

TWIC/MTSA POLICY ADVISORY COUNCIL

November 14, 2008

Policy

Private, Non-Governmental Emergency Responders Access to Regulated Facilities and Vessels for Mutual Aid Response

08-08

Issue (08-08) – 33 CFR 101.514(d) states that “emergency responders at the State, or local level are not required to obtain a TWIC to gain unescorted access to secure areas of regulated vessels or facilities during an emergency situation. 33 CFR 101.514(d) does not pertain to private or other non-governmental emergency responders. There may be situations in which a catastrophic fire or other related incident including but not limited to a Transportation Security Incident (TSI) or major natural disaster that is beyond the resource capability of state or local government emergency responders may occur at a MTSA regulated facility or vessel. Under current state or local emergency response mutual aid agreements, non-state or local government emergency responders may be requested to provide assistance. These organizations and/or individuals may respond from areas and/or industries where TWIC is not required and therefore will not be in possession of a TWIC. During an emergency situation can private, non-governmental emergency responders gain unescorted access to a secure area of a regulated facility or vessel if requested in accordance with a mutual aid agreement without a TWIC?”

This Policy Advisory Council decision does not apply to private ambulance companies responding to an isolated medical emergency at a MTSA facility or vessel. The expectation is that a private ambulance vehicle would be escorted/monitored if the personnel are not in possession of a TWIC. Additionally, this policy does not pertain to Oil Spill Response Organizations (OSROs) conducting oil or hazardous material spill response operations. OSROs are for-profit companies that specialize in cleaning up oil and/or hazardous material spills. They often serve as contractors or subcontractors for spill response efforts, however they are not considered emergency responders under the TWIC Final Rule or under this Policy Advisory Council decision and therefore must either obtain a TWIC or be escorted while in a secure area of a MTSA regulated facility or vessel. The Coast Guard Captain of the Port (COTP) may allow variations in the number of non-TWIC holders being escorted by TWIC holders, including OSRO personnel, during a major oil or hazardous material spill to ensure timely recovery post incident.

Background – 33 CFR 101.514(d) allows unescorted access without a TWIC to MTSA regulated facilities or vessels for emergency responders at the State or local government level only. Many locations around the United States utilize private/non-governmental first responder organizations to further assist during catastrophic/major emergency incidents. An individual without a TWIC must be escorted when in a secure area. The definition of “escorting” found in 33 CFR 101.105 states that “the escorted individual 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. Due to the nature of a catastrophic or major emergency response if non-governmental mutual aid organizations are required, providing

escorts to these personnel while in a secure area will be impractical or severely hamper their ability to assist during a major emergency.

Discussion – For the purposes of response to a large disaster and/or other emergency incidents where a mutual aid response by private, non-governmental entities is required, the Coast Guard considers these organizations and/or individuals as emergency responders as discussed in 33 CFR 101.514(d) and will not require a TWIC for access or an escort so long as the following provisions are met:

- 1) The responding organization is recognized by one or all of the following:
 - a) In the relevant State Emergency Response Plan as a Mutual Aid Organization;
 - b) The local Emergency Planning Committee; or
 - c) The relevant Coast Guard COTP.
- 2) All response efforts are being conducted under either the National Incident Management System (NIMS) and/or Incident Command System (ICS).
- 3) The incident and/or unified command have made a request for their resources or personnel.
- 4) The individual(s) must check-in with the incident and/or unified command (may be conducted at a pre-designated staging area) upon arrival and provide the following:
 - a) Personal Identification that meets the requirements found in 33 CFR 101.515
 - b) A qualification or affiliation document.
- 5) The individual(s) have received an authorization to deploy by the incident and/or unified command.

Once the above steps have been completed, the individual(s) may be granted unescorted access to the secure area of a facility or vessel in order to respond to an incident.