



July 13, 2007

To: National Maritime Security Advisory Committee (NMSAC)

From: The Offshore Marine Service Association

Subj: Preliminary Draft of the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements Notice of Proposed Rulemaking (NPRM)

We do appreciate the opportunity for industry to discuss and make recommendations on this program. Normally that process would lead to a level of trust that allows industry to develop some level of comfort with the outcome. Unfortunately, in the development of the public input process has been used somewhat cynically. The opposition to different proposals has largely been overruled, while the claims of "stakeholder communication" have been used to justify the program. Just yesterday, a TSA representative testified before Congress of the 1900 comments to the docket and that the "National Maritime Security Advisory Committee provided invaluable input" into the program. The opposition to the proposal that emerged from those comments and from NMSAC was never mentioned.

With that in mind, we want to state emphatically that we do not believe card reader systems are appropriate for vessels or reduce security risk on vessels in any meaningful way. We would seek a statement from NMSAC that recommends that readers not be required for vessels.

Beyond that we have some specific recommendations:

1. The writers of the regulations must learn about vessel and facility operations. NMSAC should insist that the TSA and USCG project officers visit vessels and facilities to see how the readers would be used under actual conditions.

In the case of our industry, that would mean learning about vessel configurations, access points, vessel operations, limited crew complements and the practical problems of using vessel readers for personnel who are transferred on board by crane basket under difficult sea conditions.

2. NMSAC must insist that the pilot project for readers be fully described, including how the testing will take place, the duration of the tests and how industry will be able to judge the results of those tests in commenting on the proposed rule. Those tests should not be limited to the technical standards of

the readers. Real questions have been raised over the ergonomics of the readers as they would be used on vessels, i.e. how does a waiter carrying a tray of dishes use the reader to move from a non-secure dining room to a secure interior area? How does a deckhand carry a cup of coffee up a narrow stairway into a wheelhouse and use a reader to gain access?

The reader pilot project should also give practical information on how many additional crewmembers will be needed to monitor readers and ensure that they are used. The example that comes to mind is a currently unmanned engine room.

To answer the specific questions of the task statement -

#### QUESTIONS:

*\*Note – In the following questions TWIC readers are referred to in the plural. The implication is that multiple readers will be required. This was also implied by the initial proposed rule. This is extremely problematic for vessel operators. Commercial vessels (with the exception of large passenger vessels) have limited crew size. The crews remain aboard the vessel for extended time periods. Other than a check to determine a crew member's card remains valid at the time of sign-on or a change in MARSEC level there is NO reason to check a crewmember's TWIC.*

- 1) What are your recommendations regarding the number of individuals in a vessel's crew that would warrant the placement of a TWIC reader onboard?
  - If readers are required on any vessels at all, they should be limited to vessels with 15 or more crewmembers required by the Certificate of Inspection. The applicability of TWIC readers on vessels should not consider persons in addition to the crew or other crew, only minimum required crew.
- 2) What factors, in addition to crew size, do you feel should be considered during the development of proposed regulations which might require card readers to be placed onboard vessels?
  - Again, the only factor that might be considered would be the cargo – Vessels carrying COPH in bulk or LNG.
- 3) What factors, in addition to crew size, do you feel would warrant an exception to the requirement that a card reader be placed onboard a vessel?

A number of operational factors should rule out any need for readers on vessels:

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- Trade – Vessels in specific trades such as offshore energy support, sport fishing or dry cargo transportation for example pose limited risk of a transportation security incident of such magnitude as to risk the nation's critical infrastructure.
  - Geographic Location – Vessels operating in certain geographic locations pose a limited risk of a transportation security incident of such magnitude as to risk the nation's critical infrastructure.
  - Service – Vessels that do not service facilities subject to MTSA should be exempt from reader requirements.
- 4) If card readers are not required to be placed onboard certain vessels, what recommendations would you propose for the Coast Guard to consider regarding the location or operation of card readers to accomplish TWIC validation?
- The Coast Guard should be equipped with portable readers to check TWIC card validity.
  - A simplified alternative should allow companies to log onto a computer database using a regular PC at the company shoreside offices, enter information to check the validity of an employee or prospective employee's TWIC card.
- 5) For these specific vessels, would it be more convenient and practicable to use card readers at a company's home or field office?
- See above
- 6) What recommendations can you provide for the Coast Guard to use when drafting the proposed regulations, regarding the type and frequency of checks using card readers for these specific vessels?
- New Hire – Upon the hire of a new employee the validity of the card should be checked. An online or telephonic system should be sufficient.
  - Change in MARSEC Level – A change in a MARSEC level indicates that the nations Intel community has detected a threat against the nation. This would be a reasonable time to recheck the validity of cards. An online or telephonic system should be developed to allow a company the submit batches of card info (CHUID) and get an immediate response as to whether or not a specific card had been revoked.
- 7) Under what circumstances would you recommend that not all of the available security features be checked? In other words, why shouldn't all of the available security features be checked when using a card reader for each individual gaining unescorted access to secure areas?

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- See above – The only time a card should be checked is new hire or change in MARSEC level. A simple telephonic or online system should be available to check the continuing validity of a card. The simple fact is that we are talking about Americans and Americans should not be treated like potential terrorists every time they try to enter their place of work or move from one part of their workplace to another.
- 8) Do you feel that the frequency of electronic validation should be based on unique vessel or facility types, operations, and activities? What factors should be considered when developing proposed requirements for the frequency of electronic validation?
- See above – The only time a card should be checked is new hire or change in MARSEC level. We believe that the responsibility lies with the Federal government to accurately determine when someone may pose a threat as a terrorist and notify industry that that individual's status has changed. TSA has never described any system that it will use to update criminal background or security threat information on mariners. Under the rule, it appears that the only time the status of a TWIC card will change is when the owner of that card voluntarily informs TSA that they have committed a crime or now constitute a threat. If that is the process, what is the purpose of continually checking the validity of cards?
- 9) What factors should be considered when developing proposed regulations regarding the required frequency for updating card readers or card reader systems with the most current version of the TSA hot list?
- Again, it is impossible to answer this without knowing how TSA intends to manage the hot list.
- 10) What issues and options should be considered when drafting proposed regulations to enable vessels without internet connectivity to ensure TWICs have not been revoked? Could this be accomplished at a home or regional office on behalf of a vessel while underway?
- See above - Vessels should never have readers. The crews on a vessel are assigned by the office. Office personnel should be able to send a spreadsheet employee list (TWIC CHUID list) by email to TSA and get an answer on any revoked cards.
- 11) If the types of checks to be conducted while using a card reader are based on risk and current MARSEC level, which of the security features listed in the preamble to questions 7-12 could be checked on the lowest risk vessels or

facilities with a minimal impact on commerce, throughput and daily operations?

- See above.

12) Which of the following would be most effective in discovering if TWICs have been hot-listed? Can you provide recommendations or other options for ensuring TWIC's have not been hot listed?

- If the Federal government has information that it believes that a company's employee presents a terrorist threat, an agent of that government needs to visit the company and make them aware in person. Barring that, see above.

The Coast Guard is also considering record keeping requirements similar to those proposed in the May 22, 2006 NPRM. The security benefits of knowing who is granted unescorted access and who is aboard a facility or vessel at all times, will enhance security by providing improved situational awareness. This is especially valid for larger facility operators who may have hundreds or even thousands of personnel on their property at any given time. It is expected that the electronic card readers will be capable of automating this process with little or no additional effort by the owner or operator. If TWIC readers were employed to accurately track who is aboard a vessel or within a facility's secure area at any given time, then TWICs would also have to be read upon departure from the vessel or secure area.

#### QUESTIONS:

13) Under what conditions should an exception be granted to the requirement that records be maintained for individuals who are currently in a secure area or who have been granted unescorted access to a facility or vessel?

- Vessels have relatively small crews. All crewmembers of vessels are granted unescorted access to secure areas of a vessel. A company already has a record of who has been assigned to a vessel. Keeping a record of persons granted access will only serve the purpose of distracting key personnel from the more important task of actually keeping track of persons aboard their vessels.

14) If you disagree with the concept of proposing record keeping requirements for individuals granted unescorted access to secure areas of a vessel or facility, what alternate system or measures would improve the situational awareness of who has unescorted access?

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- The agencies have never made the case that entering or leaving a secure area of a vessel is a noteworthy activity. There is already ample and acceptable documentation of vessel crew and non-crew coming on board the vessel. There is no additional measure needed for offshore support industry vessels. These are relatively compact vessels, with small crews. The personnel working on these vessels know who should be where. There is no need for any system or measure to improve situational awareness. Any effort to enforce such a record-keeping effort would potentially violate the Paperwork Reduction Act

15) What requirements should there be for keeping records on individuals who have been granted **escorted** access to secure areas?

- There is no need for such requirements. Non- crew persons who visit vessels are required to be signed on in the visitor log. There are records of the crew aboard a vessel and records of all visitors on a vessel. There is no need for another record.
- The existing TWIC regulations clearly indicate that each vessel or facility is responsible for its own access control. The vessel – facility interface may offer some options to reduce the effort and number of times an individual’s TWIC needs to be checked using a card reader.

16) What suggestions do you have regarding the Coast Guard’s proposed requirements that a TWIC be checked using a card reader each time an individual boards a vessel while it is moored at a regulated facility? What if the TWIC were checked only when an individual enters the facility?

- The only time a TWIC should be checked is at the entrance to the facility. Once it is checked and valid further checks are redundant.

17) Do you feel that the answer to question 16 above should be the joint responsibility of the facility and vessel on a case-by-case basis? Or, should each regulated entity be responsible for validating TWIC’s prior to granting unescorted access to its own secure areas? In the event that the responsibility be a joint one, should this agreement be documented in a Declaration of Security?

- This should not be added to the DOS. A check at the facility gate should be sufficient.

The Maritime Transportation Security Act (MTSA) also requires that “all vessel pilots” [46 U.S.C. 70105(b)(2)(C)] and “all individuals working aboard towing vessels that push, pull or haul alongside tank vessels” [46 U.S.C. 70105(b)(2)(D)] hold a TWIC.

**OFFSHORE MARINE SERVICE ASSOCIATION**

990 N. Corporate Drive, Suite 210 Harahan, LA 70123 Telephone (504) 734-7622 Fax (504) 734-7134  
www.offshoremarine.org

QUESTIONS:

- 18) Do you have any suggestions on how to address these populations in the TWIC 2 regulations?
- This question indicates a fundamental misinterpretation of the legal requirements of MTSA which is not limited to the specifics of tank vessels. MTSA does not require the use of readers. There is no legal requirement for readers. MTSA requires those mariners to have a TWIC card. The Coast Guard has the responsibility of ensuring that this requirement is followed. It is similar to the requirement that vessel masters hold the appropriate license. The Coast Guard has a duty to ensure that the licensing laws are enforced, but that does not require the installation of readers in wheelhouses to check licenses every time the captain takes the wheel.