Guidelines for Assessing Forfeitures

The Commission and its staff may use these guidelines in particular cases. The Commission and its staff retain the discretion to issue a higher or lower forfeiture than provided in the guidelines, to issue no forfeiture at all, or to apply alternative or additional sanctions as permitted by the statute. The forfeiture ceiling per violation or per day for a continuing violation stated in section 503 of the Communications Act and the Commission's rules are described in § 1.80(b)(5)(iii). These statutory maxima became effective September 2, 2008. Forfeitures issued under other sections of the Act are dealt with separately in section III of this note.

* * * * *

Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors

* * * * *

Violation	Statutory amount ($)
Sec. 202(c) Common Carrier Discrimination	9,600, 530/day.
Sec. 203(e) Common Carrier Tariffs	9,600, 530/day.
Sec. 205(b) Common Carrier Prescriptions	18,200.
Sec. 214(d) Common Carrier Line Extensions	1,320/day.
Sec. 219(b) Common Carrier Reports	1,320.
Sec. 220(d) Common Carrier Records & Accounts	9,600/day.
Sec. 223(b) Dial-a-Porn	75,000/day.
Sec. 364(a) Forfeitures (Ships)	7,500 (owner).
Sec. 364(b) Forfeitures (Ships)	1,100 (vessel master).
Sec. 386(a) Forfeitures (Ships)	7,500/day (owner).
Sec. 386(b) Forfeitures (Ships)	1,100 (vessel master).
Sec. 634 Cable EEO	650/day.

(5) * * *

(iii) * * *

U.S. code citation	Maximum penalty after DCIA adjustment ($)
47 U.S.C. 202(c)	9,600 530
47 U.S.C. 203(e)	9,600 530
47 U.S.C. 205(b)	18,200
47 U.S.C. 214(d)	1,320
47 U.S.C. 219(b)	1,320
47 U.S.C. 220(d)	9,600
47 U.S.C. 223(b)	75,000
47 U.S.C. 362(a)	7,500
47 U.S.C. 362(b)	1,100
47 U.S.C. 386(a)	7,500
47 U.S.C. 386(b)	1,100
47 U.S.C. 503(b)(2)(A)	37,500 375,000
47 U.S.C. 503(b)(2)(B)	150,000 1,500,000
47 U.S.C. 503(b)(2)(C)	325,000 3,000,000
47 U.S.C. 503(b)(2)(D)	16,000 112,500
47 U.S.C. 507(a)	750
47 U.S.C. 507(b)	110
47 U.S.C. 554	650

[FR Doc. E8–17254 Filed 7–30–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1570

[Docket No. TSA–2008–0011]

RIN 1652–AA65

False Statements Regarding Security Background Checks

AGENCY: Transportation Security Administration, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule codifies in the Code of Federal Regulations recently-enacted statutory provisions that prohibit public transportation agencies, railroad carriers, and their respective contractors and subcontractors from knowingly misrepresenting Federal guidance or regulations concerning security background checks for certain individuals.

DATES: *Effective Date:* This rule is effective July 31, 2008.

Comment Date: Comments must be received by September 2, 2008.

ADDRESSES: You may submit comments on this rulemaking, identified by the Transportation Security Administration (TSA) docket number of this interim final rule, to the Federal Docket Management System (FDMS), a government-wide, electronic docket management system, using any one of the following methods:

Electronically: You may submit comments through the Federal eRulemaking portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail, In Person, or Fax: Address, hand-deliver, or fax your written comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Fax 202–493–2251. The Department of Transportation (DOT), which maintains and processes TSA's official regulatory dockets, will scan your submission and post it to FDMS.

See **SUPPLEMENTARY INFORMATION** for formatting and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Ellen Siegler, Assistant Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–2723; facsimile (571) 227–1379; e-mail *Ellen.Siegler@dhs.gov.*

SUPPLEMENTARY INFORMATION: This interim final rule is being adopted without prior notice and prior public comment. However, the TSA will still provide an opportunity for public comment on this rulemaking. TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from this rulemaking action. See **ADDRESSES** above for information on where to submit comments.

Please identify the docket number of this interim final rule at the beginning of each comment. TSA encourages commenters to provide their names and addresses. The most helpful comments reference a specific portion of the

rulemaking, explain the reason for any recommended change, and include supporting data. You may submit comments and material electronically, in person, by mail, or fax as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you would like TSA to acknowledge receipt of comments submitted by mail, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the receipt date on the postcard and mail it to you.

TSA will file in the public docket all comments received by TSA, except for comments containing confidential information and sensitive security information (SSI).[1] TSA will consider all comments received on or before the closing date for comments and will consider comments filed late to the extent practicable. The docket is publicly available, and will be available for public inspection before and after the comment closing date.

Handling of Confidential or Proprietary Information and Sensitive Security Information (SSI) Submitted in Public Comments

Do not submit comments that include trade secrets, confidential commercial or financial information, or SSI to the public regulatory docket. Please submit such comments separately from other comments on this rulemaking. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

TSA will not place such comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold documents containing SSI, confidential business information, or trade secrets in a separate file to which the public does not have access, and will note in the public docket that TSA has received such materials from the commenter. However, if TSA determines that portions of these comments may be made publicly available, TSA may include redacted versions in the public docket. If TSA receives a request to examine or copy information that is not in the public docket, TSA will treat that request as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and under DHS' FOIA regulation (published in 6 CFR part 5).

Reviewing Comments in the Docket

Please be aware that anyone is able to search the electronic form of comments received into our dockets by the name of the individual submitting each comment (or signing each comment, in the cases of comments submitted on behalf of associations, businesses, labor unions, etc.). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477) (available online at *http://DocketInfo.dot.gov*).

You may review TSA's electronic public docket on the Internet at *http://www.regulations.gov*. In addition, DOT's Docket Management Facility provides paper copies of docket materials, equipment to facilitate docket review, and staff assistance to the public. To obtain assistance or to review comments in TSA's public docket, you may visit this facility from 9 a.m. to 5 p.m., Monday through Friday (excluding legal holidays), or you may call (202) 366–9826. This docket operations facility is located in the West Building Ground Floor, Room W12–140 at 1200 New Jersey Avenue, SE., Washington, DC 20590.

Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html;* or

(3) Visiting TSA's Security Regulations Web page at http://www.tsa.gov and accessing the link for ''Research Center'' at the top of the page.

In addition, copies are available by writing or calling the individual whose contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this interim final rule. Make sure to identify the docket number of this rulemaking in communications with TSA.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the individual whose contact information is listed in **FOR FURTHER INFORMATION CONTACT** . Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at *http://www.sba.gov/advo/laws/law_lib.html.*

Good Cause for Immediate Adoption

This action is being taken without providing a prior opportunity for notice and comment, and it provides for an effective date less than 30 days after publication in the **Federal Register**.

Sections 553(b) and (d) of the Administrative Procedure Act (APA) (5 U.S.C. 553) authorize agencies to dispense with certain notice procedures for rules when they find ''good cause'' to do so. Under section 553(b), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement of section 553.

TSA finds that notice and public comment to this final rule are impracticable, unnecessary, and contrary to the public interest. The provisions in this interim final rule adopt verbatim sections 1414(e) (6 U.S.C. 1143(e)) and 1522(e) (6 U.S.C. 1170(e)) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–153 (9/11 Act). Under sections 1414(e) and 1522(e) of the 9/11 Act, it is now a violation of that statute for public transportation agencies, railroad carriers, and their respective contractors and subcontractors to knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the DHS Secretary related to security background check requirements for covered individuals when conducting a security background check. This rule adds to the Code of Federal Regulations (CFR), without change, the same prohibitions as directed by the statute. This rule does not prohibit any conduct that is not already prohibited by the statute. Accordingly, it is appropriate for TSA to issue this regulation as an interim final rule. For the same reason, TSA finds

[1] ''Sensitive Security Information'' or ''SSI'' is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

that there is good cause to make this rule effective immediately.

I. Summary

This final rule codifies in the Code of Federal Regulations sections 1414(e) and 1522(e) of the 9/11 Act, which prohibit public transportation agencies, railroad carriers, and their respective contractors and subcontractors from knowingly misrepresenting Federal guidance or regulations concerning security background checks for covered individuals. Under this rule, entities operating mass transit systems, passenger rail systems, and freight rail carriers must understand TSA's regulations and guidance and represent these background checks accurately to their employees.

This regulation will apply to regulations and guidance issued by TSA both before and after enactment of the 9/11 Act. At present, TSA has issued one rule and several guidance documents relating to security background checks for covered individuals. These are the Transportation Worker Identification Credential (TWIC) regulation (49 CFR part 1572) and guidance documents for freight railroad and mass transit operators. The TWIC rule applies, in relevant part, to land transportation workers who need unescorted access to secure areas of maritime facilities and to vessels regulated under the Maritime Transportation Security Act, Public Law 107–295. The railroad guidance applies to rail carriers that transport materials poisonous by inhalation (commonly referred to as Toxic Inhalation Hazard (TIH) materials). The guidance can be found at *http://www.tsa.gov/what_we_eo/layers/trip/freight_rail_security.shtm* . The mass transportation guidance applies to entities that operate mass transit and rail passenger systems. This guidance can be found at *http://www.tsa.dhs.gov/assets/pdf/guidance_employee_background_checks.pdf.*

II. 9/11 Act—False Statements Regarding Security Background Checks by Public Transportation Agency or Railroad Carrier

The 9/11 Act was enacted on August 3, 2007. Sections 1414 and 1522 of the Act address guidance issued by the Assistant Secretary of TSA concerning security background checks of covered individuals employed by public transportation agencies, railroad carriers, and their respective contractors and subcontractors. In particular, sections 1414(e) and 1522(e) prohibit public transportation agencies, railroad carriers, and their contractors and subcontractors from knowingly misrepresenting the scope, application, or meaning of any rules, directives, or guidance concerning background checks to employees, arbiters in an arbitration proceeding, or any other relevant persons.

Sections 1414(e) and 1522(e) expressed this concern about misrepresentation in nearly-identical language and directed TSA to issue a rule addressing that concern within one year of the statute's enactment. Section 1414(e), addressing public transportation, provides:

> A public transportation agency or a contractor or subcontractor of a public transportation agency may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a regulation that prohibits a public transportation agency or a contractor or subcontractor of a public transportation agency from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

Similarly, section 1522(e) provides:

> A railroad carrier or a contractor or subcontractor of a railroad carrier may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a regulation that prohibits a railroad carrier or a contractor or subcontractor of a railroad carrier from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

This interim final rule codifies the language of sections 1414(e) and 1522(e) of the 9/11 Act into 49 CFR part 1570. It also codifies the definitions of ''covered individual'' as contained in sections 1414(a) and 1515(a), ''public transportation agency'' in section 1402(5), ''railroad'' and ''railroad carrier'' in sections 1501(7) and (8), respectively, and ''security background check'' in sections 1414(a) and 1522(a). The regulatory text of this rule is essentially identical to the statutory provisions.

III. TSA's Background Check Initiatives

To date, TSA has issued one regulation and several guidance documents that relate to background checks in the public transportation and railroad sectors. In the future, DHS and TSA may undertake other initiatives. Today's rulemaking prohibits public transportation agencies, railroad carriers, and their respective contractors and subcontractors from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary of the Department of Homeland Security related to security background check requirements for covered individuals when conducting a security background check.

Prior to the enactment of the 9/11 Act, TSA issued regulations requiring credentialing and security threat assessments for certain maritime and land transportation workers. Specifically, under the TWIC regulations, individuals who require unescorted access to secure areas of maritime ports and vessels must undergo security threat assessments and must obtain biometric credentials to be used in access control systems installed by regulated facilities and vessels.[2] TSA conducts a security threat assessment, including a criminal history records check against a specified list of disqualifying criminal offenses, before issuing a TWIC. Some public transportation and railroad carrier employees may require TWICs under the TSA TWIC rule if they require unescorted access to secure areas of regulated vessels or maritime facilities.

Also prior to the enactment of the 9/11 Act, TSA issued guidance recommending that entities operating mass transit and passenger rail systems, and railroad carriers that transport TIH materials, conduct background checks on key employees. In 2006 DHS and DOT recommended that TIH railroad carriers establish procedures for background checks for contractor employees with unmonitored access to

[2] 49 CFR part 1572.

company-designated critical infrastructure.[3]

On February 12, 2007, DHS and DOT issued additional guidance to TIH railroad carriers concerning the recommended scope and procedures for voluntarily conducted background checks. DHS and DOT noted that many TIH railroad carriers use criminal background checks to assess the suitability of their employees. DHS and DOT recommended that, to the extent that TIH railroad carriers choose to conduct criminal background checks for individuals with unmonitored access to company-designated critical infrastructure, they should consider using the Federally-established list of disqualifying crimes applicable to hazmat drivers and port transportation workers contained in 49 CFR 1572.103. DHS and DOT further recommended that the railroad industry should consider establishing a vigorous internal redress process for adversely affected job applicants and personnel, including an appeal and waiver process similar to the processes established for holders of commercial driver's licenses who apply for hazardous materials endorsements [4] and for port transportation workers.[5]

In 2006, TSA and the Federal Transit Administration (FTA) jointly issued guidance recommending a number of practices to improve the security of their systems.[6] In this guidance, TSA and FTA recommended that these systems conduct background investigations, such as criminal history and motor vehicle records checks, on all new frontline operators and maintenance employees and on those employees and contractors with access to sensitive security information and security critical facilities and systems, such as tunnels, surveillance, monitoring, and intrusion detection systems. On February 28, 2008, consistent with the February 12, 2007 guidance to TIH freight railroad carriers, TSA and FTA issued additional guidance in which they recognized that some entities operating mass transit and passenger rail systems were using criminal background checks to assess the suitability of their employees. TSA and FTA suggested that these entities consider using the Federally-established list of disqualifying crimes applicable to hazmat drivers and port transportation workers found in 49 CFR 1572.103. TSA and FTA further suggested that entities operating mass transit and passenger rail systems also consider using an appeal and waiver process similar to the process established for hazardous material drivers and port transportation workers found in 49 CFR part 1515.

Public transportation agencies, railroad carriers, and their contractors, may not misrepresent the recommendations in any of these TSA guidance documents to their employees.

IV. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501. *et seq.*) requires that a Federal agency consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. TSA has determined that there are no current or new information collection requirements associated with this rule.

V. Economic Impact Analyses

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation). Because this rule does not add any requirements to those in the statute, the impact of this rule is negligible. Thus, TSA has not performed a cost/benefit analysis.

Executive Order 12866 Assessment

E.O. 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) provides for making determinations as to whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Order. Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including economic significance, which is defined as having an annual impact on the economy of $100 million. A regulation is also considered a significant regulatory action if it raises novel legal or policy issues.

This regulation is not significant under E.O. 12866. TSA has concluded, however, that the costs of the rule will be minimal for the reasons presented below. This rule codifies the language of sections 1414(e) and 1522(e) of the 9/11 Act prohibiting knowingly misrepresenting TSA's background check requirements or recommendations and incorporates it into 49 CFR part 1570. The regulatory text is identical to the statutory provisions.

This regulation should have no economic impact as it codifies the requirement that prohibits public transportation agencies, railroad carriers and their contractor and subcontractors from knowingly misrepresenting DHS guidance, directives, or regulations concerning security background checks for covered individuals. Stated simply, it codifies the statutory mandate that these entities may not knowingly make false statements regarding DHS security background check requirements

We expect affected entities to inform their employees and contractors about their obligations via email or letter and we believe that it would involve minimal cost.

This rule will benefit individuals employed by public transportation agencies, railroad carriers, and their contractor and subcontractors. These individuals will be given correct information about DHS background check guidance or requirements.

Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), requires agencies to perform a review to determine whether a proposed or final rule will have a significant

[3] The TIH railroad guidance can be found at: *http://www.tsa.gov/what_we_do/layers/trip/freight_rail_security.shtm.*

[4] In accordance with 49 U.S.C. 5103a, holders of commercial driver's licenses who apply for hazardous materials endorsements must undergo security threat assessments under 49 CFR part 1572. Procedures for waivers and appeals are found at 49 CFR part 1515.

[5] 49 CFR 1572.103.

[6] The transit guidelines can be found at on the internet at: *http://transit-safety.volpe.dot.gov/Security/SecurityInitiatives/ActionItems/actionlist.asp#14.*

economic impact on a substantial number of small entities when the Administrative Procedure Act (APA) requires notice and comment rulemaking. TSA has not assessed whether this rule will have a significant economic impact on a substantial number of small entities, as defined in the RFA. When an agency publishes a rulemaking without prior notice and an opportunity for comment, the RFA analysis requirements do not apply. TSA is adopting this interim final rule without prior notice and opportunity for public comment. Therefore, no RFA analysis is provided.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and has determined that it will not create any unnecessary obstacles to foreign commerce.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

VI. Executive Order 13132, Federalism

TSA has analyzed this final rule under the principles and criteria of E.O. 13132, Federalism. We have determined that this action will not have a substantial direct effect on the States, or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, have determined that this action does not have federalism implications.

VII. Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

VIII. Energy Impact Analysis

The energy impact of the action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1570

Appeals, Commercial drivers license, Criminal history background checks, Explosives, Facilities, Hazardous materials, Incorporation by reference, Maritime security, Motor carriers, Motor vehicle carriers, Ports, Seamen, Security measures, Security threat assessment, Vessels, Waivers.

The Amendments

■ For the reasons set forth in the preamble, the Transportation Security Administration amends Chapter XII of Title 49 of the Code of Federal Regulations, as follows:

PART 1570—GENERAL RULES

■ 1. The authority citation for part 1570 is revised to read as follows:

Authority: 46 U.S.C. 70105; 49 U.S.C. 114, 5103a, 40113, and 46105; 18 U.S.C. 842, 845; 6 U.S.C. 469; Pub. L. 110–53 secs. 1414, 1522.

■ 2. Add § 1570.13 to read as follows:

§ 1570.13 False Statements Regarding Security Background Checks by Public Transportation Agency or Railroad Carrier.

(a) *Scope.* This section implements sections 1414(e) (6 U.S.C. 1143) and 1522(e) (6 U.S.C. 1170) of the ''Implementing Recommendations of the 9/11 Commission Act of 2007,'' Pub. L. 110–53.

(b) *Definitions.*

Covered individual means an employee of a public transportation agency or a contractor or subcontractor of a public transportation agency or an employee of a railroad carrier or a contractor or subcontractor of a railroad carrier.

Public transportation agency means a publicly-owned operator of public transportation eligible to receive Federal assistance under chapter 53 of title 49, United States Code.

Railroad has the meaning that term has in section 20102 of title 49, United States Code.

Railroad carrier has the meaning that term has in section 20102 of title 49, United States Code.

Security background check means reviewing the following for the purpose of identifying individuals who may pose a threat to transportation security, national security, or of terrorism:

(i) Relevant criminal history databases;

(ii) In the case of an alien (as defined in sec. 101 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)), the relevant databases to determine the status of the alien under the immigration laws of the United States; and

(iii) Other relevant information or databases, as determined by the Secretary of Homeland Security.

(c) *Prohibitions.* (1) A public transportation agency or a contractor or subcontractor of a public transportation agency may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary of Homeland Security related to security background check requirements for covered individuals when conducting a security background check.

(2) A railroad carrier or a contractor or subcontractor of a railroad carrier may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary of Homeland Security related to security background check requirements for covered individuals when conducting a security background check.

Issued in Arlington, Virginia, on July 25, 2008.

Gale Rossides,

Deputy Administrator.

[FR Doc. E8–17515 Filed 7–30–08; 8:45 am]

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