

GUIDANCE FOR THE IMPLEMENTATION OF THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL PROGRAM IN THE MARITIME SECTOR

Background

The TWIC requires standardized identification procedures for personnel needing unescorted access to secure areas of facilities and vessels in order to reduce risk and mitigate the effects of a transportation security incident (TSI).

NOTE: Discussions with the U.S. Coast Guard are underway to carve out a separate definition for a maritime TSI.

Discussion

Possession of a TWIC is required to gain unescorted access to secure areas of vessels and facilities. The term "secure area" is defined as "the area over which the owner or operator has implemented security measures for access control in accordance with their security plan." The terms "secure area" and "restricted area" have different definitions and purposes.

For vessels, the secure area encompasses the entire vessel, with a few exceptions such as passenger access areas and employee access areas. For facilities, the secure area encompasses the entire facility, with the exception of public access areas and those facilities with non-maritime transportation portions who submit an amendment to redefine their secure area.

An individual not in possession of a TWIC who is authorized escorted access to a restricted area requires physical, side-by-side accompaniment by a TWIC holder. An individual not in possession of a TWIC who is authorized escorted access by the vessel or facility owner or operator to a secure area that is not also a restricted area requires either physical, side-by-side accompaniment by a TWIC holder or monitoring in a manner sufficient to identify whether the individual is engaged in activities other than those for which escorted access was granted and that allows for quick response.

NOTE: There is a need to specify more clearly which TWIC holders can act as an escort.

Owners or operators of facilities containing both a marine transportation portion and a non-marine transportation portion, such as areas devoted to manufacturing or refining operations, may voluntarily request a redefinition of their secure area through an amendment to their FSP. COTPs will review and approve these amendments, as appropriate.

Secure Areas

The foundation of the TWIC Program is the definition of the secure area. The terms "secure area" and "restricted area" do not mean the same thing. A secure area is defined as "the area over which an owner/operator has implemented security measures for access control" to reduce the probability of a TSI. The secure area is the entire area within the outer-most access control perimeter of a facility, with the exception of public access areas, and encompasses all restricted areas.

Escorting

Escorting in secure but nonrestricted areas: escorting must be accomplished in one of two ways: monitoring or physical, side-by-side accompaniment by a TWIC holder.

1. Physical accompaniment of escorted personnel

Appropriate physical accompaniment exists with 1 TWIC holder escorting no more than 10 non-TWIC holders.

2. Monitoring

Protocols for monitoring must enable sufficient observation of the individual with a means to respond if they are observed to be engaging in unauthorized activities or in an unauthorized area. Monitoring can be accomplished in a number of ways, including, but not limited to:

- a. Close-circuit television (CCTV) systems can be used to meet this requirement as long as the CCTV systems are monitored and would allow the operator to see in sufficient detail if the non-TWIC holder was moving to an unauthorized area or was engaging in unauthorized activities. The CCTV system must be monitored by a TWIC holder.
- b. Intelligent video systems may meet this requirement if the owner or operator can demonstrate equivalency of coverage to the monitored CCTV system to the COTP. Owners or operators should ensure that adequate measures (i.e., security patrols) are in place to respond to unauthorized activities.
- c. Other arrangements, using a combination of security patrols or roving watches, automatic intrusion-detection devices or surveillance equipment may be acceptable as long as, when used together, they provide a reasonable assurance that an individual under escort is not engaging in activities other than those for which access was granted.

Escorting in portions of secure areas that are also restricted areas: escorting must be accomplished by side-by-side accompaniment with a TWIC holder. Side-by-side accompaniment required continuous physical proximity to and visual contact with the escorted individual in order to enable the TWIC holder to witness the escorted individual's actions. In the portions of secure areas that are restricted, each TWIC holder may escort no more than 5 non-TWIC holders, unless otherwise approved by the COTP.

There must be sufficient quick response capability to prevent an individual "under escort" from entering an area where he or she has not been authorized to go or from engaging in activities other than those for which escorted access was granted.

NOTE: Again, it is anticipated that the escorting TWIC holder is affiliated with the secure area (e.g., facility employee).

Incorporation of the TWIC Procedures into Security Plans

TWIC procedures do not need to be incorporated into existing facility and vessel security plans until the next regularly scheduled submission.

Access Control During the Enrollment Phase-In Period

Over the course of the 18-month initial enrollment period, all individuals will have an opportunity to apply for a TWIC. However, as enrollment centers will be phased in across the country and compliance dates will be based on COTP zone, the potential exists for individuals in mobile populations to come from an area where enrollment has not begun to an area where compliance has started. Recognizing that mariners are a large population for whom this could be a concern, an allowance has been made to enable them to show an alternate identification to gain unescorted access during the 18-month enrollment period. This may also be a concern for long-haul truckers. However, due to the smaller population and absence of universal identification for long-haul truckers, no allowance has been made for this population.

NOTE: Lockheed Martin has been awarded the TWIC implementation contract by TSA. It is anticipated the on-line pre-enrollment will be available in the next few weeks.

Long-Haul Truckers

No truckers will be exempt; all will be required to show a TWIC for unescorted access according to the compliance dates set for each COTP zone.

Merchant Mariner Access

During this 18-month period, in order for a mariner to have unescorted access to a facility where TWIC is required, the mariner must present of the following forms of identification in lieu of a TWIC:

- MMD
- CG License and a picture ID
- CG Standards of Training, Certification and Watchkeeping (STCW) Certificate and a picture ID
- CG COR and a picture ID

TWIC procedures remain the same regardless of MARSEC Level.

Enforcement Implementation

The new requirements will be verified by Coast Guard personnel on at least an annual basis in conjunction with required examinations/inspections and periodic spot checks. During TWIC verification, Coast Guard personnel will use handheld card readers to validate that the TWIC held by individuals at the facility or vessel being inspected:

- are not counterfeit
- have valid Public Key Infrastructure (PKI) certificates
- have not been revoked by TSA
- match the biometric template on each card to the fingerprint of the person carrying it. In order to match the biometric on the card to the person, the Personal Identification Number (PIN) given during issuance will be required. Therefore, **it is vital that TWIC holders remember their PIN.**

***NOTE:** Some private companies have requested consideration for access to similar databases in order to better monitor its secure areas and randomly check eligibility of TWIC holder.*

Summary

The draft TWIC NVIC is in need of tweaking and clarification. Currently, the U.S. Coast Guard has commenced an aggressive campaign to solicit input from impacted stakeholders. It is anticipated that the final NVIC will be issued in late March 2007. For additional information or questions, please call Thomas P. Marian, Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P. at (713) 437-1822.