



June 12, 2008

Mr. Michael Hardin  
Senior Policy Advisor, US-VISIT  
Department of Homeland Security  
1616 North Fort Meyer Drive, 18<sup>th</sup> Floor  
Arlington, VA 22209

RE: DHS-2008-0039; Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; US-VISIT, Notice of Proposed Rulemaking

Dear Sir:

The Offshore Marine Service Association (OMSA) represents some 100 vessel operators engaged in support of the exploration, exploitation and production of offshore mineral and oil resources. These companies employ some 12,000 mariners in the Gulf of Mexico. While the association represents the world's largest offshore vessel companies, most OMSA members are family-owned and -operated businesses that meet the regulatory definition of small entities.

Thank you for providing the offshore support vessel industry the opportunity to comment on the proposed rule. OMSA is in support of the overall goal of ensuring the security of our borders involving passengers coming to the United States from foreign countries. However, our association is concerned that offshore vessels and mariners working within U.S. waters on the Outer Continental Shelf (OCS) may be inadvertently included in this rulemaking.

An analogy may be drawn between this rulemaking and the recent rulemaking requiring passports for aliens traveling between the U.S. and foreign countries under the Western Hemisphere Travel Initiative. OMSA was concerned that the language used in the rulemaking would require passports for vessels leaving U.S. ports to go to floating structures in the Gulf of Mexico. Our association sought clarification from CBP and the New Orleans field office provided clarification on passport requirements informing OMSA that offshore workers will not need passports to transit from U.S. ports to offshore locations in the Gulf of Mexico. The New Orleans field office stated in their April 2<sup>nd</sup>, 2008 letter to OMSA:

*"A departure solely to the OCS is not a departure from the U.S. for immigration purposes. In response to the scenarios that you present in your letter, the U.S. citizen does not make a meaningful departure from the U.S. and is not subject to an immigration inspection upon arrival; passports would not be required upon arrival at the U.S. port."*

CBP has not subjected the personnel on these offshore vessels to the passport requirements of the WHTI. This should eliminate the collection of data from persons who are not making a meaningful departure from the U.S. These persons are not transported to a foreign port of entry. Rather, they are loaded on an offshore support vessel, in a domestic port, carried offshore onto the OCS and then returned to a domestic port.

It is therefore unreasonable to require the operators of vessels that are not departing the U.S., to purchase equipment for, or to collect and report information on persons who routinely are not departing the U.S. However, it is a fairly common practice for foreign-flag vessels to depart from foreign countries, come onto the OCS in U.S. waters, without actually calling on a U.S. port. To cite one example, a foreign construction barge may hold several hundred foreign workers and that vessel is not required to report those individuals when they work in U.S. waters as long as they don't enter a U.S. port. OMSA firmly believes that this reporting requirement should be imposed on foreign vessels that work in U.S. waters regardless of whether they call on a port.

OMSA recommends that the rulemaking be modified to exempt the following from the provisions of this rule:

“U.S. flag vessels bearing coastwise endorsements engaged in the support of the exploration, exploitation or production of offshore mineral or energy resources whose voyage is between a point in the U.S. and a location on the U.S. Outer Continental Shelf.”

Thank you for giving us the opportunity to comment on this important rulemaking. If you have any questions or need further information, please contact OMSA.

Sincerely,



Sarah K. Branch  
Manager of Regulatory Affairs  
Offshore Marine Service Association  
504.734.7622