



The American Waterways Operators

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February 27, 2015

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: Seafarers' Access to Maritime Facilities (USCG-2013-1087)

Dear Sir or Madam:

The American Waterways Operators is the national trade association for the tugboat, towboat and barge industry. AWO's members account for approximately 80 percent of the barge tonnage and two-thirds of the towing vessel horsepower in this critical industry segment, moving cargoes essential to the American economy on the inland rivers, the Atlantic, Pacific, and Gulf coasts, and the Great Lakes. Tugboats also provide essential services, including shipdocking, tanker escort, and bunkering, in ports and harbors around the country. On behalf of AWO's members, thank you for the opportunity to comment on the U.S. Coast Guard's notice of proposed rulemaking on seafarers' access to maritime facilities.

AWO is committed to working in partnership with the Coast Guard to ensure high standards of maritime domain awareness and security. Immediately after September 11, 2001, AWO began working with the Coast Guard and the U.S. Army Corps of Engineers to develop a Model Vessel Security Plan for towing vessels, more than a year before such plans were required by law. When the Maritime Transportation Security Act was enacted in November 2002, AWO worked with the Coast Guard to transform the Model Vessel Security Plan into one of the first Coast Guard-approved Alternative Security Programs. In addition to compliance with the AWO ASP, many members have also developed facility security plans (FSPs) in accordance with 33 CFR Part 105, and AWO has worked with the Coast Guard to develop training requirements for facility personnel. We therefore offer the following comments from the perspective of both vessel and facility owners/operators.

Cooperation between vessel and facility personnel is essential to the efficient flow of maritime commerce, and AWO recognizes that both vessel and facility owners/operators must respect the security requirements of the other. However, given that both vessel and facility personnel are screened to largely the same MTSA standards, we believe it is imperative that facility security requirements be applied flexibly enough to accommodate the *reasonable* needs of vessel personnel – including crew changes, doctors’ visits, and grocery deliveries, among other things. This is in keeping with the spirit of Coast Guard regulations providing for seafarer access, and AWO members that operate facilities consider services for free and timely escort part of the cost of doing business in the maritime domain.

Unfortunately, not every facility operates in this way. AWO members report that some terminals and refineries have policies prohibiting non-facility personnel from being escorted through facility grounds. These policies have led to the establishment of launch services and facility escort providers that charge exorbitant escorting fees because vessel operators have no other means of getting their personnel to vessels moored at these facilities. One AWO member with nationwide operations estimates that last year it spent more than \$130,000 on escort providers on the East Coast alone. In other cases, a company might elect to run its vessel to another location several miles away rather than work with a facility with needlessly complex and time-consuming escorting procedures. This too creates additional costs for vessel operators.

AWO appreciates the Coast Guard’s recognition that a small percentage of facility operators have enacted policies that undermine Coast Guard requirements for free and timely seafarer access. We believe that the proposed rule will effectively curb these practices by making the existing regulatory requirements more explicit. We offer the following additional recommendations to make facility escorting requirements as clear as possible.

- **More explicitly define the individuals covered in proposed 46 CFR 105.237 (b).** In its discussion of the proposed rule, the Coast Guard writes that to “provide flexibility that would enable the vessel and facility owners and operators to work directly with each other regarding individuals authorized to transit between the vessel and facility gate,” it proposes to include in the list of individuals covered under 46 CFR 105.237 “other authorized personnel” [paragraph (2)] and “other authorized individuals” [paragraph (4)] in order “to cover individuals such as port workers organizations, port engineers and superintendents, technicians, port agents, new crew (not yet technically assigned to the vessel), marine insurance writers, cargo surveyors and other vessel personnel.”

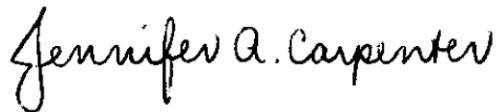
In order to ensure that vessel and facility owners and operators share an understanding of the scope of “other authorized personnel” and “other authorized individuals,” we recommend that the Coast Guard include in paragraphs (2) and (4) examples of individuals it considers these categories to cover, as articulated

in the discussion of the proposed rule. At a minimum, the regulations should include explicit references to port captains, shore-based tankermen, vessel service technicians, cargo inspectors, and crewmembers arriving at a vessel from a facility. However, because the universe of individuals who help to ensure the safety and security of a vessel is so extensive, AWO recommends that the Coast Guard amend the proposed rule to require that “all visitors approved by the vessel security officer or company security officer per the vessel security plan” be covered by access requirements and be provided free and timely access to a vessel while it is moored at any MTSA-regulated facility.

- **Amend proposed 46 CFR 105.237 (e) to protect vessel owners/operators as well as vessel personnel.** The proposed language states that “the facility owner or operator must provide the access [...] *at no cost to the individual to whom such access is provided*” (emphasis added). As drafted, this language would allow facility operators to simply re-direct escorting costs to the vessel owner or agent. We propose that the Coast Guard amend this section to state: “the facility owner or operator must provide the access described in the section at the facility’s expense.”

Thank you for the opportunity to comment. AWO members work hard to transport our nation’s cargo safely and securely, and we take pride in the fact that our American-owned, American-crewed, American-built vessels are the “eyes and ears on the waterways.” We would be pleased to provide further information or assistance to the Coast Guard as it works to clarify and codify facility escorting requirements for seafarers.

Sincerely,

A handwritten signature in black ink that reads "Jennifer A. Carpenter". The signature is fluid and cursive, with "Jennifer" on top and "A. Carpenter" below it.

Jennifer A. Carpenter