



The American Waterways Operators

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February 16, 2010

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

Re.: Implementation of the 1995
Amendments to the International
Convention on Standards of Training,
Certification and Watchkeeping for
Seafarers, 1978
(Docket ID No. USCG-2004-17914)

Dear Sir or Madam:

On behalf of The American Waterways (AWO), the national trade association for the tugboat, towboat and barge industry, thank you for the opportunity to comment on the notice of proposed rulemaking (NPRM) to implement the 1995 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW). AWO represents 350 member companies in an industry of nearly 4,000 towing vessels, more than 27,000 dry and liquid cargo barges and over 30,000 mariners.

This rulemaking will have a significant impact on AWO member companies who operate towing vessels and barges in the domestic coastal and international trades. (The realities of the business are that most companies that operate in domestic coastal service also operate internationally from time to time, depending on market demand.) We appreciate the Coast Guard's acknowledgement that the STCW Convention does not apply to inland vessels and its statement that U.S. regulations for "licensing, testing, inspection, and continued oversight for inland water[s] and Great Lakes provide a level of safety equivalent to the STCW Convention." We urge the Coast Guard to review the NPRM carefully to ensure that there is no unintended spillover of STCW requirements into the credentialing regulations for mariners on inland vessels.

AWO is genuinely committed to marine safety and environmental protection, as evidenced by the award-winning Responsible Carrier Program, compliance with which is a condition of AWO membership, and the first-of-its-kind Coast Guard-AWO Safety Partnership. AWO has worked closely with the Coast Guard over the past two decades to strengthen licensing and training requirements for mariners on towing vessels and tankermen on barges, and AWO members have made a substantial investment in the training of their crewmembers. We recognize that qualified, experienced, and trained mariners are the backbone of our industry and essential to safe, secure, and environmentally responsible vessel operations.

We are deeply concerned that the proposed regulations to implement the STCW Amendments will have a negative impact on mariners and companies in the coastal towing industry. We begin these comments with three overarching concerns, and then offer specific recommendations to address these concerns in the sections of the NPRM dealing with the proposed license structure for engineers, the proposed license structure for deck officers, and the proposed training requirements.

Overarching Concerns

First, the Coast Guard should ensure that the proposed requirements are appropriate for mariners on towing vessels and calibrated to reflect the size and service of those vessels. The STCW Convention is ship-centric, geared to larger vessels with larger crews operating in a multi-national environment. Many of the requirements proposed in the NPRM are neither appropriate nor necessary for the safe operation of towing vessels in domestic coastal service, or limited international service to Canada and the Caribbean. The Coast Guard has the ability and the responsibility to work with industry to ensure that the proposed requirements are operationally appropriate for all of the vessels and mariners to which they will apply. The comments that follow point out a number of areas where the proposed requirements are a poor fit for the towing industry and suggest modifications to better fit industry operations while maintaining the Convention's focus on high standards of training and qualification.

Second, the Coast Guard should ensure that the proposed requirements do not deprive existing license holders of their ability to continue operating the vessels they are qualified to operate today. The Coast Guard should work with industry to ensure that existing mariners transition smoothly into the new system, receive full credit for previous training and experience, and do not lose authority or face unreasonable obstacles to upgrading their licenses under the new system. It is essential that the Coast Guard "honor the mariner" by recognizing the experience of existing license holders and ensuring that no mariner loses authority during the transition to the new requirements. Experience with previous changes to the licensing system has shown that such transitions can be very difficult, often

hindered by lack of communication, misunderstanding, and unintended consequences. It is essential that the Coast Guard establish appropriate transition processes, work with industry to ensure that these changes are clearly communicated to mariners, and allow ample time for the transition process to work. Given the magnitude of the changes proposed, we recommend that the Coast Guard allow for a three-year period between publication and implementation of the final rule.

Third, the Coast Guard should revise its economic analysis to take into account the impact of the proposed regulations on companies, in addition to mariners and training institutions. The agency's assumption, reflected in the draft regulatory analysis, that mariners and training institutions are the only parties who will bear the burden of compliance is not correct. Companies will be significantly impacted by the new rules because, to a large extent, companies pay for the training their mariners are required to obtain. Companies as well as mariners will also suffer if the proposed rules are implemented in a way that makes it more difficult for them to crew their vessels. At a minimum, the Coast Guard should revise its regulatory analysis to take account of this impact on vessel operating companies. We also urge the Coast Guard to consider the impact on companies as it refines the proposed requirements, taking care not to create or exacerbate shortages in qualified personnel.

With these overarching comments as a backdrop, we offer the following specific comments about the provisions of the NPRM dealing with the engineering license structure, the deck officer license structure, and the proposed training requirements.

Engineering License Structure

Loss of Hawsepipe

AWO is very concerned that the proposed licensing and training requirements for engineers will effectively close off the hawsepipe as a career path for engineers in the towing industry, with grave consequences for companies and mariners. The combination of extensive and expensive classroom training requirements and the limiting of certain licenses to non-STCW trades only will make it extremely difficult for the towing industry to retain existing engineers and develop new ones. In fact, the hawsepipe is the most common route by which engineers in the towing industry are developed, and the skill, experience and safety record of existing towing vessel engineers makes clear that this route has been effective, benefiting both companies and mariners. We urge the Coast Guard to make the changes necessary to ensure that the hawsepipe remains a viable career path for engineers in the towing industry. In particular, the agency should:

- **Allow documented onboard training to be counted as “approved training and experience.”** §11.509 requires an applicant for an STCW endorsement as Officer in Charge of an Engineering Watch (OICEW) to have six months of sea service and complete 30 months of approved training. It is simply unrealistic to expect a non-maritime academy graduate to obtain two-and-half years of classroom training while attempting to make a living as a mariner, and long industry experience has demonstrated the value of well-supervised onboard training. AWO urges the Coast Guard to amend §11.509 to require “approved education and training of at least 30 months, which may include onboard training documented in an approved training record book or other appropriate documentation.”
- **Allow credit for QMED service toward a chief engineer officer endorsement:** §11.506 should be revised to allow sea service time as a Qualified Member of the Engineering Department (QMED) to be credited toward receipt of an endorsement as chief engineer for seagoing service with an STCW endorsement as chief engineer officer. This is a simple step that will help to protect the hawsepipe, while recognizing the value of QMED time as part of an engineer’s training and experience.

Bifurcation of Domestic and STCW-Compliant Licenses

The proposed regulations for engineering licenses appear to create a bifurcated licensing structure in which some licenses, including several commonly used in the coastal towing industry, will not be deemed STCW compliant. At a minimum, such a structure will create enormous confusion for mariners and their employers about which licenses authorize service on which vessels. At worst, it could create significant manning shortages in the towing industry if individuals with licenses commonly used in the industry are precluded from service on towing vessels subject to STCW. As an alternative, AWO urges the Coast Guard to:

- **Avoid creating a two-track structure in which some licenses are not STCW-compliant.** §11.501(h) restricts holders of licenses as chief engineer (limited) and assistant engineer (limited) to service on inland vessels or vessels less than 1,600 GRT/3000 GT in Great Lakes service. Similarly, §11.501(i) restricts holders of Designated Duty Engineer (DDE) credentials issued after the effective date of the final rule to service on vessels under 500 GRT/1,200 GT on the Great Lakes or inland waters. (All three of these credentials are commonly held by engineers in the coastal towing industry.) We urge the Coast Guard not to establish distinctions between STCW-compliant and non-STCW-compliant licenses, but instead to require that holders of these credentials who wish to serve on vessels subject to STCW obtain an STCW endorsement as Rating Forming Part of an Engineering Watch (RFPNW). In this regard, we also recommend that the DDE STCW

endorsement be valid for use on vessels up to 1600 GRT/3000 GT. As the 500 GRT threshold is being eliminated and replaced with 1600 GRT in the proposed deck officer license structure, we recommend that the same threshold be used in the engineering license structure.

The problem of a bifurcated licensing track is also apparent in the requirements affecting barge tankermen. §15.860(h) erroneously states that “the STCW Convention does not recognize restricted Tankerman-PIC endorsements.” This statement is in direct contradiction to STCW Regulation V/1, Section 2, where, in reference to PIC requirements, the text states, “Masters . . . and any person with immediate responsibility for loading, discharging, and care in transit or handling of cargo shall . . . have: 1) experience appropriate to their duties on the type of tanker on which they serve.” As any restriction of this endorsement would have far-reaching impacts on domestic fuel and oil supply chains, AWO urges the Coast Guard to delete §15.860(h) and continue to issue Tankerman-PIC (Barge) endorsements for both domestic non-STCW and STCW service.

- **Raise the propulsion power threshold for first assistant engineers without an STCW endorsement:** §11.521 provides that first assistant engineers without an STCW endorsement may serve on seagoing vessels of less than 1,000 horsepower. AWO urges the Coast Guard to raise this limit to at least 4,000 horsepower. Towing vessels of 1,000 horsepower or less are generally limited to working in harbors and protected waters; the majority of seagoing vessels crewed by engineers without STCW endorsements are considerably over 1,000 horsepower.
- **Remove geographic limitations from engineering licenses:** §11.510 through §11.514 impose near coastal limitations on various engineering licenses at the 10,000 horsepower and 4,000 horsepower levels. We urge the Coast Guard to remove these limitations, as geographical area has no relevance to the application of engineering knowledge, experience and skills.
- **Amend the definition of DDE to recognize the reality of towing vessel engine rooms:** §10.107(c) defines DDE as “a qualified engineer who may serve as the sole engineer on vessels of less than 500 GRT . . . with a periodically unattended engine room.” This definition may have the unintended effect of precluding DDEs from serving on towing vessels because a great majority of engine rooms on towing vessels are automated, but not to specific Coast Guard or ABS standards for unattended engine rooms. Rather than require significant changes to towing vessel engine rooms in order to allow the continued employment of DDEs, the Coast Guard should either modify the definition of DDE to explicitly allow service on towing vessels or provide guidance on what constitutes a “periodically unattended engine room” that is specific to the operations and characteristics of towing vessels.

Transition Process

AWO urges several changes and clarifications to ensure that individuals currently working as engineers on towing vessels can transition smoothly into the new regime:

- **Allow existing DDEs to advance to chief engineer with appropriate service:** §11.501(j) provides that holders of existing licenses as chief engineer (limited), assistant engineer (limited), and DDE may “continue to serve under the authority of those credentials until the first renewal or re-issuance of that license,” with the same authority and limitations placed on their Merchant Mariner Credential (MMC) at that time. We understand this to mean that holders of these credentials will not lose authority as they transition to the new regime, and we appreciate the Coast Guard’s inclusion of this provision. In addition, in order to provide opportunities for continued advancement, we recommend that individuals with DDE licenses be able to upgrade to chief engineer of the same horsepower if they can provide evidence of six months service on vessels of the appropriate horsepower.
- **Revise crossover points:** In order to provide crossover points more appropriate to the level of training and expertise that engineers possess and the scope of their work, AWO recommends that §11.505 and §11.510 be adjusted so that the chief engineer (limited) oceans license can cross over to chief engineer of less than 10,000 horsepower without additional time or training requirements, and the chief engineer (limited) near coastal license can cross over to chief engineer of less than 10,000 horsepower with one year of sea service. In addition, AWO recommends that §11.505, §11.510 and §11.512 be amended so that DDE (unlimited) licenses and assistant engineer (limited) licenses can cross over to chief engineer of less than 10,000 horsepower with 24 months of sea service and limited examination, and to chief engineer of less than 4,000 horsepower without additional time or training requirements.

Manning Requirements

AWO urges the Coast Guard not to use the STCW regulations to drive manning requirements on any class of vessel (something the Convention was not designed to do), and to ensure that the language of the regulations is precise enough to avoid unintended implications for manning. We will return to this point in our comments on the deck officer licensing structure; with respect to engineers, we urge the Coast Guard to:

- **Amend the definition of first assistant engineer to avoid implying a new manning requirement:** §10.107(c) defines first assistant engineer in a way that could be read to imply that the engineer officer next in rank to the chief engineer must hold a first assistant engineer license. This would amount to a

significant new manning requirement for vessels under 1,600 GRT. AWO urges the Coast Guard to amend this definition by removing the words “and who holds a valid officer endorsement as first assistant engineer.”

Deck Officer License Structure

Manning Requirements

As discussed above, AWO strongly urges the Coast Guard not to create or imply new manning requirements in the process of implementing the STCW Amendments. With respect to deck officers, we urge the Coast Guard to:

- **Clarify that a chief mate is not required on vessels under 1,600 GRT:** The definition of chief mate in §10.107 can be read to require that the deck officer next in seniority to the master hold an endorsement as chief mate. The Coast Guard should remove the language “and who holds a valid officer endorsement as chief mate” from this definition and should clarify that the qualification requirements for chief mates in §11.401 are not meant to imply a requirement to carry a chief mate where none is required today. The Coast Guard should explicitly clarify that, for vessels under 1,600 GRT, the deck officer next in seniority to the master may hold a license as either chief mate or mate.

Sea Service Credit

AWO urges the Coast Guard to “honor the mariner” by taking an expansive approach, consistent with the dictates of marine safety, to allowing credit for sea service on different geographic routes and/or vessel sizes. Specifically, we urge the agency to:

- **Allow mariners to substitute approved training for recency of oceangoing service.** Many companies operate vessels in harbor (i.e., inland), near coastal, and oceangoing service, and many mariners routinely move back and forth between these services depending on market demand and the operational needs of companies. The Coast Guard should recognize the special circumstances faced by these mariners and allow them to substitute approved training for recency of oceangoing service. This will in no way detract from safety because the navigational and boat handling skills necessary for harbor and near coastal operations are at least as great, if not greater, than those required on ocean routes. Use of equipment and other requirements specific to ocean routes can be addressed with no detriment to safety through approved training.
- **Reduce the vessel size threshold for Able Seamen (ABs) seeking an STCW endorsement as Rating Forming Part of a Navigation Watch**

(RFPNW): §12.420(c) requires ABs seeking an STCW endorsement as an RFPNW on seagoing vessels of 200 GRT/500 GT or more to obtain at least three months of the required sea service on vessels of 200 GRT or more. This will be difficult for many ABs to obtain given typical vessel tonnages in the coastal towing industry; there simply are not enough positions on vessels over 200 GRT to make this requirement feasible. AWO therefore urges the Coast Guard to reduce the tonnage requirement and require that at least half of the required service be obtained on vessels of 100 GRT or greater.

Obstacles to a Smooth Transition

As discussed above, it will be critical to ensure that the process of transitioning to the new regulations is as smooth as possible to avoid significant hardship for mariners and vessel operating companies. In that regard, AWO has identified the following areas in which clarification, explanation or adjustment is needed:

- **Resolve discrepancies between sea service time requirements for near coastal licenses on vessels of less than 200 GRT:** §11.424 and §11.427 contain discrepancies in the sea service requirements for what is largely the same near coastal license on vessels of less than 200 GRT, with the exception of an STCW endorsement. Since a major goal of this transition should be to avoid creating contradictory requirements that place extra burdens on mariners, AWO urges the Coast Guard to establish the same sea service requirements for both credentials.
- **Clarify the status of deck officers with 200 GRT-level endorsements:** We urge the Coast Guard to clarify the authority and status of mariners who hold officer endorsements as master or mate of vessels under 200 GRT/500 GT, and how current holders of such licenses will transition into the new system. AWO urges the Coast Guard to explicitly state that holders of these licenses are eligible to obtain an oceans endorsement upon completion of the necessary examination modules. The absence of such clarification in the NPRM allows for ambiguity about whether holders of such licenses will be limited to near coastal domestic and international voyages. This is critical as the authority of mariners with 200 GRT-level endorsements will have a significant impact on the towing industry.
- **Clarify whether the position of survivalman will be an AB rating:** Given that §12.412 and §12.416 include survivalman qualifications among their requirements for AB endorsements, does this mean that the position of survivalman will be an AB rating?

- **Add language authorizing grandfathering of current authority based upon service performed:** §10.205 allows mariners to retain the authority granted by their current credential, but does not assure that a mariner can continue in his or her present employment should there be a change in manning requirements. As discussed above, AWO urges the Coast Guard to clarify that the proposed requirements do not make changes to current manning requirements. However, to provide additional protection to mariners currently employed on vessels, AWO urges the Coast Guard to amend §10.205 to authorize grandfathering based upon service performed and ensure that all mariners retain the ability to continue to hold the same positions aboard the same vessels they do today.
- **Ensure that the progression from third mate to master does not change:** The expectation among mariners and employers that individuals who have achieved credentials as master and chief mate are seasoned mariners should not be undermined. AWO recommends that Figure 11.403 be amended so as to retain the current progression from third mate to second mate to chief mate to master. Reducing the need for experience in these positions may have unintended negative consequences for marine safety.

“Flashing Light” Exam Requirement

- **Eliminate the flashing light exam requirement:** AWO urges the Coast Guard to remove the requirement of §11.401(i) for individuals seeking qualification for service on ocean and near coastal waters to pass a practical signaling or “flashing light” examination. Very few vessels have the equipment for proper flashing light signaling, and it is inappropriate to require mariners to be trained in skills they will not use. Moreover, there are a number of communications capabilities, such as cellular telephones and internet connectivity, which connect more effectively with Automatic Identification Systems.

Training Requirements

As noted above, AWO members recognize the importance of high-quality training and have made a significant investment in the training and education of their mariners. In addition to underwriting the cost of mandatory and non-mandatory training, AWO members have partnered with educational institutions and training providers to establish training programs and courses that are uniquely suited to the towing vessel career path and the operating characteristics of towing vessels. We urge the Coast Guard to work closely with all stakeholders, including mariners, training institutions, and vessel operating companies, to ensure that required training and the means by which such training is administered support high standards of marine safety without imposing undue administrative and financial burdens on mariners, vessel owners, or training providers.

Quality Standards System

- **Reexamine the QSS requirement:** In this regard, the requirement of §10.303(10) for providers of Coast Guard-approved training to adopt a Quality Standards System (QSS) should be re-examined to explore the impact of less burdensome alternatives. For smaller training providers (for example, a vessel operating company that establishes and conducts one Coast Guard-approved course for its own employees), the requirements to write and maintain a QSS manual, conduct internal and external audits of each course, and keep a paper or electronic record on each student completing the course, could be cost-prohibitive, potentially leading to a contraction in the number of approved course providers. AWO urges the Coast Guard to consider whether less costly and administratively burdensome alternatives to full-scale QSS implementation are possible for entities conducting approved STCW courses.

Management-Level Training Requirements

- **Tailor training requirements to better fit the operations of vessels with small crews:** §11.412 and §11.413 require management-level training for mariners seeking endorsements as master or chief mate of vessels under 1,600 GRT. Currently, management-level training is heavily geared toward the operational environment of larger ships. AWO urges the Coast Guard to explicitly allow, and work with industry to establish, limited tonnage management-level training courses whose content is more applicable to smaller vessels, such as towing vessels. AWO also urges the Coast Guard to be flexible in allowing required assessments to be conducted on board a vessel or on shore, provided that the objective of the assessment can be demonstrated adequately.

Training Infrastructure

- **Ensure congruence between training requirements and training infrastructure:** AWO urges the Coast Guard to take into account the capacity of the marketplace to offer required training when developing the phase-in requirements and deadlines by which mariners must obtain required training. In this regard, we see the potential for significant gaps in the capacity to provide required engineering training. On the Pacific Coast, for example, there are only a few small commercial facilities that provide training at the QMED level, and one entity that provides training for third assistant engineers. If the necessary training infrastructure does not exist at the time when training is required, training institutions may not be able to meet industry demand, mariners may not be able to complete required training in time, and companies may not be able to crew their vessels as required. Neither the industry nor the nation's economy can afford this result.

Areas Needing Greater Clarity

Several areas of the NPRM involving training require more clarity, including the following:

- **Clarify the content of required crossover training:** §11.506, which establishes qualifications for serving as chief engineer, adds at least three to four months of training for that credential than was required previously. In order to ensure that mariners and vessel owners adequately understand and comply with the new requirements, AWO requests greater clarification on what acceptable crossover training must consist of for mariners who already hold licenses.
- **Provide a clear definition of “training, examination and assessment” as it applies throughout the NPRM:** §11.509(d) and (e) provide that mariners licensed as assistant engineers (limited) oceans and DDEs who possess STCW endorsements can obtain an OICEW with “training approved and accepted for that purpose”; however, it is not clear from the text of the NPRM what such training must consist of. AWO urges the Coast Guard to provide greater clarity on what will constitute acceptable training in this circumstance, and clarify the content of required “training, examination and assessment” as that terminology is used throughout the NPRM.

Consistent Interpretation

Finally, AWO emphasizes that, as a package, the proposed new requirements are complex and will have a significant impact on mariners, vessel owners, and training providers. Given the potential for significant confusion on matters that impact directly the ability of mariners to make their livelihood and employers to crew their vessels, it will be important not only to get the text of the NPRM “right,” but to ensure consistent understanding and interpretation of the new requirements and communication of these requirements to industry. Given the shared responsibility for licensing issues among various Coast Guard offices, it will be particularly important to ensure that all cognizant divisions – the Office of Standards, the Office of Vessel Activities, and the National Maritime Center – have the same understanding and interpretation of what is required, and are jointly involved in clearly communicating the new requirements to industry. This is a necessity that will continue even after the new regulations are finalized.

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Thank you for the opportunity to comment. We would be pleased to answer questions or provide further information as the Coast Guard sees fit. We look forward to working with the Coast Guard and with other stakeholders, including mariners and training providers, to ensure that the new regulations achieve their

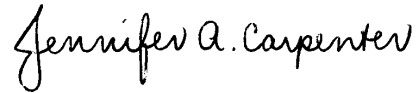
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intended goals of well-trained mariners and safe operations, without imposing unreasonable burdens on towing companies and mariners.

Sincerely,

A handwritten signature in black ink that reads "Jennifer A. Carpenter". The signature is written in a cursive style with a large initial "J" and a distinct "A".

Jennifer Carpenter