TTD A BOLD VOICE FOR TRANSPORTATION WORKERS

COMMENTS OF THE TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

BEFORE THE TRANSPORTATION SECURITY ADMINISTRATION AND THE U.S. COAST GUARD

ON THE NOTICE OF PROPOSED RULEMAKING TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL IMPLEMENTATION IN THE MARITIME SECTOR; HAZARDOUS MATERIALS ENDORSEMENT FOR A COMMERCIAL DRIVER'S LICENSE

Docket Nos. TSA-2006-24191; USCG-2006-24196

July 6, 2006

The Transportation Trades Department, AFL-CIO (TTD) is pleased to submit comments on the implementation of the Transportation Workers Identification Credential (TWIC) and specifically on its application to port, maritime, rail and related workers. TTD consists of 31 member unions, including those that represent thousands of longshore, maritime, rail and other workers who work in and around port facilities and who will be directly affected by the NPRM recently issued by the Transportation Security Administration (TSA) and the United States Coast Guard.[1] In addition, TTD directly participated in the regulatory proceeding that implemented the threat assessments and background checks for Hazmat truck drivers and continues to work with our aviation unions to address concerns that have been raised in that mode of transportation. And finally, we understand that TSA has an interest in eventually extending the TWIC program to other modes of transportation and thus our unions not directly covered by the NPRM have a vested interest in this issue as well.

No one wants to secure our nation's ports and other transportation assets more than the men and women represented by our affiliated unions. Our members are on the front-lines and they will be the ones first affected in the event that a terrorist attack is carried out using or attacking our nation's transportation system. We also understand that access control procedures, including the use of tamper-resistant identification cards, is part of this effort and we support initiatives to identify and bar individuals who pose a terrorism security risk from working in security-sensitive transportation jobs.

[1] Attached is a list of TTD member unions.

Transportation Trades Department, AFL-CIO
888 16th Street, NW • Suite 650 • Washington, DC 20006 • tel: 202.628.9262 • fax: 202.628.0391 • www.ttd.org
Edward Wytkind, President • Michael A. Ingrao, Secretary-Treasurer

With that said, any TWIC program must strike the right balance – it must enhance the security of our transportation system, but must also preserve the legitimate rights of workers and not unduly infringe on the free flow of commerce. While there are clearly aspects of the NPRM that do strike this balance, too many areas in the proposal fall short in meeting this most basic test.

As explained in more detail below, the TWIC process must be better focused on identifying true security risks and not unjustly punish someone twice for a bad decision made years ago. The list of disqualifying crimes remains too broad and the appeals and waiver process must be improved to provide for a fair and expeditious determination. The TWIC should be a national credential and additional checks from local jurisdictions should not be imposed. Further, the individual workers should not be forced to pay for the costs of this national security program and privacy rights must be respected. Finally, there are unique difficulties in applying this rule to the rail sector that must be rectified. In addition to these policy issues, we would note that some parts of the NPRM are facially inconsistent with the statute creating and governing the maritime TWIC program.

We hope and expect that these shortcomings can be rectified in the final rule. An access control system that is both fair to workers and enhances security is not inconsistent. To the contrary, a workable, reasonable and fair TWIC program will enlist workers as partners and allow TSA and the Coast Guard to focus on genuine risks to transportation security. With this in mind, we hope the agencies will seriously consider and adopt the suggested changes included in these comments and draft a final rule that strikes the right balance between fairness and security.

Disqualifying Offenses

We remain concerned that the list of felony offenses that will disqualify a worker from holding a TWIC is too broad, vague and not adequately focused on eliminating true security risks. This is not just our position. During debate on the recently-passed House port security bill, Representative Peter King (R-NY), Chairman of the House Homeland Security Committee, expressed the following position on the scope of disqualifying offenses:

> I have discussed this issue with the Ranking Member, Mr. Thompson, and it is important to note today, as we consider the SAFE Port Act, that the Committee on Homeland Security is concerned that the list of criminal offenses that will initially disqualify a worker from holding a maritime transportation security card includes vague and overly broad crimes. The proposed list of disqualifying offenses appears to go significantly beyond the already existing mandate of exclusion and we hope that TSA and the Coast Guard, as it finalizes its rules, will narrow and limit the list of disqualifying criminal offenses to more accurately identify individuals that pose a terrorism security risk and who are therefore unworthy to hold a maritime transportation security card.[2]

We could not agree more with this position. It must be remembered that Section 70105 of the Maritime Transportation Security Act (MTSA) established the limits and parameters for the maritime TWIC program. Specifically, Section 70105 makes it clear – for felony convictions, an individual may not be denied a security card unless the individual has been convicted within the

[2] 152 Cong. Rec. 2120 (daily ed. May 4, 2006) (statement of Rep. King).

past seven years or released from incarceration in the last five, of a felony "that the Secretary believes could cause the individual to be a terrorism security risk to the United States." In short, the burden is on the Secretary – a card cannot be denied to an individual unless a felony conviction exists that could cause that person to be a terrorism security risk. We maintain that some of the broad descriptions of disqualifying offenses listed in Section 49 CFR 1572.103 go beyond this mandate and this limitation.

By way of example, the NPRM says that all felonies involving dishonesty, fraud or misrepresentation make an individual at least an initial terrorism security risk. If a worker is convicted of a felony in writing bad checks, that would appear to qualify as a crime of "dishonestly or fraud." While we understand why a financial institution may not want to hire that person, we simply do not understand how that makes the individual a terrorism security risk unqualified to work in a port.

By way of another example, we are likewise concerned that all felony drug possessions with intent are included on the list of disqualifying offenses. While no drug offense can be condoned, many states have adopted laws that make possession of even a minor amount of drugs to be classified as possession with intent to distribute. In addition, in some states, individual users of controlled substances can be convicted of intent to distribute for agreeing to sell a small amount of their drugs to undercover police officers.

We understand that significant traffickers of narcotics may indeed present a security risk, but as the above example illustrates, there are countless situations where an individual could be convicted of possession with intent simply for carrying a relatively small amount of an illegal substance. In the Hazmat rule, TSA decided to remove simple possession from the list of disqualifying crimes because it recognized that the mere act of possessing drugs did not rise to a standard of a terrorism risk. Specifically, TSA reasoned that "simple drug possession generally does not involve violence against others or reveal a pattern of deception, as crimes like smuggling or bribery often do."[3] TSA concluded that "there should be no adverse impact resulting from removing conviction for simple possession of controlled substances from the list of disqualifying crimes."[4]

We agreed with that decision and likewise contend that possession of a controlled substance can turn into possession with intent arbitrarily when states set the amount of a substance that triggers a higher violation. Individual states are of course permitted to adopt drug laws as they see fit, but their characterizations for local law enforcement purposes should not determine who constitutes a terrorism security risk. For these reasons we ask TSA to modify the disqualifying offenses to distinguish between those individuals convicted of possession with intent but in reality are not major drug dealers that would constitute a terrorism security risk.

We also remain concerned that a felony involving a transportation security incident continues to be a permanently disqualifying offense and that this term has not been sufficiently defined. The MTSA and the NPRM define this term to include a security incident that results in, among other things, a "transportation service disruption" or an "economic disruption in a particular area." We

[3] 69 Fed. Reg. 68723 (Nov. 24, 2004).
[4] Id.

do recognize that TSA has modified this definition, pursuant to SAFETEA-LU, to specify that a "work-stoppage, or other nonviolent employee-related action, resulting from an employer-employee dispute is not a transportation security incident." While this is clearly a step in the right direction, we remain concerned that there are conditions and requirements that make this exclusion too narrow. The reality is that this term could still be interpreted to include a wide range of activities that while disruptive to commerce or transportation, should not permanently disqualify a person from holding a TWIC. We note that in the recently House-passed SAFE Port Act, Section 101 excludes from the definition of economic disruption those activities "unrelated to terrorism and are committed during a labor strike, demonstration, or other type of labor unrest." We ask that TSA adopt this exclusion and extend it for felonies involving a transportation security risk.

Our purpose here is not to point out every instance in which a conviction or disqualifying offense would not create a terrorism security risk. Instead, we cite the above concerns as examples and to make the broader point that a clearer nexus between terrorism security and the crimes that will disqualify an individual from holding a maritime TWIC must be established. While we understand a perfect list of felonies may not exist, we ask TSA to go back and review the current list and retain only those disqualifying offenses that are targeted to rooting out true terrorist risks.

Comparison with Hazmat Statute

The TSA and the Coast Guard note in the NPRM that they are adopting the disqualifying offenses currently in place for the Hazmat program. While we agree that the two programs should be as similar as possible, it must be remembered that the Hazmat program and the maritime TWIC program are governed by two different statutes. Specifically, Section 1012 of the USA Patriot Act (codified at 49 U.S.C. 5308(a)) grants TSA broader discretion in deciding what crimes will disqualify someone from the industry and how far back the criminal record should be examined. Section 70105(c) places more limits on the Secretary for the maritime program – only those crimes that make someone a terrorism security risk to the United States should be included. In fact, during consideration of the Hazmat background check program, TTD specifically asked TSA to adopt a list of criminal offenses that in reality was consistent with the MTSA standard. While TSA claimed it was adopting such an approach, we continue to believe that the crimes adopted for the Hazmat program and proposed for a maritime TWIC do not in fact meet the standard established by Section 70105.

Refinement to Crimes

In response to our calls to limit the list of disqualifying crimes, TSA has often stated that such refinements are unnecessary because a worker can always apply for a waiver. While we appreciate the inclusion of a waiver process in Section 70105, and its adoption in the NPRM, it should not be used as an excuse to adopt an overly broad list of felonies and allow other problems with the list of disqualifying crimes to go unaddressed.

Deeming someone a terrorism security risk is not a characterization that should be casually rendered and places an obvious burden on a person to overcome that label. While TSA may be able to report that it is granting waivers in the Hazmat program, we do not know how many

workers have chosen not to apply for a Hazmat endorsement in the first place because of the long list of disqualifying offenses. Furthermore, TSA will need to review and process the criminal histories of approximately 750,000 port and related workers pursuant to this NPRM on an extremely tight deadline. On top of the other procedural challenges inherent in this program, it makes little sense to overload the waiver process with individuals who should never have been disqualified in the first place.

Characterization of Offenses

We are disappointed that the NPRM does not provide for any clear mechanism for a person to challenge the determination that a particular crime is one described as a disqualifying offense. There may be situations where a person is indeed convicted of a crime that TSA fits into one of the broad descriptions of a disqualifying offense, but a legitimate argument could be made to the contrary. A worker should have an opportunity to make this argument, but as the NPRM is currently structured it does not appear that such a challenge is grounds for a waiver or an appeal. We ask TSA to address this problem in the final rule by specifically allowing workers to challenge the characterization of an offense.

Definition of Conviction

The NPRM mandates that those individuals who are wanted or under indictment for listed felonies will be prevented from obtaining a TWIC. The MTSA clearly states that for felonies only those that have been "convicted" can be denied a security card. It is patently unfair for the federal government to essentially exclude someone from employment because that person has been accused of committing a listed offense. While we have serious concerns about the subjective determinations allowed under the NPRM, we do note that it would allow TSA to exclude an individual that is wanted or under indictment for a particularly serious or security related crime. We therefore do not see why all individuals wanted or under indictment for disqualifying crimes should be automatically denied a TWIC.

Look-Back Provision

Under the NPRM, there are ten crimes that will disqualify a person from holding a TWIC even if those offenses have been committed beyond the seven year and five year window adopted for other felony convictions. While these offenses are indeed serious, the statute simply does not give TSA the discretion to disqualify an individual for convictions more than seven years old or those released from incarceration in the past five years. Again, Section 70105(c) of the MTSA is clear on this point:

> An individual may not be denied a transportation security card under subsection (b)[5] unless the Secretary determines that the individual – (A) **has been convicted within the**

[5] There should be no disagreement that a "security card under subsection (b)" is indeed a maritime TWIC Card. Subsection (b) of Section 70105 describes the card as a "biometric transportation security card" that provides unescorted access to a secure area of a vessel or facility. The NPRM in turn describes a TWIC as a "Federal biometric credential issued to an individual" (Section 1570.3) that is needed to enter a secure area of a port facility or vessel.

> **preceding 7-year period** of a felony or found not guilty by reason of insanity of a felony that the secretary believes could cause that person to be a terrorism security risk to the United States … **or had been released from incarceration within the preceding 5-year period** for committing a felony described in subparagraph (A) (emphasis and footnote added).

TSA could argue that Section 70105(c)(1)(D) gives the Secretary the authority to deny a card to an individual that "otherwise poses a terrorism security risk to the United States." While this authority does indeed exist, it cannot reasonably be read to allow the Secretary to ignore the limits imposed in the very same subsection of the statute. It is a basic tenant of statutory construction that statutes are to be read as to render all their provisions meaningful.[6] If, however, TSA reads Section 70105(c)(1)(D) to allow an unlimited look-back, it would completely nullify the time limits Congress imposed in Section 70105(c)(1)(A) and (B). In fact, in an earlier version of a bill that became the MTSA, there were no limits on how far background checks could go back similar to the provisions of the USA Patriot Act. But when the Conference Committee agreed on a final product, the seven and five limits were imposed. TSA is essentially attempting to operate under the earlier versions of the bill (or the USA Patriot Act), but of course the governing law is Section 70105(c) which does impose limits on how far back felony convictions can be reviewed. The NPRM violates those limits and we would ask that the final rule follow the plain language of the statute.

Waiver and Appeal Process and ALJs

As indicated earlier, we worked directly with Members of Congress in the negotiations that led to Section 70105 and the inclusion of a waiver process was a major priority for our member unions. We were therefore pleased that TSA chose to incorporate this waiver into the Hazmat program and it has been offered as part of the NPRM.

However, we remain concerned that the waiver process, as envisioned in the NPRM, requires workers to apply back to the very same agency that determined the individual was a security risk in the first place. Given the high public anxiety over terrorist risks and the insular nature of this process, we are concerned that TSA might reject waivers that are otherwise meritorious.

In an attempt to address this problem, we have asked TSA, on numerous occasions, to allow workers to have their waiver and appeal cases heard, at some point in the process, before an Administrative Law Judge (ALJ) at a hearing on the record. This would allow employees to make their case in front of an impartial decision-maker not bound by political pressures or subject to agency interference. In addition, ALJ decisions would establish case precedent that would better define what constitutes a security risk. This would bring a level of fairness and consistency to a system that is central both to employee rights and national security.

[6] *Mail Order Assn. of America v. Postal Service*, 986 F.2d 509, 515 (D.C. Cir. 1993).

Because TSA has rejected our calls for this basic protection, we have been forced to turn to Congress for redress on this point. Fortunately, the recently passed Coast Guard and Maritime Transportation Act of 2006 (Conf. Rep. 109-413, Section 309) does include an ALJ right.[7] We would note that Section 70105 (c)(3) of the MTSA already requires the Secretary to establish an appeals process that "includes notice and opportunity for a hearing." It is now clear that TSA must provide an ALJ process for all appeal and waiver reviews and we ask that this be clearly articulated in the final rule. In addition, it must be remembered that for the ALJ process to be effective, cases must be heard and decided as expeditiously as possible so that employees are not unjustly barred from returning to work. We ask that TSA ensure that there are sufficient ALJs available to hear appeals and waiver cases and that procedures are put in place to ensure timely and fair consideration of these matters.

Application of Waivers to Subjective Decisions

We are also concerned that the waiver process in the NPRM does not apply to security threat assessments made by TSA for subjective reasons under Section 1572.107. Under this Section, TSA can disqualify someone for criminal offenses that are not on the disqualifying list, if TSA determines that other convictions are "extensive," if the conviction is for a "serious" crime, or if the person was imprisoned for over one year. Putting aside our concerns with these broad and subjective criteria, we do not understand how TSA is implementing this without allowing workers to seek waivers as they do for crimes listed in Section 1572.103.

More to the point, Section 70105(c)(2) of the MTSA specifically mandates that TSA afford a waiver for all reasons a worker may be disqualified from holding a transportation security card. We understand that TSA does not afford waivers under the Hazmat program for disqualifications for subjective decisions. While we objected to that decision in the Hazmat proceeding on policy grounds, the case here is different – for the maritime TWIC, a waiver is a statutory right and cannot be denied by TSA at its discretion.

Timeline for Appeals

We are also concerned that the timeline TSA has set forth for individuals to appeal an initial determination may be unworkable for mariners on deep sea ships. In the NPRM, TSA recognizes that even hazmat truck drivers currently having to appeal a TSA decision are having difficulty complying with the existing 30 day deadline. TSA proposes to extend response deadlines in the appeal process from 30 to 60 days to address this problem. However, mariners are typically at sea for periods of 120 days or longer and as such may miss the opportunity to appeal an adverse determination. A mariner on a long voyage should have at least 60 days from the time he or she has returned to the U.S. and signed off the ship to appeal an initial determination by TSA.

[7] While the Coast Guard bill has yet to be signed into law, it is expected that President Bush will do so in the coming days. The Conference Report has passed both the House and Senate.

National Standard Needed

We are concerned with language in the NPRM that would specifically allow states to impose additional and broader background checks and to do so without any of the protections or limitations included in the federal program. If security threat assessments are needed to enhance our national security, TSA should adopt and enforce a national standard. It makes little sense for TSA to establish a national program, force workers to pay for this program (over our objections), and then allow local jurisdictions to use national security as an excuse to create yet another security review process.

There simply should not be a difference in what constitutes a security risk based on what state or jurisdiction a port resides in. Furthermore, TSA and the Coast Guard have a stated intent, both articulated in the NPRM and in other documents, to achieve a level of consistency governing threat assessments and transportation credentials. Allowing states to arbitrarily impose different security requirements is inconsistent with this objective and should be reversed. Failing that step, TSA must ensure that due process and privacy rights provided for at the federal level apply to the states. We would note that Congress specifically mandated this for the Hazmat program in the SAFETEA-LU legislation and we would expect TSA to extend this to the maritime side. We also seek clarification on how TSA intends to evaluate and enforce the requirement that states, with separate checks, comply with these statutory due process requirements.

Along these same lines, we ask that the portability of the TWIC be clarified and enhanced. Specifically, if a worker obtains a TWIC for work in one port or terminal, but for whatever reason is asked to work in a different port, the worker should not be forced to go through any additional checks or pay additional fees. While we understand that under the NPRM terminal operators retain the right to control access to their facilities, the TWIC should be leveraged to allow the transfer of workers to be accomplished with as little disruption as possible.

Cost of the TWIC

We are vehemently opposed to the provisions of the NPRM that pass the costs of this program on to individual workers. The security threat assessments and the background checks mandated in this proposal are considered necessary to enhance the security of our nation's ports and are part of the overall effort to fight terrorist elements. Given the reality of this national priority, the government, and not individual workers, must absorb the costs of this program.

We understand that the DHS Appropriations Act (P.L. 108-90, Section 520) directs TSA to "charge reasonable fees for providing credentialing and background investigations in the field of transportation." We would note that even with the rider in place, nothing requires the costs be absorbed by workers – it simply states that "reasonable fees" be charged. The TWIC card, and the accompanying background check, is essentially a condition of employment and will surely benefit our employers. The port and related facilities will be more secure and access control procedures will be in place through readers and biometric cards. If the federal government refuses to step in and fund this security mandate, employers must be required to fund a program

that will directly benefit their operations. It should be remembered that employees will have to go through the time and effort to apply for this card and may incur additional expenses if an appeal and waiver are needed. It is neither fair nor reasonable to ask them to also pay for a security mandate that has broader benefits.

Privacy of Information

As we have consistently stated, maintaining the privacy and confidentiality of the information collected and generated by the TWIC process is crucial. Towards this end and at our request, Section 70105(e) includes a specific mandate that "information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual's employer." Consistent with this requirement, information that is gathered from the use of the card, i.e. when the employee enters and leaves a port facility, must not be shared with the employer. The TWIC program was conceived and mandated by Congress to enhance the security of our nation's seaports. For this effort to succeed, it must remain solely focused on that objective and not be used for any non-security reason. We ask that TSA extend the privacy protections in the NPRM to include information generated by the card's use and to ensure that all the privacy protections are fully enforced.

Access to Secure Facilities

Access to port facilities by ship crew members, ship visitors, suppliers, union representatives and others while a vessel is docked at a U.S. port has been an ongoing problem since terminal facility security plans went into effect. We continue to believe that the Coast Guard, in implementing facility security regulations, must strike the right balance between having access controls in place to ensure security while allowing routine shipboard activities to proceed, particularly as this NPRM is finalized. It is highly unfair for U.S. mariners to be required to obtain a TWIC but then not have that clearance recognized as a security enhancement in the context of terminal facility regulations. Port facilities should allow shore leave or crew changes in order to be consistent with the international maritime security regime and to protect the rights of mariners.

Application of TWIC to Other Modes of Transportation

The NPRM notes that "there are a variety of individuals who work in other modes of transportation that may be subject to the security threat assessment requirement proposed here." Specifically, the NPRM states that certain rail employees may be required to obtain a TWIC if entering a secure area and that commercial truck drivers delivering or retrieving goods at a port would likewise be covered. We support the proposed requirement that truck drivers entering a port hold a TWIC and we urge that this provision remain in the final rule. For rail workers, we do have some concerns regarding the application of this rule, which are explained in more detail below.

Beyond these specific workforces, TSA broadly proclaims that it is "considering whether to incorporate the TWIC system into all modes of transportation … requests comments from all of the transportation industry – rail, mass transit, pipeline and aviation – not just those affected immediately by these specific proposed maritime rules." While we do have some specific

comments below, we reject the notion that this proceeding can be used to solicit comments on applying TWIC across the entire transportation system. Each mode has its own unique characteristics. Asking a mass transit union, for example, to evaluate this maritime specific rule and determine how such a system might be imposed in their industry is simply not a reasonable request. It must also be recognized that each mode has its own vulnerabilities and risk factors. TSA and stakeholders should carefully consider whether imposing TWIC makes sense and will work effectively in each area that it is proposed. If TSA is serious about extending this program, we urge it to specifically solicit the views of those affected in separate proceedings.

Application to the Rail Industry

We understand that under the NPRM rail workers with so-called unescorted access to a secure area of a port will need to apply for and be granted a TWIC. It must be remembered that the unique nature of the rail industry will make it extremely difficult to identify every rail employee at various terminals that may at one point need unescorted access to secure area of a port. Assignments for rail workers often change and workers may be moved around a system to account for a surge in cargo in particular areas. The result is that a significant number of rail workers may be forced to go through the TWIC process but then rarely and on an irregular basis actually use it to enter a port. Conversely, a rail worker that does not have a TWIC will face difficulty if an assignment requires that employee to enter a port facility.

To alleviate these problems, we would ask that the final rule require rail carriers to assign a "utility employee" to provide escorted access to a train crew and other rail workers that will need to enter a port. This will greatly reduce the number of rail employees that will need go through the TWIC process, provide a level of certainty for rail operations and minimize costs to both employees and employers. From a security standpoint allowing rail employees to be escorted (instead of requiring a TWIC) is consistent with the objectives and procedures included in the NPRM for those without a TWIC. Rail workers entering a port will be in the facility for a limited period of time and will be confined to a specific area. Allowing the TWIC requirement to be satisfied by escorted access in this situation is reasonable and could be accomplished without negatively impacting security. At a minimum, TSA should allow port workers that have a TWIC to provide escorted access to rail employees.

Application of TWIC to Aviation

As TSA is well aware, Congress has mandated that workers in the aviation sector undergo separate threat assessments, including a review of criminal histories. We should note that aviation workers are still denied access to a waiver process, rights afforded to Hazmat and maritime employees, and this double-standard should be rectified. Even though these threat assessments are in place, electronic identity cards have yet to be issued by TSA. Given the unique nature of the aviation industry, and the mobility of its workforce, an electronic biometric identification card would allow these employees to move more efficiently through the system and at the same time enhance aviation security. We hope that TSA will work with our aviation unions to implement an aviation TWIC card based on the checks that have already been completed on those employees and consistent with the protections and limitations previously articulated.

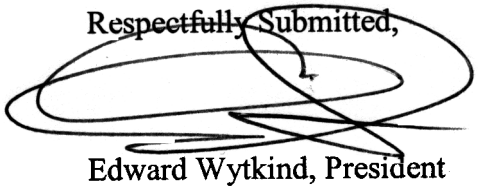
Customs Problem

There is also a specific problem for workers who must work in Custom Agency controlled areas. These workers are subject to separate background checks that give individual port directors great leeway in making these threat assessment decisions. In particular, a port director can use a felony conviction to disqualify someone even if that felony was committed well beyond the seven or ten year look-back period that govern maritime or aviation respectively. In fact, there have been several situations where an airport worker, after passing an extensive background check required by the aviation statute, had his or her customs credentials pulled because of a felony conviction older than ten years. This double-standard makes no sense and has no security-based rationale. As TSA moves forward with efforts to avoid duplication of background checks, this problem and similar issues must be resolved.

Final Thoughts

As stated at the outset, transportation labor has always supported policies that will enhance the security of our nation's seaports and our entire transportation system. We understand and recognize that the TWIC program is part of the federal response to terror, and we specifically support its stated purpose of preventing terrorist elements from infiltrating our transportation network. But for this program to be successful the legitimate rights of workers must be preserved and those that pose no terrorist threat must not be denied their right to work in this industry. The comments and suggestions included in this submission, based on the input from front-line workers, will both enhance security and ensure that workers covered by the TWIC program are afforded basic and reasonable protections. Therefore, we urge TSA and the Coast Guard to accept these changes that will in the end strengthen the final TWIC rule. Thank you for the opportunity to share the views of transportation workers.

Respectfully Submitted,



Edward Wytkind, President
Larry I. Willis, General Counsel
Transportation Trades Department, AFL-CIO
888 16th Street, N.W. Suite 650
Washington, D.C. 20006

TTD MEMBER UNIONS

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Federation of Professional and Technical Engineers (IFPTE)
International Longshoremen's Association (ILA)
International Longshore and Warehouse Union (ILWU)
International Organization of Masters, Mates & Pilots, ILA (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Airways Systems Specialists (PASS)
Sheet Metal Workers International Association (SMWIA)
Transportation · Communications International Union (TCU)
Transport Workers Union of America (TWU)
United Mine Workers of America (UMWA)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW)
United Transportation Union (UTU)

April, 2006