

January 17, 2007

RADM Brian M. Salerno, USCG
Director of Inspections and Compliance
US Coast Guard HQ (CG-3PC)
2100 Second St., SW
Wash., DC 20593

Re: Draft NVIC NO. 07-XX - Guidance for the implementation of the Transportation Worker Identification Credential Program in the Maritime Sector

Dear Admiral Salerno,

We have reviewed the draft NVIC regarding the implementation of the TWIC in the maritime sector dated 10 January, 2007. While we believe there is a need to clarify the USCG position on some issues, the approach now taken by the USCG in implementing access control procedures appears to us to be a reasonable start in implementing a workable access control program. It is a vast improvement over past regulatory proposals and we sincerely appreciate the USCG efforts to find a means to enhance security without placing an intolerable burden on the maritime transportation system and maritime workers. The proposed NVIC addresses many of the concerns that we outlined in our submission to the docket on the prior proposed regulation. We welcome the decision to implement the program via a NVIC that offers the flexibility to quickly revise the program as the inevitable problems arise and lessons are learned.

The areas that we feel require further explanation or work are as follows:

1.) Enclosure 3

3.1 TWIC Applicability, a. Vessels (2)

Offshore supply vessels and mobile offshore drilling units are waived from the requirements of TWIC access control requirements when operating from foreign ports or beyond the Outer Continental Shelf by statute. All other US flagged vessels will be required to comply with the TWIC requirements regardless of location. Does this mean that all other US flag vessels working cargo, under going repairs or engaged in other activities in foreign ports must apply the TWIC access control requirements to foreign workers who will not have a TWIC? Can the provisions of 3.3 Vessel and Facility Guidance, c. Escorting (2) (b) Monitoring, specifically address the issue of foreign port workers in secure but non-restricted areas of a ship with practical

provisions that are capable of being implemented by a relatively small crew dealing with a large number of port workers?

3.3 Vessel and Facility Guidance, f. Incorporation of the TWIC into Existing Physical Access Control systems

This section permits facilities or ships to have unique access control systems that are facility specific so long as they are based on an underlying TWIC. This may be acceptable for the permanent work force employed at a facility. An exception must be made for transportation workers, such as mariners, where by the nature of their work they have no permanent connection with a port facility but require access through such facilities. The TWIC alone should be the sole required document for mobile transportation workers. To subject such workers to numerous local facility specific requirements places an unacceptable burden on the seagoing maritime workforce and the shore based personnel that service ships. This section should contain a provision that exempts crew members, and ship support personnel such as representatives of labor or welfare organizations, service technicians, pilots, ships agents and ship suppliers from any additional local requirements other than those imposed by the USCG on a national basis so long as they hold a TWIC.

On a different but related subject, we have reviewed the proposed Chemical Facility Anti-Terrorism Standards published in the Federal Register on Thursday, December 28, 2006. These proposed rules are published under the name of the DHS without any indication as to what agency has responsibility for their implementation. We strongly believe that combined maritime/chemical facilities should remain under the jurisdiction and oversight of the USCG and have attached our draft comments to the docket that outline our concern.

In reviewing the proposed Chemical Facility regulations two points stand out that we would recommend be considered by the USCG. The first is the proposal has an excellent discussion of federal preemption and the rationale for invoking federal preemption to enhance national uniformity in areas affecting interstate and foreign commerce. The DHS has concluded that federal preemption is necessary to have national uniformity in the security regimes of fixed site chemical facilities. We are left to wonder why the USCG, an agency within the DHS, is reluctant to invoke federal preemption in implementing TWIC access control procedures affecting an inherently mobile maritime workforce engaged in interstate and foreign commerce.

The second point is the Chemical Facility regulations contain a system of risk based tiering to determine the security regime required. Facilities would be placed in a number of tiers according to their potential risk, i.e., vulnerability to and consequence of a terrorist act. The security regime required would be commensurate with the risk based tier in which the facility is placed. This approach would seem to have merit for consideration by the USCG for application in the maritime sector. Much of the objection

to past proposals have been the one size fits all approach in security and access control procedures. It is obvious that a cruise liner with thousands onboard and a family owned towboat with a crew of four present very different risks. A tanker carrying gasoline or toxic chemicals presents a very different risk than a bulker loaded with iron ore or coal. Port facilities or terminals handle very different types of cargoes from containers, to LNG, to iron ore or crushed stone. We hope the present NVIC provisions remain in place for a long time and are not advocating any changes except for the comments above, but if there is an evolution in the future to a different regime we would hope that a tiering approach would be put in place.

Captain George A, Quick, Vice President (PMG)
International Organization of Masters, mates and Pilots