

May 12, 2003

Docket Management System,
U.S. Dept. of Transportation Room Plaza 401
400 Seventh Street, SW
Washington, DC 20590-0001

DOCKET #: TSA-2003-14610
FMCSA-2001-11117

The Nevada Department of Motor Vehicles has the following questions and comments regarding the Interim Final Rule dated May 5, 2003, on the aforementioned docket numbers.

The rule indicates that States must be in compliance by November 3, 2003, and requires States to notify CDL hazardous materials applicants of the new requirements 6 months prior to the license expiration date.

If States must be in full compliance by November 3, 2003, they must begin notifying applicants immediately to meet the required time lines. However there are unanswered questions which we believe will prevent immediate or timely implementation.

1. The Paperwork Reduction Act requires States to enter the following information into the CDLIS system: whether the applicant is a U.S. citizen or resident alien, the alien registration number and whether the driver is or is not a security risk.

CDLIS currently does not have the fields available to enter the required information and no guidelines have been provided to the States. What should the States do with this information until the system is updated?

2. §1572.5 requires the States to forward the application to TSA in a form and manner acceptable to TSA.

The acceptable form and manner has not been provided to the States. In Nevada, the Criminal History Repository will be submitting the fingerprint cards and the rule indicates the DMV is responsible for submitting the license applications.

a. If the TSA is looking for specific information, is it possible for the applicant to provide a statement of facts rather than requiring the State to forward the application?

b. Who will make the determination whether the applicant is disqualified based on the information provided on the application (TSA or the issuing State?).

1. If the information provided on an application contradicts information provided in the background check (i.e., background check clear but application shows recent disqualifying offense) are states required to:

1. Deny licensure?
2. Notify the TSA?
3. Require an additional background check?

- c. Will applicants be eligible to appeal if the endorsement is denied based on application information?
- d. If so, are appeals directed to the TSA?
- e. What, if any, action should be taken by the State?

3. How will background information be provided to the States? Will it be sent directly to the State licensing agency or through the State Criminal History Repository?

Does this information become a permanent part of the applicant's drive record or is it considered confidential?

Is there a record retention period in which States must maintain this information?

4. §1572.5 states that an individual must submit fingerprints beginning on November 3, 2003. Does this mean:

a. Drivers whose licenses expire 180 days after November 3, 2003 (5/3/04 and after) can not be licensed until the background check has been completed, OR

b. Drivers whose licenses expire on or after 11/3/2003 can not be licensed until the background check has been completed?

5. Individuals are required to surrender a hazardous materials endorsement to the issuing state if they are disqualified from holding the endorsement.

a. If States show the endorsement is surrendered, the applicant will not be precluded from obtaining a new endorsement on the license. Are States authorized to revoke/deny the endorsement if it is surrendered?

b. Are States authorized to revoke/deny the endorsement if the individual fails to surrender the license for removal of the endorsement?

6. Individuals are required to report to the issuing State and surrender the endorsement within 24 hours if convicted, wanted, under indictment, or found not guilty of various crimes by reason of insanity.

a. Is there a specific form or format in which individuals need to report?

b. Upon notification, are States authorized to revoke the endorsement? If not, what action should be taken by the States?

Any guidance you can provide in these areas will be appreciated. Responses may be directed to me at Department of Motor Vehicles, 555 Wright Way, Carson City, NV 89711 or email dmathiesen@dmv.state.nv.us. Thank you.

Sincerely,

Dana Mathiesen, Deputy Director
Nevada Department of Motor Vehicles