American Petroleum Institute

1220 L Street, Northwest
Washington, DC 20005-4070
Tel 202-682-8517
Fax 202-682-8207
E-Mail martink@api.org

Kendra L. Martin, CAE
Director-Corporate Affairs Programs & CIO

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Admiral James Loy
Administrator
Transportation Security Administration
Department of Homeland Security
400 Seventh Street, SW
Washington, DC 20590

RE: Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License
Docket TSA-2003-14610

Dear Admiral Loy:

The American Petroleum Institute (API) represents more than 400 member companies involved in all aspects of the petroleum industry. API members own petroleum terminals and truck and rail fleets for the distribution of asphalt, liquefied petroleum gases, gasoline, diesel fuel, heating oil, aviation (or jet) fuels, kerosene and crude oil. API has a continuing interest in the safe transportation of petroleum products on our nation's roads.

Safety and security are a top priority for API member companies. API and its members support the Department of Homeland Security, Transportation Security Administration's (TSA's) establishment of a security background check system for commercial drivers certified or seeking to transport hazardous materials. We realize the difficulty of this undertaking. However, we have concerns over the implementation process and timeframes set forth in the interim final rule.

Initially, TSA is conducting security threat assessments on individuals who currently hold hazardous materials endorsements based on data in the Commercial Drivers License Information System (CDLIS). It is imperative that the transportation flow of vital economic goods is not disrupted; and is therefore essential that the government reviews are completed in a timely manner.

Additionally, current drivers with hazardous materials endorsements applying for renewals or transfers and all new drivers must submit fingerprints to state licensing agencies. After November of this year, no state may issue, renew or transfer a commercial drivers license (CDL) with a hazardous materials endorsement until TSA notifies the state agency that the driver does not pose a security threat (with an exception provide that a state may extend the expiration date of a hazardous materials endorsement for the first 180 days the state requirements are in effect if TSA has not notified the state than an individual does or does not pose a security threat.). Even

with this one-time extension, this timeframe seems ambitious. TSA even notes that "the process of collecting, submitting, and analyzing fingerprints is resource intensive and complex" and that "TSA must use a system that is flexible enough to accommodate all of the unique characteristics of the State processes".

This reinforces the need for TSA to work with stakeholders - including state licensing agencies, the hazardous materials transportation industry and local law enforcement - to establish guidance on how to develop a fingerprint system. In the interim final rule, TSA indicates that it will publish guidance to prescribe the "form and manner" to which fingerprinting should be conducted. Fingerprinting is scheduled to begin in November, however, TSA has yet to develop this guidance which is needed in order for stakeholders to understand how the fingerprinting shall be conducted or where individuals will report to submit fingerprints.

API supports the National Tank Truck Carriers (NTTC) recommendation that TSA convene a meeting of stakeholders to discuss implementation of this rule. We also stress its urgency. There are issues raised in this interim final rule that extend beyond the timing and fingerprinting concerns. A group of impacted stakeholders could aid in the resolution of these various issues.

According to the most recent U.S. Census Bureau's Commodity Flow Survey, based on 1997 data, $466.4 billion worth of hazardous materials are transported throughout the United States annually. Of this $466.4 billion, the value of gasoline shipments alone total $190.6 billion. API members have a vested interest in this rule. We cannot overstate the significance of ensuring that this important aspect of our economy is not disturbed.

We would be happy to discuss this with you further and we welcome the opportunity to participate in a stakeholders' dialogue to explore practicable implementation solutions for these criminal background check regulations.

Sincerely,

Kendra L. Martin

cc: Stephen Sprague, Office of Maritime and Land
Dion Casey, Office of Chief Counsel
TSA Docket