

TWIC/MTSA POLICY ADVISORY COUNCIL

June 9, 2009

Policy

Escorting Requirements for Passengers Traveling With Commercial Truck Drivers

06-09

Issue – Are passengers riding with commercial truck drivers required to obtain a Transportation Worker Identification Credential (TWIC) if they stay within the cab of the vehicle while in secure areas of a facility regulated by the Maritime Transportation Security Act (MTSA)?

Background – The TWIC Program aims to enhance security by ensuring that individual's granted unescorted access to secure areas of MTSA regulated facilities have passed a security threat assessment (STA) and received a tamper resistant biometric enabled credential. During the enrollment process, as outlined in Title 49, U.S. Code of Federal Regulations (CFR), part 1572.17, applicants are required to certify in writing that they must obtain a TWIC as part of their employment duties, are required to have unescorted access to secure areas of facility or vessel regulated by the Maritime Transportation Security Act (MTSA) per 33 CFR 104, 105, or 106, respectively, are a U.S. Coast Guard credentialed merchant mariner (or applying to be a U.S. Coast Guard credentialed merchant mariner), and/or are a commercial driver licensed in Canada or Mexico transporting hazardous materials in accordance with 49 CFR 1572.201. Title 49 CFR 1570.5 holds an individual liable if they make any fraudulent or intentionally false statement throughout the TWIC enrollment process.

Discussion – In Navigation and Inspection Circular (NVIC) 03-07, the Coast Guard outlined the expectation that “individuals who frequently access secure areas in the course of their employment will obtain TWICs and therefore will be eligible for unescorted access.” Due to the unique nature of commercial truck drivers, they may choose to travel with a passenger throughout the course of their work assignments. In many cases, the passenger does not require frequent access to MTSA facilities, meet the eligibility requirements to obtain a TWIC, and/or have access to adequate infrastructure to remain safely outside of the secure area while waiting for the trucker to complete their work obligations.

Facility owners/operators may set their own policies on who may act as an escort, including establishing specific training requirements for doing so in accordance with 33 CFR 105.215. This may present a hardship for truck drivers who travel with passengers in the cab of their vehicle because some facility owner/operators may refuse to allow the truck driver, who holds a TWIC, to act as an escort for their passengers and the truck driver may have difficulty in meeting training requirements set by individual facilities.

Policy - The Coast Guard has determined that, at the discretion of the facility security officer, it is acceptable for a facility to allow a truck driver holding a TWIC to escort passengers without a

TWIC on facilities regulated by 33 CFR part 105, so long as they meet all of the following criteria:

- the passenger does not require a TWIC in their own right, per 33 CFR 101.514;
- the passenger remains within the cab of the vehicle for the duration of the time that the vehicle remains within a secure area;
- the facility owner/operator agrees to permit the trucker to escort his/her passenger;
- the passenger can present personal identification that meets the requirements of 33 CFR 101.515, unless age prevents issuance of a qualifying ID;
- there is no suspicious behavior or actions on the part of the passenger or truck driver requesting to perform escorting duties;
- the passenger's age or presence within the secure area will not interfere with facility safety policies/procedures;
- the commercial truck driver possesses a valid TWIC and meets the minimum training requirements listed in 33 CFR 105.215 (Security training for all other vessel/facility/OCS facility personnel) and any additional training requirements established by the facility; and
- the commercial truck driver must have knowledge of the owner/operator's escorting procedures, and the procedures and contingency plans determined by the owner/operator if an escorted individual is engaged in activities other than those for which escorted access was granted. (The owner/operator is responsible for providing this information to the truck driver by classroom-style, one-to-one briefings, or via fliers/handouts outlining the various information that the escort needs to know. For further guidance, refer to Policy Advisory Council (PAC) Decision 02-09 dated 22 JAN 09.)

Since TWIC is a component of the MTSA, facility owners/operators must continue to inspect the personal identification, per 33 CFR 101.515, for passengers of commercial truck drivers. Examples of personal identification may include: a driver's license, state issued ID, passport, or other government issued personal ID. Although the Coast Guard sees this as an acceptable access control procedure, the facility owners/operators are required to implement access control procedures and have the right to require a TWIC from the passengers despite the unique circumstances.

Coast Guard guidance does not supersede existing federal, state, or local regulations regarding who may or may not be granted access to facilities. The facility owner/operator is responsible for following any existing safety and/or security requirements with which the facility is legally required to comply. At the owner/operators discretion, this PAC decision may be used as an option to allow truck drivers holding a valid TWIC, to escort passengers without a TWIC on facilities regulated by 33 CFR 105.