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Committee on Homeland Security
Subcommittee on Transportation Security

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“H.R. _____, The MODERN Security Credentials Act”

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Chairman Rogers, Ranking Member Jackson Lee, members of the Transportation Security Subcommittee and staff, thank you for the opportunity to testify before you today on a very important topic: “The MODERN Security Credentials Act.” I am hopeful that my testimony will give you a unique and valuable perspective as you weigh the important policy decisions surrounding this matter.

My name is Darrell Bowman, and I am a senior researcher at the Virginia Tech Transportation Institute. In this position, I currently serve as Group Leader for the Advanced Systems & Applications Group within the Institute’s Center for Truck and Bus Safety. I have more than 15 years of experience as a researcher in the areas of transportation safety and security. My research experience includes various projects related to the safe and secure transportation of hazardous materials, the development and testing of advanced commercial vehicle information/safety systems, and the improved comfort of occupants through enhanced vehicle component designs.

I am here today to discuss pertinent findings from our recent study, *HM-08, Consolidated Security Credential for Persons Who Transport Hazardous Materials*, which my group completed for the Hazardous Materials Cooperative Research Program (HMCRP) of the National Academies’ Transportation Research Board. This project ended in February of this year (2011). The final report has been accepted by the HMCRP HM-08 panel and approved for publication by the chair of the Subcommittee for National Research Council Oversight. This final report is now in the editorial process, and will be published later this year as *Hazardous Materials Cooperative Research Program (HMCRP) Report 6, Feasibility of a Consolidated Security Credential for Persons who Transport Hazardous Materials*. It is important to note that this HMCRP project was not intended to provide policy recommendations to the federal government; instead, it provides fact-finding and policy analysis.

This study evaluated the hazardous materials (HazMat) transportation worker credentialing system to identify duplicative elements and redundant costs. The research characterized the

application elements, the acquisition process, and the physical characteristics for each identified credential. The key outcome of the project was to determine the feasibility of consolidating many or all of the existing local, state, and federal credentials, necessary under current regulations and policies, into one credential for all transportation modes that is cost-effective while maintaining an equal or greater level of security and safety.

Background

According to Transportation Research Board Special Report 283, the U.S. Department of Transportation (U.S. DOT) has estimated that about 817,000 shipments consisting of 5.4 million tons of HazMat are made daily in the United States, which would total nearly 300 million shipments and 2 billion tons of hazardous cargo per year.¹ By its risky nature, the safekeeping of HazMat in transit is paramount to the safety and security of people everywhere. Vetting the personnel working with and around HazMat through a credentialing process is essential for maintaining the security of the transported materials as well as for ensuring the safety of the general public.

The security of the nation's HazMat freight in all transportation modes relies on a layered, multi-faceted security program. This comprehensive system is a constant monitor of the many facilities, vehicles, and workers involved in HazMat transportation. One important part of this comprehensive security system is worker credentialing. Security credentials play an important role by vetting the individual credential holder, and communicating pertinent information for facility access control.

While the current credentialing program is comprehensive across all transportation modes, some consider the U.S. credentialing process to be lacking a coordinated vision and failing to recognize the multimodal and intermodal nature of the transportation sector.² This disjointed vision has created a fragmented security credential system that requires workers to possess various security credentials as they move through the HazMat transportation logistics chain. Each credential has costs, both monetarily and in time-to-acquire, resulting in duplicative costs and additional time required for both the credentialing agencies and the credential applicants. These costs provide strong incentive to evaluate opportunities for consolidation within the HazMat security credentialing system.

Pertinent Findings

While the study report provided a detailed review of the current HazMat credentialing system, the following discussion focuses on three important findings pertinent to the topic of today's hearing.

First, the most promising initial step appears to be the consolidation of security threat assessments.

¹ http://books.nap.edu/openbook.php?record_id=11198&page=11.

² <http://www.truckline.com/Newsroom/ATA%20Comments%20Filed/ATA%20R3%20TWIC%20Petition.pdf>.

There is strong evidence that the security threat assessments, which include background checks, for several security credentials could be consolidated and still remain applicable across all transportation modes. Examples of these security credentials include the Transportation Worker Identification Credential (TWIC), Commercial Driver's License – Hazardous Materials Endorsement (CDL-HME), Security Identification Display Area (SIDA) badge, Free and Secure Trade (FAST) card, NEXUS card, Secure Electronic Network for Travelers Rapid Inspection (SENTRI) card, Merchant Mariner's Credential (MMC), Merchant Mariner's Document (MMD), United States Postal Service (USPS) credential, Common Access Card (CAC), and the U.S. Passport.

Ten of these 11 security credentials identified shared both a fingerprint-based background check (all but the Passport) and a name-based background check (all but the USPS credential). The fingerprint-based background check is performed by the Federal Bureau of Investigation (FBI) using the National Crime Information Center (NCIC). Regardless of the issuing agency, the FBI performs this portion of the investigation and then provides the relevant data back to the issuing agency (or adjudicating organization). A name-based search of relevant databases includes a criminal history check (e.g., the U.S. Passport), and a review of the Terror Watch List (e.g., TWIC, MMC, and HME) which is also maintained by the FBI. The MMD and MMC require a drug test as part of the application process, and results of the test are included in the adjudication process. A review of the National Driver Register is required for the MMD, MMC, and USPS credentials. Finally, an interview with issuing agency personnel is required for the three U.S. Customs and Border Protection-issued credentials (FAST, NEXUS, and SENTRI).

The key difference for many of the credentials is the process of adjudication. Each issuing agency receives the results of the security threat assessments and determines the applicant's eligibility for the credential based on agency-specific disqualifying offenses. One exception would be the issuance of the HME by the individual States. In this instance, the Transportation Security Administration (TSA) provides the applicant's eligibility to the individual States.

In some cases there are minor variations in how these processes are completed or which databases are checked; however, the overall processes are similar. More importantly, the objective of these security threat assessments (i.e., identifying any disqualifying offenses) is the same for all credentials. The consolidation of the security threat assessments would deal largely with the application process, and would be transparent to the end user.

The need for a harmonized security threat assessment was supported by comments from actual HazMat security credential holders while completing the project's online questionnaire.

Examples of comments related to security threat assessments include:

- *“Why so many background checks? Can't these agencies talk to one another? Who gets the money? Why \$83 for one check and \$132 for TWIC and \$25 for TSA? Why isn't one background check enough?”*
- *“You have to go to [a] special place to get fingerprints done rather than [a] local law enforcement office. Our place is about 1.5 hours away which is not very efficient.”*

A system where security threat assessments are standardized would increase efficiency and likely result in reduced costs. Multi-agency data sharing could also streamline the process for all

stakeholders. This harmonized system would require that the background investigation results of an initial credential application be applicable to a subsequent credential application. As is currently the case with the TWIC, it would require the expiration of any subsequent credentials (e.g., CDL-HME, FAST, MMD, and MML) to coincide with the expiration of the first credential. That is, if an applicant is issued a TWIC in 2010, and then applies for a FAST card in 2012 using the security threat assessment from the TWIC application, the FAST card would also expire on the TWIC expiration date of 2015. Initially, this could cause some issues with increased renewal processing demands due to non-standard renewal periods. However, over time this should save money as alignment and efficiency occur.

The second pertinent finding is the inconsistency in disqualifying offenses for security credentials, creating the need for a harmonized set of disqualifying offenses.

Disqualifying offenses are those offenses that would bar an applicant from qualifying for a security credential. In many cases, these are specific criminal violations. In some cases, the disqualifying offenses are related to monetary infractions, applicant flight risk, or suspicion of an applicant based on intelligence information.

Currently, the various security credentials have disqualifying offenses with differing nomenclatures and intents, which applicants must satisfy. Consolidation of security credentials would necessitate merging disqualifying offenses, creating a standardized threshold to which all applicants would be held accountable. However, there are several important factors that need to be considered when harmonizing the disqualifying offenses, two of which are:

- A highly restrictive harmonization of disqualifying offenses could potentially limit the applicant pool, thus reducing the qualified labor force.
- Conversely, the least restrictive set of disqualifying offenses would likely lower the overall screening effectiveness of the security threat assessment, but increase the applicant pool sufficiently to handle labor demand.

To illustrate this balance of harmonization, imagine a fisherman mending his nets. He can make the size of the nets' openings so small as to catch all fish – both wanted and unwanted species – or so large that no fish are caught at all. Like the fisherman, agencies must decide on the degree to which the disqualifying offenses should be harmonized to balance the security needs (i.e., applicants are appropriately vetted) of the HazMat transportation system with worker eligibility (i.e., not excluding potentially qualified workers).

The third pertinent finding is the necessity to strike a balance between level of security and user burden through inclusion of broad stakeholder input.

The research results revealed the complexities of the existing HazMat credentialing system through the identification of (i) multiple security credentials, each with its own specific purpose, and (ii) system redundancies such as vetting processes, costs, and time. While there is a clear need for a secure HazMat transportation system, there is a competing need to minimize user burden. A complete and effective security credentialing system can only be developed with input from HazMat transportation stakeholders, including end-users, administrators, and other involved parties.

Conclusions

The research suggests that consolidation of security threat assessments could be an immediate solution that will result in decreased costs, reduced time burdens for stakeholders, and the elimination of redundancies. The majority of the security credentials identified for transporting HazMat require very similar background investigations. Through data-sharing agreements and standardization of the adjudication process, a streamlined background investigation for these credentials could be achieved. This consolidation would require a standardization of the disqualifying offenses, which must be performed to maintain each security credential's intended function as well as balance the screening effectiveness with the qualified labor pool. Finally, the success of consolidating processes within the HazMat credentialing system is dependent on the input of stakeholders at all levels.

As stated, this final report is now in the editorial process, and will be published later this year as *Hazardous Materials Cooperative Research Program (HMCRP) Report 6, Feasibility of a Consolidated Security Credential for Persons who Transport Hazardous Materials*.

Again, thank you very much for giving me the opportunity to testify before you on this important matter. I will be happy to answer any questions you have regarding these findings. Feel free to contact me at the address on the cover page of my written testimony, via phone at (540) 231-1068, or via email at dbowman@vti.vt.edu.