

To: The National Maritime Security Advisory Committee (NMSAC)

From: Passenger Vessel Association  
International Organization of Masters, Mates & Pilots  
Marine Engineers' Beneficial Association  
Offshore Marine Service Association

Subject: TWIC Contactless Biometric Specification Development Working Group

As groups representing both vessel operators and professional mariners, we are writing to provide additional comments on the development of the Transportation Worker Identification Credential (TWIC) reader.

At the November 14, 2006 meeting of the NMSAC, the TSA and the U.S. Coast Guard prepared a list of six principles which DHS believes should guide the development of TWIC technologies. The Coast Guard and TSA tasked NMSAC with development of a contactless specification that would allow secure, contactless communications between the TWIC card and a TWIC reader without having to insert the card into the reader.

The TWIC is a requirement of the Marine Transportation Security Act (MTSA) of 2002.

**1. Prior to any follow-on rulemaking on the TWIC reader agencies should partner with affected industries to determine the effectiveness of the proposed reader technology in a functioning maritime environment.**

The MTSA requiring the TWIC does not authorize, nor does it mention, a TWIC reader. Rather, Section 70105 of Title 46, U.S. Code, simply refers to a "Biometric Security Card." The law creates a mechanism for vessel owners, operators and other parties to ensure that employees who require unescorted access to the secure areas of regulated vessels or facilities have passed background security checks.

The concept of the TWIC reader was initiated by the TSA in NPRM TSA-2006-24191. Because of the negative public, industry and congressional response to the proposal regarding the readers, the final rule defers action on the readers to a subsequent rulemaking. In the preamble to the final TWIC rule, TSA says it will publish a follow-on rulemaking detailing specifications for the TWIC readers. The task statement reports that "The results of this pilot (*Safe Port Act requirement*) will inform the second TWIC rulemaking, which is intended to incorporate contactless card reader capability to meet the demands of TWIC application in the maritime environment." Notwithstanding statements such as this, that indicate that TSA has predetermined the use of TWIC readers, public comments submitted to the TWIC rulemaking docket were opposed to the use of readers.

While TSA has been meeting with and working closely with the biometric industry to prepare a regulatory basis for the use of this technology, no similar effort has been expended to determine the efficacy of such devices in the context of vessels. There

has not been an accurate cost-benefit analysis for the use of reader systems on vessels. There has been no risk-based analysis such as that encouraged by the Government Accounting Office in report GAO-07-386T before expenditures are made. The cost-benefit analysis carried out as part of the Notice of Proposed Rulemaking grossly underestimated the cost of the readers and provided no quantifiable benefit. The analysis failed to incorporate all the additional requirements that would emerge as part of the reader systems, including computer network systems, data communications systems, maintenance costs and additional personnel for supervision and maintenance.

Before taking further regulatory initiatives the TSA and the Coast Guard should partner with vessel operators. The TSA and Coast Guard should use the expertise of the various vessel operating communities to determine whether or not any use of TWIC readers is justified on any vessels. If readers are justified on any vessels, a risk-based threat assessment should be performed to determine on which, if any, vessels a TWIC reader would provide a quantifiable risk-reward benefit.

A proposed rule issued by the Department of Homeland Security (**Docket: DHS-2006-0073 / RIN 1601-AA41**) uses the DHS Risk Assessment Methodology (RAMCAP), covering Chemical Buffer Zone Protection Program systems for developing risk matrices. RAMCAP, under the proposed rule, would be used to assign a risk level at a facility which would determine appropriate security measures to be included in the facility's security plan. The approach is one of determining the level of risk on a tiered basis using as many as five tiers from high risk to low or no risk, and applying security measures, including access control procedures on the basis of potential risk for various tiers. There is a wide disparity in the risk potential represented by different facilities and vessels in our diverse maritime industry. It should be recognized that the security regimes and access controls that are justified for a high risk facility may often be inappropriate and impractical from a cost/benefit basis in a low risk environment. Industry could help the Coast Guard adapt RAMCAP or develop a similar system for vessels.

## **2. The department should add the internationally accepted mariner identification methodology to the TWIC.**

During the discussions of the working group, the issue of international mariner identification was raised. It is important to note that the MTSA included a requirement for the United States to negotiate an international seafarer identification document. Incorporation of this feature into the TWIC will make access to shore leave for U.S. mariners aboard U.S. vessels in foreign ports possible. This will help facilitate the operation of U.S. commercial vessels and those contracted to the Department of Defense.

Such an international standard has been developed. The International Civil Aviation Organization (ICAO) standard is the standard contemplated in ILO C-185. While the United States has not yet ratified ILO C-185 due to issues unrelated to the use of the

document as a means of identification, the standard does exist and U.S. mariners in foreign ports will come up against it.

As the use of the ICAO standard will not impact the functionality of the TWIC card, and since the card has been designed to allow for its inclusion, it is incumbent on the TSA to include this functionality on the card.

**3. The TSA requested that the Working Group advise DHS on “the full operational impact the card readers will have on the maritime industry.”**

**It is impossible to advise DHS on the “full operational impact” of the card readers in the context of a process apparently being driven by the technology.**

Although the vessel operating members of this group do not have the technical expertise to support or reject the technical aspects of a contactless standard, they can clearly envision routine operating situations in which the physical environment of vessels will exceed the design operating parameters considered herein. For example, they can clearly foresee situations in which the ability to add “local applications” to the card will negatively affect mariners. The vessel operating community is also concerned that there are vessels that, due to their size, capacity, cargo and/or route, do not pose a significant enough risk to support the inclusion of TWIC readers in their routine operations.

The two moderators of this Working Group did an exceptionally good job of keeping the group “on task.” In an effort to assist the moderators and not impede the group’s progress, participants with significant questions on the basic concept of readers on vessels did not persistently voice their concerns.

During discussions on the contactless standard, proponents of this technology continually voiced their assumptions of an upward spiral of applications on the TWIC card and applications for readers. One of the most disturbing assumptions was that this technology would be used on doors and gates for automatic access control. In fact, such technology is inappropriate for most vessels and facilities. The TSA and the Coast Guard should partner with vessel operators to determine which if any applications of the TWIC card other than confirmation of the required background screening are appropriate. Only after the completion of such a collaborative evaluation can industry advise the TSA and the Coast Guard on the true operational impact (\$ = cost) of the proposed reader technology.

**4. We are concerned with guiding principle “d,” which states that the TWIC should be capable of being a platform for future capabilities.**

Congress’ vision for the TWIC program was to secure port facilities by establishing a system for vetting those who would require unescorted access to secure areas. Congress never envisioned that the TWIC would be used for any other purpose.

Our concerns over this guiding principle arise from uncertainty surrounding the intended “future capabilities.”

First, no state, municipality, or port facility should have the capability to write to the TWIC card or impose requirements beyond what is required by TSA to issue the card. To allow this might interfere with the ability of mobile TWIC holders (mariners, truckers, etc.) to enter onto a facility in cases in which the individual’s TWIC card is missing some locally required piece of data.

Second, allowing state, local jurisdictions or port facilities to require certain information on the card would contradict TSA’s privacy policy which was clearly stated in the agency’s *Privacy Impact Assessment for the Transportation Worker Identification Credential Program*, December 29, 2006, Section 1, paragraph 5. TSA states: “Limiting the amount of personal data TSA receives to what is necessary to conduct a security threat assessment and satisfy MTSA serves the agency’s operational purposes and minimizes the privacy risks for TWIC applicants.”

Thank-you for allowing us to submit this minority addendum to the workgroup report. As representatives of vessel operators and mariners we felt that certain points, some not directly related to the task statement, required restatement and emphasis to ensure that America’s vibrant merchant marine is not damaged by the implementation of this initiative.

Signed:

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