

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[Docket No. USCG-2009-0701]

#### Interim Policy for the Sharing of Information Collected by the Coast Guard Nationwide Automatic Identification System

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of policy and request for comments.

**SUMMARY:** The Coast Guard has developed an interim policy for the access and sharing of information collected by the Coast Guard Nationwide Automatic Identification System (NAIS). The Coast Guard is also seeking comments on the applicability and levels of sharing of information collected by the NAIS, the definition of historical NAIS information, and any commercial or security sensitivities with respect to sharing NAIS information in order to assist us in the development of the final policy on NAIS information sharing. This policy would serve as guidance for Coast Guard program managers and field units regarding the sharing of information collected by the NAIS with foreign governments, Federal, State, local, and Indian tribal governments, and non-government entities.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before February 16, 2010, or reach the Docket Management Facility by that date.

**ADDRESSES:** This notice and the interim policy are available in the docket and can be viewed by going to <http://www.regulations.gov>, inserting USCG-2009-0701 in the "Keyword" box, and then clicking "Search." You may submit comments identified by docket number USCG-2009-0701 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the

"Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail Irene Hoffman Moffatt, Maritime Domain Awareness and Information Sharing Staff (CG-51M), U.S. Coast Guard; telephone 202-372-2642, e-mail [irene.a.hoffman-moffatt@uscg.mil](mailto:irene.a.hoffman-moffatt@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to submit comments and related material on the sharing of information collected by the NAIS. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

**Submitting comments:** If you submit a comment, please include the docket number for this notice (USCG-2009-0701) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop-down menu, select "Notices" and insert "USCG-2009-0701" in the "Keyword" box. Click "Search," then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

**Viewing the comments:** To view the comments, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-

0701" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

**Privacy Act:** Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

#### Background and Purpose

The Coast Guard has developed a policy that will serve as guidance for Coast Guard program managers and field units regarding the sharing of information collected by the NAIS with foreign governments, Federal, State, local, and Indian tribal governments, and non-government entities. Sharing information collected by the NAIS would improve navigation safety, enhance the ability to identify and track vessels, heighten our over-all Maritime Domain Awareness (the effective understanding of anything associated with the global maritime environment that could affect the security, safety, economy, or environment of the U.S.), address threats to maritime transportation safety and security, facilitate commerce, and enhance environmental protection efforts.

The Automatic Identification System (AIS) was developed to enhance navigation safety through collision avoidance, waterways management, and surveillance. It is a maritime digital broadcast technology that continually transmits and receives voiceless exchange of vessel data. The AIS technology and communication protocol have been adopted by the International Maritime Organization as a global standard for ship-to-ship, ship-to-shore, and shore-to-ship communication of navigation information. In accordance with section 80.393 of the Rules and Regulations of the Federal Communications Commission (47 CFR 80.393), "Automatic Identification Systems (AIS) are a maritime broadcast service." As a broadcast system (where communications are intended to be

received by the public), there is no expectation of privacy of any transmitted position, binary, or safety related messages, or any information transmitted on AIS. In response to the Maritime Transportation Security Act of 2002, the Coast Guard has developed a two-way maritime data communication system based on AIS technology, which is referred to as the NAIS.

#### Levels of Information Sharing

The following three levels pertain to information collected by the Coast Guard NAIS.

The First level (Level A) is unfiltered (real-time) information collected by the NAIS that is less than 12 hours from transmission. Level A information may be shared with U.S. or foreign governments for legitimate internal government use (i.e., law enforcement, maritime safety, defense, and security purposes). The final policy would clarify that this information should be handled in accordance with Department of Homeland Security policies concerning sensitive but unclassified information, including by marking this information "For Official Use Only" (FOUO), or any successor controlled unclassified information marking and handling requirements subsequently implemented by the Department. Level A information would be handled as FOUO, or otherwise in accordance with another controlled unclassified information designation approved by the Department, due to the potential commercial sensitivities of the information collected by the NAIS and the unfiltered, embedded addressed and encrypted information, the release of which may pose a security risk.

The Second level (Level B) is filtered (real-time) information collected by the NAIS that is less than 12 hours from transmission. Level B information may be shared with foreign governments or U.S. Federal, State, local, and Indian tribal governments, and with non-government entities that are contractually supporting a Federal government agency's operations or research and development efforts, Coast Guard validated port partners, or non-governmental organizations with which the U.S. has an established or formalized relationship (e.g., port authorities, pilot associations, local law enforcement agencies, etc.). Level B may filter out encrypted and addressed information as appropriate and will be filtered as the NAIS system filtering capabilities become available. As with Level A information, the final policy would clarify that this information should also be handled as FOUO or other appropriate designation due to the

potential (but unverified) commercial sensitivities of the information collected by the NAIS and, if applicable, the embedded addressed and encrypted information, the release of which may pose a security risk.

The Third level (Level C) is information collected by the NAIS that is more than 12 hours from transmission. This information should be considered historical and no longer needing to be handled as FOUO. Requests for filtered or unfiltered historical information would be processed in accordance with the Freedom of Information Act, 5 U.S.C. 552.

In an effort to continue to enhance navigation safety and security, and to protect commercial and proprietary interests, this information may not be used for purposes other than those intended for the disclosure as approved. Foreign governments, Federal, State, local and Indian tribal governments, and non-government entities shall not retransmit or redistribute the information stream in any form other than those intended for the disclosure as approved, shall not charge a fee for its usage, and will be required to execute documentation imposing restrictions on the use of information collected by the NAIS. Any provision of information collected by the NAIS to foreign governments will be coordinated with and through the Department of State, as needed.

Implementation of the final policy would be subject to NAIS system capability, especially with respect to evolving capabilities to filter NAIS information.

#### Request for Comments

We request your general comments on the applicability and levels of the sharing of information collected by the NAIS, the definition of historical NAIS information, and any commercial or security sensitivities with respect to sharing of information collected by the NAIS.

We also seek comments on any or all of following specific questions on the development of the NAIS final policy:

1. How might providing real-time, near real-time, or historical NAIS information to the public impact maritime commerce?
2. What would be the impact of providing this information, if any, on the following?
  - a. Safety of ships and passengers or crew,
  - b. Security of ships and their cargo,
  - c. Economic advantage or disadvantage to commercial stakeholders,

d. Environmental impact on extractable resources or coastal activities.

3. Is information collected by the NAIS considered sensitive?

a. Is real-time or near real-time information collected by the NAIS viewed differently than historical NAIS information, and if so, how?

b. Does the sharing of information collected by the NAIS generate concern about unfair commercial advantage? If so, for which segments of the industry is this a concern?

c. Is there a timeframe within which real-time or historical information collected by the NAIS is considered sensitive or is no longer considered sensitive?

d. Given that ships last for decades and that their capabilities and capacities are relatively stable, is there a concern that historical NAIS information might be analyzed to derive a competitive advantage?

4. What controls on sharing real-time, near real-time, or historical information collected by the NAIS with the public are suitable?

a. Who should receive each type of NAIS information?

b. What are appropriate uses of information collected by the NAIS?

c. Do message types matter?

d. Should addressed messages be handled differently from broadcast messages? Do addressed messages contain information significant to understanding maritime activity? Should addressed messages be shared with the public?

Written comments and responses to the above questions will be added to the docket number for this notice (USCG-2009-0701). The Coast Guard intends to review and analyze all comments received in order to develop the final policy for the sharing of information collected by the NAIS.

This notice is issued under authority of 5 U.S.C. 552 and 46 U.S.C. 70114.

Dated: January 8, 2010.

**Dana A. Goward,**

*Director, Assessment, Integration and Risk Management, U.S. Coast Guard.*

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**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5375-N-02]

#### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.