

INFORMATION COLLECTION SUPPORTING STATEMENT

Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement (HME) for a Commercial Driver's License (CDL)

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information. (Annotate the CFR parts/sections affected).***

This is a request to renew a currently approved collection with minor changes. This collection supports the implementation of section 1012 of the USA PATRIOT Act (Pub. L. 107-56, 115 Stat. 272, 396, Oct. 26, 2001), which mandates that no State or the District of Columbia may issue a hazardous materials endorsement (HME) on a commercial driver's license (CDL) unless TSA has first determined the driver is not a threat to transportation security. The currently published rule found at 49 CFR Part 1572 ("the rule") and section 1012 of the Act are attached to this application.

The rule describes the procedures, standards, and eligibility criteria for security threat assessments of individuals seeking to obtain, renew, or transfer a HME on a CDL. In order to conduct the security threat assessment, States (or a TSA-designated agent in States that elect to have TSA perform the collection of information) must collect information in addition to that already collected for the purpose of HME applications, which will occur once approximately every five years. The driver is required to submit an application that includes personal biographic information (for instance, height, weight, eye and hair color, date of birth); information concerning legal status, mental health defects history, military status, and criminal history; as well as fingerprints. In addition, 49 CFR part 1572 requires States to maintain a copy of the driver application for a period of one year.

In this information collection renewal, TSA is amending the application to collect minor additional information, such as whether the driver is a new applicant or renewing or transferring the HME, to better understand and forecast driver retention, transfer rate, and drop-rate to help improve customer service, reduce program costs, and provide comparability with other Federal background checks, including Transportation Workers Identification Credential (TWIC). The program has been collecting this information since January 31, 2005.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.***

Commercial drivers seeking a HME will be required to provide fingerprints and an application for the purpose of conducting a security threat assessment. States, or a TSA designated contractor in States, will collect this information as part of the procedure to obtain, renew or transfer an HME on a CDL, which will occur once approximately every five years. Minor changes to the application have been made to collect metrics necessary to understand and forecast driver retention, transfer rate, and drop-rate to help improve

customer service and reduce program costs, and provide comparability with other Federal background checks, including Transportation Worker Identification Credential (TWIC).

Per 49 CFR § 1572.9; the following applicant information is collected for HME security threat assessment:

(a) Information collected:

- (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.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden. [Effective 03/22/01, your response must SPECIFICALLY reference the Government Paperwork Elimination Act (GPEA), which addresses electronic filing and recordkeeping, and what you are doing to adhere to it. You must explain how you will provide a fully electronic reporting option by October 2003, or an explanation of why this is not practicable.]**

The process is fully electronic except in some remote locations such as parts of Alaska and other sparsely populated sites in the United States where the program utilizes law enforcement centers to collect fingerprints. In areas where the process is not electronic, the fingerprint information is converted to a fully electronic format; the biographic information was entered and retained electronically. All information is transmitted electronically to TSA.

Currently, the program completes initial processing of 90 percent of applications in five days or less, and 97 percent of all applications in 10 days or less, averaging approximately 25,000 applications monthly. Additional capabilities (e.g., comparability with other Federal background checks) and lower costs are expected after a planned consolidation of technical architectures of multiple security threat assessment programs.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.**

TSA has developed the HME and TWIC programs to be consistent in terms of eligibility criteria, standards, appeals, and waivers, and HME holders who apply for a TWIC pay a reduced TWIC fee and forego a duplicative threat assessment based on the comparability between programs. A planned Information Technology (IT) integration will further remove duplication and enable TWIC holders who apply for a HME to also pay a reduced fee and forego a duplicative threat assessment.

- 5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (Item 5 of the Paperwork Reduction Act submission form), describe the methods used to minimize burden.**

This collection will not have a significant impact on a substantial number of small businesses or other entities.

6. ***Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

Without collecting this information, TSA would be unable to determine whether an individual poses a security threat warranting denial of a hazardous materials endorsement for a CDL. Failure to determine this threat would result in a statutory violation and would degrade ground transportation security efforts.

7. ***Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5(d)(2).***

There are no special circumstances requiring collection of information to be inconsistent with 5 CFR 1320.5(d)(2).

8. ***Describe efforts to consult persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d) soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.***

TSA published a notice in the Federal Register on December 28, 2007 (72 FR 73865) announcing TSA's intent to renew this information collection request. TSA has received two comments. One commenter works for a motor carrier that transports hazardous materials into and out of commercial ports. The individual suggested that in order to minimize burden and expense, the HME should be expanded to include the Transportation Worker Identification Credential (TWIC) for unescorted access to port facilities so that the individuals for whom both credentials are necessary could avoid having two risk assessments done by the same Federal agency in order to streamline the process. TSA's response to this comment is that the Comparability of Other Security Threat Assessment Standards (49 CFR section 1572.5(e)) states that TSA has already determined that the HME background check is comparable to the TWIC background check. As a result, any commercial driver that has undergone the TSA security threat assessment in pursuit of an HME will not pay a fee for a background check when attempting to obtain a TWIC. It is still necessary for the individual to pay a fee for the information collection and processing, and card manufacturing and delivery of the TWIC, but the fee to pay for the background check will not be collected. The collection of information (biographic and fingerprints) is required for insertion on the card and in the TWIC system, and for card manufacturing and delivery. This application does not cover TWIC information collection.

The second comment was from an industry association that supported the collection of additional metrics to help track the applicant population, and requested that TSA share that

information with industry. They also noted that TSA has said that the TWIC and HME programs would merge but have not yet done so, and requested that TSA do so as quickly as possible. TSA responded that the mechanisms to collect the new metrics were not yet in place, but expects to share the information with industry after establishing the appropriate collection mechanisms. TSA also noted that they are committed to aligning similar programs to reduce the burden on workers, and have already combined parts of the TWIC and HME rules, eligibility criteria, threat assessment process, and redress process.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no gifts or payments to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Results of security threat assessments are reviewed and retained by TSA. The rule contains provisions for appeal or waiver of an initial notification of a disqualifying factor. Although there is no assurance of confidentiality to any respondent, TSA and its contractors are required to handle all records in accordance with the Privacy Act of 1974, and maintain the security of the IT systems that transmit, process, and/or store the personal information in accordance with Federal Management Security Management Act (FISMA) requirements.

11. Provide additional justification for any questions of sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

TSA does not ask questions regarding sexual behavior, religious beliefs and other matters that are generally considered private. However, the security threat assessment could reveal, for example, mental health defects or convictions of certain sex crimes that would bar the individual from transporting explosives or other hazardous materials.

12. Provide estimates of hour burden of the collection of information.

Number of Individual Background Checks. Drivers are required to obtain a fingerprint-based background check before applying for a new endorsement and HME renewal, which occurs every five years. At the inception of the program in January 2005, it was estimated that 2.7 million people had hazardous material endorsements for a CDL. Since that time, the population appears to be dropping based on the number of people each year who are actually applying for HMEs. The program does expect a 2.5 percent growth per annum in the number of new drivers applying for HMEs. As shown in Table 1, the total number of endorsements to be issued from 2008 through 2010 is expected to be approximately 1.04 million (an average of 348,000 per year). TSA estimates that respondents will spend approximately 3.4 million hours over three years (1.1 million annualized) on the application and background check process. It is estimated that the total time to enroll, including travel

time to and from the enrollment center, is 3 hours and 15 minutes, which includes 30 minutes to complete the application.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

Cost Per Background Check. The program cost burden of issuing hazmat endorsements include initial processing costs, costs for an FBI criminal history records check, and administrative costs. Processing costs vary depending on whether drivers are enrolled by their individual states or by a TSA agent. The average total cost for these elements was \$93.60 per person for FY07 and earlier. In FY08 and later, the blended average cost is \$88.85 per person due to a reduction in the FBI fee. The \$88.85 rate is used to calculate the program cost burden estimated to be \$92.8 million from 2008 through 2010.

States must submit the required biographic and biometric information to TSA to facilitate the security threat assessment process. TSA gave states the option of using a TSA contracted agent or utilizing their own established and maintained infrastructures. Fifteen states collect and submit the required information directly to TSA, and 35 States and the District of Columbia elected to have a TSA contracted agent perform those services on their behalf. The rate is a blend of the TSA agent states which have a fee of \$89.25 and the remaining 15 states that have an average fee of \$88.85.

In addition, drivers who apply for an HME incur an opportunity cost thru loss of wages. At an hourly wage rate of \$50 per hour, the wages lost during these three years are estimated to be \$171.9 million. The total cost burden to HME applicants is estimated to be \$264.7 million during that time.

Table 1

Year	Number	Background Check Population	Program Cost Burden	Wages Opportunity Cost	Total Cost Burden	Hour Burden
2008	1,827,243	290,880	\$25,844,688	\$47,868,919	\$73,713,607	957,378
2009	1,735,395	448,152	\$39,818,305	\$73,750,522	\$113,568,828	1,475,010
2010	1,620,188	305,606	\$27,153,075	\$50,292,283	\$77,445,359	1,005,846
Total 2008-2010	5,182,826	1,044,638	\$92,816,069	\$171,911,725	\$264,727,794	3,438,235
Annualized		348,213	\$30,938,690	\$57,303,908	\$88,242,598	1,146,078

State Plans. The estimated annual hour burden to individual states for creating their fingerprinting and application plans is 320 hours per state, at a cost of approximately \$10,000 per state. This estimate includes materials, publication, and mailing costs that would be associated with publication of these plans, to include distribution of plans for

coordination with other state offices and agencies. States already have fingerprinting processes and procedures in place to support other programs (such as the Child Protection Act) and take advantage of these existing capabilities. Similarly, states also already have application processes in existence and the effort to modify this process to account for the additional elements required for hazmat endorsements should not be overly burdensome.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, and other expenses that would not have been incurred without this collection of information.

There are no additional costs to the Federal Government associated with this collection.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

The program has been in operation for three years, actual data is used to predict the future burden. Prior reporting and cost burdens were based on estimates prior to program launch.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Results of this information collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The website will be updated once TSA receives OMB approval.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

No exceptions are requested.