

TWIC/MTSA POLICY ADVISORY COUNCIL

November 21, 2007

Policy

TWIC & Law Enforcement Officials & Other Regulatory Agencies

01-07

Issue (01-07) – 33 CFR 101.514 refers to “law enforcement officials” as not being required to obtain a TWIC to access secure areas of regulated vessels or facilities. Further guidance as to who qualifies as a “law enforcement official” for the purposes of TWIC requirements is required. Additionally, fire department officials routinely access facilities as part of their regulatory inspection duties. Will fire department officials be required to obtain a TWIC or be escorted when conducting this function?

Background – 33 CFR 101.514(c) states that “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. Enclosure (3) to NVIC 03-07 pg. 2 Section 3.1.c (2) states “State and local law enforcement officials may use this exemption in the course of their official duties.” Further guidance as to what constitutes a law enforcement official for exemption purposes has been requested. Specifically, do State environmental officials and others with regulatory enforcement responsibilities at the State and local level qualify?

Discussion – We consider a law enforcement official for the purpose of TWIC to be any officer or employee of any agency or authority of the United States, a State, a commonwealth, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to:

Investigate or conduct an official inquiry into a potential violation of law; or

Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law;

and is doing so while acting in their official capacity.

State environmental officials and others with regulatory enforcement responsibilities at the State and local level who meet these criteria are not required to obtain a TWIC to gain unescorted access. However, they may voluntarily obtain a TWIC.

State and municipal fire departments and their officials who require access to secure areas of MTSA facilities for regulatory inspections in conjunction with their official duties fall within the definition given above, and as such are *not* required to obtain a TWIC or be escorted, as they are considered law enforcement officials. However, they may voluntarily obtain a TWIC.