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CG-543 Policy Letter
No. 11-15

DEC 19 2011

From: E. P. Christensen, CAPT
COMDT (CG-543)

To: Distribution

Subj: PROCESSING OF MERCHANT MARINER CREDENTIALS (MMC) FOR
MARINERS NOT REQUIRING A TRANSPORTATION WORKER
IDENTIFICATION CREDENTIAL (TWIC)

Ref: (a) Coast Guard Authorization Act of 2010, Public Law 111-281
(b) Title 46, Parts 10, 11 and 15 of the Code of Federal Regulations (CFR)
(c) Title 33, Parts 104 and 105 of the Code of Federal Regulations (CFR)

1. PURPOSE. This policy letter describes both policy and forthcoming regulatory solutions that the Coast Guard is undertaking to implement the requirements of Section 809 of reference (a), which excludes certain mariners from the statutory requirement to obtain and hold a TWIC in order to receive a MMC. In the policy letter solution, the Coast Guard is allowing mariners without a valid TWIC who operate on board vessels that do not have a security plan to acquire and renew a MMC. In the regulatory solution, the Coast Guard is reviewing the MMC and TWIC fee structures, and is considering regulatory changes related to this statutory authorization.

2. ACTION. The National Maritime Center (NMC), all Sectors, Marine Safety Units, and cutters shall ensure compliance with the provisions of this policy letter.

3. DIRECTIVES AFFECTED. None.

4. BACKGROUND. On October 15, 2010, the President signed the Coast Guard Authorization Act of 2010 ("Act") into law. Prior to the Act, all mariners required to hold a MMC were also required to obtain and hold a valid TWIC. As such, the Coast Guard, through regulations, required that every applicant for an original or renewal MMC obtain a TWIC. Section 809 of the Act, however, permits the Secretary, acting through the Coast Guard, to exempt any mariner who does not require unescorted access to a secure area of a vessel from the requirement to hold a valid TWIC as a precondition of receiving and holding a MMC.

Because the SAFE Port Act of 2006 required all mariners to obtain and hold a valid TWIC as a precondition for receiving a MMC, the Coast Guard, to avoid duplicating screening efforts, discontinued some of the screening and information-gathering methods that it previously used in its credentialing process. Those screenings are now done as part of the TWIC credentialing process. In order to grant a mariner a MMC, however, the Coast Guard still must ensure that the mariner meets the basic safety and suitability background checks by capturing biographic and biometric information. Thus, the Coast Guard must still use these processes as part of the mariner credentialing process, even if it is no longer necessary that a mariner possess a valid TWIC, because most screening and information-gathering efforts are now integrated into the TWIC application process. Integration of the

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MMC and TWIC screening requirements is consistent with the long-term goals of the Department of Homeland Security to consolidate basic processes to reduce redundant activity.

In addition, because the credentialing process is funded through user fees, many of which are currently integrated into the TWIC credentialing program, the Coast Guard needs to review and possibly change the fee structure of the MMC credentialing process. The Coast Guard would carry out these reviews and subsequent changes through an administrative rulemaking process, which generally requires a longer timeline than policy changes. In the meantime, the Coast Guard is implementing policy changes to lessen the impact of existing regulations on affected mariners.

5. DISCUSSION. Consistent with Section 809 of the Act, the Coast Guard initially determined that mariners who do not need unescorted access to a secure area designated by a vessel security plan in accordance with reference (c), no longer require a TWIC. However, as discussed above, full implementation of Section 809 may require regulatory changes. Therefore, the Coast Guard has devised a policy letter solution that uses Coast Guard resources and capabilities to lessen the impact while working on a regulatory solution that will address the full scope of Section 809.

a. Policy Letter Solution:

The Coast Guard is allowing mariners without a valid TWIC who operate on board vessels that do not have a security plan to acquire and renew a MMC. Specifically, this policy will apply to mariners who are inactive or not operating under the authority of their credential, as well as those who serve on vessels that are not required to have a vessel security plan. These vessels include:

- i. Uninspected passenger vessels of less than 100 gross register tons (GRT); and
- ii. Vessels inspected under subchapter T of Title 46 Code of Federal Regulations, except those on international voyages; and
- iii. Towing vessels not involved in towing barges inspected under 46 CFR subchapters D, I or O; and
- iv. Towing vessels involved in fleeting, docking, or ship assist as excepted in Title 33 CFR, Section 104.105(a)(11).

Mariners on the vessels described above will be permitted to renew an existing credential without submitting proof of holding a valid TWIC. The Coast Guard will implement policies, described below, which will enable these mariners to acquire a MMC without having to make two trips to a TWIC enrollment center.

However, mariners who are being issued an *initial* MMC, or who never held a TWIC, will need to enroll for a TWIC at a TWIC enrollment center. They will also have to pay all applicable fees associated with getting a TWIC. This is required because the TWIC enrollment center is the only place where the Coast Guard can obtain biometric information (fingerprints) from the applicant. The Transportation Security Administration (TSA) will also continue to conduct all screenings

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associated with the TWIC, which the Coast Guard uses for issuance of a MMC. However, the mariners described above in paragraph (5a.i) – (5a.iv) will not be required to return to the TWIC enrollment center to pick up their TWIC as a precondition for receiving their initial MMC.

Other mariners renewing their MMC, who do not require a TWIC, may skip the TWIC enrollment process and apply for a MMC directly with a Regional Examination Center (REC), in accordance with Title 46 CFR, Section 10.209. If the mariner chooses to do this, the criminal background data will not be available and the safety and suitability “background check” conducted by the NMC will be name-based. If the mariner chooses this option, he/she will need to affirmatively indicate that they do not desire a TWIC and that they understand that name-based processing could significantly delay processing. A sample statement may be found at: www.uscg.mil/nmc/.

In addition, mariners who are renewing their MMC, and do not require a TWIC, may still choose to enroll for a TWIC at a TWIC enrollment center and pay applicable fees. This approach will ensure that the mariner’s fingerprints, photograph, and proof of U.S. citizenship, or nationality with proof of legal resident status (if applicable), are efficiently transmitted to the NMC. The mariner will still be required to pay all applicable fees associated with applying for a TWIC. However, the mariner will not be required to return to the enrollment center and pick up the TWIC. Mariners who do not return to the enrollment center will not be issued a TWIC, and must follow the applicable TSA procedures if they desire a TWIC in the future.

Finally, the Coast Guard will adjust its policy when conducting inspections on the type of vessels described above. While conducting inspections, the Coast Guard currently requires that all mariners produce a valid TWIC. When inspecting the vessels described above, the Coast Guard will change its enforcement policies so that a mariner who does not hold a TWIC or holds an expired TWIC, but a current MMC, will not be considered in violation of the applicable regulations.

b. Regulatory Solution:

As discussed above, the Coast Guard is in the process of considering regulatory changes to reflect the appropriate fee structure for mariners impacted by section 809 of the Act. Specifically, the Coast Guard is considering a regulatory project that would propose to adjust a portion of the MMC fees to compensate these mariners for costs associated with enrolling for a TWIC. The Coast Guard is still in the development process for that regulation, and intends to complete the rule in accordance with the timeline set forth in the *Unified Agenda of Regulatory and Deregulatory Actions* (found at www.RegInfo.gov). As part of the rulemaking, the Coast Guard is exploring possible measures to best implement Section 809. The Coast Guard welcomes stakeholder input into this process, and intends to seek and respond to public comments on the regulation. Until such a regulation becomes effective, the existing MMC and TWIC fee structures remain in place.

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6. PROCEDURES. Mariners, who fall into the categories listed in paragraph (5.a) above, and who seek a MMC without first obtaining a TWIC, shall follow this process. Coast Guard enforcement procedure changes are also included in this section:

a. Procedures for mariners seeking an MMC. Mariners who do not require unescorted access to a vessel with a security plan should include a written statement that they do not require a TWIC with their application for a MMC. A sample statement may be found at: www.uscg.mil/nmc/.

i. Mariners seeking their *initial* MMC, or those who have not previously obtained a TWIC, will still be required to apply for a TWIC at a TWIC enrollment center before applying for a MMC. These Mariners need not return to the enrollment center to collect the physical TWIC card.

ii. Mariners seeking to renew their MMC and who hold an expired TWIC may either:

(1) Enroll for a TWIC at any TWIC enrollment center. These mariners need not return to the enrollment center to collect the physical TWIC card; or

(2) Directly apply to a REC to renew their MMC. If applicants choose this option, the Coast Guard will conduct a name-based safety and suitability check of the individual.

b. The Coast Guard will exercise its enforcement discretion by not including the absence of a valid TWIC as a reason to pursue suspension or revocation action against an MMC. This policy, however, will only apply to mariners serving aboard the following vessel types:

- i. Uninspected passenger vessels of less than 100 gross register tons (GRT); and
- ii. Vessels inspected under subchapter T of Title 46 Code of Federal Regulations, except those on international voyages; and
- iii. Towing vessels not involved in towing barges inspected under 46 CFR subchapters D, I or O; and
- iv. Towing vessels involved in fleeting, docking, or ship assist.

c. Inactive Mariners. Mariners who are inactive, or not operating under the authority of their credential for long periods of time, are not required to obtain a TWIC.

7. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is in itself a rule. It is not intended to, nor does it impose legally-binding requirements on any party. It represents the Coast Guard's current implementation strategy on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and state regulators, in applying statutory and regulatory requirements. You can use an alternative approach for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations.

8. This policy will remain in effect until cancelled.

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9. Questions or concerns regarding this policy may be directed to Commandant (CG- 5434) at (202) 372-1208 or emailed to CG543@uscg.mil.

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