

**Response to USCG Transportation Worker Identification Credential (TWIC) Biometric  
Reader Requirements Notice of Proposed Rulemaking - Advisory Committee  
Questionnaire**

July 23, 2007

The National Maritime Security Advisory Committee (NMSAC) was chartered to advise, consult with, report to, and make recommendations to the Secretary of the Department of Homeland Security on matters relating to maritime security. As a result, on June 25, 2007, the U.S. Coast Guard asked the NMSAC to assist with the development of the draft Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements Notice of Proposed Rulemaking. To aid the NMSAC in its efforts, the Coast Guard provided a set of specific questions for which the agency requested answers.

While the NMSAC greatly appreciates the opportunity to assist the Coast Guard in this important initiative, the Committee's ability to do so has been hampered by two key facts: first, the Coast Guard has not yet renewed the NMSAC charter, so the Committee is unable to adopt a set of recommendations; second, and equally important, the requested due date, which allowed less than one month to complete the requested task, did not provide sufficient time both to develop responses to the questions and for Committee member deliberation on the NMSAC response. As the Coast Guard is aware, the NMSAC has developed a TWIC Working Group (TWG), comprised of representatives of vessel and facility operators, both large and small, throughout all geographic locations, across the full array of maritime sub-sectors, and including all types of cargoes and passenger operations. The diversity of viewpoints among TWG members has been invaluable to the NMSAC over the past several years, and the members are proud of the work they have accomplished to date. Yet, this diversity demands that members be able to work collectively to achieve consensus wherever possible. While the TWG members were certainly willing to accept the task presented, unfortunately, this was not possible in the time allotted by the Coast Guard.

However, it is in the spirit of cooperation that we submit to the Coast Guard a set of documents reflecting individual TWG members' responses to the questionnaire. While these do not necessarily reflect the views of the NMSAC, we hope these are helpful to the Coast Guard as it seeks to develop proposed regulations for the second phase of the TWIC program.

As you will see from the answers to the specific questions submitted by TWG members, the responses of individual workgroup members were as diverse as the industry they represent. As a result, we suggest the Coast Guard provide for as much flexibility as reasonably possible in the development and implementation of TWIC reader regulations.

One opinion does seem fairly consistent, and that is the suggestion that the biometric verification should only be required at elevated MARSEC levels. We suggest that the Coast Guard heed the advice of its stakeholders and recognize that it will not be necessary to verify the biometric on every transaction during normal operations (MARSEC I). It would be logical to align the

verification rate with that of the screening and inspection rate (15% - 25%). That way, facility operators would not be required to purchase and maintain biometric readers at access points which are rarely used; during times of heightened security guards could verify biometrics using handheld readers at those gates. This eliminates significant capital expenses for equipment that will not be used.

Finally, while we appreciate the opportunity to provide comment on the TWIC 2 rulemaking at this early stage of the regulatory process, we are dismayed by the Coast Guard's indication that the agency plans to publish a notice of proposed rulemaking (NPRM) concurrent with the TWIC reader pilot program. In the recommendations adopted February 28, 2007, the NMSAC stated:

*. . . [W]e believe we would be remiss in our duty if we did not suggest that DHS reverse its approach to TWIC Phase II implementation. Specifically, rather than develop a TWIC reader specification first and subsequently finalize policy decisions and promulgate a rulemaking on reader usage, NMSAC recommends that DHS first resolve the TWIC policy questions (e.g., use of readers at low risk vessel and facilities, access record keeping, etc), and then incorporate the appropriate technology to support them.*

Specific examples of why this approach is more appropriate can be derived from the various answers to questionnaire. For instance, the decision on which readers to use and test should not be made until after DHS determines whether readers will be required on all vessels, only certain vessels, or not on vessels at all. Similarly, members suggest that vessel/facility operators be provided with the capability to manually verify a TWIC has not been hotlisted via a Cardholder Unique Identification System (CHUID) searchable database or telephone system. If the policy decision is made to allow this functionality, it must be tested during the pilot program, as must any policies relating to record keeping requirements.

On July 27, 2007, Admiral Salerno testified before members of Congress that final TWIC reader regulations would not be published until after the pilot programs were completed and the results are known. Clearly, there is no rush to introduce a Notice of Proposed Rulemaking as the SAFE Port Act requires regulations within two years of commencement of the Pilot Program.

DHS should use the comments raised by stakeholders to develop preliminary policies, procedures and a standard testing protocol, which should be vetted through appropriate advisory committees prior to finalization. The Department can then test these procedures, along with the reader technology during the pilot program, and use the results of the pilot program to inform the development of the TWIC 2 NPRM.