

CIRCULAR

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TO MEMBERS OF THE ASSOCIATION

Dear Member:

UNITED STATES BUREAU OF CUSTOMS AND BORDER PROTECTION (CBP): COMPULSORY ELECTRONIC FILING OF PASSENGER AND CREW INFORMATION: INTERNATIONAL CARRIER BONDS

Background

As Members may be aware, on April 1, 2005 the US Bureau of Customs and Border Protection (CBP) promulgated a Final Rule stipulating that vessel manifest information concerning passengers and crew, required under the Advance Passenger Information System (APIS), was, with effect from June 6, 2005, to be filed with CBP electronically in accordance with a specified system.

Since October 2005, the United States Coast Guard has adopted a policy of strict enforcement of regulations relating to Electronic Notice of Arrival/Departure (eNOA/D). These regulations require ships to submit an eNOA/D to the National Vessel Movement Center (NVMC) within the following time limits:

Arrival manifest

For voyages of 96 hours (4 days) or more:

Between 24 hours and 96 hours:

Less than 24 hours:

Deadline for submitting manifest

at least 96 hours before arrival

at least 24 hours before arrival

prior to departing the foreign port or
place of departure

Departure manifest:

15 minutes before the vessel
departs the United States

Recent Developments

More recently CBP Area Port Director(s) have issued a notice as follows:

"...all international carriers transporting passengers and or crew members must obtain an international carrier bond and place it on file with the CBP prior to entry or departure from the United States..."

In this connection, CBP has advised that the party considered to be the carrier for the purposes of APIS is the entity responsible for providing the crew – in most cases the owner or bareboat charterer of the relevant vessel.

APIS provides for penalties for failure to provide accurate or timely information. They are \$5,000 for a first time offence, and \$10,000 for a second offence.



CBP has also indicated that in place of an initial penalty assessment against a commercial carrier arriving or departing without a valid international carrier bond (ICB), the Port Director will notify the master in writing of the bond requirement in the form of a letter of notice. CBP will start enforcing the ICB requirements from February 1, 2006 or, if the master has not received notification by February 1, 2006, enforcement of the bond requirement will begin on the master's next arrival in the US following issue of the written notice.

The minimum amount for the bond requirement is set by the Area Port Director. Carriers with a current valid international carrier bond below the amount set by the Area Port Director and carriers applying for a new international carrier bond must secure a bond for at least the amount required by the Area Port Director.

Next Steps

Members should establish who is the carrier for the purposes of APIS (eNOA/D). The advice of CBP is that the carrier is the entity responsible for providing the vessel's crew and, as mentioned above, is therefore most likely to be the owner or bareboat charterer of the relevant vessel.

If the entity which is the carrier for the purpose of the APIS regulations already has a current valid ICB for the Automated Manifest System (AMS) regulations, (these bonds are typically in the amount of \$25,000 - \$50,000), that party should contact (through its local agent) the respective Customs Port Director for confirmation that the amount of its existing ICB will also suffice for the purposes of the APIS regulations.

If the carrier does not have a current valid international carrier bond filed with the CBP, its agents should be instructed to contact the Customs Port Director in the most frequently used ports to determine the maximum amount of the ICB likely to be demanded and then arrange a continuous or single entry ICB through an approved surety or market facility accordingly.

Information

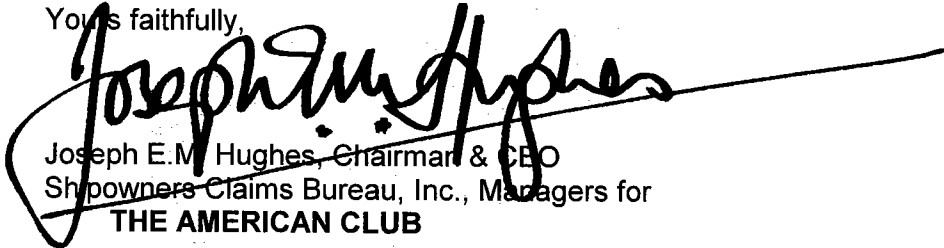
A list of approved sureties can be found at <http://www.fms.treas.gov/c570/c570.html#certified>.

The appropriate software for electronic submission of crew and passenger manifest information, and links to user guides, can be found at the website download page of the National Vessel Movement Center (NVMC) of the US Coast Guard at <http://www.nvmc.uscg.gov/download.aspx>.

Finally, the relevant page for submitting manifests on-line or for enrolment in the electronic APIS system can be found at <https://eapis.cbp.dhs.gov/>.

If any Member has any specific inquiries in regard to the above, or generally, the Managers will, as usual, be pleased to respond to them.

Yours faithfully,


Joseph E.M. Hughes, Chairman & CEO
Shipowners Claims Bureau, Inc., Managers for
THE AMERICAN CLUB