

the interests of national security; and to foreign and international governmental authorities in accordance with law and international agreement.

(e) The applicant must certify the following statement in writing:

As part of my employment duties, I am required to have unescorted access to secure areas of maritime facilities or vessels in which a Transportation Worker Identification Credential is required; I am now, or I am applying to be, a credentialed merchant mariner; or I am a commercial driver licensed in Canada or Mexico transporting hazardous materials in accordance with 49 CFR 1572.201.

(f) The applicant must certify and date receipt the following statement, immediately before the signature line:

The information I have provided on this application is true, complete, and correct, to the best of my knowledge and belief, and is provided in good faith. I understand that a knowing and willful false statement, or an omission of a material fact on this application, can be punished by fine or imprisonment or both (see section 1001 of Title 18 United States Code), and may be grounds for denial of a Transportation Worker Identification Credential.

(g) The applicant must certify the following statement in writing:

I acknowledge that if the Transportation Security Administration determines that I pose a security threat, my employer, as listed on this application, may be notified. If TSA or other law enforcement agency becomes aware of an imminent threat to a maritime facility or vessel, TSA may provide limited information necessary to reduce the risk of injury or damage to the facility or vessel.

§ 1572.19 Applicant responsibilities for a TWIC security threat assessment.

(a) *Implementation schedule.* Except as provided in paragraph (b) of this section, applicants must provide the information required in 49 CFR 1572.17, when so directed by the owner/operator.

(b) *Implementation schedule for certain mariners.* An applicant, who holds a Merchant Mariner Document (MMD) issued after February 3, 2003, and before September 25, 2008, or a Merchant Marine License (License) issued after January 13, 2006, and before September 25, 2008, must submit the information required in this section, but is not re-

quired to undergo the security threat assessment described in this part.

(c) *Surrender of TWIC.* The TWIC is property of the Transportation Security Administration. If an individual is disqualified from holding a TWIC under 49 CFR 1572.5, he or she must surrender the TWIC to TSA. Failure to surrender the TWIC to TSA may result in immediate revocation under 49 CFR 1572.5(b) and/or civil penalties.

(d) *Continuing responsibilities.* An individual who holds a TWIC must surrender the TWIC, as required in paragraph (a) of this section, within 24 hours if the individual—

(1) Is convicted of, wanted, under indictment or complaint, or found not guilty by reason of insanity, in a civilian or military jurisdiction, for a disqualifying criminal offense identified in 49 CFR 1572.103; or

(2) Is adjudicated as lacking mental capacity or committed to a mental health facility, as described in 49 CFR 1572.109; or

(3) Renounces or loses U.S. citizenship or status as a lawful permanent resident; or

(4) Violates his or her immigration status and/or is ordered removed from the United States.

(e) *Submission of fingerprints and information.* (1) TWIC applicants must submit fingerprints and the information required in 49 CFR 1572.17, in a form acceptable to TSA, to obtain or renew a TWIC.

(2) When submitting fingerprints and the information required in 49 CFR 1572.17, the fee required in 49 CFR 1572.503 must be remitted to TSA.

(f) *Lost, damaged, or stolen credentials.* If an individual's TWIC is damaged, or if a TWIC holder loses possession of his or her credential, he or she must notify TSA immediately.

[72 FR 3595, Jan. 25, 2007, as amended at 72 FR 55048, Sept. 28, 2007]

§ 1572.21 Procedures for TWIC security threat assessment.

(a) *Contents of security threat assessment.* The security threat assessment TSA conducts includes a fingerprint-based criminal history records check (CHRC), an intelligence-related check, and a final disposition.

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(b) *Fingerprint-based check.* The following procedures must be completed to conduct a fingerprint-based CHRC:

(1) Consistent with the implementation schedule described in 49 CFR 1572.19(a) and (b), and as required in 33 CFR 104.200, 105.200, or 106.200, applicants are notified.

(2) During enrollment, TSA—

(i) Collects fingerprints, applicant information, and the fee required in 49 CFR 1572.17;

(ii) Transmits the fingerprints to the FBI/CJIS in accordance with the FBI/CJIS fingerprint submission standards.

(iii) Receives and adjudicates the results of the check from FBI/CJIS, in accordance with 49 CFR 1572.103 and, if applicable, 49 CFR 1572.107.

(c) *Intelligence-related check.* To conduct an intelligence-related check, TSA completes the following procedures:

(1) Reviews the applicant information required in 49 CFR 1572.17;

(2) Searches domestic and international Government databases required to determine if the applicant meets the requirements of 49 CFR 1572.105, 1572.107, and 1572.109;

(3) Adjudicates the results of the check in accordance with 49 CFR 1572.103, 1572.105, 1572.107, and 1572.109.

(d) *Final disposition.* Following completion of the procedures described in paragraphs (b) and/or (c) of this section, the following procedures apply, as appropriate:

(1) TSA serves a Determination of No Security Threat on the applicant if TSA determines that the applicant meets the security threat assessment standards described in 49 CFR 1572.5. In the case of a mariner, TSA also serves a Determination of No Security Threat on the Coast Guard.

(2) TSA serves an Initial Determination of Threat Assessment on the applicant if TSA determines that the applicant does not meet the security threat assessment standards described in 49 CFR 1572.5. The Initial Determination of Threat Assessment includes—

(i) A statement that TSA has determined that the applicant poses a security threat warranting denial of the TWIC;

(ii) The basis for the determination;

(iii) Information about how the applicant may appeal the determination, as described in 49 CFR 1515.5 or 1515.9, as applicable; and

(iv) A statement that if the applicant chooses not to appeal TSA's determination within 60 days of receipt of the Initial Determination, or does not request an extension of time within 60 days of receipt of the Initial Determination in order to file an appeal, the Initial Determination becomes a Final Determination of Security Threat Assessment.

(3) TSA serves an Initial Determination of Threat Assessment and Immediate Revocation on the applicant, the applicant's employer where appropriate, the FMSC, and in the case of a mariner applying for a TWIC, on the Coast Guard, if TSA determines that the applicant does not meet the security threat assessment standards described in 49 CFR 1572.5 and may pose an imminent security threat. The Initial Determination of Threat Assessment and Immediate Revocation includes—

(i) A statement that TSA has determined that the applicant poses a security threat warranting immediate revocation of a TWIC and unescorted access to secure areas;

(ii) The basis for the determination;

(iii) Information about how the applicant may appeal the determination, as described in 49 CFR 1515.5(h) or 1515.9(f), as applicable; and

(iv) A statement that if the applicant chooses not to appeal TSA's determination within 60 days of receipt of the Initial Determination and Immediate Revocation, the Initial Determination and Immediate Revocation becomes a Final Determination of Threat Assessment.

(4) If the applicant does not appeal the Initial Determination of Threat Assessment or Initial Determination of Threat Assessment and Immediate Revocation, TSA serves a Final Determination of Threat Assessment on the FMSC and in the case of a mariner, on the Coast Guard, and the applicant's employer where appropriate.

(5) If the applicant appeals the Initial Determination of Threat Assessment or the Initial Determination of Threat

Assessment and Immediate Revocation, the procedures in 49 CFR 1515.5 or 1515.9 apply.

(6) Applicants who do not meet certain standards in 49 CFR 1572.103, 1572.105, or 1572.109 may seek a waiver in accordance with 49 CFR 1515.7.

§ 1572.23 TWIC expiration.

(a) A TWIC expires five years after the date it was issued at the end of the calendar day, except as follows:

(1) The TWIC was issued based on a determination that the applicant completed a comparable threat assessment. If issued pursuant to a comparable threat assessment, the TWIC expires five years from the date on the credential associated with the comparable threat assessment.

(2) The applicant is in a lawful non-immigrant status category listed in 1572.105(a)(7), and the status expires, the employer terminates the employment relationship with the applicant, or the applicant otherwise ceases working for the employer. Under any of these circumstances, TSA deems the TWIC to have expired regardless of the expiration date on the face of the TWIC.

(b) TSA may issue a TWIC for a term less than five years to match the expiration of a visa.

§§ 1572.24—1572.40 [Reserved]

Subpart B—Standards for Security Threat Assessments

§ 1572.101 Scope.

This subpart applies to applicants who hold or are applying to obtain or renew an HME or TWIC, or transfer an HME. Applicants for an HME also are subject to safety requirements issued by the Federal Motor Carrier Safety Administration under 49 CFR part 383 and by the State issuing the HME, including additional immigration status and criminal history standards.

§ 1572.103 Disqualifying criminal offenses.

(a) *Permanent disqualifying criminal offenses.* An applicant has a permanent disqualifying offense if convicted, or found not guilty by reason of insanity,

in a civilian or military jurisdiction of any of the following felonies:

(1) Espionage or conspiracy to commit espionage.

(2) Sedition, or conspiracy to commit sedition.

(3) Treason, or conspiracy to commit treason.

(4) A federal crime of terrorism as defined in 18 U.S.C. 2332b(g), or comparable State law, or conspiracy to commit such crime.

(5) A crime involving a transportation security incident. A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as defined in 46 U.S.C. 70101. The term “economic disruption” does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employer-employee dispute.

(6) Improper transportation of a hazardous material under 49 U.S.C. 5124, or a State law that is comparable.

(7) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device. An explosive or explosive device includes, but is not limited to, an explosive or explosive material as defined in 18 U.S.C. 232(5), 841(c) through 841(f), and 844(j); and a destructive device, as defined in 18 U.S.C. 921(a)(4) and 26 U.S.C. 5845(f).

(8) Murder.

(9) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility.

(10) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, *et seq.*, or a comparable State law, where one of the predicate acts found by a jury or admitted by the defendant, consists of one of the crimes listed in paragraph (a) of this section.