a disqualifying crime listed in § 1572.103, but does not indicate a disposition, TSA follows the resolution procedures set forth in § 1572.103, which are discussed further below.

Paragraph (g) of this section describes when TSA must provide notification of the determination concerning the security threat assessment. Paragraph (g)(2) states that TSA will notify the individual that TSA has made an initial determination that the individual poses a security threat. The individual may appeal this initial determination, pursuant to the procedures listed in § 1572.141, or request a waiver, pursuant to the procedures listed in § 1572.143. Following resolution of any appeal or waiver, TSA will issue either a final notification of threat assessment or a determination that the individual does not pose a security threat. This final determination is not subject to appeal. However, a person may apply for a waiver following issuance of the final determination under paragraph (g)(4).

Paragraph (g)(5) describes the State notification requirements. Within 15 days of the receipt of the Notification of No Security Threat, Final Notification of Threat Assessment, or grant of a waiver, the State must: (1) Update the individual's permanent record with the results of the threat assessment, issuance or denial of the endorsement, and the expiration date of the endorsement, if one is issued; (2) notify the Commercial Drivers License Information System operator of the results; and (3) revoke or deny the individual's hazardous materials endorsement, if TSA serves the State with a Final Notification of Threat Assessment; or (4) grant or renew the individual's hazardous materials endorsement, if TSA serves the State

²² TSA notes that "issuing" a hazardous materials endorsement includes instances in which a State upgrades a current CDL to include a hazardous materials endorsement.