

**FEDERAL MARITIME COMMISSION  
WASHINGTON, D.C.**

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**DOCKET NO. 01-08**

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**The Impact of the Government Paperwork  
Elimination Act and the Electronic Signatures  
In Global and National Commerce Act**

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**COMMENTS OF THE NATIONAL CUSTOMS BROKERS  
AND FORWARDERS ASSOCIATION OF AMERICA, INC.**

The National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA"), together with its thirty affiliated local associations, is the trade association spokesman for this nation's Ocean Transportation Intermediaries ("OTIs"). As such, the NCBFAA is pleased to have the opportunity to provide its comments in response to the Commission's Notice of Inquiry concerning the implementation of the Government Paperwork Elimination Act ("GPEA") and the Electronic Signatures in Global and National Commerce Act ("E-SIGN").

By way of background, the OTI industry has long been in the forefront in developing and utilizing various aspects of electronic commerce. Consequently, while the degree of sophistication in this technology will vary from firm to firm, most OTIs have already made substantial investments in the electronic hardware and software that has become essential in exchanging information with various government agencies, commercial institutions, shippers and carriers around the world. As such, the NCBFAA is well aware of the utility of electronic records and is supportive of rules that would reduce the burdensome nature of many paper filings that are today required by many government agencies.

In this proceeding, the Commission has sought comments as to whether a

number of specific forms that are today required to be filed in hard copy would be amenable to electronic transmission. And, as specifically relevant to OTIs, the Commission has inquired whether the data on form FMC-18 (which covers applications for licenses, qualifying individuals and changes in business structures) and forms FMC-48 and 67-69 (pertaining to insurance coverage and bonds) would be amenable to electronic transmission.

As a general matter, the NCBFAA believes that all of the information contained on these forms could be transmitted electronically and that this process could be a good substitute for a hard copy filing. Before addressing the specific questions raised by the Notice, the NCBFAA would like to add a few general comments.

First, at this stage the NCBFAA does not believe that the Commission should issue any rules requiring that this information be submitted electronically in lieu of paper submissions. While many OTIs currently possess the technology necessary to transmit this data, there are still companies that do not yet have the technology necessary to attach electronic signatures. Consequently, any rules on this topic should be permissive in nature.

Second, the Commission should be mindful that a great deal of information contained on these forms and, particularly, on the form FMC-18, is highly proprietary and confidential in nature. Accordingly, the Commission needs to be mindful of the need to ensure that certain data fields remain confidential and available only to authorized and appropriate governmental scrutiny.

The NCBFAA responses to the individual questions posed by the Notice of Inquiry are as follows:

1. **Identification of the forms/information collections submitted by OTIs to the FMC:**

The form FMC-18, Application for a license as an Ocean Transportation Intermediary, is filed by every OTI in order both to obtain a license and approval for its Qualifying Individual; in addition, the form is filed to report changes in an OTI's business structure. The NCBFAA regards all information relating to the identity and background of owners, officers and directors to be highly sensitive and so to require the highest degree of safeguarding. And, although it may be useful to provide the identity of a firm's Qualifying Individual, that person's background and ownership interest (if any) is also confidential and should not be made available unless the OTI gives its specific consent. On the other hand, the information contained in the OTI bond, insurance and guarantee forms (forms FMC-48 and 67-79) does not raise the same confidentiality issues, and thus has a relatively low sensitivity.

2. **Plans for electronic signature technology:**

Although the NCBFAA has not polled its members on this point, anecdotal experience indicates that a number of firms already use electronic signature technology and that many others intend to implement this in the near future. The Association anticipates that this technology will be used frequently to sign many commercial documents that are exchanged or filed with shippers, commercial institutions, carriers, and federal, state or foreign governmental

agencies. The frequency of use will of course be dependent on the ability of the various other parties to operate in the same electronic environment, but the NCBFAA believes that the use of electronic signature technology will expand rapidly in the near future.

**3. The use of Public Key Infrastructure Automated Certificates of Electronic Signature:**

Although individual companies may be familiar with and use this technology, the NCBFAA itself has not received comments from its members on this item.

**4. Benefits from Commission establishment of an electronic option for submission of the specified forms:**

The NCBFAA anticipates that electronic submission of the data contained, particularly on the form FMC-18, would provide for substantially more timely and accurate data collection. Moreover, the time that any licensee would need to spend to complete the current form would be reduced dramatically via submission in an electronic format.

**5. Additional Risks:**

As noted at the outset, the only specific risk that is foreseen relates to the ability of the Commission to segregate the confidential from the non-confidential data and to construct appropriate barriers to prevent unauthorized access to the confidential information. As noted below, with respect to question number 7, the NCBFAA believes it is essential for the Commission to ensure

that the confidential information be encrypted and that other steps be taken to ensure that unauthorized persons do not have access such sensitive materials.

**6. Obstacles to establishment of electronic options:**

Other than ensuring that appropriate firewalls are established to protect sensitive data, the NCBFAA does not see any impediments to successful implementation of such a system.

**7. Issues of Concern:**

A. **Confidentiality** - - The NCBFAA believes that (with the exception of the identity of Qualifying Individuals) all personal information relating to the owners, offices, directors and Qualifying Individuals for licenses should be considered highly confidential and should be encrypted for privacy/confidentiality reasons and that steps be taken so that such information cannot be accessed by unauthorized persons.

B. **Integrity** - - Although we do suggest that the Commission develop a system that would verify precisely when data is sent and what data the Commission receives, at this point we do not suspect that there is reason to be concerned about the integrity of the information being supplied.

**8. Other Comments:**

The NCBFAA believes that the shipping public would benefit from such electronic submissions of data, as they would now be able to access more

information than is currently available through the Commissions website. Moreover, having the industry submit such information electronically would likely eliminate a substantial amount of data entry on the part of the Commission staff, and accordingly free-up scarce resources for other projects.

In closing, the NCBFAA endorses this initiative, subject to the expressed concerns of safeguarding the confidentiality of highly proprietary commercial information.

Respectfully submitted,

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