

July 18, 2007

The Honorable Elijah Cummings, Chairman
Subcommittee on Coast Guard and Maritime Transportation
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I would like to thank you again for the opportunity to present our views on the Transportation Worker Identification Credential (TWIC) during your Subcommittee's hearing on July 12th. The development and implementation of the TWIC program is extremely important to the maritime industry and unless, as you say, it is done right, American maritime workers will find themselves unable to pursue their chosen professions and to provide for their families – and the maritime transportation system will be disrupted.

In this context, we would like to respond to your request for additional information by submitting the following comments on some of the areas we believe are most important when discussing the development and implementation of the TWIC program.

Merchant Mariners and TWIC

During the course of the hearing, it was suggested that it is blatantly unfair to ask merchant mariners who already pay for background checks to pay again for background checks under the TWIC program. We strongly agree, first because strengthening maritime and port security is a national concern and the costs should rightfully be borne by the Federal government, and second, because it is truly unnecessary and duplicative to subject merchant mariners to additional background checks.

As you and Members of your Subcommittee know, in order to sail as a licensed or unlicensed merchant mariner on any vessel (other than a vessel operating exclusively on the inland waterways), an individual must obtain a Merchant Mariners Document (MMD). In order to obtain an MMD, the individual is subject to a criminal background check, is fingerprinted, and has his driving record examined for offenses that might be deemed to affect his suitability for a job at sea. In other words, to sail as an American mariner, the individual has already been subjected to and passed stringent U.S. government background checks.

In our opinion, there is no rational reason to bog down the TWIC program by subjecting those who have already passed background and other checks by the U.S. government to the same process again under the TWIC program. If there are additional matters that the TSA would look into under the TWIC program, then these additional matters can and should be incorporated into the process used by the Coast Guard when reviewing applications for an MMD. Consequently, we believe that the MMD that every mariner has to possess should be made to comply with all the requirements of the TWIC program. We ask that you and your Subcommittee first encourage the Transportation Security Administration and the Coast Guard to consolidate the TWIC and the MMD into a single document and that if they fail to do so, we ask that you and your Subcommittee proceed with legislation that would mandate this consolidation.

One final point in this area: The US Coast Guard is currently proposing consolidating the present separate MMD and Licensing programs into a single program, resulting in a new consolidated credential. If such action is taken, the data required on the new credential will exceed the capacity of the chip on the TWIC. This lack of capacity is being used as a reason for not consolidating the TWIC and the present MMD into a single document. We ask that the present MMD and Licensing programs and documents be retained in their present format so as to permit a consolidated TWIC/MMD.

Disqualifying Offenses

As stated in the testimony presented to your Subcommittee, we have serious concerns about the offenses that the Transportation Security Administration will apparently use to disqualify someone from holding a TWIC. We find it unconscionable that an individual who has committed an offense that has nothing to do with terrorism or national security will nonetheless initially be denied a TWIC, and will have to assume the time and cost of applying for a waiver.

Individuals who have committed a crime that is not related to terrorism, paid their debt to society and turned their lives around should be able to seek and retain employment in the maritime industry. By denying a worker a TWIC for committing a crime unrelated to terrorism, the TSA is telling the individual that he must pay again for the offense he committed at some point in his past by having to assume whatever costs and time are associated with his request for a waiver; and that it is the individual who must leave his job and forgo his livelihood unless the waiver is, after some indeterminate time, decided in his favor.

You, Mr. Chairman, and a number of your colleagues made repeated reference during the hearing on the importance of giving individuals a second chance; of recognizing that someone who may have made a bad decision is not necessarily a terrorism security risk. To tell someone who has become a productive member of society and who is providing for his family through employment in the maritime industry that he will have to bear the burden of proving to an Administrative Law Judge that he is worthy of working as a seafarer or longshoreman is, to us, little more than a veiled attempt to drive such individuals from our industry. For these reasons we opposed efforts to codify regulatory aspects of the TWIC program, including disqualifying offenses, into statute as is being considered in the pending 9/11 bill. TSA must have the authority to ensure that this program is used to disqualify only those individuals that are genuine security risks and we are concerned that the Senate provision could run counter to that objective.

Interoperability with International Standards

We discussed this issue in great detail in our prepared testimony and we questioned why the TSA and the Coast Guard have refused to adapt the current and internationally accepted biometric identifier standards of the International Civil Aviation Organization (ICAO) for the TWIC program. The readers and other supporting hardware for the ICAO standards are in use at airports around the world, including airports in the United States. Instead, the TSA made the decision to use the U.S.-specific Federal Information Processing Standard (FIPS), necessitating the development of a new technology for readers and software to implement the TWIC program.

As a result, port facility operators and the Coast Guard will not be able to scan and read the Seafarers' Identity Documents carried by foreign seafarers, and foreign port authorities will not be able to scan and read the TWIC cards to be carried by American mariners.

We ask that you and your Subcommittee determine from the TSA and the Coast Guard why the decision was made to utilize standards that require the development of new technology, rather than to utilize internationally used and accepted standards that rely on a proven technology that is in use in American airports and which can easily be adapted to the TWIC program. We further ask that you and your Subcommittee encourage the TSA and the Coast Guard - in order to get it right - to abandon their current approach and to move forward instead with a simple, internationally accepted and interoperable identification program based on the ICAO standards.

Federal Preemption

We also discussed in greater detail in our prepared testimony our concerns that unless the Federal TWIC program takes clear precedence over identification and access control programs and requirements developed by individual facilities, ports and states, there will be severe disruptions in the maritime transportation industry. There needs to be one clear set of rules and requirements governing a national transportation worker identification and access program so that maritime workers and vessel operators will be able to efficiently move America's domestic commerce and export and import trade.

We ask you and the members of your Subcommittee to work for the enactment of legislation that states that the national TWIC program supersedes all others and that the maritime workforce will not be subject to other local and state requirements. We further ask that you encourage the TSA and the Coast Guard to work with state and local entities to ensure that their security concerns are addressed as part of the national program.

Access Control

The access control regime proposed for all maritime facilities and vessels is overly complex, expensive and dependent upon advanced technology that is impractical to implement across the entire transportation industry. Attempting to micro-manage the use of hundreds of thousands, if not millions, of TWICs for access control by means of a central server at TSA

connected to tens of thousands of card readers at thousands of facilities and vessels creates enormous problems for a very diverse and mobile industry. The connectivity problems alone for vessels that are underway on our inland waterways or trading internationally in foreign ports are insurmountable from any realistic perspective. The proposed access control system will place a huge burden on the industry with little to no enhancement in security.

There is a need to scale back the overly ambitious US Coast Guard high tech access control provisions to a system that is practical in the maritime workplace and ensures that transportation workers are screened for a potential a terrorist threat without causing widespread damage to the maritime transportation system and our economy through excessive regulatory control.

An important issue was raised at the hearing concerning the interface between maritime facilities that may be enclosed within chemical facilities and refineries. There may be incompatible or conflicting security regimes between the different facilities. There is a need to provide by regulation that the maritime facility be provided an access corridor through such chemical facilities so that the maritime facility can function with access for receiving stores, for shoreside support and service personnel, and access for mariner shore leave and crew changes. We have expressed our concerns on this issue in comments filed to the docket on the proposed Chemical Facility Regulations and they have remained unaddressed.

Conclusion

Once again, we thank you and the Members of your Subcommittee for your efforts in behalf of America's maritime workers. We stand ready to work with you and your colleagues to enhance America's maritime security and to facilitate the movement of America's waterborne commerce. We would look forward to meeting with you, members of your Subcommittee or staff to discuss more fully the issues we have briefly covered in this letter.

Sincerely,

Michael Rodriguez
Executive Assistant to the President

cc: The Honorable Steve LaTourette, Ranking, Subcommittee on Coast Guard and Maritime Transportation

Members, Subcommittee on Coast Guard and Maritime Transportation

