

## USA PATRIOT Act

In response to the terrorist attacks against the United States on Sept. 11, 2001, Congress passed The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act). Section 1012 of the USA PATRIOT Act requires any commercial driver who has or will seek a hazardous material endorsement (HME) to their Commercial Driver's License (CDL) to undergo a background check. This rule does not apply to non-HME CDL applicants.

The Federal Motor Carrier Safety Administration (FMCSA), Transportation Security Administration (TSA) and the Research and Special Programs Administration (RSPA) issued companion interim final rules on May 5, 2003, to establish process and performance requirements for instituting security threat assessments and background checks on commercial vehicle drivers transporting certain types of hazardous materials (HAZMAT). TSA also established procedures for seeking a waiver from the standards and for appealing a security assessment determination.

The FMCSA rule amends the Federal Motor Carrier Safety Regulations governing CDLs to prohibit States from issuing, renewing, transferring, or upgrading a CDL with a HME unless the Department of Justice has first conducted a background check on the applicant and the TSA has determined that the applicant does not pose a security threat. FMCSA's rule also requires drivers to renew their HAZMAT endorsement at least once every five years.

The RCPA rule incorporates into the HAZMAT Regulations a requirement that shippers and transporters of certain hazardous materials comply with Federal security regulations that apply to motor carrier and vessel transportation. In addition, this rule revises the procedures for applying for an exemption from the HAZMAT Regulations to require applicants to certify compliance with applicable Federal transportation security laws and regulations. This rule will assure that shippers and transporters are aware of and comply with their security obligations.

TSA issued a Technical Amendment to the Interim Final Rule on Nov. 7, 2003 and a Final Rule on April 6, 2004. The Fee Notice of Proposed Rulemaking was issued on Nov. 10, 2004 and the Process Interim Final Rule on Nov. 22, 2004. These rules more fully define the requirements necessary for States to implement Section 1012 of the USA PATRIOT Act, and establish the fees necessary to cover TSA's costs.

AAMVA has formed the USA PATRIOT Act Working Group, which consist of about four representatives from each AAMVA region as well as representatives from the TSA, FMCSA and the FBI. The purpose of the group is to develop products that can assist the jurisdictions with meeting the requirements and deadlines in the rulemaking (i.e., updated CDLIS documentation).