



Docket Management Facility (M-30)
U. S. Department of Transportation,
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
Attn: Docket No. USCG-2007-28915

May 26, 2009

Re: Comments on Transportation Worker Identification Credential (TWIC) – Reader Requirements, 33 CFR Part 105

The International Liquid Terminals Association (ILTA) is pleased to submit the attached comments on the above-referenced advanced notice of proposed rulemaking (ANPRM).

ILTA is an international trade association that represents eighty-five commercial operators of bulk liquid terminals, aboveground storage tank facilities, and pipeline companies located in forty-three countries. In addition, ILTA includes in its membership more than three hundred companies that are suppliers of products and services to the bulk liquid storage industry.

ILTA member facilities include deepwater, barge, and pipeline terminals whose bulk liquid commodities are essential to the national and international economies. These terminals interconnect with and provide services to the various modes of bulk liquid carriers, including oceangoing tankers, barges, tank trucks, rail cars, and pipelines. The commodities handled include a variety of chemicals, crude oil, petroleum products, renewable fuels, asphalt, animal fats and oils, vegetable oils, molasses, and fertilizers. Customers who store products at these terminals include oil producers, chemical manufacturers, product manufacturers, food growers and producers, utilities, transportation companies, commodity brokers, government agencies, and the military.

Thank you for your consideration of the attached comments.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'R. Peter Weaver', is written over a light blue horizontal line.

R. Peter Weaver
Director of Regulatory Compliance and Safety

The comments presented herein address specific questions posed by the Coast Guard plus additional comments by ILTA.

I. General Comments:

ILTA believes it is important to recognize that the TWIC program, including the proposed Card Reader Rules, will result in unintended access restrictions for terminal customers. Facilities with heavy truck traffic, or those hosting large contractor crews, can potentially experience significant congestion at access points. Technical malfunctions can also severely hamper the ability of essential personnel to efficiently access these facilities.

Where customers perceive the burdens of port facility access to be great, and where non-port supply alternatives are available, customers will migrate business away from port facilities whenever practical. The potential for unreasonable access burdens to harm port facility competitiveness is acute with regard to petroleum/fuel facilities.

Compliance costs extend well beyond capital costs which themselves can be significant, particularly for small companies. They include routine maintenance, upgrades and replacement, and staff overhead to administer the program.

In light of these facts, ILTA's comments below convey the basic point that the need to meet reasonable and appropriate personnel verification requirements must be balanced against allowing a continual, effective flow of trade that is not unduly constrained by unnecessary or redundant process steps.

II. The USCG Policy Option to Allow Incorporation of the TWIC into Existing Physical Access Control Systems Should be Continued for Facilities in the Middle Tier at MARSEC Level 1

ILTA agrees with the USCG approach of tiering reader requirements as a function of both risk and MARSEC level, including consideration for consequence, criticality and utility of TWIC in reducing risk. ILTA also agrees with much of the Table of Potential Reader Requirements found in Section IV(D), "Reader Requirements." However at MARSEC Level 1, facilities in Risk Group B, the middle risk group, should be provided with an alternative to performing a monthly electronic read of the TWIC to "verify its authenticity" and visually verifying the card every day. Specifically, these middle risk facilities should be allowed to continue operating under the provisions of USCG Navigation and Inspection Circular (NVIC) 03-07, "Incorporation of the TWIC into Existing Physical Access Control Systems" (EPACS).

Section 3.3. f. of NVIC 03-07 provides an appropriate level of identity verification for Risk Group B facilities at MARSEC Level 1 while maintaining card authentication. Therefore, EPACS should remain a valid option, allowing facility-specific access cards "to be used to grant unescorted access to secure areas if associated access control systems match an individual's facility or vessel access card to their valid TWIC upon entry. Owners/operators need to ensure

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that their own access control systems are updated to show whether the employee has a TWIC, even when an employee presents only the ... facility-specific card, and must have a way to cancel or deactivate the ... facility-specific card when the TWIC has expired.” ILTA proposes that this option also require that the facility have the ability to cancel or deactivate the facility-specific card upon notification that the TWIC associated with the facility-specific card has been lost, stolen, or added to the Hotlist.

The EPACS option is appropriate for multiple reasons: (1) To date, there have been no publicly identified instances where these EPACS provisions have failed to achieve their stated objectives; (2) facilities would only be expected to issue access cards to individuals with reason to regularly access the facility; and (3) EPACS would provide for rapid, if not immediate, de-activation of any facility-specific card if its associated TWIC were found to have a problem. This EPACS provision would be consistent with the “chain-of-trust” concept that the USCG uses in its discussion of alternate biometrics, Section IV(C) of the ANPRM.

Random visual checks for TWICs, as called for under 3.3. f. of NVIC 03-07, should remain a part of the EPACS implementation option. This alternative option would preclude the necessity of having the credential-holder perform a fingerprint match against his TWIC on a random day once per month as proposed.

III. Recurring Unescorted Access Should be Allowed but Expanded to 30 Individuals for Fixed Facilities [IV(F)]:

The Coast Guard has asked for specific comment on the concept of recurring unescorted access. ILTA recommends that the number be increased to 30 persons who are allowed access on a continual basis without repeating the identity verification requirement at each entry. This is still a limited number, and these regular facility personnel would be well “known” and recognized among colleagues.

IV. A “Biometric Match” Should Allow Visual Checking of the Card Holder Against the Photograph:

The ANPRM discusses a biometric match in several places, often in the context of a fingerprint match. ILTA believes that the definition of a biometric match using either a TWIC or a facility-specific access card should include a visual matching of the individual against the photograph on his credential. This is the same biometric match that the Transportation Security Administration (TSA) has been using for airline security with conventional government-issued identification cards. The photographic biometric match would not require a “chain-of-trust” provided the individual was referenced against a TWIC. The photographic biometric match using a facility-specific access card under the EPACS provisions recommended in Section II above would inherently include “chain-of-trust” considerations.

V. “Privilege Granting” Should Be Provided as a No-Cost Option [IV(C)]:

ILTA fully supports the option of privilege granting, at the facility’s discretion, in addition to or in lieu of facility polling of the Hotlist. Several ILTA members have expressed interest in this ability to further enhance their tracking of employees and other personnel against the Hotlist using privilege granting. Other members have expressed their objection to exercising privilege granting for confidentiality reasons. In either case, DHS’s offer of privilege granting as an optional provision is appropriate.

Owners and operators should not pay a fee for this option. ILTA believes that the costs associated with procuring TWIC, which already support development and maintenance of a Hotlist, should sufficiently cover any expanded capability requirements by the Department of Homeland Security (DHS), including the TSA and USCG, to offer privilege granting with no additional cost to the user. Furthermore, the benefits from privilege granting, namely a more rapid correlation between new entries on the Hotlist and the facilities granting access to these individuals, would be shared by the public and private sectors.

VI. Use of a PIN Should Not Be Required Beyond Initial Card Activation(s) [IV(D)]:

ILTA agrees that PIN access provides minimal incremental safety value, and high potential for unnecessary complications (e.g. being forgotten), especially if its use is only occasional, such as during elevated MARSEC levels. Therefore, ILTA fully agrees that the requirement for use of the PIN would have a net negative impact and supports the elimination of the use of the PIN subsequent to TWIC issuance.

VII. ‘Risk Group B’ Should Be Modified to Exclude Facilities and Vessels Handling Products Designated as Hazardous Only Due to Storage and Handling at Elevated Temperature [IV(E)]:

ILTA agrees with the concept of designating facility risk groupings by the nature of the commodities that they handle. However, there is one additional class of products which has not been designated and has been incorrectly grouped within an elevated risk category. This class is products that are designated as a hazardous material *exclusively* due to the fact that they are stored and transported at elevated temperatures, rather than due to any sort of inherently hazardous nature of the product itself.

The primary product that falls into this category is asphalt cement. It is ILTA’s position that asphalt facilities that do not store or handle bulk quantities of any other hazardous materials do not present an elevated risk of a terrorist attack. Therefore, these facilities storing only products designated as hazardous due to elevated temperature (e.g. asphalt cement) should be designated as a part of ‘Risk Group C.’

VIII. Reader Calibration and Compliance Should Not be Subject to USCG Audit [IV(G)]:

TWIC readers should not be subject to a Coast Guard or third party audit. The Maritime Transportation Security Act of 2002 does not explicitly provide USCG with such authority. It is the responsibility of the operator to maintain card reader equipment and, as required by regulation, to provide maintenance logs to the Coast Guard upon request.

IX. Recordkeeping Requirements Should be Limited to 30 Days Rather Than Two Years [IV(G)]:

There is no practical justification for a requirement to maintain facility access logs for a protracted two-year period as proposed in the ANPRM. A 30-day record retention requirement would be ample to verify any questions relating to facility access. Furthermore, certain terminal facilities may have these records maintained off-site in centralized corporate databases rather than on-site. Therefore, ILTA recommends that DHS allow facilities three (3) days to produce facility access logs upon request.

X. Additional Comments:

In the event that central DHS systems experience a malfunction, each regulated facility should be automatically provided with interim allowances to operate using the latest available version of the Hotlist, and operations should *not* be artificially constrained because of errors out of the facility's control. Similarly, provisions for temporary allowances should be available for continued operations in the event of localized equipment failures.

Time allowed for full implementation should provide each facility with the ability to prototype card readers and integrate them into existing facility access systems, including both hand-held readers and fixed systems. The card reader technology is still evolving and software will need to integrate into existing and new systems. In addition, card reader availability will be contingent upon manufacturing capabilities being able to meet undetermined levels of demand. Finally, training will be required for all TWIC holders accessing these facilities. For these reasons, ILTA suggests allowing 24-36 months for full implementation.

You may contact Peter Weaver with questions or for further information at (202) 842-9200.