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(c) *Prior approval of carrier, offeror, and driver.* (1) No carrier may transport in commerce any explosive into the United States from Canada via motor vehicle if the driver of the vehicle is a not a United States citizen or lawful permanent resident alien unless the carrier, offeror, and driver are identified on a TSA list as a known carrier, known offeror, and known driver, respectively.

(2) The carrier must ensure that it, its offeror, and its driver have been determined to be a known carrier, known offeror, and known driver, respectively. If any has not been so determined, the carrier must submit the following information to Transport Canada:

(i) The carrier must provide its:

- (A) Official name;
- (B) Business number;
- (C) Any trade names; and
- (D) Address.

(ii) The following information about any offeror of explosives whose shipments it will carry:

- (A) Official name;
- (B) Business number; and
- (C) Address.

(iii) The following information about any driver the carrier may use to transport explosives into the United States from Canada who is neither a United States citizen nor lawful permanent resident alien of the United States:

- (A) Full name;
- (B) Canada Commercial Driver's License number; and
- (C) Both current and most recent prior residential addresses.

(3) Transport Canada will determine that the carrier and offeror are legitimately doing business in Canada and will also determine that the drivers are properly licensed and present no known problems for purposes of this section. Transport Canada will notify TSA of these determinations by forwarding to TSA lists of known carriers, offerors, and drivers and their identifying information.

(4) TSA will update and maintain the list of known carriers, offerors, and drivers and forward the list to the Customs Service.

(5) Once included on the list, the carriers, offerors, and drivers need not ob-

tain prior approval for future transport of explosives under this section.

(d) *TSA checks.* TSA may periodically check the data on the carriers, offerors and drivers to confirm their continued eligibility and may remove from the list any that TSA determines is not known or is a threat to security.

(e) *At the border—*(1) *Driver who is not a United States citizen or lawful permanent resident alien.* Upon arrival at the border, and prior to entry into the United States, the driver must provide a valid Canadian commercial driver's license to the Customs Service.

(2) *Driver who is a United States citizen or lawful permanent resident alien.* If the Customs Service cannot verify that the driver is on the list, and if the driver is a United States citizen or lawful permanent resident alien, the driver 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.

§ 1572.11 Transportation of explosives from Canada to the United States via railroad carrier.

(a) *Applicability.* This section applies to railroad carriers that carry explosives from Canada to the United States using a train crew member who is not a United States citizen or lawful permanent resident alien of the United States.

(b) *Terms under this section.* For purposes of this section:

Customs Service means the United States Customs Service.

Explosive means a material that has been examined by the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, in accordance with 49 CFR 173.56, and determined to meet the definition for a Class 1 material in 49 CFR 173.50.

Known railroad carrier means a person that has been determined by the Governments of Canada and the United States to be a legitimate business operating in accordance with all applicable laws and regulations governing the transportation of explosives.

Known offeror means an offeror that has been determined by the Governments of Canada and the United States to be a legitimate business operating in accordance with all applicable laws and regulations governing the transportation of explosives.

Known train crew member means an individual used to transport explosives from Canada to the United States who has been determined by the Governments of Canada and the United States to present no known security concern.

Lawful permanent resident alien means a lawful permanent resident alien of the United States as defined by 8 U.S.C. 1101(a)(2).

Offeror means the person offering a shipment to the railroad carrier for transportation from Canada to the United States, and may also be known as the “consignor” in Canada.

Railroad carrier means “railroad carrier” as defined in 49 U.S.C. 20102.

(c) *Prior approval of railroad carrier, offeror, and train crew member.* (1) No railroad carrier may transport in commerce any explosive into the United States from Canada via a train operated by a crew member who is not a United States citizen or lawful permanent resident alien unless the railroad carrier, offeror, and train crew member are identified on a TSA list as a known railroad carrier, known offeror, and known train crew member, respectively.

(2) The railroad carrier must ensure that it, its offeror, and each of its crew members have been determined to be a known railroad carrier, known offeror, and known train crew member, respectively. If any has not been so determined, the railroad carrier must submit the following information to Transport Canada:

(i) The railroad carrier must provide its:

- (A) Official name;
- (B) Business number;
- (C) Any trade names; and
- (D) Address.

(ii) The following information about any offeror of explosives whose shipments it will carry:

- (A) Official name;
- (B) Business number; and
- (C) Address.

(iii) The following information about any train crew member the railroad carrier may use to transport explosives into the United States from Canada who is neither a United States citizen nor lawful permanent resident alien:

- (A) Full name; and
- (B) Both current and most recent prior residential addresses.

(3) Transport Canada will determine that the railroad carrier and offeror are legitimately doing business in Canada and will also determine that the train crew members present no known problems for purposes of this section. Transport Canada will notify TSA of these determinations by forwarding to TSA lists of known railroad carriers, offerors, and train crew members and their identifying information.

(4) TSA will update and maintain the list of known railroad carriers, offerors, and train crew members and forward the list to the Customs Service.

(5) Once included on the list, the railroad carriers, offerors, and train crew members need not obtain prior approval for future transport of explosives under this section.

(d) *TSA checks.* TSA may periodically check the data on the railroad carriers, offerors, and train crew members to confirm their continued eligibility and may remove from the list any that TSA determines is not known or is a threat to security.

(e) *At the border—*(1) *Train crew members who are not United States citizens or lawful permanent resident aliens.* Upon arrival at a point designated by the Customs Service for inspection of trains crossing into the United States, the train crew members of a train transporting explosives must provide sufficient identification to the Customs Service to enable that agency to determine if each crew member is on the list of known train crew members maintained by TSA.

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(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.

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§ 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.*