

TWIC/MTSA POLICY ADVISORY COUNCIL

January 8, 2009

Policy

U.S. Flag Overnight Passenger Vessels in Domestic Trade “Other Persons in Crew”

01-09

Issue – What are the acceptable escorting standards for non-Transportation Worker Identification Credential (TWIC) holding individuals, ‘other persons in crew,’ onboard U.S. Flag Overnight Passenger Vessels in Domestic Trade in accommodation spaces?

Background – Title 33, U.S. Code of Federal Regulations (CFR), part 104.265 requires that individuals who do not have a TWIC be escorted, as defined in 33 CFR 101.105, at all times while inside a secure area of the vessel. 33 CFR 101.105 defines “escorting” as “ensuring that the escorted individual is continuously accompanied while in a secure area in a manner sufficient to observe whether the escorted individual is engaged in activities other than those for which escorted access was granted.” The definition elaborates that this can be accomplished through side-by-side accompaniment or via monitoring, depending upon where the escorted individual is granted access. In a restricted area, escorting must be side-by-side accompaniment (ratio of 1 TWIC holder to no more than 5 non-TWIC holders, per NVIC 03-07). 33 CFR 104.270 defines security measures and what areas must be designated as restricted areas. In accordance with 33 CFR 104.270(b)(8), crew accommodations are restricted areas.

33 CFR 104.106 allows for ferry, passenger vessels, or cruise ships to designate those areas within the vessel open to passengers as passenger access areas, such as dining rooms, seating areas, parking decks, public restrooms, and bars. 33 CFR 104.107 allows for ferry or passenger vessels, excluding cruise ships, to designate areas within the vessel as employee access areas. Employee access areas are open only to employees, such as galleys, storage areas, dressing rooms, and food service areas. Neither passenger nor employee access areas are secure areas; therefore individuals in passenger or employee access areas would not require a TWIC for unescorted access.

Discussion – U.S. Flag overnight passenger vessels employ persons involved in the support of overnight passengers and ship’s crew by providing food, entertainment, and other services such as housekeeping (hereafter referred to as ‘other persons in crew’). These employees often conduct the majority of their business in passenger and/or employee access areas. Within these areas, individuals are not required to possess TWICs to gain unescorted access, because they are not part of the vessel’s secure area. The rest of the vessel remains a secure area where TWICs are required for unescorted access. Individuals would also need to be escorted through side-by-side accompaniment within all restricted areas on the vessel, including when they are in crew accommodations. This presents operational difficulties, as there are not likely to be

sufficient vessel personnel holding TWICs onboard to escort the non-TWIC holders in the ratios described in Navigation and Vessel Inspection Circular No. 03-07 published 2 July 2007.

In terms of berthing areas, we envision that passenger vessels that employ 'other persons in crew' could designate separate berthing for crew members and other persons in crew. In that scenario, the berthing areas for crew members would be considered crew accommodations and as such would be considered restricted areas. The berthing areas used exclusively by other persons in crew could be designated employee access areas and as such TWICs would not be required for unescorted access. To accomplish this, a VSP amendment would not need to be submitted. However, if berthing for other persons in crew is designated an employee access area, the owner/operator must maintain a visual representation (e.g. a vessel schematic) onboard the vessel with the approved VSP detailing where these areas are located as required by 33 CFR 104.120(c). Vessels operating under an ASP must also maintain this visual representation onboard if they designate these areas. This visual representation does not need to be approved by the Coast Guard until the next VSP submission, but must be available during Coast Guard inspections. VSPs must be updated to include the visual representation with the next submission, either amendment or renewal. In addition, for access control security measures, the restricted areas would be clearly marked as required by 33 CFR 104.270.

If a vessel owner/operator is unable to physically separate berthing areas in order to designate some of them as employee access areas, the vessel must have sufficient personnel holding TWICs on board to provide escorts to the non-TWIC holders, as described in NVIC 03-07, or else the vessel owner/operator must submit (and be granted) a waiver in accordance with 33 CFR 104.130.