

TWIC/MTSA POLICY ADVISORY COUNCIL

January 25, 2008

Policy

Federal & Law Enforcement Officials Authority to act as Escorts on Regulated Facilities and Vessels

02-08

Issue (02-08) – 33 CFR 101.514 states that “federal officials” and “law enforcement officials” are not required to obtain a TWIC to gain unescorted access to secure areas of regulated vessels or facilities. To gain unescorted access, law enforcement officials must identify themselves as such and present their official agency credential for inspection. MTSA /TWIC Policy Advisory Council decision 30-04 (June 17, 2004) and 01-07 (November 21, 2007) provide further guidance on what procedures law enforcement officials should follow to gain access to regulated facilities and vessels and who qualifies under the definition of “law enforcement official.” In accordance with their official duties, can law enforcement officials utilize their agency credentials to escort individuals without a TWIC in secure areas of regulated facilities or vessels?

Background – 33 CFR 101.514(b) and (c) state that “federal officials” and “law enforcement officials at the State or local level, are not required to obtain or possess a TWIC to gain unescorted access to secure areas.” The definition of “escorting” found in 33 CFR 101.105 states that “Individuals without TWICs may not enter restricted areas without having an individual who holds a TWIC as a side-by-side companion.” Enclosure (3) to NVIC 03-07 pg. 10 Section 3.3.c provides further guidance on how to properly escort non-TWIC holders in secure areas.

Discussion – Though the definition of escorting seems to forbid law enforcement officers from serving as escorts, we consider a law enforcement official’s agency- issued credential to be equivalent to TWIC for the purposes of escorting. Federal officials and law enforcement officials are therefore authorized to escort non-TWIC holders within all areas of regulated facilities or vessels in the course of their official duties, particularly when the facility or vessel is one leased or used by a federal agency. Owners and operators will not be penalized for allowing federal and law enforcement officials to escort non-TWIC card holders. Escorting by federal and law enforcement officials shall be accomplished utilizing monitoring or side-by-side physical accompaniment as appropriate for the area where the escorting is to take place (secure, non-restricted or secure, restricted), utilizing the guidance published in Enclosure (3) to NVIC 03-07 (pg. 10 Section 3.3.c).