

December 23, 2016

TSA PRA Officer  
Office of Information Technology  
Transportation Security Administration  
601 South 12<sup>th</sup> St.  
Arlington, VA 20598

RE: Information Collection Request (ICR) Revision for the  
Transportation Worker Identification Credential (TWIC) Program  
Docket No. TSA-2006-24191<sup>1</sup>

The Institute of Makers of Explosives (IME)<sup>2</sup> appreciates the opportunity to provide comments on the above-captioned notice to revise the currently approved TWIC program ICR.<sup>3</sup> The revision is proposed in order to eliminate obsolete request information, to adjust fees, and to accommodate policy to allow TWICs to satisfy security threat assessments (STA) under other vetting programs.

**Interest of IME**

IME represents U.S. manufacturers and distributors of commercial explosive materials and oxidizers as well as other companies that provide related services. These products are used in every state and are distributed worldwide by all modes of transportation. The nature of our business subjects our employees to a number of redundant federal programs that require STA determinations.

**Background**

Since 1970, the commercial explosives industry has been regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) under Federal Explosives Law (FEL). Among other things, the FEL requires a STA of all individuals who will possess explosives. Commercial explosives companies are required to ensure that all employees have been vetted by ATF. With the 2001 enactment of the USA PATRIOT Act<sup>4</sup>, employees who operate commercial motor vehicles transporting explosives and other hazardous materials are subject to the Department of Homeland Security's (DHS) Transportation Security Administration (TSA) hazardous materials endorsement (HME) STA. Some commercial explosives companies also have employees subject

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<sup>1</sup> 81 FR 73126 (October 24, 2016).

<sup>2</sup> IME is a nonprofit association founded in 1913 to provide accurate information and comprehensive recommendations concerning the safety and security of commercial explosive materials. Our mission is to promote safety and the protection of employees, users, the public and the environment; and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use and disposal of explosive materials used in blasting and other essential operations. IME does not sponsor trade shows or marketing events.

<sup>3</sup> Control number 1652-0047.

<sup>4</sup> "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act" of 2001.

to the Maritime Transportation Security Act of 2002 (MTSA), which requires TSA to perform STAs in order for these individuals to be issued a TWIC as a precondition for unaccompanied access to vessels and port facility areas. In the intervening years, other security-based vetting programs have layered on these, including the TSA Pre✓<sup>®</sup> program and DHS “trusted traveler” programs.

Most recently, DHS finalized procedures through an ICR to implement the Personnel Surety Program (PSP) STA under its Chemical Facility Anti-Terrorism Standards (CFATS) regulations. A number of commercial explosives companies with workers vetted by ATF also find themselves subject to CFATS PSP vetting requirements. The final PSP ICR was significantly modified following congressional action which mandated that DHS provide full reciprocal recognition of other equivalent Federal vetting programs. At this time, only the PSP and TSA’s Indirect Air Carrier program offer full reciprocal recognition to other equivalent Federal vetting programs.

It is with this perspective that we offer the following comments.

### Comments

Under this ICR, TSA is proposing several revisions to accommodate an “enroll once, use many” policy that would allow for the reuse of personally identifiable information (PII) for individuals in need of multiple access privileges. The “enroll once, use many” policy was introduced by the White House in 2010 as a way to reduce credentialing redundancy by leveraging existing PII across the spectrum of comparable Federal vetting programs.<sup>5</sup> We strongly support TSA’s ability to reuse PII collected under one Federal vetting program to satisfy redundant clearances under other equivalent Federal vetting programs. Virtually all individuals subject to federal vetting and credentialing programs are successfully screened. The redundancy of these vetting programs is costly to the government and covered individuals, and, since core disqualifications are virtually the same, there is no added security value.

This ICR is similar to one TSA proposed earlier this year that would allow STAs conducted under the HME program to be used to satisfy the vetting requirements of other comparable Federal vetting programs such as TSA’s Pre✓<sup>®</sup> program.<sup>6</sup> Under this ICR, the TWIC program would be revised to allow the reuse of TWIC-PII to determine eligibility under both TSA’s Pre✓<sup>®</sup> and HME programs without requiring an additional background check for the applicant. Such reciprocity saves time and costs for applicants and the government. These revisions should be supported.

Most importantly, TSA also proposes to revise the ICR to implement a recent legal interpretation defining the term “in the field of transportation.” TWIC is a fee-supported program and TSA is only allowed to retain fees paid by individuals “in the field of transportation.”<sup>7</sup> TSA had not, heretofore, defined this term. TWIC eligibility has been limited to fact-specific categories of applicants that Congress has identified.<sup>8</sup> There is no doubt that TSA can retain processing fees from these categories of applicants. These narrow eligibility

<sup>5</sup> Surface Transportation Security Priority Assessment, March 2010, recommendation 16.

<sup>6</sup> 81 FR 54585 (August 16, 2016).

<sup>7</sup> 6 U.S.C. 469(a).

<sup>8</sup> For example, individuals needing access to secure areas on maritime facilities or vessels, or applying to be a credentialed merchant mariner, or a commercial driver licensed in Canada or Mexico transporting hazardous materials.

categories prevent efforts to leverage the TWIC to be a credential of choice for those with security-sensitive access needs. During the last renewal of this ICR, however, TSA asked for, and OMB approved, a new category of applicant that would be open to individuals “authorized by TSA to obtain a TWIC STA or apply for a TWIC.”<sup>9</sup> Subsequently, IME asked TSA to establish and publish the process by which categories of individuals could petition TSA to be authorized to apply for TWICs. Before TSA could act to authorize categories of individuals under this new ICR option, the agency needed to expressly identify any new categories of individuals as being “in the field of transportation” in order to retain TWIC processing fees. TSA published notice of this legal interpretation in September.<sup>10</sup> As summarized in the notice, “in the field of transportation” includes, “an individual, activity, entity, facility, owner, or operator that is subject to regulation by TSA, DOT, or the U.S. Coast Guard, and individuals applying for trusted traveler programs.” TSA’s intuitive and encompassing definition, based on agency jurisdiction, will allow the TWIC to meet multiple vetting needs. Stakeholders have advocated for TSA to authorize TWICs for workers at CFATS facilities. TSA specifically names the CFATS program as one where the “in the field of transportation” definition would apply. We applaud TSA’s initiative and these revisions.

Finally, TSA proposes to remove ICR requirements that allowed TWIC holders to extend the expiration date (EED) of their TWICs by three years pending issuance the U.S. Coast Guard’s so-called “reader rule.” The reader rule has been finalized and the EED requirements are obsolete.<sup>11</sup> The TSA proposal also adjusts the fees charges to applicants to account for a \$2.75 saving in the cost charged by the FBI to provide fingerprint-based criminal history checks. We support these program updates.

## **Conclusion**

We support efforts to allow comparability between Federal vetting programs. Once an individual has been deemed not to be a security threat, the Federal Government should be willing to share and reuse this information to satisfy other redundant vetting requirements. TSA should be commended for this action.

If you have any questions concerning this submission, please do not hesitate to contact me.

Respectfully submitted,

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<sup>9</sup> OMB Control Number 1652-0047 approved July 31, 2014.

<sup>10</sup> Notice of this interpretation was published in the Federal Register. See 81 FR 66671 (September 28, 2016).

<sup>11</sup> 81 FR 57652 (August 23, 2016).