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[9110-05-P]

**DEPARTMENT OF HOMELAND SECURITY**

**Transportation Security Administration**

[Docket Nos. TSA–2006–24191; USCG-2006-24196]

**Exemption to extend the expiration date of certain Transportation Worker**

**Identification Credentials**

**AGENCY:** Transportation Security Administration (TSA), DHS.

**ACTION:** Notice of Temporary Exemption.

**SUMMARY:** TSA is granting a temporary exemption from requirements in 49 CFR part 1572 regarding the expiration of certain Transportation Worker Identification Credentials (TWIC<sup>®</sup>s). For the duration of this exemption, TSA will extend the expiration date of TWIC<sup>®</sup>s that expired on or after March 1, 2020, by 180 days.

**DATES:** This exemption becomes effective on April 10, 2020, and remains in effect through July 31, 2020, unless otherwise modified by TSA through a notice published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Hamilton, 571-227-2851, or TWIC.Issue@tsa.dhs.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 11, 2020, the World Health Organization declared the SARS-CoV-2 virus (Novel Coronavirus) and Coronavirus Disease 2019 (COVID-19) to be a global

pandemic. On March 13, 2020, the President declared a National Emergency.<sup>1</sup> The President then issued Executive Order 13909, *Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of Covid-19* (March 18, 2020), which declared: "... it is critical that all health and medical resources needed to respond to the spread of COVID-19 are properly distributed to the Nation's healthcare system and others that need them most at this time."

In response to these actions, a majority of states have imposed significant restrictions on commercial activities and individual movement, except when performing essential functions. Moreover, health experts and the government have strongly recommended that individuals practice social distancing when engaging with others, to minimize the spread of COVID-19. During this time, it is vital to move cargo expeditiously through the supply chain, and to ensure that medical supplies and home goods reach healthcare centers and consumers. Maritime facilities and vessels are an integral part of the supply chain and must continue to operate at full capacity.

The Department of Homeland Security (DHS), through TSA and the U.S. Coast Guard (Coast Guard), published a final rule on January 25, 2007 that establishes requirements for merchant mariners and workers who need unescorted access to secure areas of maritime facilities and vessels.<sup>2</sup> These individuals must successfully complete a security threat assessment (STA) conducted by TSA and hold a TWIC<sup>®</sup> in order to enter secure areas without escort.

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<sup>1</sup> See Proclamation 9994, *Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (March 13, 2020). Published at 85 FR 15337 (March 18, 2020).

<sup>2</sup> The final rule implements requirements in the Maritime Transportation Security Act (MTSA), Pub. L. 107-295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub. L. 109-347 (October 13, 2006).

TSA and the Coast Guard administer the TWIC<sup>®</sup> program. Persons who are required to hold a TWIC<sup>®</sup> (defined as a mariner credentialed under 46 CFR part 10 or 12, and anyone needing unescorted access to a secure area of a vessel or facility regulated under 33 CFR parts 104, 105, or 106) are required to enroll and provide proof of identity and fingerprints at approved enrollment sites, designated and operated by a TSA trusted agent.<sup>3</sup> TSA's regulations require individuals who seek unescorted access to secured areas of maritime facilities and vessels to undergo an STA in order to receive a TWIC<sup>®</sup>. A TWIC<sup>®</sup> expires five years from the date of issuance<sup>4</sup> and individuals must go to a TSA enrollment center to initiate a new STA to receive a new credential.

There are 2,294,797 active TWIC<sup>®</sup>s in circulation today, and TSA records indicate that 234,536, or approximately 10% of them, will expire in the next six months. Social distancing practices in response to the COVID-19 crisis make gathering at enrollment centers unwise or prohibited. Approximately one-third of TSA's TWIC<sup>®</sup> enrollment centers have been forced to close because they are collocated with commercial or government offices that are closed as a result of COVID-19. For those that are operating, the process of collecting fingerprints, which is required for TWIC<sup>®</sup>, and completing the enrollment process may introduce risk to enrollment center staff or TWIC<sup>®</sup> applicants.

### **Authority and Determination**

TSA may grant an exemption from a regulation if TSA determines that the exemption is in the public interest.<sup>5</sup> TSA has determined that it is in the public interest to

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<sup>3</sup> See 49 CFR § 1572.17.

<sup>4</sup> See 49 CFR § 1572.23(a).

<sup>5</sup> See 49 U.S.C. § 114(q). The Administrator may grant an exemption from a regulation prescribed in carrying out this section if the Administrator determines that the exemption is in the public interest. The

grant an exemption from the current expiration standard in 49 CFR part 1572, which is five years from the date of issuance, given the need for transportation workers to continue to work without interruption during the current the COVID-19 crisis. This exemption will allow TWIC<sup>®</sup> holders to continue to provide vital services during the COVID-19 crisis, while TSA ensures effective transportation security vetting.

TSA has determined that there is little to no risk to transportation security associated with this exemption for the following reasons:

1. The extension of expiration dates applies only to individuals who have already successfully completed a comprehensive STA;
2. The extension of expiration dates is applicable to a relatively small percentage of TWIC<sup>®</sup> holders and is for a set, limited duration subject to possible modification by TSA before the end of the effective period to ensure consistency with the duration and scope of the COVID-19 crisis;<sup>6</sup>
3. TSA will continue to recurrently vet these TWIC<sup>®</sup> holders against Federal terrorism and national security-related watch lists, and the DHS Office of Biometric Identity Management (OBIM) IDENT system (a DHS-wide system for storage and processing of biometric and biographic information for national security) for security threat, criminal history, and immigration status checks during the extension period; and
4. TSA retains its full authority to suspend or immediately revoke an

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Administrator of TSA delegated this authority to the Executive Assistant Administrator for Operations Security, effective March 26, 2020, during the period of the COVID-19 National Emergency.

<sup>6</sup> The exemption remains in effect until July 31, 2020, unless otherwise modified by TSA through a notice published in the **Federal Register**. TSA considered tying the duration of the exemption to the duration of a public health emergency declaration, but believes that providing a set day is necessary because individuals without expired TWIC<sup>®</sup>s need a set date in order to initiate the steps necessary to renew their TWIC<sup>®</sup>s.

individual's TWIC<sup>®</sup> if the agency determines the holder is no longer eligible, in accordance with 49 CFR § 1572.5(b) and 1572.19(c).

### **Exemption**

1. *Eligibility.* This exemption applies to TWIC<sup>®</sup>s that expire on or after March 1, 2020.

2. *New Expiration Dates for Eligible TWIC<sup>®</sup>s.* For the duration of this exemption, the expiration date for an eligible TWIC<sup>®</sup> is 180 days after the expiration date that appears on the face of the credential. TSA deems these eligible TWIC<sup>®</sup>s to be valid for the purpose of unescorted access to secured areas of maritime facilities and vessels. If the 180-day period extends beyond the duration of this temporary exemption, the TWIC<sup>®</sup> will be valid for the remainder of the extended 180-day period based on the expiration date of the TWIC<sup>®</sup>.

3. *Continuation of Vetting.* For the duration of the exemption, TSA will continue to recurrently vet the holders of the eligible TWIC<sup>®</sup>s against governmental watch lists for security threat, criminal history, and immigration status. TSA retains its full authority to suspend or immediately revoke an individual's TWIC<sup>®</sup> if the agency determines the holder is no longer eligible, in accordance with 49 CFR § 1572.5(b) and 1572.19(c).

Date:

/s/

Stacey Fitzmaurice,

Executive Assistant Administrator for Operations Support