



**Summary Discussion from the Conference Call  
Regarding CBP Enforcement of the USDA Rule for Wood Packing Material  
October 28, 2005**

In attendance: Helen Brohl, US Great Lakes Shipping Association; Ed Kelly, Maritime Association of New York/New Jersey; Lisa Himber, Marine Exchange for the Delaware River and Bay; Walter Niemand, West Gulf Maritime Association (WGMA); Sean Duffy, Sr, Steamship Association of Louisiana (SALA); Jeanne Cardona, Association of Shipbrokers and Agents; Cathy Saucedo, CBP; Anne Rothrock, CBP; and Patrina Evans, CBP.

NAMO members are aware that the enforcement deadline of September 16, 2005 for wood packing material (WPM) was postponed due to concerns of the low compliance rate. The application to dunnage is of particular concern to NAMO members. The current deadline for compliance for dunnage is July, 2006. The following points were made during the above referenced conference call.

1. CBP reports that enforcement for the maritime component of Wood Packing Material is operating under an “informed compliance” period. Dunnage, in particular, has a compliance date of July, 2006. However, it is the experience of a number of NAMO members that the provision for dunnage is being enforced now. Some CBP port inspectors are currently requiring that all dunnage remain on board a given vessel even though the dunnage does not have an infestation. Ports mentioned included: New Orleans, Houston, Duluth, Milwaukee, and Mobile.

**CBP Response:** If the dunnage has no pest infestation, there should not be any kind of restriction on where the dunnage goes. Ms. Saucedo has confirmed that she contacted the ports that are currently placing restrictions on the dunnage as reported by NAMO members.

2. NAMO members are concerned that CBP inspectors will direct compliance requirements for WPM to the agent as a representative of the carrier rather than the importer. It is NAMO’s position that the agent cannot be held responsible for the cost of re-exporting non-compliant WPM and may not know the importer of record. SALA recently received a copy of a letter to a vessel agent member in Mobile, AL whereby CBP, Mobile indicated that the agent would be the responsible party. It appeared that the letter was a re-write of the generic letter that CBP HQ had generated as a reminder to go to importers of non-compliant WPM. WGMA noted that Houston CBP reports they will handle WPM compliance through the broker, not the agent.

**CBP Response:** The CBP letter which was generated by HQ was for port use as a reminder to importers. It was not expected to be sent to agents. However, if a shipment

has no importer of record and no broker, CBP may hold the carrier responsible since they have a bond on record. CBP never said they'd go against the "broker bond." Ms. Saucedo asked that the letter which SALA referred to be faxed to her ASAP. She confirmed that it was received.

3. CBP was quoted in a JOC article that non-compliant WPM would be ordered back to the country of origin. Please clarify.

**CBP Response:** Customs will order non-compliant WPM to be exported out of the U.S. rather than to the country of origin.

4. Will CBP be reviewing outbound dunnage to confirm if it is stamped?

**CBP Response:** No.

5. If WPM is found to be infested and is then fumigated here, does it still have to be re-exported?

**CBP Response:** Yes. It is still non-compliant WPM, despite the fumigation or other treatment.

6. What is the CBP Policy on returning dunnage that originated in the U.S.?

**CBP Response:** WPM that originated in the U.S. and was compliant can be returned to the U.S. if it can be proved that it did, indeed, originate in the U.S. and has not entered into foreign commerce.

7. Please clarify the "first port of arrival" inspection requirement.

**CBP Response:** It is CBP's intention to inspect dunnage (during regular inspections) at the first port of call. However, if there is not an opportunity at the first port of call, it will be inspected at the first US port call where there is an opportunity. It may even be an inland location if moving in-bond or inland waterway port if a result of a barge transfer.

8. How will CBP handle dunnage that is subsequently found non-compliant after the ship has sailed and may be on the dock or at the terminal? How will CBP identify the vessel or responsible party? Has CBP reached out to terminal operators?

**CBP Response:** CBP acknowledged this is a difficult problem and does not yet have a full solution. They have not reached out to terminal operators. Is there a terminal association they could contact?

**NAMO Response:** There are both public and private maritime terminal/dock operators but port authorities may belong to the American Association of Port Authorities. (<http://www.aapa-ports.org/>).

9. NAMO was concerned about the CBP term “importer and other party of interest” as being a possible referral to the vessel agent.

**CBP Response:** CBP recommends that NAMO look at the CBP web site and pull up the WPM implementation documentation. The definition of “party of interest” is very narrowly defined.

**NAMO Response:** NAMO could not find the clarification on the web site. Please confirm the regulatory description.

**CBP Response:** In follow up communications with Sean Duffy, Sr. from SALA, Anne Rothrock from CBP stated that the person who was named the “party of interest” will definitely be the party CBP looks to. However, CBP would first look to the named importer or the importer’s representative. If no importer is found, then the carrier “may” be held responsible for exportation. **But, as far as agents are concerned, an agent would have to name themselves as a party of interest.**

10. NAMO has heard that a lawsuit was filed against USDA regarding the new compliance dates for WPM enforcement. Is this true?

**CBP Response:** A lawsuit was filed in New York. The USDA interpretation of the lawsuit is that it does not preclude implementation of the WPM rule and CBP is proceeding as if no complaint as has been filed until they are told otherwise by USDA. CBP will post any change immediately.

11. **Last message from CBP:** NAMO members should continue to provide incident reports on WPM enforcement to Cathy Saucedo.