

§ 1572.101

(2) *Train crew members who are United States citizens or lawful permanent resident aliens.* If the Customs Service cannot verify that the crew member is on the list and the crew member is a United States citizen or lawful permanent resident alien, the crew member may be cleared by the Customs Service upon providing:

- (i) A valid United States passport; or
- (ii) One or more other document(s) including a form of United States federal or state government-issued identification with photograph, acceptable to the Customs Service.

(3) *Compliance.* If a carrier attempts to enter the United States without having complied with this section, the Customs Service will deny entry of the explosives and may take other appropriate action.

Subpart B—Standards, Appeals, and Waivers for Security Threat Assessments

SOURCE: 68 FR 23871, May 5 2003, unless otherwise noted.

§ 1572.101 Scope and definitions.

(a) This subpart applies to individuals who hold or are applying for a hazardous material endorsement for a CDL.

(b) For purposes of this subpart, the following terms have the following definitions.

Associate Administrator/Chief Operating Officer means the Associate Administrator who is also the Chief Operating Officer of TSA, or his or her designee.

Authorization means any credential or endorsement for which TSA conducts a security threat assessment under this part, including a hazardous materials endorsement for a CDL.

Date of service means—

- (1) The date of personal delivery in the case of personal service;
- (2) The mailing date shown on the certificate of service;
- (3) The date shown on the postmark if there is no certificate of service;
- (4) Another mailing date shown by other evidence if there is no certificate of service or postmark; or
- (5) The date in an e-mail showing when it was sent.

Day means calendar day.

49 CFR Ch. XII (10–1–04 Edition)

§ 1572.103 Disqualifying criminal offenses.

(a) An individual has a disqualifying criminal offense if the individual:

(1) Was convicted, or found not guilty by reason of insanity, of any of the disqualifying crimes listed in paragraph (b) of this section in any jurisdiction, civilian or military, during the 7 years before the date of the individual's application for the authorization, except as provided in paragraph (d) of this section;

(2) Was released from incarceration for committing any of the disqualifying crimes listed in paragraph (b) of this section in any jurisdiction, civilian or military, during the 5 years before the date of the individual's application for the authorization, except as provided in paragraph (d) of this section; or

(3) Is wanted or under indictment in any jurisdiction, civilian or military, for any of the disqualifying crimes listed in paragraph (b) of this section.

(b) The disqualifying crimes are felonies involving:

(1) Any crime listed in 18 U.S.C. Chapter 113B—Terrorism.

- (2) Murder.
- (3) Assault with intent to murder.
- (4) Espionage.
- (5) Sedition.
- (6) Kidnapping or hostage taking.
- (7) Treason.
- (8) Rape or aggravated sexual abuse.
- (9) Unlawful possession, use, sale, distribution, or manufacture of an explosive, explosive device, firearm, or other weapon.
- (10) Extortion.
- (11) Robbery.
- (12) Arson.
- (13) Distribution of, intent to distribute, possession, or importation of a controlled substance.
- (14) Dishonesty, fraud, or misrepresentation, including identity fraud.
- (15) A crime involving a severe transportation security incident.
- (16) Improper transportation of a hazardous material.
- (17) Bribery.
- (18) Smuggling.
- (19) Immigration violations.
- (20) Violations of the Racketeer Influenced and Corrupt Organizations Act; 18 U.S.C. 1961, *et seq.*

(21) Conspiracy or attempt to commit any of the crimes listed in paragraph (b) of this section.

(c) *Determination of arrest status.* (1) When a criminal history records check on an individual discloses an arrest for any disqualifying crime listed in paragraph (b) of this section without indicating a disposition, TSA will notify the individual.

(2) The individual must provide TSA with written proof that the arrest did not result in a disqualifying criminal offense within 30 days after the service date of the notification in paragraph (c)(1) of this section. If TSA does not receive proof in that time, TSA may issue an Initial Notification of Threat Assessment in accordance with § 1572.141.

(d) The time periods specified in paragraphs (a)(1) and (a)(2) of this section do not apply to:

(1) The crimes listed in paragraphs (b)(1), (b)(4), (b)(5), (b)(7), (b)(12), (b)(15), and (b)(16) of this section;

(2) The crime in paragraph (b)(9) of this section involving an explosive; and

(3) Conspiracy or attempt to commit the crimes listed in paragraphs (d)(1) and (d)(2) of this section.

§ 1572.105 Citizenship status.

(a) An individual applying for an authorization under this part must be either—

(1) A citizen of the United States who has not renounced his or her United States' citizenship; or

(2) A lawful permanent resident of the United States.

(b) To determine an individual's citizenship status, TSA checks relevant Federal databases, and may perform other checks, including verifying the validity of the individual's social security number or alien registration number.

§ 1572.107 Other analyses.

(a) TSA checks the following databases and conducts a security threat analysis before determining that an individual does not pose a security threat warranting denial of an authorization under this part:

(1) Interpol and other international databases;

(2) TSA watchlists; and

(3) Any other databases relevant to determining whether an individual poses a security threat or that confirm an individual's identity.

(b) An individual poses a security threat under this section when TSA determines or suspects him—or her of being a threat—

(1) To national security;

(2) To transportation security; or

(3) Of terrorism.

§ 1572.109 Mental defects.

(a) An individual has a mental defect if he or she has been—

(1) Adjudicated as a mental defective; or

(2) Committed to a mental institution.

(b) An individual is adjudicated as a mental defective if—

(1) A court, board, commission, or other lawful authority has determined that the individual, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to him or herself or others, or lacks the mental capacity to contract or manage his or her own affairs.

(2) This includes a finding of insanity by a court in a criminal case; and a finding of incompetency to stand trial or a finding of not guilty by reason of lack of mental responsibility by any court, or pursuant to articles 50a and 76b of the Uniform Code of Military Justice (10 U.S.C. 850a and 876b).

(c) An individual is committed to a mental institution if—

(1) He or she is formally committed to a mental institution by a court, board, commission, or other lawful authority, including involuntary commitment and commitment for mental defectiveness, mental illness, and drug use.

(2) This does not include a commitment to a mental institution for observation or voluntary admission to a mental institution.

§ 1572.111–1572.139 [Reserved]

§ 1572.141 Notification of threat assessment and appeal.

(a) *Scope.* This section applies to individuals who receive an Initial Notification of Threat Assessment stating that