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DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

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ON THE

HOMELAND SECURITY FAILURES: TWIC EXAMINED

BEFORE THE

COMMITTEE ON HOMELAND SECURITY

U. S. HOUSE OF REPRESENTATIVES

OCTOBER 31, 2007

Good Morning Mr. Chairman and distinguished Members of the Committee, thank you for the opportunity to speak with you about how the Coast Guard, in partnership with the Transportation Security Administration (TSA), is implementing the Transportation Worker Identification Credential (TWIC) program.

At the outset, I would like to note that with the commencement of TWIC enrollment in Wilmington, Delaware on October 16th, this program reached a major milestone where the plans and capabilities developed in the past will start to yield the security benefits envisioned for the future. In the 15 months since DHS proposed TWIC requirements in a Notice of Proposed Rulemaking (NPRM), the Coast Guard and TSA have been laying a solid foundation in the form of regulation, policy, systems, and capabilities which sets the stage to succeed with enrollment and compliance. The deliberate process and careful steps taken to lay this foundation have been absolutely crucial to ensure that we gain the full security benefit from TWIC and minimize the negative impact of the program on trade and the many hundreds-of-thousands of people who will be enrolling.

Background

In understanding where we are today, I would like to review the efforts of the past. The TWIC program builds on the security framework established by Congress in the Maritime Transportation Security Act of 2002 (MTSA). Coast Guard regulations stemming from the Act established security requirements for maritime vessels and facilities posing a high risk of being involved in a transportation security incident. The MTSA also required the Department of Homeland Security (DHS) to issue a biometric transportation security card to licensed and documented U.S. mariners and those individuals granted unescorted access to secure areas of MTSA regulated 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. 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 which MTSA intended.

The TSA and Coast Guard published a joint TWIC Notice of Proposed Rulemaking 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 I will discuss below.

Policy

The Coast Guard and TSA developed several supplementary documents to help those who are required to comply with the regulation. To explain in detail how the Coast Guard and TSA intend to apply TWIC regulations, we 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 July 6, 2007. This cornerstone guidance document will assist the maritime industry and general public with TWIC compliance and is designed to ensure consistent application across all of our MTSA regulated facilities and vessels. Two Small Business Administration Compliance Guides, one for owners and operators and another for TWIC applicants, were written to explain the program in basic language intended for the general public. These guides are available on our web sites. Internal guidance documents for training, implementation, and enforcement for Coast Guard and TSA personnel continue to be developed.

Stakeholder Engagement

From the outset, engagement with our affected stakeholders has been crucial to the program's success. The comments during the NRPM comment period provided valuable insight into the unique operational issues facing labor, the maritime facilities and vessels which would have to implement the program and comply with its requirements. Comments questioning the technological and economic feasibility of employing the TWIC cards and card readers in the maritime environment led to the splitting of the rule and card reader requirements being addressed in a separate rulemaking. 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 which needed more clarification. The stakeholder dialogue we 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 Waterways Operators meetings and American Association of Port Authorities conferences.

Reader Requirements

The Coast Guard, with the support of TSA, has commenced work on the second TWIC rule which will address the requirement for TWIC readers in the maritime environment. The Coast Guard and TSA solicited and received valuable input and recommendations from the Towing Safety Advisory Committee (TSAC), Merchant Marine Personnel Advisory Committee (MERPAC) and the National Maritime Security Advisory Committee (NMSAC) on specific aspects of potential applications of readers for vessels and facilities. As in all aspects of the TWIC program, our goal in this is to enhance maritime security while balancing the impact upon the stakeholders who are at the forefront of providing that security. As this second rule will have a significant economic and operational impact on the maritime industry, which is also a critical component of our national maritime security efforts, we will continue to seek their input and recommendations as we develop regulations for which they must comply.

To move forward establishing these requirements, TSA and the Coast Guard had to address a principal stakeholder concern that open slot, or “contact” readers are not appropriate for application in all maritime environments or operations. To address this, the Coast Guard and TSA chartered the NMSAC to recommend a specification which would enable the TWIC and readers to function in a “contactless” fashion, without having to insert a card into a reader. Combining the operational experience of maritime stakeholders with the technical expertise of members of the security and biometrics industry, the NMSAC produced recommendations which resulted in a working specification published by TSA and the Coast Guard on September 19th. This specification will enable biometrics manufacturers to produce readers which can be applied to the TWIC pilot and eventually towards future reader requirements promulgated by the Coast Guard.

Redefinition of Secure Areas

An aspect of the TWIC program which provides flexibility in implementation enables owners or operators of facilities containing both a maritime transportation portion and a non-maritime transportation portion, such as areas devoted to manufacturing or refining operations, to request a redefinition of their secure area where TWICs will be required for unescorted access. This process includes an amendment to a facility’s security plan. This process is currently underway across the United States with owners and operators engaging directly with their local Coast Guard Captains of the Port (COTP) to determine how TWIC will be applied at their facilities.

Enrollment Sites by Port

Over the last several months, we have reviewed and reevaluated the list of original TWIC fixed enrollment locations, which included enrollment in 130 ports. With a goal of maximizing convenience and service to the maritime community, we solicited input from Coast Guard COTP and stakeholders, resulting in the addition of a number of fixed enrollment sites and the shifting of others. Today, the list contains 147 port enrollment locations including key inland ports such as Paducah, Kentucky as well as remote locations such as Saipan, where MTSA regulated facilities and vessels routinely operate.

Reader Pilot Testing

In accordance with the SAFE Port Act of 2006, TSA and the Coast Guard have identified geographically and operationally diverse port and vessel locations willing to participate in the reader pilot testing. We have been engaged in planning these pilot tests with the ports of Los Angeles, Long Beach, New York, New Jersey, Brownsville and Annapolis, Maryland, all of whom have volunteered to participate and have received grants to purchase and install readers with associated equipment. The initial planning and testing protocols have been developed and we look forward to deploying and testing readers in real world environments in the coming months. The data and lessons learned from the pilot tests will be invaluable to inform the second proposed rulemaking in accordance with Congressional intent.

The Way Ahead

As enrollment rolls out across the country, the Coast Guard is also focusing on implementation and enforcement of TWIC provisions. Compliance for regulated facilities will be staged for each COTP Zone to gain the security benefits of the program at the earliest moment. TSA and the

Coast Guard will monitor enrollment progress and will announce compliance in each zone at least 90 days in advance. Vessels and mariners will have to have TWICs by the national compliance date of September 25, 2008.

To leverage TWIC's biometric capability, the Coast Guard is in the process of procuring handheld biometric card readers which will enable us to verify the identity of an individual and the validity of their credential during our vessel and facility inspections and spot checks. We are also on track with developing the systems necessary to implement the provision for newly hired employees to work while they await issuance of a TWIC. Internally, we are crafting policy for enforcement of the TWIC program in our ports and will seek enforcement collaboration with other law enforcement agencies.

Conclusion

The TWIC program is a complex endeavor. However, we are working with TSA to set a solid foundation upon which to execute enrollment and implementation. We have accomplished important milestones, strengthened working relationships with public and industry stakeholders, and held a steadfast commitment to protecting the maritime transportation system while facilitating commerce. While we acknowledge much has been accomplished to set the stage for this program, we cannot guarantee a trouble free process. Inevitably, we will continue to encounter additional challenges, as happens in any major endeavor of this complexity. As we have in the past, we will address each of these in turn, to the best of our ability, in keeping with the best public interest, and we will keep you informed on our progress. I would be happy to take any questions you have at this time.