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Commandant (CG-54)
Attn: RADL Kevin Cook
U.S. Coast Guard
2100 Second Street SW Stop 7581
Washington, DC 20593-7581

Dear Admiral Cook:

On July 15, the U.S. Coast Guard issued Policy Advisory Council (PAC) 08-09 titled "Incorporating TWIC into Existing Physical Access Control Systems." Following our detailed review of the PAC, NPRA, the "National Petrochemical & Refiners Association", is hereby requesting timely clarification of this policy.

NPRA is a national trade association with more than 450 members, including those who own or operate virtually all petroleum refining capacity in the United States, as well as most of the nation's petrochemical manufacturers who supply feedstock chemicals necessary to produce products ranging from pharmaceuticals to fertilizer to Kevlar. Maintaining and enhancing the security of our facilities has long been a top priority for refiners and petrochemical manufacturers, and NPRA's members are committed to complying fully with the TWIC program.

Based on our review, PAC 08-09 clearly communicates an expectation that facilities conduct real-time "identity verification," e.g. a visual inspection, of all personnel with TWIC cards who are granted unescorted access to a regulated facility. This verification may be accomplished, "via gate guard, Closed Circuit Television (CCTV) or other means acceptable to the relevant Coast Guard Captain of the Port (COTP)."

We believe this new direction is contrary to the guidance provided previously to industry in NVIC 03-07, section 3.3.f (p. 15), which specifically allows for the use of facility-specific access cards and acknowledges that TWIC cards are not required to be used as a visual identification badge on a daily basis. Though the PAC 08-09 clarifies "identity verification is still required before unescorted access may be granted" on a daily basis, the example provided in NVIC 03-07, section 3.3.f explicitly states that "the [facility-specific physical access control] card reader then verifies the individual by matching the facility access card to the individual's record in the facility database and allows access to secure areas as dictated by the permissions established by the owner/operator in the access control system."

Because the NVIC permitted this use, companies have tied the use of the TWIC card with existing access control systems and procedures. There is neither an access control system standard specified in the NVIC for this allowance, nor did the NVIC require a company-issued card to possess the same components as a TWIC (e.g. a photo, an expiration date, or tamper-proof security features compatible with TWIC).



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Adding to the confusion is the fact that the PAC conflicts with the proposed “TWIC Reader Proposed Rule” (Transportation Worker Identification Credential (TWIC) Reader Requirements Advanced Notice of Proposed Rulemaking (ANPRM) (74 FR 13360, March 27, 2009). In that notice, the table on p. 13365, states:

Card Authentication (Visual Inspection of Card):

For Risk Group A and B visual inspection is not required

For Risk Group C visual inspection is required upon each entry.

As a result of the USCG’s attempt to revise the previous guidance, the new PAC requiring daily visual identity checks adds a substantial, costly and virtually unmanageable compliance burden to both manned and unmanned regulated facilities. In most instances, compliance is simply not feasible without substantial capital improvements and/or significant increases in security force personnel.

Many of NPRA’s member companies have policies regarding lost or stolen identification badges, as well as termination procedures to ensure access controls are not compromised and that violators of the policy are punished for misuse. The USCG 33 CFR 105 rule requires that regulated facilities include disciplinary measures for access card misuse in the facility’s FSP, and the USCG already must approve each FSP.

Many U.S. Government facilities currently utilize an access control proximity card for access into buildings without verification at each entry as described here, including FBI offices, United States Attorney’s offices, and various other sensitive federal agencies. That the private sector be held to a much higher standard than these sensitive government facilities through the imposition of this PAC defies logic.

NPRA and our members strongly urge the Coast Guard not implement PAC 08-09 without first conducting impact assessments to determine the security benefits of implementation, followed by a substantial revision to the contradicting sections of NVIC 03-07.

NPRA looks forward to continuing an open, constructive dialogue with the USCG on this subject. We would welcome the opportunity to partner with the USCG on this PAC, as we have before through the implementation of other aspects of the TWIC program. If you have any questions, or if NPRA can be of any assistance, please contact Jeff Gunnulfsen at (202) 552-4371, or at jgunnulfesen@npra.org.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Drevna", is written over a light gray rectangular background.

Charles T. Drevna
President