



The American Waterways Operators

www.americanwaterways.com

801 North Quincy Street
Suite 200
Arlington, VA 22203

PHONE: (703) 841-9300, extension 260
FAX: (703) 841-0389
EMAIL: jcarpenter@vesselalliance.com

Jennifer A. Carpenter
Senior Vice President – National Advocacy

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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

Re: Ballast Water Management
Reporting and Recordkeeping
(Docket No. USCG-2012-0924)

Dear Sir or Madam:

On behalf of the American Waterways Operators, the national trade association for the tugboat, towboat, and barge industry, thank you for the opportunity to comment on the U.S. Coast Guard's notice of proposed rulemaking to amend its ballast water management recordkeeping and reporting requirements.

The U.S. tugboat, towboat, and barge industry is a vital segment of America's transportation system. The industry safely and efficiently moves over 800 million tons of cargo each year, including more than 60 percent of U.S. export grain, energy sources such as coal and petroleum, including most of New England's home heating oil and gasoline, and other bulk commodities that are the building blocks of the U.S. economy. The fleet consists of more than 4,000 tugboats and towboats, and over 27,000 barges of all types. These vessels transit 25,000 miles of inland and intracoastal waterways, the Great Lakes, and the Atlantic, Pacific, and Gulf coasts. Tugboats also provide essential services including shipdocking, tanker escort, and bunkering in ports and harbors around the country. The tugboat, towboat, and barge industry provides the nation with a safe, secure, low-cost, environmentally friendly means of transportation for America's domestic commerce.

AWO appreciates that the Coast Guard is proposing to update its requirements for ballast water management reporting and recordkeeping in part to simplify and clarify the requirements and reduce administrative burdens. The Coast Guard previously opened a public docket to consider changes to its ballast water management reporting requirements in 2007 (Docket No. USCG-2006-26136), almost three years after ballast water recordkeeping and reporting became mandatory. In oral testimony and written comments to that docket, AWO urged the Coast Guard to phase out the ballast water reporting and recordkeeping requirements for U.S.-flag vessels that operate in domestic commerce and do not travel beyond the U.S. Exclusive Economic Zone (EEZ). "[A]fter 30 months of experience with the reporting regulations, the Coast Guard has the most comprehensive data available on where barges and towing vessels equipped with ballast

tanks operate, how often they take on and discharge ballast water, and in what quantities,” AWO wrote in its March 15, 2007 comments. “Continuing to impose a large-scale reporting requirement on industry is not justified, nor is it an efficient use of governmental – that is, taxpayer – resources to collect, process, and analyze additional data that will not meaningfully improve the Coast Guard’s knowledge base.”

Six years later, AWO continues to believe that the value of the information collected by the Coast Guard does not justify the burdens associated with its continued collection. The agency has now amassed almost ten years of ballast water discharge reports from U.S. vessel operators, providing it with a complete picture of the ballast water management practices of the domestic maritime industry. This information should be sufficient to provide the Coast Guard with an adequate basis for programmatic and regulatory decision-making well into the future. Although the completion and submission of ballast water reports has become routine, vessel operators continue to incur real costs as result of these regulations. In addition to the administrative costs of preparing and filing the report forms, companies must expend resources for the ongoing training of new vessel crewmembers and shoreside personnel, all of whom have other significant operational responsibilities. As the Coast Guard is not statutorily required by the National Invasive Species Act to require mandatory ballast water management reporting, AWO respectfully reiterates its 2007 recommendation that the agency sunset these requirements for U.S.-flag vessels.

For the same reasons, AWO cannot support the expansion of ballast water reporting requirements to vessels equipped with ballast tanks that operate exclusively within a single Captain of the Port (COTP) Zone, as the Coast Guard has proposed. The agency exempted this category of vessels from the requirements in 2004 in response to industry concerns about financial and administrative burdens on vessel operators. Vessels with a limited geographic range of operation present a low risk of contributing to the introduction of aquatic invasive species, and the burdens of reporting can be greater due to the often smaller sizes of their operating companies. By the Coast Guard’s own estimate, 74 percent of the affected entities are small businesses, and Table 2 of the agency’s notice indicates that towing vessels comprise the overwhelming majority of the affected vessel population. The submission of an annual summary report for three years is undoubtedly less time-consuming and costly than the indefinite submission of ballast water reports for each vessel movement, but would still require impacted companies to develop guidance and training for crewmembers and to establish new record retention processes. The information requested can also be challenging to compile. Many of the barges that operate exclusively in one COTP Zone load and unload cargo daily, requiring frequent adjustments of their trim with ballast water, and many towing vessels that remain in a single COTP Zone also take on and discharge ballast water frequently to compensate for changes in fuel levels. This makes estimating the number and volume of discharges a complex calculation based on pump capacity, as opposed to tank capacity. AWO believes that there are alternative means for the Coast Guard to improve its understanding of the ballasting practices of this category of vessels – including dialogue with advisory committees and trade associations – without imposing a new regulatory requirement on vessel operators.

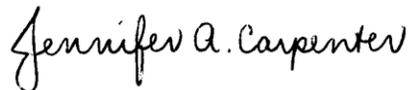
If the Coast Guard does proceed with its proposal to expand the reporting requirements, AWO strongly urges the agency to exempt those vessels equipped with ballast tanks that do not discharge ballast water or that use potable water for ballast. This would be consistent with the Coast Guard's current policy, articulated in Navigation and Vessel Inspection Circular 07-04, Change 1, and would not result in the loss of any relevant information. In addition, AWO recommends that the Coast Guard develop a clear definition of a "trip" for the purposes of reporting for vessels that operate exclusively in one COTP Zone, which can be in semi-continuous operation within the same harbor for up to a week.

AWO also strongly recommends that the Coast Guard continue to allow all vessel operators the option of reporting ballast water capacities and discharge volumes in gallons as well as in metric tons. In its notice, the agency writes that this change is an attempt to "[f]acilitate compliance by aligning Federal recordkeeping requirements with international practices to the greatest extent possible." For that significant proportion of the U.S.-flag vessel population that does not travel internationally and whose personnel are therefore unfamiliar with metric measures, disallowing the use of U.S. units on the report form represents an additional administrative burden that would complicate compliance and also increase the likelihood of unintentional error. The Coast Guard asserts that "[s]tandardized data entry would improve data quality and, as a result, data analysis would be easier and less time consuming." However, this change would merely shift the responsibility for standardization to vessel operators and away from the Coast Guard, which should be able to automate its standardization process more efficiently and accurately by establishing a simple conversion program.

Finally, AWO notes that many U.S.-flag vessels subject to the ballast water management reporting requirements – in particular, manned barges – are not issued IMO numbers. In order to reduce confusion, the Coast Guard should amend the report form to specify other acceptable vessel identification numbers that may be used by such vessels.

Thank you for the opportunity to comment. We would be pleased to answer any questions or provide further information as the Coast Guard sees fit.

Sincerely,

A handwritten signature in black ink that reads "Jennifer A. Carpenter". The signature is written in a cursive, flowing style.

Jennifer A. Carpenter