

U.S. COAST GUARD: Frequently Asked Questions (FAQ) Regarding TWIC Enforcement

TSA and USCG are responsible for implementing the TWIC (Transportation Worker Identification Credential) program. The USCG is responsible for:

- 1) enforcing TWIC compliance,
- 2) providing guidance to assist industry with compliance,
- 3) conducting spot-check/annual inspections,
- 4) reviewing and approving security plans, and
- 5) working with TSA towards successful integration.

To address TWIC enforcement questions from industry stakeholders and CG field units, a Help Desk was established. Having a central means to filter questions/concerns allows us to establish internal policies to consider issues for subsequent policy guidance and to centralize responses. The following FAQ's were sent to USCG's TWIC Help Desk which include commonly asked enforcement questions. We hope they prove to be beneficial as we work together to improve maritime security within our US ports. If you have additional questions or concerns, USCG's TWIC Help Desk can be reached by phone at 877.MTSA.AID (877.687.2243), Option 1 or by e-mail at hqs-twic-hq@uscg.mil.

1. Does a security plan need to provide a list of employees who have a TWIC?

A. No, owners/operators are not required to maintaining a list of employees who have a TWIC. However, owners/operators may voluntarily provide this information within their security plan.

2. We have a number of seasonal/casual workers which include high school students. Our operation increases during the summer and we hire several part-time staff that will be employed for a few months before they are laid off as operations slow down. Taking the nature of our business into consideration, will all of our personnel be required to obtain a TWIC?

A. If an individual requires routine unescorted access to secure areas of a vessel or facility, he/she will need to obtain a TWIC or be escorted by an individual who has a TWIC. For passenger vessels, the ability to designate passenger and employee access areas may exclude many seasonal workers from the TWIC requirement. The vessel owner/operator must designate the passenger and/or employee access areas in accordance with 33 CFR 104.106, 104.107.

3. Will the New Hire process be applicable for seasonal/casual workers?

A. The New Hire provision is granted at the owner/operators discretion and only applies to direct employees. Since there may be a delay between when an employee begins work and when they receive their TWIC, the New Hire provision can be used for seasonal/casual workers. Further guidance is outlined in NVIC 03-07, section 3.3 h.

4. The NVIC Enclosure 3, 3.3.h (1) (d) 3) i. states that if a new hire is working in a restricted area, they must be monitored in accordance with 3.3.c. (2) (b). However, the first example in this referenced section states that the task should not take the individual into any restricted areas as side-by-side accompaniment would be required. Could you elaborate since this is contradictory?

A. The last statement does not apply to new hires. Therefore, the new hires can be accompanied by monitoring in a restricted area as long as the New Hire provision has been properly followed.

5. How do I re-define the non-maritime transportation related portions of my facility?

A. For facilities to utilize this provision, amendments should have been submitted to the COTP no later than September 4, 2007. However, a facility may request permission from the COTP to submit a redefinition beyond this date. The COTP will consider each request based upon individual circumstances.

It should be noted that redefinition of non-maritime transportation related portions does not eliminate the need to implement access control procedures as approved in the Facility Security Plan. The overall footprint of the facility will remain regulated by 33 CFR 105. If approved by the COTP, this provision merely limits the facilities implementation of TWIC to include those portions with a maritime transportation nexus.

COTPs should accommodate redefinition to exclude non-maritime transportation areas involved in refining, manufacturing, production, power generation, and other activities as discussed in NVIC 03-07. In addition, COTPs should accommodate requests from passenger vessel facilities to exclude non-maritime transportation areas such as retail shops, galleys, and restaurants from secure areas. Further guidance regarding this provision is outlined within NVIC 03-07 enclosure 3.4 A.

6. Does the redefinition provision for non-maritime transportation related portions mean that I'm unable to amend my security plan beyond September 4, 2007?

A. In no way does the above mentioned provision limit an owner/operator's ability to amend their security plans. This could have been done pre-TWIC and nothing within the TWIC requirements will restrict this option now. The amendment process is outline in 33 CFR 104.415, 105.415, and 106.415. The COTP should address such an amendment in the same manner he/she would have done pre-TWIC (i.e., assess the request to redefine the restricted area in light of the facilities FSA Report and the measures outlined in the amended plan, to ensure adequate security is provided).

7. If TWIC is integrated into an existing electronic access control system in accordance with NVIC 03-07, why is an individual required to keep the TWIC on their person? If the access control system indicates the individual already has a valid TWIC, it is an extra effort and liability to require two cards (TWIC & facility access card) be carried at all time.

A. Per the TWIC Final Rule, individuals who have been issued or possess a TWIC must present the credential upon request from the TSA, Coast Guard, or other authorized DHS representative; an authorized representative of the National Transportation Safety Board; or a Federal, State, or local Law Enforcement Officer. Additionally, since the TWIC is not being used as a visual identity badge on a daily basis, the Facility Owner/Operator is required to conduct random visual checks for TWIC. Therefore, either the individuals granted unescorted access will need to carry the TWIC on their person when they are in a secure area or the credentials may be secured in a convenient location where they can be retrieved and presented within a reasonable amount of time (ten minutes or less).

8. If TWIC is integrated into an existing electronic access control system which already uses biometrics to verify the identity of the individual requesting access, would the owner and operator still have to comply with the "flash pass" requirements in the TWIC NVIC?

A. In no situation should an employee be issued a vessel or facility-specific card which allows unescorted access to a secure area without first ensuring that the individual possesses a TWIC. The TWIC does not need to be used as a visual identity badge at each entry once the facility-specific card is issued. However, the NVIC does state that since the TWIC is not being used as a visual identity badge on a daily basis, the Facility Owner/Operator must ensure that random visual checks for TWIC are implemented to ensure employees continue to keep their TWIC on their person or in close proximity. As noted above, employees may also be required to present the credential upon request from the TSA, Coast Guard, or other authorized DHS representative; an authorized representative of the National Transportation Safety Board; or a Federal, State, or local Law Enforcement Officer.

9. How are you supposed to perform the 1 to 5 escort ratio for truckers in a restricted area?

A. Due to the nature of operations, it is not feasible to perform the 1 to 5 escort ratio for truckers in a restricted area. Recommended escort should be 1 escort vehicle in close proximity to 1 truck in a restricted area.

10. Truckers should have the same compliance date as mariners and vessels. Why is this not the case?

A. In conducting research for the economic analysis that accompanied the TWIC final rule, TSA determined that the majority of truckers are short-haul "drayage" truckers and generally operate within one COTP zone which enables them to apply for and receive a TWIC at the local enrollment center. Truck drivers would need to utilize any number of identification cards for access until they received a TWIC, which defeats the purpose of TWIC. Mariners are an inherently more mobile population and have distinct federal credentials that must be utilized for access until they receive their TWIC.

11. How will individuals prove to the owner or operator that they have reported their TWIC lost or stolen?

A. Currently there are no procedures available for a CSO/VSO/FSO to verify that an individual has reported their TWIC as lost or stolen. However, this will be added to the list of system upgrades to be included as soon as possible. This provision is for direct hires of a company. Therefore, if there are no suspicious circumstances associated with the individual's claim and the CSO/VSO/FSO can confirm that the individual did have a valid TWIC, then unescorted access can be granted for up to seven consecutive days.

12. Regarding emergency response during increased MARSEC levels, are there any special provisions to allow a relaxation of the escorting requirements to facilitate response and recovery? If not, why?

A. During heightened MARSEC levels, security requirements would be increased, not decreased. Emergency and Law Enforcement personnel would have unescorted access to a facility for response and recovery activities without a TWIC.

13. Is there any process for fast tracking TWIC applications for individuals with security responsibilities? If not, why?

A. There is no "fast track" option or capability for individuals with security duties. These individuals have the same opportunity to apply for and receive a TWIC prior to compliance. Once compliance is in effect, proper planning must be utilized to ensure they have received a TWIC prior to conducting security duties.

14. How do we determine which state/local officials qualify for the Law Enforcement provision?

A. To qualify for the Law Enforcement provision, state/local statutes must define the individual's position and/or agency as a law enforcement officer/official. A Policy Advisory Council (PAC) decision has been posted on the Coast Guard's Homeport website to provide further guidance.

15. Can a US federal employee or contractor use their CAC card to be eligible for unescorted access to a MTSA facility and/or vessel?

A. Yes, a federal employee or contractor performing official duties may use their CAC card to be eligible for unescorted access to a MTSA facility and/or vessel. However, they must be performing duties required as a federal employee or contractor.

16. Would my federally issued CAC qualify me for the TWIC reduced fee if I opt to obtain one?

A. No, the TWIC reduced fee is only available for those individuals who have obtained a comparable Security Threat Assessment as determined by TSA.

However, if the individual holds one of the following credentials, they may choose to pay the reduced fee of \$105.25. The credentials include:

- applicants who hold a valid Hazardous Materials Endorsement (HME) issued after May 31, 2005;
- applicants who hold a valid Free and Secure Trade (FAST) card;
- applicants who hold a valid Merchant Mariner Document (MMD) issued after February 3, 2003; or
- applicants who hold a Merchant Marine License (MML) issued after January 13, 2006.

Applicants that seek to pay the reduced fee must present their HME, FAST card, MMD, or MML at the time of enrollment. Since the TWIC expiration date will coincide with the expiration of their credential, applicants may wish to consider whether it is better to spend \$132.50 for a TWIC that will be valid for five years.

17. NVIC 03-07, Encl (3), 3.3.b(5) states that Employee access areas may abut the passenger access areas and include the galley and other food preparation areas, entertainer preparation and changing areas, employee lounges, bar areas, and storage areas. 33 CFR 104.270(b)(7) states that restricted areas include cargo spaces and spaces containing vessel stores. 33 CFR 101.105 defines vessel stores to include materials for the safety or comfort of the vessel's passengers or crew, including any provisions for the vessel's passengers or crew.

What is the difference between storage areas and vessel stores?
Am I able to designate areas previously restricted as employee access areas?

A. Within NVIC 03-07, Encl (3), 3.3.b(5), when the term storage areas was used as an example of a location to be included in Employee access areas, the intent was to include areas that staged provisions to service passengers in the immediate future. For example, pantries located within galleys or frequently accessed linen closets located within passenger berthing areas. These storage areas, as part of Employee access areas (or completely within passenger access

areas), are not secure areas and as such would not require TWIC to be used as part of the access control for those spaces.

The definition of vessel stores was intended to include long term and bulk storage areas. For example, closets located completely within otherwise secure areas, or adjacent to other restricted areas, or those spaces used for storing critical vessel supplies. These storage areas must be restricted areas, and therefore carry a higher level of security protection.

We recognize, however, that the definition of “vessel stores” given in 33 CFR 101.105 is broad enough to encompass all items contained within the storage spaces that are allowed to fall within employee access areas; that was not the intent.

In order to determine whether your particular space is a storage area that may be included within an employee access area, or a space containing vessel stores that must be restricted, you should consider the following factors:

- Who requires regular access to the area?
- For what purpose the area is/was intended?
- What is contained in the area?
- How often the area is accessed?
- Where the area is located on the vessel?

Per 33 CFR 104.107(c), Employee access areas may not include any areas defined as restricted in the approved Vessel Security Plan (VSP). If a vessel owner/operator feels a storage area currently defined as a restricted area could be designated an Employee access area after reviewing their VSA and VSP, and taking the above listed factors into consideration, they must submit an amendment to their VSP to the Marine Safety Center (MSC) for approval. The Coast Guard will take the factors listed above into consideration when determining approval.

18. Will a mariner’s Coast Guard issued credential (e.g., MMD, CG License, STCW endorsement, etc.) become invalid if their TWIC is lost, stolen or damaged?

A. If a mariner's TWIC is lost, stolen or damaged, unescorted access to secure areas may be granted for seven consecutive calendar days while the individual awaits a replacement. Additional steps (outlined in NVIC 03-07 Enclosure (3)(section 3.3 h (2))) must be completed by both the mariner and the Company Security Officer (CSO), or Vessel Security Officer (VSO). The mariner’s CG-issued credential along with a valid photo identification will still be valid and can act as the mariner’s replacement TWIC for the seven consecutive days while the mariner’s replacement TWIC is being produced and activated. The Coast Guard does not consider a lost/stolen/damaged TWIC to mean that an individual has had their TWIC revoked for purposes of maintaining a U.S. Coast Guard issued credential.

19. What are the training requirements for Transportation Worker Identification Credential (TWIC) holders who act as escorts for individuals who do not hold TWICs in secure areas of Maritime Transportation Security Act (MTSA) regulated vessels, facilities, and OCS facilities?

A. TWIC holders who escort non-TWIC holders in secure areas of MTSA regulated vessels, facilities, and OCS facilities are required to meet the training requirements listed in 33 CFR 104.225, 105.215, or 106.220 (Security training for all other vessel/facility/OCS facility personnel). Specifically, escorts must have knowledge of 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.

While monitoring or side-by-side physical accompaniment must be conducted by individuals who possess TWICs, escorts are not considered “facility personnel with security duties” as described in 33 CFR 104.220 or 105.210 or 106.215.

20. Can an employer opt to keep an employee's TWIC in-house throughout that person's employment?

A. No. In the Navigation and Vessel Inspection Circular (NVIC) No. 03-07, we provide an option for individuals who choose not to have their TWICs on their person to store their TWICs in a convenient and safe location where it can be retrieved within 10 minutes for inspection by law enforcement officials. This provision was intended to allow the individual an option for convenient and safe storage when he/she felt that the TWIC was likely to be lost or damaged if kept on their person, or where wearing the TWIC (like a badge) might present a hazard to the individual. If an employer offers to provide this convenient, safe storage location for their employees’ TWICs, the TWIC must be returned to the holder when the individual departs the MTSA-regulated facility or vessel because the individual must present his or her TWIC the next time this person requires unescorted access to a secure area. Employers cannot take or

otherwise "hold" the card without the employee's consent, regardless of who paid for it. For more information TWIC ownership issues, please see TSA's FAQs at [http://www.tsa.gov/what we do/layers/twic/twic_faqs.shtm](http://www.tsa.gov/what_we_do/layers/twic/twic_faqs.shtm).

21. Can a tenant facility operating under a parent facility's Facility Security Plan (FSP) use the new hire provision for their employees?

A. Under the strict terms of 33 CFR 105.257, only the MTSA regulated facility employees responsible for maintaining and carrying-out the provisions of a facility security plan are considered direct employees for the purpose of the new hire provision. Tenant facilities in most cases do not operate under their own FSP, therefore would not be eligible to enter employees under the new hire provision.

22. Since the deadline for mariners to obtain a TWIC is April 15, 2009, can mariners who possess a Merchant Mariner Document, License, or Coast Guard Certificate of Responsibility; but, have not obtained a TWIC card, escort non-TWIC holders with secure areas of a MTSA regulated facilities/vessels?

Facility and vessel owners/operators have the discretion to allow mariners who possess a valid MMD, MML, or COR to escort non-TWIC holders within secure areas without possession of a TWIC prior to April 15, 2009. For mariners to be eligible to escort non-TWIC holders, individuals shall meet the training requirements listed in 33 CFR 104.225, 105.215, or 106.220, security training for all other vessel/facility/OCS facility personnel. Escorts shall be cognizant of the owner/operator's escorting 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.

23. The Coast Guard has announced compliance dates for each Captain of the Port (COTP) zone and mariners have until April 15, 2009. However, facilities within the port are beginning mandatory TWIC compliance before the announced compliance date. Are facilities authorized to do that?

Facility owners/operators must be operating in accordance with the TWIC provisions by the date set by the Coast Guard in a Notice published in the Federal Register. Beginning on the compliance date, Coast Guard personnel will begin to enforce the TWIC requirements. Non-compliance will be subject to control and compliance measures, civil and/or criminal penalties. Since mariners have been vetted using a comparable security threat assessment, it is the intent for facilities to authorize access for mariners with an active U.S. Coast Guard license. Although mariners may not have a TWIC, they may be authorized access, per 33 CFR 101.514 (e), if they are able to show one of the following:

1. A valid Merchant Mariner Document (MMD);
2. A valid Merchant Mariner License and a valid photo identification; or
3. A valid Certificate of Registry and a valid photo identification.

However, if a facility voluntarily implements sooner than the CG announced compliance date, they are exceeding Coast Guard regulations and within their legal rights.