

§ 1522.113

49 CFR Ch. XII (10–1–10 Edition)

reconsideration of the decision by submitting a written petition for reconsideration to the Assistant Secretary or his or her designee within 30 days of receiving the notice of disapproval. The written petition for reconsideration must include a statement and any supporting documentation explaining why the applicant believes the reason for disapproval is incorrect.

(b) *Review of petition.* Upon review of the petition for reconsideration, the Assistant Secretary or designee makes a determination on the petition by either affirming the disapproval of the application or approving the application. The Assistant Secretary or designee may request additional information from the applicant prior to rendering a decision. This disposition is a final agency action for purposes of 49 U.S.C. 46110.

§ 1522.113 Withdrawal of approval.

(a) *Basis for withdrawal of approval.* TSA may withdraw approval of a TSA-approved validation firm if the validation firm ceases to meet the standards for approval, fails to fulfill its responsibilities under this subpart, or if TSA determines that continued operation is contrary to safety and the public interest.

(b) *Notice of withdrawal of approval.* (1) Except as provided in paragraph (c) of this section, TSA will provide a written notice of proposed withdrawal of approval to the validation firm.

(2) The notice of proposed withdrawal of approval will include the basis for the withdrawal of approval.

(3) Unless the validation firm files a written petition for reconsideration under paragraph (d) of this section, the notice of proposed withdrawal of approval will become a final notice of withdrawal of approval 31 days after the validation firm's receipt of the notice of proposed withdrawal of approval.

(c) *Emergency notice of withdrawal of approval.* (1) If TSA finds that there is an emergency requiring immediate action with respect to a TSA-approved validation firm's ability to perform assessments, TSA may withdraw approval of that validation firm without prior notice.

(2) TSA will incorporate in the emergency notice of withdrawal of approval a brief statement of the reasons and findings for the withdrawal of approval.

(3) The emergency notice of withdrawal of approval is effective upon the TSA-approved validation firm's receipt of the notice. The validation firm may file a written petition for reconsideration under paragraph (d) of this section; however, this petition does not stay the effective date of the emergency notice of withdrawal of approval.

(d) *Petition for reconsideration.* A validation firm may seek reconsideration of the withdrawal of approval by submitting a written petition for reconsideration to the Assistant Secretary or designee within 30 days of receiving the notice of withdrawal of approval. The filing of a petition for reconsideration does not stay the effective date of the withdrawal pending the reconsideration.

(e) *Review of petition.* Upon review of the written petition for reconsideration, the Assistant Secretary or designee makes a determination on the petition by either affirming or withdrawing the notice of withdrawal of approval. The Assistant Secretary or designee may request additional information from the validation firm prior to rendering a decision. This disposition is a final decision for purposes of review under 49 U.S.C. 46110.

§ 1522.115 Renewal of TSA approval.

(a) *Application.* Every 12 months, computed from the date of initial approval under §1522.107, or more frequently as required by TSA, each validation firm must apply, in a form and manner prescribed by TSA, for renewal of approval of its security program, and of approval to operate as a validation firm. If the validation firm submits the information in the month before or after it is due, the validation firm is considered to have submitted the information in the month it is due. If the validation firm timely submits its application for review of approval under this section, the validation firm may continue to conduct assessments under this subpart unless and until TSA denies the application.

(b) *Content.* In addition to any other information required by TSA, the validation firm must submit the following information to TSA when applying for renewal:

(1) If required, evidence that the validators and other individuals of the validation firm with responsibilities for participating in assessments have successfully completed the initial training under § 1522.119(a) and any recurrent training described in § 1522.119(b).

(2) Evidence that the individual validators with responsibilities for conducting assessments continue to be certified or accredited by an organization that TSA recognizes as qualified to certify or accredit a validator.

(3) A statement signed by a senior officer or employee of the validation firm attesting that the firm has reviewed and ensures the continuing accuracy of the contents of its initial application for a security program, subsequent renewal applications, or other submissions to TSA confirming a change of information and noting the date such applications and submissions were made to TSA, including the following certification:

[Name of validation firm] (hereinafter “the validation firm”) has adopted and is currently carrying out a security program in accordance with the Transportation Security Regulations as originally approved on [Insert date of TSA initial approval]. In accordance with TSA regulations, the validation firm has notified TSA of any new or changed information required for the validation firm’s initial security program. If new or changed information is being submitted to TSA as part of this application for reapproval, that information is stated in this filing.

The validation firm understands that intentional falsification of certification may be subject to both civil and criminal penalties under 49 CFR part 1540 and 18 U.S.C. 1001. Failure to notify TSA of any new or changed information required for initial approval of the validation firm’s security program in a timely fashion and in a form acceptable to TSA may result in withdrawal by TSA of approval of the validation firm’s security program.

(c) *Renewal.* TSA will renew approval of the security program and the validation firm’s authority to conduct assessments if TSA determines that—

(1) The validation firm has met the requirements of this chapter, its secu-

rity program, and any Security Directive; and

(2) The renewal of approval of the validation firm’s security program, and of the approval to operate as a validation firm, is not contrary to the interests of security or the public interest.

(d) *Effective.* The renewal of approval issued pursuant to this section will remain effective until the end of the calendar month 12 months after the month it was approved or until the program has been surrendered or withdrawn, whichever is earlier.

(e) *Withdrawal.* If a validation firm fails to comply with the requirements of this section, TSA may withdraw approval of the validation firm under § 1522.113.

§ 1522.117 Qualifications of validators.

(a) Each assessment conducted under this subpart must be conducted by a validator who meets the following requirements:

(1) He or she must be a citizen or national of the United States or be an alien lawfully admitted for permanent residence.

(2) He or she must meet the requirements of paragraph (a)(2)(i) or (ii) of this section.

(i) He or she must hold a certification or accreditation from an organization that TSA recognizes as qualified to certify or accredit a validator for assessments and must have at least five years of experience in inspection or validating compliance with State or Federal regulations in the security industry, the aviation industry, or government programs. The five years of experience must have been obtained within 10 years of the date of the application.

(ii) He or she must have at least five years experience as an inspector for a Federal or State government agency performing inspections similar to the inspections called for in this subpart and part 1549. The five years of experience must have been obtained within 10 years of the date of the application.

(3) The validator must have three professional references that address his or her abilities in inspection, validation, and written communications.

(4) The validator must have sufficient knowledge of the rules, regulations,