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DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

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ASSISTANT COMMANDANT FOR POLICY AND PLANNING**

ON THE

TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL (TWIC)

BEFORE THE

COAST GUARD AND MARITIME TRANSPORTATION SUBCOMMITTEE

U. S. HOUSE OF REPRESENTATIVES

JULY 12, 2007

Good morning, Chairman Cummings, Ranking Member LaTourette and members of the Subcommittee. Thank you for this opportunity to speak with you about the current status and the way ahead for the Transportation Worker Identification Credential (TWIC) program. Specifically, I would like to update the Subcommittee on the Coast Guard's efforts, in partnership with the Transportation Security Administration (TSA), to implement a program that will strengthen maritime security while balancing the need to facilitate commerce and minimize negative impacts to our port and vessel stakeholders.

Background and Authority

As a result of the Maritime Transportation Security Act of 2002 (MTSA), the Coast Guard developed regulations establishing security requirements for maritime vessels and facilities posing a high risk of being involved in a transportation security incident. As part of these regulations, these vessels and facilities owners and operators were required to conduct detailed security assessments and in turn, develop security plans. Owners and operators have been required to operate in compliance with these plans since July 1, 2004.

MTSA also requires the Department of Homeland Security (DHS) to issue a biometric transportation security card to those individuals who satisfactorily pass a security threat assessment in order to be granted unescorted access to secure areas of vessels and facilities. TSA was assigned this requirement, and because of our overlapping responsibilities, the Coast Guard and TSA formally joined efforts to carry out the TWIC program in November 2004. In this partnership, TSA is responsible for TWIC enrollment, security threat assessment and adjudication, card production, TWIC issuance, conduct of the TWIC appeal and waiver process, and management of government support systems, and the Coast Guard is responsible for establishing and enforcing TWIC access control requirements at regulated vessels and facilities. Both agencies partner daily to make sure that our collective efforts achieve the increased security objectives that MTSA intended.

The TSA and the Coast Guard published a joint TWIC Notice of Proposed Rule Making (NPRM) on May 22, 2006. Following the publication of the NPRM and the subsequent comment period, Congress enacted the Security and Accountability for Every Port Act of 2006 (the SAFE Port Act). The SAFE Port Act created new statutory requirements for the TWIC Program, including: the commencement of a pilot program to test the viability of TWIC cards and readers in the maritime environment; deployment of the program in priority ports by set deadlines; inclusion of a provision to allow newly hired employees to work while the TWIC application is being processed; and concurrent processing of the TWIC and merchant mariner applications.

TSA and the Coast Guard published the TWIC final rule on January 25, 2007 in which the Coast Guard's MTSA regulations and TSA's Hazardous Material Endorsement regulations were amended to incorporate the TWIC requirements. Despite the original proposal in the NPRM, this final rule did not require the installation of card readers at vessels and facilities. This requirement is currently being addressed in a second notice and comment rulemaking which is under development.

Joint Rulemaking by TSA and the USCG

For the TWIC Program, TSA is responsible for TWIC enrollment and issuance, including hardware and software applications and the data storage system. This responsibility involves conducting a security threat assessment on TWIC applicants, which includes a check against terrorist watch lists, an immigration status check, and a fingerprint-based criminal history records check as well as perpetual vetting against the terrorist watch lists throughout the 5 year life of the TWIC. The Coast Guard is responsible for implementing TWIC in the maritime environment and achieves this by requiring a TWIC for all individuals who need unescorted access to secure areas of MTSA regulated facilities and vessels and requiring a TWIC for all U.S. merchant mariners with active credentials.

TSA and the Coast Guard also worked together to develop several supplementary documents to help those who are required to comply with this regulation. For example, we have established policy guidance in the form of a Navigation and Vessel Inspection Circular (NVIC), which was made available to the industry and general public on Friday, July 6, 2007. This cornerstone guidance document will assist the maritime industry and general public with TWIC compliance and will effectively ensure consistent application across all of our MTSA regulated facilities and vessels. Two Small Business Administration Compliance Guides will also be available in the coming weeks, and internal guidance documents for training, implementation, and enforcement for Coast Guard and TSA personnel continue to be developed.

Stakeholder Engagement

As we continue to develop the wide variety of elements that comprise the TWIC program, we recognize engagement with our affected stakeholders is crucial to the program's success. When the TWIC NPRM was published in May of last year, TSA and the Coast Guard received just under 2,000 comments expressing concern with our path forward. The comments provided valuable insight into the operational issues facing labor, the facilities, and vessels that would have to implement the requirements. Specifically, comments questioned the technological and economic feasibility of employing the TWIC cards and card readers in the maritime environment. While smart cards, open slot card readers, and the use of biometrics have been used for a number of years in controlled, office-like environments, very few studies have examined how currently approved biometric card readers will withstand the comparatively harsh environments of vessels and maritime facilities. In addition, several commenters stated that biometric card readers would be extremely cost prohibitive for small entities, especially small vessels with a high rate of employee turnover. TSA and the Coast Guard found the comments received to be invaluable in determining the best way forward for this rule.

Throughout February and March of this year, the Coast Guard solicited comments from Coast Guard field units and industry stakeholders while drafting the TWIC NVIC. We received over 400 comments voicing general support for the policy and highlighting issues that needed more clarification. The robust stakeholder dialogue we have developed allowed us to include most of the recommended policy changes into the NVIC.

Since publication of the Final Rule, the Coast Guard, TSA and TSA's contractor Lockheed Martin have conducted numerous outreach events at national venues such as the Passenger Vessel Association Conference, SMART card and biometric industry conferences, maritime union meetings, American Waterway Operators meetings, and American Association of Port Authorities conferences.

The Coast Guard and TSA have now commenced work on the second TWIC rulemaking which will address the requirement for TWIC readers in the maritime environment. In a collaborative effort to achieve an operationally sound regulation, the Coast Guard and TSA have asked for the assistance of Towing Safety Advisory Committee (TSAC), Merchant Marine Personnel Advisory Committee (MERPAC) and the National Maritime Security Advisory Committee (NMSAC) to provide input on specific aspects of potential applications of readers for vessels and facilities. Our wish in this, as in all aspects of the TWIC program, is to maximize maritime security while minimizing negative impact to the stakeholders that are at the forefront of providing that security.

“New Hire” Provision

A particularly important provision that was developed in response to stakeholder engagement is the process to accommodate newly hired employees within the TWIC regulations. This process, known as the “new hire” provision, specifically addresses access control procedures for newly hired individuals and allows them to begin work, subject to certain provisions, within days after applying for their TWIC. It was designed to address numerous comments voicing concern that TWIC would exacerbate a shortage of employees in the maritime workforce and complies with the resulting SAFE Port Act requirement. In the provision, a direct hire of a vessel or facility can go to work after he or she has applied for a TWIC and has completed a name-based terrorist watch list check facilitated through the Coast Guard's Homeport secure web portal. The most important step in this provision is TWIC enrollment, which positively identifies the TWIC applicant, and both funds and initiates the background check that is at the heart of the security benefit of the TWIC program. The individual can then work in secure areas provided he or she is monitored while in restricted areas such as the engine room or pilot house of a vessel, subject to other minor provisions. The new hire program provides an acceptable degree of security pending completion of the background check and receipt of the TWIC.

As we move into the implementation phase, we are committed to continue working with industry to bring about the smooth transition to this much needed security measure. In doing so, however, we want to ensure that special provisions like this one provide an equivalent level of security across the maritime transportation system as a whole and do not support future efforts to grant specific maritime trades special exceptions to current requirements. We strive in our current regulations, policy and guidance to provide the flexibility necessary for stakeholders to implement TWIC in a manner that best suits their own security needs and operating conditions.

The Way Ahead

Work continues on several aspects of the TWIC Program. The Coast Guard is in the process of procuring handheld biometric card readers for use during vessel and facility inspections and spot checks. The Coast Guard will use the card readers to randomly check the validity of an individual's TWIC. Also, the provision for newly hired employees to work while they await issuance of a TWIC is in development and on track between the Coast Guard's Homeport web portal engineers and TSA's Identity Data Management System engineers. Internally, policy is being written for implementation and enforcement of the TWIC Program in our ports through collaboration of our law enforcement, port security, and technology experts.

Conclusion

TSA and the Coast Guard continue to reach out to our private sector stakeholders in the interest of fashioning a regulation that strengthens America's maritime security while advancing commerce. While the TWIC Program is multifaceted and includes numerous players, we are committed to developing a useful and valuable system. I would be happy to take any questions you have at this time.