

JUSTICE AND PUBLIC SAFETY CABINET
Department of State Police
(Amendment)

502 KAR 10:120. Hazardous materials endorsement requirements.

RELATES TO: KRS 281A.120, 281A.130, 281A.150, 281A.160, 281A.170, 49 U.S.C. 5103a, 49 C.F.R. Parts 383, 1515, 1572

STATUTORY AUTHORITY: KRS 281A.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281A.040 authorizes any state agency vested with a specific responsibility to have the necessary power and authority to promulgate administrative regulations to reasonably carry out the provisions of KRS Chapter 281A. 49 C.F.R. Part 1572 requires fingerprint verified criminal background checks on all persons obtaining or renewing a hazardous materials endorsement for a commercial driver's license. This administrative regulation establishes the necessary procedures for conducting fingerprint verified criminal background checks and establishing the location of the fingerprinting centers where the Kentucky State Police shall take fingerprints and transmit them to the federal government.

Section 1. Definitions.

- (1) "CDL" or "Commercial Driver's License" is defined by KRS 281A.010(5) and 49 C.F.R. 383.5.
- (2) "Determination of No Security Threat" is defined by 49 C.F.R. 1572.15(d)(1).
- (3) "DOT" means the federal Department of Transportation.
- (4) "Final Determination of Threat Assessment" is defined by 49 C.F.R. 1572.15(d)(4).
- (5) "Fingerprint centers" means the department's regional offices established to process the fingerprints of applicants for a hazardous materials endorsement for a commercial driver's license holder under KRS 281A.170(2)(b).
- (6) "HME" means hazardous materials endorsement.
- (7) "Initial Determination of Threat Assessment" is defined by 49 C.F.R. 1572.15(d)(2).
- (8) "KSP" means the Kentucky State Police.
- (9) "Proper identification" means:
 - (a) A driver's license issued by the applicant's state where they will obtain or have obtained a commercial driver's license; or
 - (b) With respect to non-United States citizens applying for a hazardous materials endorsement for a commercial driver's license, proper identification means valid and unrestricted documentation establishing lawful nonimmigrant alien, asylee, or refugee status.
- (10) "TSA" means the federal Transportation Security Administration.

Section 2. Initial Applications for HME.

- (1) An applicant applying for a hazardous materials endorsement shall first obtain a commercial driver's instruction permit or CDL prior to requesting a security threat assessment from the TSA. A "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652-0027, containing all information necessary for the TSA to complete the required assessment as described in 49 C.F.R. 1572.9 shall be submitted by the applicant. The applicant shall further submit to a fingerprint verified criminal background check conducted by KSP.
- (2) To begin the process, an applicant shall contact KSP at the following phone number to make an appointment: 1-888-655-9655.
- (3) An applicant shall bring proper identification, a completed "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652, and a certified check of \$115 for the fingerprint fee.

(4) An applicant shall be fingerprinted by KSP. KSP shall send the fingerprints to the Federal Bureau of Investigation for a fingerprint-verified criminal background check and send the biographical information sheet to the TSA.

(5) If TSA informs the Commonwealth of a finding of Determination of No Security Threat, then the applicant shall be notified by the Transportation Cabinet that he or she is eligible to take the knowledge test required to qualify for the HME.

(6) If TSA informs the Commonwealth of a finding of Initial Determination of Threat Assessment, the applicant shall not be issued a HME. The applicant may appeal the TSA's determination in accordance with 49 C.F.R. 1515.5 or 1515.9. Following appeal, if the applicant receives a Final Determination of Security Threat Assessment, the applicant may seek a waiver from TSA in accordance with 49 C.F.R. 1515.7.

(7) Within fifteen (15) days after the TSA has notified the Commonwealth of a Determination of No Security Threat or of a finding of Final Determination of Security Threat Assessment, the Transportation Cabinet shall update the applicant's permanent record to reflect the results of the security threat assessment, the issuance or denial of an HME, and the new expiration date of the HME.

Section 3. Renewal Applications For HME.

(1) The Transportation Cabinet shall send persons holding a HME notice of renewal at least sixty (60) days prior to expiration.

(2) Persons wishing to renew their HME shall begin the renewal process at least thirty (30) days prior to expiration.

(3) To begin the renewal process, a renewal applicant shall contact KSP at the following phone number to make an appointment: 1-888-655-9655. A renewal applicant shall submit to fingerprinting and further complete the "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652-0027, containing all information necessary for the TSA to complete the required assessment as described in 49 C.F.R. 1572.9 no later than thirty (30) days prior to the expiration of the HME endorsement.

(4) A renewal applicant shall bring to the appointment proper identification, a completed "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652-0027, and a certified check of \$115 for the fingerprint fee.

(5) A renewal applicant shall be fingerprinted by KSP. KSP shall send the fingerprints to the Federal Bureau of Investigation for a fingerprint verified criminal background check and send the biographical information sheet to the TSA.

(6) If the Commonwealth has not received notification from TSA of the results of the security threat assessment prior to the expiration of the renewal applicant's HME, the Transportation Cabinet may extend the expiration date of the HME for a period up to ninety (90) days. Any additional extension shall be approved by TSA.

(7) If TSA informs the Commonwealth of a finding of Determination of No Security Threat, then the renewal applicant shall be notified by the Transportation Cabinet that he or she is eligible to take the knowledge test required to qualify for the HME.

(8) If TSA informs the Commonwealth of a finding of Initial Determination of Threat Assessment, the renewal applicant shall not be issued a HME. The renewal applicant may appeal the TSA's determination under the procedures set forth in 49 C.F.R. 1515.5 or 1515.9. Following appeal, if the renewal applicant receives a Final Determination of Security Threat Assessment, the applicant may seek a waiver from TSA in accordance with 49 C.F.R. 1515.7.

(9) Within fifteen (15) days after the TSA has notified the Commonwealth of a Determination of No Security Threat or of a finding of Final Determination of Security Threat Assessment, the Transportation Cabinet shall update the applicant's permanent

record to reflect the results of the security threat assessment, the issuance or denial of an HME, and the new expiration date of the HME.

(10) An applicant who has received a passing score on the HME test and is applying for a Class C CDL with a hazardous endorsement shall drive a Class C placarded vehicle for the skills test.

Section 4. Transfer Applications For HME. (1) In accordance with 49 C.F.R. 1572.13(e), an applicant who applies to transfer an existing HME from another state to the Commonwealth shall not be required to undergo a new security threat assessment until the security threat assessment renewal period established in the preceding issuing state, not to exceed five (5) years, expires.

Section 5. Regional Fingerprint Centers. KSP shall provide fingerprinting centers, regionally situated to provide efficient coverage of the state. Locations of the regional fingerprinting centers shall be published on the department's website .

Section 6. Incorporation by Reference.

(1) "Transportation Security Administration Application for a Hazardous Materials Endorsement" OMB No. 1652-0027, Exp. 1/31/08, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at any KSP regional fingerprint centers, and at KSP Headquarters, 919 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

PHILLIP J. BURNETT, JR., Commissioner

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