

**National Maritime Security Advisory Council Credentialing Work Group  
Minutes of February 23, 2006 Teleconference**

The National Maritime Security Advisory Committee (NMSAC) Credentialing Work Group (CWG) met via teleconference on 23 February 2006, to get updated on the regulations being written by the Coast Guard (CG) and the Transportation Security Administration (TSA) regarding the development of a Transportation Worker Identification Card (TWIC) for the maritime sector. Executive Director, Captain Frank Sturm, called the meeting to order at 1:00 p.m. The minutes are a synopsis of the teleconference.

The following NMSAC CWG members participated in the teleconference:

Mr. Wade Battles	Ms. Mary Francis Culnane
Mr. William Eglinton	Mr. David Halstead
Ms. Lisa Hember	Mr. Joseph Langjahr
Mr. Basil Maher	Mr. Theodore Mar
Mr. Robert Merhige	Mr. Timothy Scott
Mr. James Stolpinski	Mr. Mark Witten
Mr. Mark Christianson	Mr. Charles Carroll
Mr. Joseph Coccia	Mr. George Cummings
Mr. Stan Deno	Ms. Elizabeth Gedney
Mr. Ernie Fink	Mr. Charles Diorio
Mr. Bill Hedrick	Mr. Ed Kuhnert
Ms. Carol Lambos	Mr. Marc MacDonald
Mr. Michael Mitre	Mr. Cosmo Perrone
Mr. James Prazak	Mr. Todd Ripley
Mr. Cole Cosgrove	Mr. Page Siplon
Mr. Roger Van Duzer	Mr. Billy Dickson

These members of the staff and other Federal agencies were also present:

CAPT Frank Sturm	CDR Cyndi Stowe
CDR Tina Burke	CDR Paul Gautier
Mr. John Bastek	LCDR Mike Cunningham
Mrs. Melissa Danjou	LCDR Jonathan Maiorine
Mr. James Bull	Ms. Kathy Sinniger
Ms. Mardi Thompson, TSA	Mr. Don Thompson, TSA
Mr. Nick Lakis, TSA	Mr. John Schwartz, TSA

**Ms. Lisa Hember**, the CWG chair, conducted a role call of all NMSAC CWG members who were present for the teleconference, and stated that CG and TSA will be giving an update on the status of the program followed by questions.

**CDR Cyndi Stowe** gave an update on where the team is as far as the writing of the regulations. She also stated that whatever is said is subject to change because of still being in the regulatory process. The rules have not cleared either the CG or TSA.

The CG and the TSA have looked at the recommendations that NMSAC adopted last year, and drafted their pieces of the regulations which were exchanged two weeks ago. They are both in the process of making sure the regulations are harmonized. The TSA update to Title 49, Code of Federal Regulations (CFR) provides the application and issuance process for TWIC including the adjudication of the waivers and appeals. The CG drafted the regulations in 33 CFR and also amended 46 CFR that is specific to licensing and documentation. Part of the initial tasking the

CG gave the NMSAC CWG was to look at the disqualifying defenses. Per the NMSAC's recommendation, both TSA and the CG are proposing use of the HAZMAT disqualifying crimes as the standard for the TWIC program.

Regarding the timeline, the regulations should be out in July. The CG and TSA are going to try to clear their agencies in about a month and then the documents need to go the department for clearance. DHS could take up to 60 days and OMB can take up to 90 days, but the CG and TSA hope to expedite their processing. The comment period will be between 60 to 90 days. The CG and TSA will propose a round of meetings and listening sessions immediately following the publication of the notice of proposed rulemaking.

The CG and TSA gave an update on each recommendation. The first one was on access control where the CWG suggested the secure area be defined in such a way to coincide with the access control area determined by the facility operator and its security plan. The CG and TSA agree and have proposed such a definition.

When asked about foreign vessels, both TSA and the Coast Guard agreed that the TWIC will not apply to foreign vessels. Regarding citizenship requirements for application, TSA pointed out that one of the requirements to apply for a TWIC is a legal work status in the United States.

The second piece of that recommendation stated, given that the TWIC identity checks will have been completed upon entry to the port facilities, there may not be a need to require an additional check for port workers prior to boarding vessels moored to those facilities. TWICs may need to be read again once aboard a vessel. This is an area where there was a lot of discussion. Because a facility has screened an individual, it doesn't relieve the vessel of its own access control responsibilities. The CG and TSA are proposing language to encourage coordination between vessels and facilities regarding access control. NMSAC CWG members stated that some of the longshoremen refuse to show the ID for a second time on vessels. That is an issue that is being addressed with the unions and port facilities owners/operators. This generated much discussion on how the TWIC card would be treated at each port. Regarding security and access control challenges on west coast, the Coast Guard anticipates the TWIC regulations helping to resolve some of these issues.

The NMSAC recommended that the TWIC should serve as a base line requirement for unescorted access to the facility or vessel and that the individual operator could implement additional levels of security for access to their own facility. All agreed that the possession of a TWIC card by no means guarantees access to the facility and that specific language would be proposed for the new regulations.

Offshore access control provisions with a helicopter are in question. Proposed language will also address the TWIC being read at the point of embarkation.

The Coast Guard is not proposing a requirement for a full security plan resubmission in the TWIC regulations. A TWIC addendum is needed to document changes to existing access control and other security procedures. Full plan resubmission may be an option for meeting the addendum requirement but will not be proposed as mandatory.

TSA and CWG estimated the TWIC population and the CWG input is very helpful. The estimated population is up to a million port workers.

CG and TSA do not have any active regulatory projects at this time that expand beyond the maritime sector. The TWIC requirements may expand to other transportation modes in the

future. All workers, including rail operators and truck drivers, who would require unescorted access to regulated maritime facilities will be subject to the TWIC requirements.

The CWG recommended the TWIC program not include a sponsorship component and TSA along with the CG agreed. The CWG believed that issuance of the card should be solely on the individual's ability to meet a background check requirement. When TSA processes an applicant's name and fingerprints, they need to have an indication that this individual has in fact a need for unescorted access to a MTSA regulated vessel or facility. The concept at this point is have the applicant sign a declaration under penalty of perjury of the need, and, if TSA subsequently finds out that there is no rational basis for that person to receive a TWIC, they can take action.

Once you have a TWIC, you have a TWIC. The CG and TSA understand people get different jobs or end up at different ports. The CG and TSA want to make the TWIC as universal as possible.

TSA can only do background checks when there is a transportation security nexus as the statute provides. TSA would not expect an employer to send people for TWIC if not required. The employers should be responsible making sure their employee's sign up for TWIC and do so in a timely manner. The facility owner/operator has a continuing responsibility to ensure only authorized individuals with valid TWICs have unescorted access to their vessel or facility.

Florida's card requires sponsorship, but it's a more simplified version than what the TWIC originally envisioned.

The next issue was the waiver process. According to NMSAC, DHS should consider a limited term waiver to ensure that, if an individual is already employed, he doesn't lose his job as a result of applying for a TWIC. The limited term waiver is not currently proposed in the TWIC regulations. The waiver process works with criminal history and most of the crimes on the list qualify for that process. There are a few additional crimes like terrorist crimes and treason which will not be subject to a waiver. TSA actually has granted the vast majority of waiver requests for other disqualifying offenses under the HAZMAT program. The process is going to be centralized and led by TSA.

The employer would not be required to help in the waiver process, but it is useful to have a letter from the employer that says this person is doing well, shows up for work on time, and is a good citizen. It is also useful to evaluate how that employee is doing in the community.

Regarding background checks, the data will be checked against the FBI records which in some instances includes input from States. According to CWG, all state records do not make it into the FBI system, but the more vicious the crime the more likely it made it into that system. This is a federal credential based on federal background check, and it doesn't guarantee access to any facility. It identifies a standard.

The next recommendation that the CWG made was that the TWIC include an individual's digital photograph and suggested DHS adopt a similar standard for all national and international programs such as US VISIT and FAST. Coast Guard and TSA confirmed the TWIC will meet or exceed the technical requirements of existing federal standards.

Because the time in which the maritime workers operate is different from other transportation groups or alien visitors, the CWG recommended that the type of biometric to be used should be reevaluated after completion of the prototype phase of the current TWIC pilot program. The CG

and TSA are concerned about the technology to be rolled out in the TWIC context holds up in the maritime environment. Florida will be happy to work with the CG on this issue and share any data relative to the use of the biometric. The CG and TSA will need that data from Florida, and the willingness to cooperate is appreciated. According to the CWG, Florida is way ahead on implementation of biometric readers. .

CWG recommended the TWIC program be federally managed. That is what this rule making envisions. It is TSA's responsibility for enrollment and issuance of the card, and it is envisioned also that it would be federally managed. TSA anticipates having contractors handling enrollment and submitting information thru secure means throughout the enrollment process. TSA also expects to have contractors available for the follow on activity that would take place that might be singular in nature. It is proposed that a facility owner/operator will not be responsible for setting up system infrastructure for the capture and enrollment for the TWIC.

The cost of the program was discussed next. An individual, holding a credential that has been screened to an equal or higher standard than the TWIC, should not have to pay again or undergo a back ground check. If both the HAZMAT screening and/or merchant mariners screening has been completed, the CG , TSA and NMSAC agree workers should not have to pay for the same check twice.. The TWIC credential will be based on the initial security vetting and will expire based on when the initial security vetting was undertaken. The individual applicant is responsible to pay the fee at the time of application. TSA is authorized to levy a user fee for the credential and should only collect for the direct cost of the program. Because the TWIC is a smart card containing biometric templates and other information on integrated circuit chips, it will cost more than most cards.

Regarding card readers, it is expected that they will not be provided by federal government. The CG and TSA anticipate owners/operators to take advantage of off-the-shelf technology when acquiring readers appropriate for their specific needs. Small operations will need fewer readers. Currently in Florida, the readers cost about \$1,150 for the fixed reader and \$2,700 for the mobile hand held.

The CWG recommended the TWIC be issue for a period of 5-years. Coast Guard and TSA agree with this recommendation unless the card is revoked for cause. It is anticipated that foreign nationals, who have work authorizations but do not live here, will be permitted until their authorization to be in the country expires.

TSA and the CG are currently exploring various roll out strategies which provide a satisfactory time frame to submit TWIC addendums to their security plans and purchase and install readers. TSA and the CG are looking at regional application and consequence-based roll out schemes.

Questions regarding the practicality of requiring all persons who have access to Sensitive Security Information were raised. CG and TSA agreed that requiring all individuals with access to SSI to also hold a TWIC may be impractical. CG and TSA proposed interpreting the language of the statute to allow that only certain individuals who will require access to SSI hold a TWIC, if they have not already been subject to an equivalent check. These individuals will be clearly identified by position in the NPRM.

NMSAC mentioned the process must be coordinated with other federal programs to avoid duplication or conflicts to the extent possible. DHS must develop and adhere to a reasonable schedule of program development and deployment during the development of the TWIC pilot program. DHS needs to improve communication with TWIC stakeholders allowing for individual participation. TSA and the CG are going to take CWG's recommendations and detail

them in the preamble of the rulemaking. TWIC should incorporate the components of other programs such as the MMD wherever possible to eliminate the need to carry multiple cards for various purposes.

The CG is planning to propose combining all merchant mariner credentials into a single form, in order to minimize the number of credentials a mariner must carry. That proposal would merge the existing mariner documents, consisting of the License, Merchant Mariner Document, STCW certificate, and Certificate of Registry, into one. The TWIC would remain the identification credential and separate from these other credentials, at least for the time being. The consolidated mariner form would document the mariner's professional skills and capabilities and the TWIC would document the mariner's identity. It is not anticipated that the TWIC or consolidated merchant mariner credential will meet the general requirements of the ILO 185 at this time, but will meet the requirements of the STCW. Ratification of the ILO 185 is being discussed through an interagency process, but some significant challenges remain.

The CWG stated the issuance of the TWIC must be a timely process and must allow the workers to get to work or will not be successful. During the prototype, the goal of 96-hours from enrollment to receipt was met. Provided no negative information is discovered during the application and background check, this timeframe continues to be the goal. This is a credential that is applied for and obtained relatively quickly. In Delaware that time was exceeded. In Florida it was not. If there are any issues that arise about a person's eligibility, it will take more than 96 hours. If the TSA or the CG decides that a person has to be denied based on any of the factors, there is a process that is applicable and will take some time. The TWIC enrollment process should also include a capability to check the status online.

The last recommendation from the CWG is whether information is being passed back to the facility/vessel, and the owner/operator's responsibility to apprehend someone who has a TWIC revoked or not issued. CG and TSA will propose that detailed information on the individual is not to be passed back to the owner/operator. Facility and vessel owners/operators responsibility is to ensure those people that are granted access after a certain date have a valid TWIC card in their possession.

The database provides a list of cards that are revoked, lost, stolen and should not be used for access. TSA envisions live linkage to the hot list for those who have the capability to do that or have higher risk operations. The ability to link to a list of card numbers that are not valid is not appropriate for all our facilities or vessels so live linkage to the database for vessels is a challenge and for some facilities it is not appropriate. Another proposed option is for the owner/operators to download a hot list of card numbers, and check the numbers before granting access. As the MARSEC level increases, owners/operators could be required to download the list more often.

During an incident, it seems a facility owner/operator would want to know who is there. If there is a person or multiple people unaccounted for, the owner/operator would want to know what happened to them and if they are currently onboard a facility or vessel.

The TSA and the CG will be happy to receive written comments any members have or verbal calls to talk to us about this more or look for specific comment on the NPRM.

Ms. Lisa Humber thanked TSA and the CG for taking the time to share this with the CWG. The call terminated at 1:50.