Subpart B—Standards for Security Threat Assessments

§ 1572.101 Scope.

This subpart applies to applicants who hold or are applying to obtain or renew an HME or TWIC, or transfer an HME. Applicants for an HME also are subject to safety requirements issued by the Federal Motor Carrier Safety Administration under 49 CFR part 383 and by the State issuing the HME, including additional immigration status and criminal history standards.

§ 1572.103 Disqualifying criminal offenses.

(a) Permanent disqualifying criminal offenses. An applicant has a permanent disqualifying offense if convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

(1) Espionage or conspiracy to commit espionage.

(2) Sedition, or conspiracy to commit sedition.

(3) Treason, or conspiracy to commit treason.

(4) A federal crime of terrorism as defined in 18 U.S.C. 2332b(g), or comparable State law, or conspiracy to commit such crime.

(5) A crime involving a transportation security incident. A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as defined in 46 U.S.C. 70101. The term "economic disruption" does not include a work stoppage or other employer-related action not related to terrorism and resulting from an employee-employer dispute.

(6) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a State law that is comparable.

(7) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device. An explosive or explosive device includes, but is not limited to, an explosive or explosive material as defined in 18 U.S.C. 2325, 841(c) through 841(f), and 844(j); and a destructive device, as defined in 18 U.S.C. 2332b(g), and 26 U.S.C. 5845(f).

(b) Interim disqualifying criminal offenses. The felonies listed in paragraphs (a)(1), (a)(7), and (a)(10) of this section are disqualifying, if either:

(i) the applicant was convicted, or found not guilty by reason of insanity, of the crime in a civilian or military jurisdiction, within seven years of the date of the application; or

(ii) the applicant was incarcerated for that crime and released from incarceration within five years of the date of the TWIC application.

(6) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a State law that is comparable.

(7) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device. An explosive or explosive device includes, but is not limited to, an explosive or explosive material as defined in 18 U.S.C. 2325, 841(c) through 841(f), and 844(j); and a destructive device, as defined in 18 U.S.C. 2332b(g), and 26 U.S.C. 5845(f).

(b) Interim disqualifying criminal offenses. (1) The felonies listed in paragraphs (a)(1), (a)(7), and (a)(10) of this section are disqualifying, if either:

(i) the applicant was convicted, or found not guilty by reason of insanity, of the crime in a civilian or military jurisdiction, within seven years of the date of the application; or

(ii) the applicant was incarcerated for that crime and released from incarceration within five years of the date of the TWIC application.

(2) The interim disqualifying felonies are:

(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export, or dealing in a firearm or other weapon. A firearm or other weapon includes, but is not limited to, firearms as defined in 18 U.S.C. 921(a)(3) or 26 U.S.C. 5845(a), or items contained on the U.S. Munitions Import List at 27 CFR 447.21.

(ii) Extortion.

(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering where the money laundering is related to a crime described in paragraphs (a)(1) through (a)(7) of this section. Welfare fraud and passing bad
§ 1572.105 Immigration status.

(a) An individual applying for a security threat assessment for a TWIC or HME must be a national of the United States or—
   (1) A lawful permanent resident of the United States;
   (2) A refugee admitted under 8 U.S.C. 1157;
   (3) An alien granted asylum under 8 U.S.C. 1158;
   (4) An alien in valid M-1 non-immigrant status who is enrolled in the United States Merchant Marine Academy or a comparable State maritime academy. Such individuals may serve as unlicensed mariners on a documented vessel, regardless of their nationality, under 46 U.S.C. 8103.
   (5) A nonimmigrant alien admitted under the Compact of Free Association between the United States and the Federated States of Micronesia, the United States and the Republic of the Marshall Islands, or the United States and Palau.
   (6) An alien in lawful nonimmigrant status who has unrestricted authorization to work in the United States, except—
      (i) An alien in valid S–5 (informant of criminal organization information) lawful nonimmigrant status;
      (ii) An alien in valid S–6 (informant of terrorism information) lawful nonimmigrant status;
      (iii) An alien in valid K–1 (Fiancé(e)) lawful nonimmigrant status; or
      (iv) An alien in valid K–2 (Minor child of Fiancé(e)) lawful nonimmigrant status.
   (7) An alien in the following lawful nonimmigrant status who has restricted authorization to work in the United States—
      (i) B1/OCS Business Visitor/Outer Continental Shelf;
      (ii) C–1D Crewman Visa;
      (iii) H–1B Special Occupations;
      (iv) H–1B1 Free Trade Agreement;
      (v) E–1 Treaty Trader;
      (vi) E–3 Australian in Specialty Occupation;
      (vii) L–1 Intracompany Executive Transfer;
      (viii) O–1 Extraordinary Ability;
      (ix) TN North American Free Trade Agreement;
      (x) E–2 Treaty Investor; or