

TWIC Rule Update, AAPA Port Administration and Legal Issues Seminar  
Miami, Florida – February 13, 2007

The Transportation Security Administration published the final rule for the first phase of the Transportation Worker Identification Credential (TWIC) program on January 25, 2007 (72 FR 3492, Rule correction 72 FR 5632). The first phase requires all persons seeking **unescorted access to secure areas** of regulated maritime facilities and regulated vessels to obtain a biometric TWIC. A separate notice of proposed rulemaking later in 2007 will address card reader requirements for vessels and facilities.

Timeline. TSA selected Lockheed Martin Corporation to conduct worker enrollments starting March 26, 2007 at approximately 10 high risk ports (TSA has not yet announced which ports are first). Enrollment will occur at all U.S. ports over the next 15 months. Facilities are required to notify workers of enrollment site locations and deadlines. Once workers at a port have had the opportunity to enroll and receive TWIC cards, TSA will establish a deadline for workers to possess a TWIC by COTP zone. On September 25, 2008, all mariners and workers requiring unescorted access to secure areas will require a TWIC.

Cost. The fee for a TWIC will be \$137.25 and the initial card will be valid for five years. Workers with current hazmat endorsements for commercial driver's licenses, or with other comparable background checks, will pay a discounted fee of \$105.25.

Background Check. The TSA background check will include a check of criminal history, immigration and intelligence databases and records indicating mental incapacity. The TWIC program uses disqualification factors identical to those used by the Department of Transportation for issuing HAZMAT endorsements for commercial driver's licenses. Workers will have the opportunity to **appeal** (i.e., prove the records upon which disqualification is based are incorrect) and to request a **waiver** (i.e., prove they no longer present a security threat or no longer lack mental capacity). Workers will have the ability to appeal final TSA decisions to a federal administrative law judge.

The Good News for Ports. TWIC is a federal program administered by TSA and the Coast Guard, with most burdens and headaches shouldered by the federal government.

The Other News for Ports. Facilities should carefully examine how they define their **secure areas** and **restricted areas**. A side by side companion is required in restricted areas while monitoring may be sufficient in secure areas. When Phase II is implemented in late 2007 and 2008, facilities will have to install biometric card readers and adjust facility entry, and possibly departure, practices. At a minimum, Port Authority/facility/labor attorneys should be familiar with, at a minimum, the regulations in 33 CFR Parts 101 and 105, and 49 CFR Part 1515, 1570, and 1572 Subpart B, E and F.

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