

# TWIC/MTSA POLICY ADVISORY COUNCIL

June 10, 2009

## Policy

### Foreign Flagged Cruise Ship Crew & Escorting through Secure + Restricted Areas

07-09

**Issue**– Large capacity foreign flagged cruise ships make several thousand port calls and turn-around visits to U.S. ports annually. Current law and regulation exempt foreign flagged vessels from the TWIC requirements including the requirement for crewmembers to hold a TWIC. During turn-around visits (completion of debarkation and/or embarkation of passengers) potentially several hundred to a thousand crewmembers may be authorized shore leave in which an escort would be required while transiting from the vessel through the secure + restricted area of the facility before exiting the Maritime Transportation Security Act (MTSA) regulated area. The guidance contained within Navigation and Inspection Circular (NVIC) 03-07 stipulates that in a secure + restricted area, one TWIC holding individual may escort up to five non-TWIC holders through side-by-side accompaniment. In order to allow sufficient shore leave for crewmembers, cruise ships have traditionally allowed groups of up to 100+ crewmembers to go ashore at given times throughout a turn-around. Following the escorting guidance found in NVIC 03-07 could adversely affect the ability for large numbers of crew to obtain shore leave given the escort ratios and side-by-side accompaniment requirement. Are there any options available to facilities servicing large capacity foreign flagged cruise ships that would allow expansion of the escort ratios and/or the requirement for side-by-side accompaniment while transiting secure + restricted areas for the purposes of shore leave?

**Background** – Under Title 33 Code of Federal Regulations (CFR) Part 104.105(d), the TWIC requirements do not apply to foreign vessels, therefore crewmembers of foreign flagged cruise ships requesting shore leave at MTSA regulated facilities will not be in possession of a TWIC and must be escorted while within the secure area(s) of the facility. The facility owner/operator is responsible for determining how escorting will be carried out in accordance with the requirements of Title 33 CFR Parts 101-105 and the guidance contained within NVIC 03-07.

NVIC 03-07 further expands on how escorting is to be accomplished in both secure + restricted areas and secure areas that are not also restricted areas. The minimum standard required by regulation requires owner/operators to ensure that the escorted individual(s) is continuously accompanied while within 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 (33 CFR Part 101.105).

Shore areas immediately adjacent to the cruise ship are considered secure + restricted areas and under the guidance of NVIC 03-07 require one TWIC holder to escort up to five non-TWIC

holders utilizing side-by-side accompaniment while within this area. However, the Coast Guard has previously recognized the unique nature of cruise terminals and cruise operations with respect to the large number of personnel involved, both employee and passenger. In Enclosure (3) to NVIC 03-07 Section 3.3.c(5) the Coast Guard provided a determination that an equivalent level of escorting is maintained for passengers in holding, waiting, or embarkation areas of a cruise ship terminal due to the increased number of security guards required to be present who ensure that passengers waiting to board do not engage in activities other than which access was granted or attempt to leave the area. In this scenario, escorting ratios and physical side-by-side accompaniment are not required to be met.

**Policy** – It is the Coast Guard’s position that due to the unique crew size aboard foreign flagged cruise ships that modified forms of escorting can be utilized to accommodate shore leave that also provides an equivalent level of security to side-by-side escorting. Any equivalency utilized must be clearly articulated in the facility security plan (FSP) and approved by the Captain of the Port (COTP). In most cases equivalency may be met as follows:

- 1) In lieu of side-by-side accompaniment for up to 5 crewmembers, a number of crewmembers to be determined by the facility and approved by the COTP can be escorted by posting additional security guards along the direct path from the cruise ship through the secure + restricted area to the exit. The number of security guards must be of sufficient number to appropriately monitor all crewmembers as they transit from the vessel to outside of the facility’s secure area to ensure they are not engaging in activities other than transiting the facility to participate in shore leave.
- 2) Crewmembers should be required to wear company issued photo-identification visibly on their person during the transit to and from the vessel.
- 3) The direction of direct transit from the vessel through the secure + restricted area to the facility exit can be marked using a visible painted line or boxed area on the ground to signify the transit area.
- 4) Erect physical barriers that may include roping, cones, fencing, or jersey barriers that easily identify the transit area if practical.

The options detailed above are limited to crewmembers transiting the secure + restricted area in order to exit the facility for shore leave. The escorting equivalency options above are NOT to be used for crewmembers accessing services within the secure + restricted area (i.e. telephone banks, supply warehouses, etc.). Crewmembers in those situations are expected to be escorted in accordance with NVIC 03-07 including side-by-side accompaniment in a ratio to be approved by the COTP, if other than 1 TWIC holder to 5 crewmembers.

**NOTE:** While this PAC decision focuses on high capacity foreign flagged cruise ship crews and the facilities that service them, the processes outlined above may be considered for other types of facilities that receive foreign flagged vessels in order to facilitate shore-leave. Any such proposal must be submitted as an amendment to the FSP and approved by the COTP.