

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA will continue to consult with Mexico and Canada under the North American Free Trade Agreement to ensure that any adverse impacts on trade are minimized. This rule applies only to individuals applying for a State-issued hazardous materials endorsement for a commercial drivers license. Thus, TSA has determined that this rule will have no impact on trade.

List of Subjects in 49 CFR Parts 1570 and 1572

Commercial drivers license, Criminal history background checks, Explosives, Hazardous materials, Motor carriers, Motor vehicle carriers, Security measures, Security threat assessment.

The Amendments

■ For the reasons set forth in the preamble, the Transportation Security Administration amends 49 CFR Chapter XII, Subchapter D as follows:

SUBCHAPTER D—MARITIME AND LAND TRANSPORTATION SECURITY

■ 1. Add a Part 1570 to read as follows:

PART 1570—LAND TRANSPORTATION SECURITY: GENERAL RULES

Sec.

1570.1 Scope.

1570.3 Fraud and intentional falsification of records.

Authority: 49 U.S.C. 114, 40113, 46105.

§ 1570.1 Scope.

This part applies to any person involved in land transportation as specified in this part.

§ 1570.3 Fraud and intentional falsification of records.

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any record or report that is kept, made, or used to show compliance with this subchapter, or exercise any privileges under this subchapter.

(b) Any reproduction or alteration, for fraudulent purpose, of any record, report, security program, access medium, or identification medium

issued under this subchapter or pursuant to standards in this subchapter.

PART 1572—CREDENTIALING AND BACKGROUND CHECKS FOR LAND TRANSPORTATION SECURITY

■ 2. Revise the authority citation for part 1572 to read as follows:

Authority: 49 U.S.C. 114, 5103a, 40113, 46105.

■ 3. Sections 1572.1 through 1572.11 are designated as subpart A, with the following heading:

Subpart A—Requirements to Undergo Security Threat Assessments

■ 4. Add a new § 1572.3 to read as follows:

§ 1572.3 Terms used in this part.

For purposes of this part:

Alien means any person not a citizen of the United States.

Alien registration number means the number issued by the United States Department of Homeland Security to an individual when he or she becomes a lawful permanent resident of the United States.

Commercial drivers license (CDL) is used as defined in 49 CFR 383.5.

Convicted means any plea of guilty or *nolo contendere*, or any finding of guilt.

Endorsement is used as defined in 49 CFR 383.5.

Final Notification of Threat Assessment means a final administrative determination by TSA that an individual poses a security threat warranting denial of the authorization for which the individual is applying.

Hazardous materials is used as defined in 49 CFR 383.5.

Incarceration means confined or otherwise restricted to a jail-type institution, half-way house, treatment facility, or another institution, on a full or part-time basis pursuant to a sentence imposed as the result of a conviction.

Initial Notification of Threat Assessment means an initial administrative determination by TSA that an individual poses a security threat warranting denial of the authorization for which the individual is applying.

Lawful permanent resident means an individual who has been lawfully admitted for permanent residence to the United States, as defined in 8 U.S.C. 1101.

Mental institution means a mental health facility, mental hospital, sanitarium, psychiatric facility, and any other facility that provides diagnoses by

licensed professionals of mental retardation or mental illness, including a psychiatric ward in a general hospital.

Notification of No Security Threat means an administrative determination by TSA that an individual does not pose a security threat warranting denial of the authorization for which the individual is applying.

Severe transportation security incident means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

State means a State of the United States and the District of Columbia.

■ 5. Add a new section 1572.5 to read as follows:

§ 1572.5 Security threat assessment for commercial drivers' licenses with a hazardous materials endorsement.

(a) *Scope*. This section applies to State agencies responsible for issuing hazardous materials endorsements for a commercial drivers license, and individuals who hold or are applying for such endorsements, under 49 CFR part 383.

(b) *Individuals*. (1) *Requirements*.

Beginning on September 2, 2003:

(i) *Prohibitions*. No individual may hold a CDL with a hazardous materials endorsement, or exercise the privileges of a hazardous materials endorsement, if:

(A) The individual does not meet the citizenship status requirements in § 1572.105;

(B) The individual has a disqualifying criminal offense, as described in § 1572.103;

(C) The individual has been adjudicated as a mental defective or committed to a mental institution, as described in § 1572.109; or

(D) TSA has notified the individual that he or she poses a security threat warranting denial of the endorsement, as described in § 1572.107.

(ii) *Surrender of endorsement*. An individual who is prohibited from holding a CDL with a hazardous materials endorsement under this section must surrender the hazardous materials endorsement to the issuing State.

(iii) *Continuing responsibilities*. Each individual with a hazardous materials endorsement who is convicted of, wanted, or under indictment in any jurisdiction, civilian or military, for, or found not guilty by reason of insanity of, a disqualifying crime listed in § 1572.103; who is adjudicated as a mental defective or committed to a mental institution as specified in § 1572.109; or who renounces his or her