

to transport hazardous materials in accordance with 49 CFR 1572.201; or other individuals approved by TSA.

[72 FR 3595, Jan. 25, 2007, as amended at 72 FR 55048, Sept. 28, 2007]

§ 1572.5 Standards for security threat assessments.

(a) *Standards.* TSA determines that an applicant poses a security threat warranting denial of an HME or TWIC, if—

(1) The applicant has a disqualifying criminal offense described in 49 CFR 1572.103;

(2) The applicant does not meet the immigration status requirements described in 49 CFR 1572.105;

(3) TSA conducts the analyses described in 49 CFR 1572.107 and determines that the applicant poses a security threat; or

(4) The applicant has been adjudicated as lacking mental capacity or committed to a mental health facility, as described in 49 CFR 1572.109.

(b) *Immediate Revocation/Invalidation.* TSA may invalidate a TWIC or direct a State to revoke an HME immediately, if TSA determines during the security threat assessment that an applicant poses an immediate threat to transportation security, national security, or of terrorism.

(c) *Violation of FMCSA Standards.* The regulations of the Federal Motor Carrier Safety Administration (FMCSA) provide that an applicant is disqualified from operating a commercial motor vehicle for specified periods, if he or she has an offense that is listed in the FMCSA rules at 49 CFR 383.51. If records indicate that an applicant has committed an offense that would disqualify the applicant from operating a commercial motor vehicle under 49 CFR 383.51, TSA will not issue a Determination of No Security Threat until the State or the FMCSA determine that the applicant is not disqualified under that section.

(d) *Waiver.* In accordance with the requirements of § 1515.7, applicants may apply for a waiver of certain security threat assessment standards.

(e) *Comparability of Other Security Threat Assessment Standards.* TSA may determine that security threat assessments conducted by other govern-

mental agencies are comparable to the threat assessment described in this part, which TSA conducts for HME and TWIC applicants.

(1) In making a comparability determination, TSA will consider—

(i) The minimum standards used for the security threat assessment;

(ii) The frequency of the threat assessment;

(iii) The date of the most recent threat assessment; and

(iv) Whether the threat assessment includes biometric identification and a biometric credential.

(2) To apply for a comparability determination, the agency seeking the determination must contact the Assistant Program Manager, Attn: Federal Agency Comparability Check, Hazmat Threat Assessment Program, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6019.

(3) TSA will notify the public when a comparability determination is made.

(4) An applicant, who has completed a security threat assessment that is determined to be comparable under this section to the threat assessment described in this part, must complete the enrollment process and provide biometric information to obtain a TWIC, if the applicant seeks unescorted access to a secure area of a vessel or facility. The applicant must pay the fee listed in 49 CFR 1572.503 for information collection/credential issuance.

(5) TSA has determined that the security threat assessment for an HME under this part is comparable to the security threat assessment for TWIC.

(6) TSA has determined that the security threat assessment for a FAST card, under the Free and Secure Trade program administered by U.S. Customs and Border Protection, is comparable to the security threat assessment described in this part.

[72 FR 3595, Jan. 25, 2007, as amended at 77 FR 18717, Mar. 28, 2012]

§ 1572.7 [Reserved]

§ 1572.9 Applicant information required for HME security threat assessment.

An applicant must supply the information required in this section, in a

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form acceptable to TSA, when applying to obtain or renew an HME. When applying to transfer an HME from one State to another, 49 CFR 1572.13(e) applies.

(a) Except as provided in (a)(12) through (16), the applicant must provide the following identifying information:

(1) Legal name, including first, middle, and last; any applicable suffix; and any other name used previously.

(2) Current and previous mailing address, current residential address if it differs from the current mailing address, and e-mail address if available. If the applicant prefers to receive correspondence and notification via e-mail, the applicant should so state.

(3) Date of birth.

(4) Gender.

(5) Height, weight, hair color, and eye color.

(6) City, state, and country of birth.

(7) Immigration status and, if the applicant is a naturalized citizen of the United States, the date of naturalization.

(8) Alien registration number, if applicable.

(9) The State of application, CDL number, and type of HME(s) held.

(10) Name, telephone number, facsimile number, and address of the applicant's current employer(s), if the applicant's work for the employer(s) requires an HME. If the applicant's current employer is the U.S. military service, include branch of the service.

(11) Whether the applicant is applying to obtain, renew, or transfer an HME or for a waiver.

(12) Social security number. Providing the social security number is voluntary; however, failure to provide it will delay and may prevent completion of the threat assessment.

(13) Passport number. This information is voluntary and may expedite the adjudication process for applicants who are U.S. citizens born abroad.

(14) Department of State Consular Report of Birth Abroad. This information is voluntary and may expedite the adjudication process for applicants who are U.S. citizens born abroad.

(15) Whether the applicant has previously completed a TSA threat assessment, and if so the date and program

for which it was completed. This information is voluntary and may expedite the adjudication process for applicants who have completed a TSA security threat assessment.

(16) Whether the applicant currently holds a federal security clearance, and if so, the date of and agency for which the clearance was performed. This information is voluntary and may expedite the adjudication process for applicants who have completed a federal security threat assessment.

(b) The applicant must provide a statement, signature, and date of signature that he or she—

(1) Was not convicted, or found not guilty by reason of insanity, of a disqualifying crime listed in 49 CFR 1572.103(b), in a civilian or military jurisdiction, during the seven years before the date of the application, or is applying for a waiver;

(2) Was not released from incarceration, in a civilian or military jurisdiction, for committing a disqualifying crime listed in 49 CFR 1572.103(b), during the five years before the date of the application, or is applying for a waiver;

(3) Is not wanted, or under indictment, in a civilian or military jurisdiction, for a disqualifying criminal offense identified in 49 CFR 1572.103, or is applying for a waiver;

(4) Was not convicted, or found not guilty by reason of insanity, of a disqualifying criminal offense identified in 49 CFR 1572.103(a), in a civilian or military jurisdiction, or is applying for a waiver;

(5) Has not been adjudicated as lacking mental capacity or committed to a mental health facility involuntarily or is applying for a waiver;

(6) Meets the immigration status requirements described in 49 CFR 1572.105;

(7) Has or has not served in the military, and if so, the branch in which he or she served, the date of discharge, and the type of discharge; and

(8) Has been informed that Federal regulations, under 49 CFR 1572.11, impose a continuing obligation on the HME holder to disclose to the State if he or she is convicted, or found not

guilty by reason of insanity, of a disqualifying crime, adjudicated as lacking mental capacity, or committed to a mental health facility.

(c) The applicant must certify and date receipt the following statement:

Privacy Act Notice: Authority: The authority for collecting this information is 49 U.S.C. 114, 40113, and 5103a. Purpose: This information is needed to verify your identity and to conduct a security threat assessment to evaluate your suitability for a hazardous materials endorsement for a commercial driver's license. Furnishing this information, including your SSN or alien registration number, is voluntary; however, failure to provide it will delay and may prevent completion of your security threat assessment. Routine Uses: Routine uses of this information include disclosure to the FBI to retrieve your criminal history record; to TSA contractors or other agents who are providing services relating to the security threat assessments; to appropriate governmental agencies for licensing, law enforcement, or security purposes, or in the interests of national security; and to foreign and international governmental authorities in accordance with law and international agreement.

(d) The applicant must certify and date receipt the following statement, immediately before the signature line:

The information I have provided on this application is true, complete, and correct, to the best of my knowledge and belief, and is provided in good faith. I understand that a knowing and willful false statement, or an omission of a material fact on this application can be punished by fine or imprisonment or both (*See* section 1001 of Title 18 United States Code), and may be grounds for denial of a hazardous materials endorsement.

(e) The applicant must certify the following statement in writing:

I acknowledge that if the Transportation Security Administration determines that I pose a security threat, my employer, as listed on this application, may be notified. If TSA or other law enforcement agency becomes aware of an imminent threat to a maritime facility or vessel, TSA may provide limited information necessary to reduce the risk of injury or damage to the facility or vessel.

§ 1572.11 Applicant responsibilities for HME security threat assessment.

(a) *Surrender of HME.* If an individual is disqualified from holding an HME under 49 CFR 1572.5(c), he or she must surrender the HME to the licensing

State. Failure to surrender the HME to the State may result in immediate revocation under 49 CFR 1572.13(a) and/or civil penalties.

(b) *Continuing responsibilities.* An individual who holds an HME must surrender the HME as required in paragraph (a) of this section within 24 hours, if the individual—

(1) Is convicted of, wanted, under indictment or complaint, or found not guilty by reason of insanity, in a civilian or military jurisdiction, for a disqualifying criminal offense identified in 49 CFR 1572.103; or

(2) Is adjudicated as lacking mental capacity, or committed to a mental health facility, as described in 49 CFR 1572.109; or

(3) Renounces or loses U.S. citizenship or status as a lawful permanent resident; or

(4) Violates his or her immigration status, and/or is ordered removed from the United States.

(c) *Submission of fingerprints and information.* (1) An HME applicant must submit fingerprints and the information required in 49 CFR 1572.9, in a form acceptable to TSA, when so notified by the State, or when the applicant applies to obtain or renew an HME. The procedures outlined in 49 CFR 1572.13(e) apply to HME transfers.

(2) When submitting fingerprints and the information required in 49 CFR 1572.9, the fee described in 49 CFR 1572.503 must be remitted to TSA.

§ 1572.13 State responsibilities for issuance of hazardous materials endorsement.

Each State must revoke an individual's HME immediately, if TSA informs the State that the individual does not meet the standards for security threat assessment in 49 CFR 1572.5 and issues an Initial Determination of Threat Assessment and Immediate Revocation.

(a) No State may issue or renew an HME for a CDL, unless the State receives a Determination of No Security Threat from TSA.

(b) Each State must notify each individual holding an HME issued by that State that he or she will be subject to