



# Commercial Vehicle Safety Alliance

promoting commercial motor vehicle safety and security

**BEFORE THE  
Department of Homeland Security  
Transportation Security Administration**

---

**Docket Nos. TSA-2006-24191; USCG-2006-24196  
Transportation Worker Identification Credential (TWIC) Implementation in the  
Maritime Sector; Hazardous  
Materials Endorsement for a Commercial Driver's License**

---

Comments submitted on behalf of

**COMMERCIAL VEHICLE SAFETY ALLIANCE**

July 6, 2006

## **The Commercial Vehicle Safety Alliance**

The Commercial Vehicle Safety Alliance (Established in 1982) works to improve commercial vehicle safety and security on the highways by bringing federal, state, provincial and local truck and bus regulatory, safety and enforcement agencies together with industry representatives in the United States, Canada, and Mexico. Every state in the United States, all Canadian provinces, the country of Mexico, and all U.S. Territories and Possessions are CVSA Members. Nearly 350 industry companies and organizations are CVSA Associate Members.

## **Background**

Since the terror events of September 11, 2001 there has been tremendous focus both inside and outside government in trying to understand both how and why these events took place, as well as what to do in the future to mitigate their occurrence. We do not have a choice but to assume that they will occur again. To think anything different is naïve and irresponsible.

As it relates to transportation security, the Department of Homeland Security, and specifically the Transportation Security Administration (TSA), has spent the large majority of their efforts to date on aviation security. Comparatively speaking very little time, effort and resources have been devoted to surface transportation. In the motor carrier and commercial vehicle area, other than the regulations surrounding the Hazardous Materials Endorsement (HME) to the Commercial Drivers License, the Highway Watch Program and Bus Security Initiatives, there is little else that TSA can point to (yet) as significant initiatives.

The HME Program has experienced a difficult road, for a number of reasons. As evidenced in the June 16 Hearing in the House of Representatives of the Subcommittee on Economic Security, Infrastructure Protection and Cybersecurity of the Committee on Homeland Security, it continues to present implementation challenges for both industry and enforcement. We are hopeful that a comprehensive commercial vehicle security policy can emerge from this debate. There are many vulnerabilities in the various modes of our transportation system that are in need of attention. However, at the same time we need to be sensitive to not impeding commerce and to not unfairly penalize the industry.

## **Key Points**

The information outlined below represents our key comments related to the Transportation Worker Identification Credential, some of which may not necessarily be specific to the content of this rulemaking proceeding. However, we believe a comprehensive approach must be taken with respect to TWIC implementation, and operations/enforcement is a key component of it.

## Security Sensitive Materials

- DHS needs to take the lead in a rulemaking effort to define Security Sensitive *Shipments* (emphasis added). This definition should initially be limited to the most security sensitive hazardous materials. DHS must use the existing DOT and UN classification mechanisms, regulatory and emergency response infrastructure to bound this definition.
- However, a number of vulnerabilities exist with respect to shipments made by commercial vehicle, and DHS must conduct a thorough threat and vulnerability assessment for the entire supply chain (all modes) to prioritize the most significant concerns and based on these findings, potentially expand the definition of Security Sensitive Shipments (SSS). DHS must have sound methodology for its assessment that is bounded as much as possible in factual and substantiated data, as well as with expert opinion from within and external to the Department. The methodology must be able to be replicated.
- DHS must coordinate this activity with other federal agencies having responsibility/authority over different aspects and elements of surface transportation. At a minimum, this should be FMCSA, PHMSA, FHWA, MARAD, Coast Guard, FAA, DOD and DOE. This work must also be coordinated with appropriate federal and border agencies in Canada and Mexico.
- Following the assessment DHS must share this analysis in a collaborative fashion with state and local government, as well as industry representatives to validate its conclusions. The Government and Sector Coordinating Councils can act as a good sounding board for this, as well as a number of other groups. A formal program shall be established for this engagement, as well as ongoing evaluation and input.
- Once the initial set of SSS has been defined, DHS shall determine which companies transport security sensitive shipments, in cooperation with DOT. Companies should be required to register, through TSA using the DOT MCS-150 form (or something compatible), and incorporated as part of the Unified Carrier Registration System operated and maintained by DOT. The need for this is to assist the federal agencies (i.e. DOT and DHS) and the states in data sharing, accuracy, timeliness and consistency. A number of administrative and operational information systems are being fueled by data from the MCS-150 and tools are in existence already and being used by federal and state agencies. These systems need to be leveraged. We think taking this approach will also minimize additional administrative costs and burdens on the industry. We do not support additional fees or liability requirements being imposed on the industry to implement this capability.

## Threat Assessments

- Provide a single background assessment on commercial vehicle drivers to suffice for all federal, state and local agency needs/requirements. The same standards should apply (to the extent allowed by law) to foreign drivers (i.e. Canada and Mexico)

- Standards development and maintenance for driver security threat assessments need to be managed at the federal level. This must be done through a regulatory process that provides the public with an opportunity for notice and comment, and should be periodically reviewed.
- Threat assessments must include a check of international, federal and state/local databases.
- The Department of Homeland Security should be responsible for coordination among all the affected agencies, federal, state and local. DHS also must be responsible for conducting the threat assessments per the standards.
- DHS should periodically conduct random threat assessments on those who possess the SSS credential.

### Credential

- DHS must issue a single security credential. The “credential” should be the Transportation Worker Identification Credential. The TWIC shall serve as the singular credential that serves the needs of all appropriate federal agencies related to transportation security requirements.
- It is absolutely essential that DHS and DOT work with the states, Canada and Mexico to coordinate the TWIC with immigration and commercial driver licensing processes, documentation requirements, administration and enforcement.
- DHS must make the fingerprinting and TWIC issuance process simple and accessible for industry.
- DHS must minimize costs and duplication.
- The credential must be tamperproof.
- The renewal cycle for the TWIC should be the same time period as what is required of the HME to the CDL.
- Biometrics need to be embedded in the credential, as well as to be maintained in a secure environment for redundancy, to be verifiable and to minimize fraud. Biometrics should be FIPS 201 compliant and principally be fingerprints and digital photographs.
- There need to be federal standards and a certification process created for documents that can be used to verify a driver’s identity and proof of residence. These documents need to be secure and tamperproof. These standards shall be promulgated through DHS and have an opportunity for public notice and comment. These standards shall also apply (to the extent practicable) to the Driver License issuing process.

### Enforcement

- There needs to be a simple and credible means with which to identify that a shipment is of a “Security Sensitive” nature (i.e. shipping papers). This will

trigger law enforcement to check for and verify driver TWIC/credential status. However, there will need to be a means in addition to the shipping papers for law enforcement to identify a SSS enroute, since shipping papers are not required for all shipments (only on hazmat). Even on hazmat shipments, many drivers do not carry or produce them to law enforcement.

- Need a simple, timely, and verifiable means with which to verify credential status in the field – in both mobile and fixed facility environments. A call center phone number and electronic means are (minimally) needed.
- Exploration must take place of the costs and benefits for equipping law enforcement in the field with the capability to validate driver fingerprints against the TWIC. To the extent practical, this effort should use existing devices in patrol cars for the primary purposes of ergonomics and officer safety.
- Work with CDLIS, NLETS and NCIC to create necessary data fields, procedures and protocols to accommodate TWIC status information/notification.
- Develop training based on procedures and protocols.
- Provide federal resources to develop administer and maintain the training materials.
- Provide federal resources for software, information systems and/or communications enhancements needed at the state/local level for implementation.
- There needs to be a timely and proactive method to notify the employing motor carrier and law enforcement for those drivers who fail the threat assessment.

## **Conclusion**

CVSA appreciates the opportunity to provide our views on this subject. We believe taking a comprehensive and phased approach to TWIC development and implementation makes the most sense. We also believe that if not managed properly, the myriad of threat assessment programs in place (and being contemplated) will not help, but hinder transportation security. TWIC has the opportunity to serve as the program to supercede all other transportation security credentialing programs, and by doing so will help simplify the process and minimize costs and headaches for enforcement and industry. All stakeholders need to be included in the process and need to have the opportunity to participate and provide input.