



**The American Waterways Operators**  
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Docket Management Facility  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street, S.W.  
Washington, D.C. 20590-0001

Re: Transportation Worker Identification  
Credential (TWIC) Implementation in the  
Maritime Sector  
(USCG 2006-24196; TSA 2006-24191)

Dear Sir or Madam:

The American Waterways Operators (AWO) is the national trade association for the tugboat, towboat, and barge industry. The industry AWO represents is the largest segment of the U.S.-flag domestic fleet, accounting for fully 80 percent of the U.S.-owned, U.S.-crewed vessels that serve our nation's inland and coastal maritime trades.

The tugboat, towboat, and barge industry is a vital segment of America's transportation system. The industry safely and efficiently moves over 800 million tons of cargo each year, including more than 60 percent of U.S. export grain; energy sources such as coal and petroleum, including most of New England's home heating oil and gasoline; and other bulk commodities that are the building blocks of the U.S. economy. The fleet consists of nearly 4,000 tugboats and towboats, and over 27,000 barges of all types. These vessels transit 25,000 miles of inland and intracoastal waterways, the Great Lakes, and the Atlantic, Pacific, and Gulf coasts. The tugboat, towboat, and barge industry provides the nation with a safe, secure, low-cost, environmentally friendly means of transportation for America's domestic commerce.

The 30,000 men and women who operate tugboats, towboats, and barges are "the eyes and ears" of our nation's ports and waterways and a vital partner with government in ensuring maritime security. **AWO is deeply concerned that the TWIC proposal in its current form is a "blunt instrument" that will impose substantial hardships on mariners and the tugboat, towboat, and barge companies that employ them, establishing a complex, expensive, one-size-fits-all process that is simply not necessary to ensure high levels of vessel and maritime facility security. Moreover, the proposed requirements threaten to**

**undermine our nation's economic health and security by impeding the efficient flow of vital commodities by water throughout the domestic transportation system.** We urge that the proposal be substantially revised to establish more practical, cost-effective, risk-based procedures that can be successfully implemented by the wide range of entities to which the TWIC regulations will apply, and not geared exclusively to large, complex, high-technology operations.

We note that the Coast Guard has already recognized the need for and value of a more nuanced, risk-based approach to maritime security in its vessel and facility security plan regulations, by allowing for the development and approval of Alternative Security Programs (ASPs). Alternative Security Programs such as the AWO ASP balance the imperatives of security and facilitation of commerce by tailoring a standard set of performance-based requirements to fit the risk profile and operational characteristics of a specific industry. The TWIC proposal, on the other hand, takes a one-size-fits-all approach that would require the same technology on a four-person inland towboat as at the gates of a major public port facility! This is unnecessary and unworkable.

We offer a number of specific suggestions below to transform the TWIC proposal into a more practical regulation that better balances the needs of security and commerce and reflects the realities and risks of the tugboat, towboat, and barge industry. Most importantly, we urge the Coast Guard and TSA to:

- **Eliminate the TWIC reader requirements for towing vessels;**
- **Streamline TWIC processing and establish procedures that allow new crewmembers to work on an interim basis pending the issuance of a TWIC; and,**
- **Reduce the financial and administrative burdens associated with TWIC issuance.**

#### **Eliminate the TWIC Reader Requirements for Towing Vessels**

The proposed rule envisions that every vessel will have onboard at least one device that "reads" biometric information on the TWIC to verify it. Readers will also be installed at regulated facilities. The proposal also requires the employer to communicate at least weekly by means of a wired or wireless computerized connection to a centralized federal database to obtain updates on TWICs that have been revoked. The total cost of such systems is unclear, but government estimates range from \$8900 to \$11,900, which includes the reader hardware and set-up fees. (We note that these estimates do not include the cost of associated computers or onboard Internet access, which could impose substantial ongoing costs.) Moreover, while TSA has undertaken prototype testing of the TWIC itself, we understand that such testing did not involve the use of readers in typical maritime conditions or electronic communication to a centralized database.

The tugboat, towboat, and barge industry thus faces a requirement to install literally thousands of complex, expensive, high-technology devices that may or not function as intended in the maritime environment – and that are simply not needed to ensure security on small vessels whose crew sizes typically range from four to 10 mariners. In a typical U.S.-flagged towing

vessel operation, every employee is known to management and fellow crewmembers. A stranger onboard the vessel or a small waterfront facility is immediately obvious. Personal knowledge of fellow employees provides a higher security standard than reliance upon an electronic reader, no matter how sophisticated the technology employed.

**We urge that the proposed rule be rewritten to eliminate the requirement for towing vessels to carry TWIC readers and maintain electronic communication with a TSA database.** To better reflect the risk profile and operational realities of towing vessels, the proposed rule should:

- Allow for alternative access control procedures to be included as part of an approved vessel or facility security plan or Alternative Security Program. For a towing vessel, a reasonable alternative would be to require that a mariner's TWIC be visually checked (not run through a card reader) prior to the crewmember boarding the vessel.
- For operations whose size and scope warrants a TWIC reader, provide the option of installing the reader at a shoreside facility rather than onboard a vessel.
- Allow employers to check for expired or revoked TWICs via telephone, rather than mandating computerized communication to a central database.

This suite of alternatives would reduce the cost and administrative burdens on towing vessel and facility operators without compromising the maritime security goals that industry, the Coast Guard, and TSA all share. Moreover, we believe this approach effectively addresses the concerns expressed by the Coast Guard and TSA in initially rejecting alternatives to TWIC readers on every vessel. The agencies had voiced concern that visual inspection of TWICs would be less effective than the use of a card reader if security personnel were distracted from their duties during busy shift changes. While this may be a valid concern at the gates of a large public port facility where hundreds of individuals are attempting to gain access at the same time, it is not relevant to a towing vessel crew change situation where fewer than 10 individuals are boarding the vessel at any one time. Moreover, by requiring that access control procedures, including procedures governing use of the TWIC, be included as part of a Coast Guard-approved security plan or Alternative Security Program, the agencies will retain the ability to ensure that appropriate safeguards are employed to maintain the integrity of a visual inspection system or a system in which the card reader is located shoreside rather than on board a vessel. This kind of risk-based approach will be more efficient and more effective than the one-size-fits-all approach reflected in the notice of proposed rulemaking.

The agencies had also expressed concern that visual inspection of TWICs would not allow an employer to know whether a TWIC had expired or been revoked. We believe this concern could be handled by requiring the employer to communicate with the government regularly (via computer or telephone) to check for expired or revoked TWICs. The procedures for using this information to bar access to a vessel could be spelled out in the security plan or ASP. For example, upon discovering that a mariner's TWIC had been revoked, the employer could send a notice to all its vessels directing them not to allow that mariner to come on board.

On a related point, the proposed rule states that the holder of a TWIC who regularly enters and departs from a secure area of a vessel on a continual basis will not have to verify the TWIC for each such event. With the small crew of most domestic towing vessels, our industry segment has a great need for this provision. We endorse its retention. The same concept should be extended to small maritime facilities. Many facilities that serve the tugboat, towboat, and barge industry have very few employees, or even no employees at all. Security measures at these facilities are handled by the marine crew when the vessel arrives at the dock. These same employees will need recurring unescorted access to the facility, just as they do to the vessel.

### **Streamline TWIC Processing and Establish an Interim Work Provision**

The towing industry continues to face a serious challenge in meeting all of its manpower needs. The agencies' estimate that processing TWIC applications will take 30 to 60 days will seriously impede the ability of companies to bring new mariners into the industry in a timely manner. This will exacerbate the towing industry's already acute vessel personnel shortage problem and threatens to undermine the national economy by disrupting the movement of domestic waterborne commerce. **We urge TSA to do everything in its power to reduce the TWIC processing time. We also propose that the final rule include an interim work provision for new hires.** During a mariner's initial trip to an enrollment center to apply for a TWIC, **TSA could utilize the instant background check technology** currently in place to allow for the purchase of a handgun, or similar procedures such as those used to grant temporary security clearances to military personnel applying for secret clearances. (The National Instant Criminal Background Check System (NICS) typically produces responses within 30 seconds.) If no matching records are returned, an individual mariner should be allowed to work onboard a vessel for an interim period until his or her full background investigation has been completed and a TWIC card issued. Subject to procedures spelled out in the vessel security plan or ASP, the rule should allow newly hired employees who have applied for a TWIC and met company-specific entry requirements to be placed in service on a vessel on a probationary basis. This would address companies' needs to crew their vessels in a timely manner and mariners' needs to begin earning an income as soon as possible. It would also avoid the serious disruptions to the flow of commerce that could result if companies were forced to lay up vessels because of delays in obtaining TWICs for crewmembers. Tying the interim work provision to approved procedures contained in the vessel security plan or ASP would ensure that security is not compromised pending the issuance of a TWIC.

On a related point, TSA and the Coast Guard have stated that they anticipate rolling out the TWIC program in phases. **We propose a similar phase-in in enforcement of the TWIC requirements.** One approach would be to begin enforcing the TWIC requirements only after TSA and the Coast Guard have achieved certain benchmarks in the production and distribution of the cards. For example, if TSA has begun the rollout in Los Angeles/Long Beach, vessels and facilities would continue to operate under their current security plans until TSA can verify that it has distributed X% of the cards to the population of mariners and other workers who are required to carry them. Another option would be to begin enforcing the TWIC requirements when TSA can verify that the backlog for issuing cards has been reduced

to a predetermined (low) level. In the interim, the access control procedures currently in place under approved security plans and Alternative Security Programs would continue to apply, providing assurance that only authorized personnel are gaining unescorted access to secure maritime locations.

### **Reduce the Financial and Administrative Burdens of TWIC Issuance**

The TWIC requirement will impose substantial new costs on U.S. mariners, both for the card itself (an estimated \$149) and for travel to and from the TWIC enrollment and pick-up locations. These costs will not only impose a burden on individual mariners, but will place the tugboat, towboat, and barge industry at a disadvantage when competing for labor with other businesses that have no such requirement. TSA and the Coast Guard should seek to alleviate the financial and administrative burdens of TWIC issuance wherever possible.

TSA and the Coast Guard propose to establish TWIC enrollment centers in the top 125 U.S. ports by tonnage. This vessel- and cargo-focused approach does not take into account the home locations of the mariners who crew these vessels. In fact, many mariners live outside of the ports their vessels serve, and, of particular concern to AWO, the proposed list includes very few inland river locations. This proposed list includes eight enrollment locations on the entire Mississippi River system – two of which are in Minneapolis and St. Paul. Meanwhile, the proposal completely misses important mariner population centers such as Paducah, Kentucky. **Enrollment centers should be established in Paducah and Rock Island, IL, Little Rock, AK, Sault Ste. Marie, MI, and Morgan City, Monroe and Shreveport, LA to reduce the burden on towing vessel crewmembers.**

In addition, while the NPRM says that mariners will be able to choose the location to pick up their TWIC, it does not detail the process through which this will be accomplished. **AWO strongly supports establishing alternative pick-up locations to reduce time, travel, and financial impositions on companies and mariners and to avoid unnecessarily impeding the flow of domestic commerce. The agencies should also explore options for delivering TWICs to mariners that do not require additional travel, such as registered mail or other secure means.** Requiring a mariner to make two trips to an enrollment center or other pick-up location imposes significant burdens on TWIC holders and increases the likelihood of unacceptable delays in crewing vessels and keeping commerce moving.

### **Other Comments**

*Agency Responsibilities:* AWO recommends that the Coast Guard be designated as the agency that evaluates, inspects and tests for compliance with part 1572. This is consistent with the Coast Guard's responsibility to verify that regulated marine entities are conducting access control activities in accordance with their approved vessel and facility security plans. To add TSA to that mix creates unnecessary confusion. Access control procedures should be verified by only one federal agency. In that vein, it is completely unnecessary for TSA to board vessels. The Coast Guard already maintains an extensive security verification program that includes boardings of every vessel that is required to have a security plan.

*Recordkeeping Requirements:* The proposed rule requires that a vessel operator maintain complete records for two years of every occasion when an individual enters or departs a secure area. This is an extraordinarily burdensome requirement that serves no apparent purpose. If no security incident has occurred relating to a particular entry to a secure area, there is no need to keep a record of the person involved.

The proposed rule also requires that a copy of the TWIC addendum to the vessel security plan be maintained onboard the vessel. This requirement should be revised to require that the TWIC addendum be maintained at the same location as the vessel security plan or Alternative Security Program. Under the AWO ASP, for example, the ASP must be maintained by the Company Security Officer at a secure location, but need not be carried on board the towing vessel. The same approach should apply to the TWIC addendum.

*Processing of Applications for TWICs and Merchant Mariner Credentials:* The proposed rule states that an individual must apply for and receive a TWIC before submitting an application for a Merchant Mariner Credential (MMC, the proposed successor to licenses and Merchant Mariner Documents). Even under the existing system, delays in issuing Coast Guard credentials are often substantial and impose serious hardships on mariners and their employers. Instead, the agencies should be able to begin processing both applications simultaneously. For example, while TSA is conducting the security checks necessary to issue a TWIC, the Coast Guard could be reviewing a mariner's medical information, an issue that often results in delays in the issuance or renewal of licenses. The Coast Guard could wait to issue the MMC until after the TWIC has been issued, but a mariner should not have to wait to apply for a credential, and the Coast Guard should not delay the process of reviewing the MMC application, pending the issuance of the TWIC.

*Exemption of Foreign Vessels:* The proposed rule would not apply to foreign vessels calling at U.S. ports. Foreign crewmembers would not be required to obtain TWICs, and foreign vessels would not be required to have card readers on board, despite the fact that foreign vessels with foreign crews arguably constitute a far greater security threat than domestic vessels with U.S. crews. We find this situation deeply disturbing. The U.S. government is proposing to impose enormous new costs on U.S.-based businesses and U.S. citizen mariners for dubious security benefit while imposing no such requirements on foreign businesses and mariners! This serves the purposes of neither security nor the U.S. economy. The TWIC proposal should be revised as described herein to reduce the burdens associated with the TWIC program and, where appropriate, scale back the program to better reflect the true security risk of U.S.-based vessel and facility operations.

*Extension of Comment Period:* The TWIC proposal is a voluminous and complex document that will impact more than 750,000 individuals, thousands of businesses, and the economy and security of the United States. This enormously significant proposal, which the agencies have had more than three years to prepare, threatens major disruptions in the domestic maritime industry. A 45-day comment period is far too short for a proposal of this magnitude. AWO requests that TSA and the Coast Guard extend the comment period for 90 days to allow needed time for industry to review, understand, and comment on the implications and

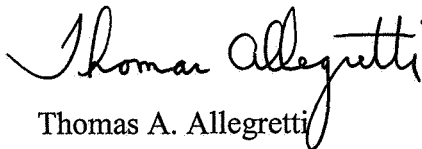
technical details of the TWIC proposal, and to provide the agencies with thoughtful, well-crafted alternative approaches for consideration.

**Conclusion**

AWO urges TSA and the Coast Guard to ensure that the TWIC requirements are implemented in an effective, efficient way that does not impose overwhelming burdens on mariners and their employers, and that does not establish barriers to the smooth flow of waterborne commerce. The Coast Guard's original goal of "doing no harm" in the effort to modernize mariner credentialing was, and remains, the right one. This NPRM requires substantial revision to meet that standard.

Thank you for the opportunity to comment. AWO would be pleased to answer any questions or provide further information to assist TSA and the Coast Guard in revising the proposed regulations.

Sincerely,



Thomas A. Allegretti