



WORLD SHIPPING COUNCIL  
PARTNERS IN TRADE

Comments of the

## **World Shipping Council**

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Submitted to the

**United States Coast Guard  
Department of Homeland Security**

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In the matter of

## **Notice of Proposed Rulemaking**

**Vessel Requirements for Notices of Arrival and  
Departure, and Automatic Identification System**

Docket Number:  
USCG-2005-21869  
RIN 1625-AA99

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April 15, 2009

## **I. Introduction**

The World Shipping Council (the “Council”) submits these comments in response to the United States Coast Guard’s (USCG) Notice of Proposed Rule Making (NPRM) published on December 16, 2008 (73 Fed. Reg. 76295). The Council, a non-profit trade association of over twenty-five international liner shipping ocean carriers<sup>1</sup>, was established to address public policy issues of interest and importance to the international liner shipping industry. The Council’s Members include the leading ocean liner companies from around the world -- carriers providing efficient, reliable, and low-cost ocean transportation for America’s international trade<sup>2</sup>. The Members of the World Shipping Council are major participants in an industry that has invested over \$400 billion in the vessels, equipment, and marine terminals that are in worldwide operation today. Today, over 1,500 ocean-going liner vessels, mostly containerships, make more than 27,000 calls at ports in the United States each year -- more than 70 vessel calls a day. In 2007, approximately 29 million TEUs<sup>3</sup> of containerized cargo were imported into or exported from the U.S. The industry generates over one million American jobs and over \$38 billion of wages annually to American workers. The industry provides the knowledge and expertise that built, maintains, and continually expands a global transportation network that provides seamless door-to-door delivery service for almost any commodity moving in America’s foreign commerce. The Council’s Member lines include the full spectrum of carriers from large global lines to niche carriers, offering container, roll on-roll off, and car carrier service as well as a broad array of logistics services.

The Members of the Council have worked closely with the U.S. government to enhance maritime security by providing meaningful advance information to the Department of Homeland Security (DHS) for vessels, crewmembers and cargo that will be arriving into the United States. The Council’s comments on this NPRM are made in a continued spirit of commitment to address these challenges with measures that are both meaningful and effective, and which continue to preserve the immense benefits that the American economy, American businesses and American consumers receive from the efficient and reliable flow of international maritime commerce.

With full support for DHS’s efforts to enhance maritime security while ensuring the efficient flow of commerce, we offer the following comments to this proceeding.

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<sup>1</sup> “Liner shipping” involves vessels engaged in regularly scheduled service to and from U.S. ports (e.g., ships leaving particular foreign ports for particular U.S. ports on a weekly schedule) in contrast to cargo vessels that call on U.S. ports for a particular voyage when hired (e.g., tanker and bulk shipping).

<sup>2</sup> A list of the World Shipping Council’s Member companies is available at [www.worldshipping.org](http://www.worldshipping.org). WSC Member companies carry over 90% of the United States’ international containerized ocean cargo.

<sup>3</sup> A TEU is a standard container measure that represents a twenty-foot container. Most containers moving in the U.S. trades are forty-foot units equal to 2 TEU. 29 million TEU equates to about 18 million container loads of U.S. cargo.

## **II. Comments**

### **A. Background**

The promulgation of U.S. Customs and Border Protection's (CBP) "*Electronic Transmission of Passenger and Crew Manifests for Vessels and Aircraft*" Final Rule on April 7, 2005 (70 Fed. Reg. 17820) marked a significant achievement for DHS – the establishment of the concept of a "single window" through which vessel operators could electronically file all the data elements to meet the requirements of both the USCG's Notice of Arrival (NOA) and CBP's Advance Passenger Information System (APIS). At the time, the system, called "electronic Notice of Arrival" (eNOA), was praised in speeches by the DHS Secretary as proof that DHS agencies would cooperate and coordinate to enhance security while also facilitating the efficient flow of commerce.

The eNOA system was amended in 2006 to include departure notices and became the "eNOA/D" system. Today, eNOA/D is the electronic data system through which ship operators file information on the vessel, voyage, and crew prior to arrival to the first U.S. port, prior to arrival to subsequent U.S. ports, and upon departure from the last U.S. port. After the eNOA/D data elements are received by the USCG's National Vessel Movement Center in Martinsburg, West Virginia, they are disseminated electronically to CBP and USCG officials for targeting, risk analysis, and whatever law enforcement use is appropriate.

This "single window" concept has been an important DHS policy objective and has the full support of our industry.

### **B. Problem: Paper Crew/Passenger List Still Required**

Unfortunately, the fulfillment of the "single window" concept has not yet been achieved. Vessels are still required to file with CBP a paper I-418 form (Passenger List – Crew List), which contains virtually the same data elements that are collected in the eNOA/D. The paper I-418 is required (in accordance with 8 CFR 251.1 and 251.3) to be presented to the CBP officer at the U.S. port where the immigration inspection is conducted and at the final U.S. port prior to departing for a foreign port.

For comparison, eNOA/D filings are required 96 hours prior to vessel arrival (later for short-duration voyages), upon departure, and must be updated in advance of each subsequent U.S. port call. Thus, the vessel is already making eNOA/D filings electronically every time CBP is receiving a paper I-418 filing.

The only difference between the filings is a very slight variation in the data elements. Of the 28 data elements contained on the I-418 form, only 3 are not already collected in the eNOA/D system. These data elements are:

1. *Will crewmember be performing longshore work while in the U.S.? (yes/no)*
2. *Date crewmember joined the ship*
3. *Date crewmember separated from the ship*

We do not believe that these three data elements can rationally support the retention of a duplicative paper filing requirement. We understand that CBP inspectors use the I-418 form to check that all crewmembers that arrived into the United States have been properly accounted for when the ship departs the United States, and this is an important function. We do not believe, however, that this requires the continued maintenance of a separate and distinct paper filing process.

Further coordination between the Coast Guard and CBP as sister agencies within DHS can remedy this problem, eliminate a duplicative data filing procedure, and provide both agencies with a single, electronic and complete data system for vessel crew information.

If the three data elements from the I-418 noted above were added by the USCG to the eNOA/D system, CBP could simply reference the data residing in eNOA/D. CBP should then be able to eliminate the requirement that shipping agents or ship operators resubmit this data on a paper form upon arrival and prior to departure. CBP acknowledged that the I-418 form was likely unnecessary in the preamble to the APIS Final Rule (at 70 Fed. Reg. 17833) when it stated, *“With regard to the I-418 and I-94 forms, CBP intends to study whether, and if so to what extent, the transmission of APIS [i.e. eNOA/D] data can replace the submission of these paper forms. Preliminary analysis indicates that these documents can be significantly reduced, if not eliminated.”* We believe CBP is willing to cooperate with the Coast Guard to eliminate the paper I-418 if it can acquire the data it needs from the eNOA/D system.

We believe the current NPRM, which, among other things, will require notices of arrival and departure from all foreign commercial vessels enroute to and departing from the United States, presents an ideal opportunity for the USCG and CBP to build further on their excellent cooperative relationship and take the necessary steps to eliminate this outdated paper filing.

Adding the three data elements noted above to the eNOA/D system would complete the objective of creating a “single window” for the filing of crew information, would give all relevant DHS officials a single and complete electronic data base of vessel crew information, and would relieve the industry of having to complete an anachronistic paper form in an electronic information age.

### **C. Recommendation**

The Council recommends that the USCG and CBP work together to 1) undertake the necessary programming changes to the eNOA/D system so that it captures all needed crew data, and 2) eliminate the filing of paper I-418 forms.

We understand that such changes would require some USCG re-programming of the eNOA/D system to accommodate the three data elements from the I-418 and to facilitate eNOA/D data accessibility by CBP officials. We cannot envision that such changes would involve substantial costs or difficulties. Phasing-out the outmoded, paper I-418 process, which is almost completely redundant to the processes required for the submission of eNOA/D information, would, however, reduce the paper filing burden on the regulated community, relieve CBP from having to collect, process and store these paper forms, and establish a genuine and comprehensive electronic “single window” for the filing of vessel, voyage, and crew information within DHS. It would also reinforce the purpose of putting CBP and the Coast Guard in the same Department – namely the enhanced and efficient coordination of homeland security functions.

### **III. Conclusion**

The Council fully supports DHS’s objectives to establish effective systems for enhancing and maintaining maritime domain awareness, cargo security, and personnel security by requiring advance information on vessels, cargo and crewmembers entering the United States. These advance information systems have been central to the establishment of a credible risk analysis system that enables the USCG and CBP to direct their finite resources on high-risk targets. We firmly believe that it is in DHS’s interests to phase out obsolete or redundant, paper-filing processes, and to complete the electronic “single window” system to capture and store relevant crewmember information.

We therefore urge the USCG to amend the eNOA/D data elements to capture the three identified data elements currently captured by the I-418 form. Doing so will allow CBP to phase out the paper I-418 process, and will complete the Department’s stated vision of an electronic “single window” for the capture and use of such data. The Council would be pleased to work with both agencies on this issue.