



The American Waterways Operators

www.americanwaterways.com

Midcontinent Office

1113 Mississippi Avenue
Suite 108
St. Louis, MO 63104

PHONE: (314) 446-6474

CELL: (314) 308-0378

Fax: (314) 446-6479

E-MAIL: lmuench@vesselalliance.com

Lynn M. Muench

Senior Vice President - Regional Advocacy

January 18, 2011

Mr. Thomas Jordan
U. S. Coast Guard
Office of Design and Engineering Standards
Naval Architecture Division (CG-5212)
2100 Second Street SW
Washington, DC 20593

RE: Docket No. USCG-1998-4623
Final Rule for Limited Service Domestic
Voyage Load Lines for River Barges on Lake
Michigan (46 CFR Part 45)

Dear Mr. Jordan:

The American Waterways Operators is the national trade association for the tugboat, towboat, and barge industry. We represent more than 300 member companies in an industry of more than 4,000 towing vessels, more than 27,000 dry and liquid cargo barges, and over 30,000 mariners. The towing industry safely and efficiently moves more than 800 million tons of cargo critical to the U.S. economy, such as coal, grain, petroleum products, chemicals, steel, aggregates, and containers. The economy depends on waterways transportation for the safe movement of cargo that is either too large or too voluminous to be moved economically by truck or rail. AWO members have a deep commitment to safety, having adopted in 1994 the Responsible Carrier Program, a code of safe practice and environmental stewardship that is a condition of membership in the association. AWO thanks the Coast Guard for delaying the Small Craft Advisory (SCA) weather criteria effective date for river barges on Lake Michigan and for opening this final rule for further public comments to address its departure from the interim rule's operating requirements.

Unlike the Coast Guard's interim rule, the final rule bars any movement of dry cargo river barges when a SCA has been issued versus when a towing vessel master determines "fair weather" conditions no longer exist on the Burns Harbor, IN route. In addition, the final rule bars any movement of dry cargo river barges along Milwaukee, WI, St. Joseph, MI, and Muskegon, MI routes under SCA conditions versus the previous use of a comprehensive formula of limiting wind and wave conditions and the judgment of the towing vessel master. A complex formula addressing weather conditions and the determination of routes was carefully developed and selected in a Coast Guard and industry collaborative effort. The group took into consideration specific prevailing weather conditions and available ports of refuge.

The use of the SCA does not increase safety nor does it standardize operations. Operations on the routes were standardized by the Marine Safety Unit – Chicago when it clarified its June 2001 Fair Weather Policy Letter in May 2006 (both policy letters are attached). The policy letter clearly

January 18, 2011

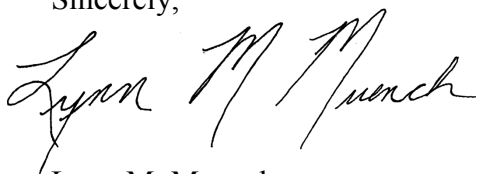
Page 2

defines the definition of *fair weather* for river service dry cargo barges transiting in Lake Michigan under the load line exemption. The policy letter states that the Master must adhere to conditions that are specific to "*the most appropriate and best means*" to determine current and expected weather conditions, includes specific limitations for wind speed, wave heights, and ice conditions. When making such determinations, the Coast Guard directed Masters to use experience, common sense, and consider National Weather Service Small Craft Advisory, as one of many sources of information.

SCA conditions regularly occur in the southern part of Lake Michigan that pose no safety issues for river barges. A SCA condition applies five nautical miles from the coastal portions of Lake Michigan. Wave and wind conditions within this five nautical mile reach are often variable based on wind direction. Implementing SCA as the deciding weather criteria would severely decrease the days for towing companies to move critical cargo with no enhancement to the safety of towing vessels, their crews or the protection of the environment.

In consideration of the above facts, ***AWO urges the Coast Guard to reinstate the interim rule weather criteria for all routes.*** Thank you for the opportunity to comment. AWO would be pleased to answer any questions or provide further information to assist the Coast Guard in its review of the final rule.

Sincerely,

A handwritten signature in black ink that reads "Lynn M. Muench". The signature is written in a cursive, flowing style.

Lynn M. Muench

Cc:

CAPT Randy Helland
CAPT Luann Barndt
CDR Robert Bailey

U.S. Department
of Transportation

United States
Coast Guard



Officer in Charge,
Marine Inspection
United States Coast Guard

215 W. 83rd Street, Suite D
Burr Ridge, IL 60521
Staff Symbol: Inspections
Phone: (630) 986-2155
FAX: (630) 986-2120

16711
June 15, 2001
I&I Policy Letter 1-2001

Subj: FAIR WEATHER GUIDELINES

- Ref:
- (a) 33 CFR Part 155 Pollution Prevention Regulations for Vessels
 - (b) Revised Application of Offshore Barge Requirements to Barges Operating on the Great Lakes, letter dated January 17, 2001
 - (c) 46 CFR Part 45 Subpart E - Unmanned River Service Dry Cargo Barges
 - (d) Federal Register Notice: August 26, 1996 (61 FR 43804)
 - (e) Notice of Proposed Rulemaking: November 2, 1998 (63 FR 58679)
 - (f) Fair Weather - Solicitation for Comment, dated February 9, 2001

1. **PURPOSE.** The purpose of this policy letter is to provide guidelines for determining "fair weather" as per references (a) through (c). In general, this policy letter shall assist all mariners in determining whether or not to engage in a particular Great Lakes voyage within the MSO Chicago area of responsibility based on prevailing or forecasted weather conditions.
2. **BACKGROUND.** "Fair weather" has been a long-standing, yet undefined, term used throughout the maritime community. It has been used as an endorsement for small passenger vessel and tank barge Certificates of Inspection. It was addressed in reference (d), to establish criteria for "Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan." Under General Operating Requirements, the conditions that would exceed "fair weather" were agreed upon by the American Bureau of Shipping, Coast Guard, and the participating barge and towing industry. The wind range was later amended in reference (e), to be based on the reporting levels by the Great Lakes Marine Weather Forecast. However, since the rulemaking has yet to be finalized, there remains no criterion to determine "fair weather" in Coast Guard regulations for any vessel operation.

A recent casualty involving poor weather judgement, changes to the small passenger vessel lifesaving equipment requirements, and changes to the offshore oil barge requirements for operations in Southern Lake Michigan have heightened the Coast Guard's awareness of a need to define fair weather.

3. **DISCUSSION.** The Officer in Charge Marine Inspection (OCMI) may define "fair weather" on the Certificate of Inspection for river tank barges subject to reference (a). Additionally, reference (c) exempts load line requirements for unmanned river service dry cargo barges operating in "fair weather."

On January 17, 2001 the Coast Guard solicited input from the local marine

community on how best to define "fair weather" (reference (f)). The Collective response to our solicitation favored continuing the practice of individual mariners using their experience to determine "fair weather." All of the responses argued that due to the variety of vessels that transit the waters of southern Lake Michigan, too narrow a definition may adversely hinder commerce. Additionally, many companies have established company policy regarding "fair weather" that their Masters are asked to follow. In keeping with the Coast Guard's Prevention Through People guiding principle, *Honor the Mariner*, the OCMI shall defer the fair weather determination to the judgement of the vessel Master. In deferring the determination of fair weather to the Master, the Coast Guard will also hold the master accountable for errors in judgment or negligence in the event of a marine casualty where weather is a contributing factor.

4. GUIDELINES. Prior to getting underway, the vessel Master shall make use of all available resources to determine "fair weather".

In determining "fair weather" for river service dry cargo barges operating on Lake Michigan, the Master should adhere to the published criteria in references (d) and (e):

(1) Prior to departure, the towing vessel master shall determine the weather forecast along the planned route (the Marine Weather Forecast (MAFORS), Lake Weather Broadcasts (LAWEB), or NOAA Weather Radio), and continue to monitor the forecast during the voyage.

(2) If the wind speed and wave heights are expected to exceed the limits below at any time during the planned voyage, then the tow may not leave harbor.

(3) When operating between Chicago and Milwaukee:

-----	Continuous Wind direction	velocity	Wave height	-----
NE, E, SE.....		(17) knots	4 feet (1.2 m)	
N, NW, W, SW, S.....		(21) knots	4 feet (1.2 m)	

OR

(4) When operating between Chicago and Muskegon:

-----	Continuous Wind direction	velocity	Wave height	-----
N, NW, W, SW.....		(17) knots.....	4 feet (1.2 m)	
NE, E, SE, S.....		(21) knots.....	4 feet (1.2 m)	

(5) While underway, if the wind speed and wave height exceed the limits above, then the tow must proceed immediately to the nearest harbor of safe refuge.

In determining "fair weather" for all other vessels, the Master should consider the following:

- (a) Type of operation (barge, passenger vessel, etc.);
- (b) Vessel condition (full, empty, ballasted, etc.)

(c) Company policies in effect;

(d) Current & projected weather along the route to be transited:

i) Significant wave height (4-6 ft),

ii) Wind speed and direction,

iii) Weather-related visibility,

iv) National Weather Service Small Craft Advisory (sustained wind between 22 and 33 knots and/or average wave heights of four (4) feet);

(e) Other broadcasted advisories;

(f) The Master's experience; and

(g) Common sense.

5. This policy is effective immediately. If you have any questions regarding this policy, please contact the Chief or Assistant Chief of the Inspections Department.



R. E. SEEBALD

U.S. Department of
Homeland Security

United States
Coast Guard



Officer in Charge, Marine Inspection
United States Coast Guard
Sector Lake Michigan

2420 S. Lincoln Memorial Drive
Milwaukee, WI 53207
Phone: (414) 747-7155
Fax: (414) 747-7890

16450
01 May 2006

MEMORANDUM

From: H. M. HAMMILTON
CG Sector Lake Michigan

Reply to: Officer in Charge, Marine
Attn of: Inspection

To: Distribution

Subj: SECTOR LAKE MICHIGAN DESIGNATED WATERS AND FAIR WEATHER
POLICY

Ref: (a) 46 CFR Part 170.050 - General terms
(b) 46 CFR Part 178 - Intact Stability and Seaworthiness
(c) 46 CFR Part 71.50 - Alternative Hull Examination Program
(d) 46 CFR Part 28 - Requirements for Commercial Fishing Vessels
(e) 46 CFR Parts 117 and 180 - Lifesaving Equipment and Arrangements
(f) 46 CFR Part 114.400 and Part 175.400 - Definition of terms used in Subchapters K
and T
(g) 46 CFR Part 199 - Lifesaving Appliances and Arrangements
(h) 46 CFR Part 45, Subpart E - Unmanned River Service Dry Cargo Barges

1. PURPOSE. The purpose of this policy memo is to designate waters as exposed, partially protected, and protected for the application of stability and hull exam requirements contained in references (a) through (c), and establish guidelines for fair weather criteria within Sector Lake Michigan's Area of Responsibility (AOR). In addition, this policy memo shall designate warm and cold waters for the purpose of defining exposed, partially protected, and protected waters, and applying lifesaving requirements contained in references (d) through (g).

2. BACKGROUND. By definition, the Officer in Charge, Marine Inspection (OCMI) is given significant latitude in designating the operating waters within his or her AOR. These determinations are made using local information and available historical data. Lifesaving equipment regulations for nearly all commercial vessels has made it necessary to issue a policy designating the operating waters within the Sector Lake Michigan's AOR. These regulations use water temperature when determining the required type and amount of survival craft required on a vessel. In addition, certain passenger vessels are eligible for the Alternative Hull Examination (AHE) Program if they meet certain criteria including operation in protected waters. Data obtained from the National Oceanographic and Atmospheric Administration (NOAA) and the National Weather Service was used in developing criteria for this policy memo.

Navigation and Vessel Inspection Circular (NVIC) 7-91 "Determination of Cold Water Areas" was developed to assist local OCMI's in determining the applicable amount of lifesaving

equipment required for vessels operating in cold water. Since the NVIC is a guidance document, it is open to interpretation by the OCMI based on local conditions.

"Fair weather" has been a long-standing, yet undefined, term used throughout the maritime community. It has been historically used as part of an endorsement on small passenger vessel and tank barge Certificates of Inspection. The fair weather section in this policy will explain the Coast Guard's position relative to vessels that are allowed by regulation to operate on Lake Michigan and the vessels that have a load line exemption to transit Lake Michigan.

3. DEFINITIONS. The following definitions, taken from reference (f) and are considered relevant in applying this policy memo:

- a. *Cold water* means water where the monthly mean low water temperature is normally 15 degrees Celsius (59 degrees Fahrenheit) or less.
- b. *Exposed waters* is a term used in conjunction with stability criteria and means:
 - (1) Waters, except for the Great Lakes, more than 20 nautical miles from a harbor of safe refuge;
 - (2) Those portions of the Great Lakes more than 20 nautical miles from a harbor of safe refuge from October 01 of one year through April 15 of the next year (winter season); and
 - (3) Those waters less than 20 nautical miles from a harbor of safe refuge that the cognizant OCMI determines are not partially protected waters or protected waters because they present special hazards due to weather or other circumstances.
- c. *Harbor of safe refuge* means a port, inlet, or other body of water normally sheltered from heavy seas by land and in which a vessel can navigate and safely moor. The suitability of a location as a harbor of safe refuge shall be determined by the cognizant OCMI, and varies for each vessel, dependent on the vessel's size, maneuverability, and mooring gear.
- d. *Partially protected waters* is a term used in conjunction with stability criteria and means:
 - (1) Waters not more than 20 nautical miles from the mouth of a harbor of safe refuge, unless determined by the cognizant OCMI to be exposed waters;
 - (2) Those portions of rivers, estuaries, harbors, lakes and similar waters that the cognizant OCMI determines not to be protected waters; and
 - (3) Waters of the Great Lakes from April 16 through September 30 of the same year (summer season).
- e. *Protected waters* is a term used in conjunction with stability criteria and means sheltered waters presenting no special hazards such as most rivers, harbors, and lakes, and that is not determined to be exposed waters or partially protected waters by the cognizant OCMI.

f. *Warm water* means water where the monthly mean low water temperature is normally more than 15 degrees Celsius (59 degrees Fahrenheit).

4. POLICY.

a. Cold Water. An analysis of data obtained by NOAA National Data Buoy Station 45007 indicates that the waters of Lake Michigan south of 42.68 North Latitude shall be considered cold waters from October 1 through June 14. Lake Michigan waters north of 42.68 North Latitude shall be considered cold waters from October 1 through June 30. These cold water designations shall be used when applying lifesaving equipment requirements.

b. Warm Water. Those waters of Lake Michigan not designated as cold water.

c. Exposed Waters. For the purpose of determining appropriate stability criteria, the following waters shall be considered exposed:

(1) Those waters of Lake Michigan more than 20 nautical miles from a harbor of safe refuge from October 01 of one year through April 15 of the next year (winter season).

d. Partially Protected Waters. For the purpose of determining appropriate stability criteria, the following waters shall be considered partially protected:

(1) Those waters of Lake Michigan less than 20 nautical miles from a harbor of safe refuge from October 01 of one year through April 15 of the next year (winter season).

(2) The waters of Lake Michigan from April 16 through September 30 of the same year (summer season) unless designated as protected;

(3) The waters of Muskegon Lake, White Lake, Lake Macatawa, and Lake Charlevoix in Michigan from October 01 of one year through April 15 of the next year (winter season);

(4) The waters of Little Traverse Bay eastward of a line drawn between Nine Mile Point on the south bank of the bay and Seven Mile Point on the north bank of the bay throughout the year; and

(5) The waters of Grand Traverse Bay south of Lighthouse Point throughout the year.

e. Protected Waters (Lake Michigan). There exists in southwestern Lake Michigan harbors and other sheltered areas that have historically been treated by the OCM I as protected waters for the purpose of stability on small passenger vessels. Taking into special consideration the risks presented in these waters, the OCM I has determined that granting protected waters status is appropriate.

Based upon National Weather Service data, the following contiguous waters of Lake Michigan shall be considered protected for the purpose of determining appropriate stability criteria, and determining the eligibility in the AHE Program:

- (1) The harbors of Wilmette, Montrose, Belmont, Diversity, Monroe, 59th Street and Jackson Park in the state of Illinois, and Michigan City in the state of Indiana. These harbors shall be considered protected waters throughout the year;
- (2) The waters of Lake Michigan west of the outer Chicago harbor breakwalls and north of a track line established between the dome of the Adler Planetarium and the outer breakwall south end light 19980 from April 16 through September 30 of the same year (summer season);
- (3) The waters of Lake Michigan west of a track line established between the Calumet harbor breakwall south end light 19800 south to the Hammond intake crib light extending to shore from April 16 through September 30 of the same year (summer season); and
- (4) The waters of Lake Michigan west of a track line established between the eastern most smoke stack of the D. H. Mitchell generating station north to the private aid (flash red 2 second) at the east corner of the Inland Steel land fill from April 16 through September 30 of the same year (summer season).
- (5) Milwaukee Harbor within the boundaries of the breakwall.

f. Protected Waters (Lakes, Bays and Sounds, and Rivers). Lakes, Bays and Sounds, and Rivers in the Sector Lake Michigan AOR shall be considered "Protected" as defined in reference (f) unless specified as partially protected or exposed in the preceding sections of this policy memo.

g. Fair Weather. Since every vessel has different characteristics it is not appropriate to define fair weather in a broad definition. The Coast Guard recognizes that the licensed Master must know the capabilities of his/her vessel and, as such, will defer all weather judgments to the Master. The Coast Guard will carefully evaluate the circumstances and hold the Master accountable for errors in judgment or negligence in the event of a marine casualty where weather is a contributing factor.

The exception to the above is river service dry cargo barges transiting Lake Michigan, under the load line exemption interim rule, as outlined in reference (h). Because these barges are not inspected by the Coast Guard and were never meant to transit exposed/partially protected waters, it is necessary to define fair weather guidelines. These guidelines shall be utilized by the Master of the towing vessel and the owners/operators of the vessel and the barges under tow.

In determining fair weather for river service dry cargo barges operating on Lake Michigan under the provisions of reference (h), the Master should adhere to the following guidelines and clarifications:

- (1) Prior to departure, the towing vessel Master shall determine the current weather and forecast utilizing the most appropriate and best means (weather radio, internet, etc.), along the planned route and continue to monitor the forecast throughout the voyage.
 - (2) While underway, if the wind speed *and/or* wave height exceed the below limits, then the tow must proceed immediately to the nearest harbor of safe refuge.
 - a. Excessive wave height is defined as more than 4 feet, for all routes.
 - b. Excessive wind is defined as sustained wind velocity of over 21 knots from *any* direction, for all routes.
 - (3) A barge may not leave the harbor if adverse ice conditions exist that would imperil the tow or restrict access to a harbor of safe refuge.
5. This policy is effective immediately. If you have any questions regarding this policy, please contact the Sector Lake Michigan Prevention Chief.

#