



TEAMSTERS **Safety &** **Health** **FACTS**

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TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL (TWIC) PROGRAM

The Transportation Worker Identification Credential (TWIC) program is a Transportation Security Administration and U.S. Coast Guard initiative. The TWIC program provides a tamper-resistant credential to maritime workers requiring unescorted access to secure areas of port facilities, outer continental shelf facilities, and vessels regulated under the Maritime Transportation Security Act, or MTSA, and all U.S. Coast Guard credentialed merchant mariners.

According to the TSA, an estimated 750,000 individuals will require TWICs. Enrollment and issuance will take place over an 18 month period. To obtain a TWIC, an individual must provide biographic and biometric information such as fingerprints, sit for a digital photograph and successfully pass a security threat assessment conducted by TSA.

The TWIC Final Rule was posted on January 1, 2007, and reflects input obtained through four public meetings and over 1,900 comments from the maritime industry. TWIC enrollment will be phased in over an 18 month period beginning in March 2007. Vessels must implement a TWIC Program 20 months after publication of the final rule in the Federal Register. Compliance for facilities will be phased in by Captain of the Port, or COTP, zone and the compliance date for each zone will be published via notice in the Federal Register at least 90 days in advance.

This rule does not require maritime owners and operators to purchase or install card readers compatible with TWIC at this time. A second rulemaking, anticipated in calendar year 2007, will propose additional access control requirements and the use of electronic readers.

WHO IS COVERED BY THE RULE?

Port employees, longshoremen, mariners, truckers, and others who require unescorted access to secure areas of ports and vessels would be required to be vetted under the TWIC program. The IBT represents more than 5,500 longshoremen, clerks, truck drivers, tugboat deck hands, tug boat captains, port authority employees, guards and warehousemen who work in our nation's ports.

WHAT IS REQUIRED UNDER THE RULE?

Much like the hazmat endorsement background investigation and the Free and Secure Trade (FAST) driver risk assessment, TWIC applicants must undergo a comprehensive background check that examines criminal history records, terrorist watch lists, immigration status, and outstanding wants and warrants. Individuals lacking lawful presence and certain immigration status in the United States, connected to terrorist activity, or convicted of certain crimes will be ineligible to obtain a TWIC. Applicants will be required to provide a complete set of fingerprints and sit for a digital photograph. The fingerprints will be stored as biometric data on the credential (Smart Card).

HOW WILL THE TWIC BE USED?

During the initial rollout of TWIC, workers will present their cards to authorized personnel, who will compare the holder to his or her photo, inspect security features on the TWIC and evaluate the card for signs of tampering. The Coast Guard will verify TWICs when conducting vessel and facility inspections and during spot checks using hand-held scanners, ensuring credentials are valid. A second rulemaking, anticipated in calendar year 2007, will propose enhanced access control requirements, including the use of electronic readers by certain vessel and facility owners and operators.

WILL TWICs BE USED FOR ACCESS CONTROL?

Yes. TWIC has been integrated into existing access control requirements, although owners and operators are not required to purchase, install, or maintain card readers until technologic and logistic improvements are complete (to be included in a second rulemaking). Until card readers are in place, workers requiring unescorted access to secure areas will present their TWIC to authorized personnel for entry. However, owners/operators may integrate TWIC into existing access control systems now if they choose to do so. The Coast Guard will conduct checks using handheld readers to confirm the identity of TWIC holders during regular inspections and spot checks. A second regulation will propose card reader requirements that utilize all of the unique technologies employed in the TWIC.

WAS THE IBT INVOLVED IN THE RULEMAKING?

The IBT submitted written comments to the proposed rulemaking in July of 2006. The IBT's concerns regarding the proposed TWIC regulations focused on the following issues. The union opined that the proposed rule failed to take into account the reality of how the port drayage market operates. The IBT commented that Port drivers operate in a chaotic, fragmented market, dominated by hundreds of tiny, undercapitalized motor carriers. There are over 600 motor carriers serving the ports of Los Angeles and Long Beach alone, employing fewer than twenty-five (25) drivers each. The current port drayage market fails to provide a decent living to port drivers. Drivers are hired as independent contractors, not employees. Drivers are typically paid by the trip and earn a median of \$15,000 - \$25,000 per year, with no health insurance or pension benefits. The IBT also has a number of concerns relating to the protection of driver privacy, the list of disqualifying offenses, the appeals and waiver process, and the fees associated with the background checks.

WHAT IS THE IMPLEMENTATION SCHEDULE?

TWIC enrollment will be phased in over an 18 month period. Vessels must implement a TWIC Program 20 months after publication of the final rule in the Federal Register. Compliance for facilities will be phased in by Captain of the Port, or COTP, zone and the compliance date for each zone will be published via notice in the Federal Register at least 90 days in advance.

WHO CAN APPLY FOR A TWIC?

(From the TSA website www.tsa.gov/twic)

The following individuals are eligible to apply for a TWIC per 49 CFR 1572.105:

1. A national (includes citizen) of the United States
2. A lawful permanent resident of the United States
3. A refugee admitted under 8 U.S.C. 1157
4. An alien granted asylum under 8 U.S.C. 1158
5. An alien in valid M-1 nonimmigrant status who is enrolled in the United States Merchant Marine Academy or a comparable State maritime academy. Such individuals may serve as unlicensed mariners on a documented vessel, regardless of their nationality, under 46 U.S.C. 8103
6. A nonimmigrant alien admitted under the Compact of Free Association between the United States and the Federated States of Micronesia, the United States and the Republic of the Marshall Islands, or the United States and Palau
7. A commercial driver licensed in Canada or Mexico who is admitted to the United States under 8 CFR 214.2(b)(4)(i)(E) to conduct business in the United States
8. An alien in lawful nonimmigrant status who has unrestricted authorization to work in the United States, except—
 - An alien in valid S-5 (informant of criminal organization information) lawful nonimmigrant status;
 - An alien in valid S-6 (informant of terrorism information) lawful nonimmigrant status;
 - An alien in valid K-1 (Fiancé) lawful nonimmigrant status; or
 - An alien in valid K-2 (Minor child of Fiancé) lawful nonimmigrant status.
9. An alien in the following lawful nonimmigrant status who has restricted authorization to work in the United States—
 - C-1/D, Crew Visas;
 - H-1B Special Occupations;

- H-1B1 Free Trade Agreement;
- E-1 Treaty Trader;
- E-3 Australian in Specialty Occupation;
- L-1 Intracompany Executive Transfer;
- O-1 Extraordinary Ability; or
- TN North American Free Trade Agreement.

WHAT ARE THE DISQUALIFYING CRIMES?

A comprehensive list of crimes will be posted on TSA's web site and is contained in section 1572.103 of the rule.

In summary, some convictions are disqualifying no matter when they occurred; they are espionage; sedition; treason; terrorism; a federal crime of terrorism; improper transportation of a hazardous material; unlawful possession, use, or sale of an explosive; murder; threats to a place of public use (government facility, public transportation system, or infrastructure facility); violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act in which the predicate act is one of the crimes listed above, and crimes involving a transportation security incident. A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area. A work stoppage, or other nonviolent employee-related action, resulting from an employer-employee dispute is not a transportation security incident. Convictions for espionage, sedition, treason and terrorism are not eligible for a waiver.

Other crimes are disqualifying if conviction occurred with 7 yrs or release from incarceration occurred within 5 yrs; they are unlawful possession, use or sale of a firearm or other weapon; extortion; fraud; bribery; smuggling; immigration violations; distribution or importation of a controlled substance; arson; kidnapping or hostage taking; rape or aggravated sexual abuse; assault with intent to kill; robbery; lesser RICO crimes.

WHERE DO I GO TO ENROLL?

TSA will use a combination of fixed and mobile enrollment stations to make the enrollment process as efficient as possible for applicants and owners or operators. The enrollment locations and directions to these sites will be available on the TWIC website at TSA will use a combination of fixed and mobile enrollment stations to make the enrollment process as efficient as possible for applicants and owners or operators. The enrollment locations and directions to these sites will be available on the TWIC website.

HOW MUCH WILL PORT WORKERS BE CHARGED FOR A TWIC?

The fee for TWIC will be between \$139 and \$159 and the card is valid for 5 years. The contract for the enrollment provider will be awarded soon. Once the contract is awarded the final fee will be set and a notice will be published in the Federal Register. Workers with current, comparable background checks (HAZMAT, merchant mariner document (MMD), certificate of registry, or merchant mariner license, or Free and Secure Trade (FAST) will receive a discounted fee between \$107 and \$127.

WHAT DOES THE SECURITY THREAT ASSESSMENT CONSIST OF?

The assessment includes checks against criminal history records, terrorist watch lists, and immigration status. If no adverse information is disclosed, TSA typically completes a security threat assessment in less than 10 days. However, processing time increases for an applicant with a criminal history or other disqualifying information, and is further lengthened if the applicant initiates an appeal or waiver. This security threat assessment is the same for those applying for, transferring, or renewing a HAZMAT endorsement (HME) on their state-issued commercial drivers licenses (CDLs).

WILL THE RESULTS OF MY THREAT ASSESSMENT BE SHARED WITH MY EMPLOYER?

If TSA determines that an applicant poses an imminent threat to transportation or national security, TSA may notify the applicant's employer. Generally, TSA will not provide the reasons for a disqualification to an employer. However, if TSA has reliable information concerning an imminent threat posed by an applicant and providing limited threat information to an employer, facility, vessel owner, or Coast Guard Captain of the Port would minimize the risk, then TSA would provide such information.

IS THERE GOING TO BE AN APPEALS AND WAIVERS PROCESS?

Yes. Applicants who are denied a TWIC will be notified of the reason for denial and instructed on how to apply for an appeal or waiver. All applicants have the opportunity to appeal a disqualification, and may apply to TSA for a waiver if disqualified for certain crimes, or if they are aliens in Temporary Protected Status. Applicants who seek a waiver and are denied may seek review by an Administrative Law Judge (ALJ). The applicant has 60 days from the time they receive a Final Determination of Threat Assessment to provide the required information to TSA for consideration.

HOW LONG IS THE TWIC CARD GOOD FOR?

Generally, TWICs remain valid for five years, unless renewed before the five-year term ends. Upon renewal, an applicant receives a new credential and the old credential is invalidated in the TSA System. TSA does not plan to notify TWIC holders when their credential is about to expire because the expiration date is displayed on the face of the credential.