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July 25, 2017

Mr. Jeffrey G. Lantz
Director of Commercial Regulations and Standards
U.S. Coast Guard
2703 Martin Luther King Jr. Avenue, SE
Washington, DC 20593

Re: Evaluation of Existing Coast Guard
Regulations, Guidance Documents,
Interpretative Documents, and
Collections of Information (Docket
No. USCG-2017-0480)

Dear Mr. Lantz:

The American Waterways Operators is the national trade association for the tugboat, towboat and barge industry. AWO's 350 member companies own and operate barges and towing vessels operating on the U.S. inland and intracoastal waterways; the Atlantic, Pacific and Gulf coasts; and the Great Lakes. Our industry's 5,500 towing vessels and 31,000 barges comprise the largest segment of the U.S.-flag domestic fleet. The tugboat, towboat and barge industry provides family-wage jobs and ladders of career opportunity for more than 50,000 Americans, including 38,000 positions as mariners on board our vessels, and supports more than 300,000 jobs in related industries nationwide. Each year, our vessels safely, securely and efficiently move more than 760 million tons of cargo critical to the U.S. economy, including petroleum products, chemicals, coal, grain, steel, aggregates, and containers. Tugboats also provide essential services in our nation's ports and harbors, including shipdocking, tanker escort and bunkering.

On behalf of AWO's member companies, thank you for the opportunity to provide input on regulations promulgated by the U.S. Coast Guard that may be appropriate for repeal, replacement or modification in accordance with Executive Order 13777, "Enforcing the Regulatory Reform Agenda." We applaud the Trump Administration for initiating this effort to alleviate unnecessary regulatory burdens and seeking feedback from the public to assist the Coast Guard in evaluating its regulations.

It is AWO's highest advocacy priority to ensure that the federal regulatory regime governing the tugboat, towboat and barge industry provides for a high level of safety, security and environmental protection while preserving the economic efficiency of barge transportation and the free flow of maritime commerce. It is also a national imperative. In addition to being an integral part of the U.S. intermodal transportation system, the industry is the safest and

most fuel efficient of any surface transportation mode. Therefore, regulations that compromise the safety of towing vessels and their crewmembers, that impose unnecessary costs on companies operating towing vessels or barges, or that result in the diversion of cargo to other modes of transportation are bad not only for the industry, but for the U.S. economy and marine environment as well.

AWO is committed to being a leader in marine safety, security and environmental stewardship, and to working in partnership with the Coast Guard to advance these shared objectives. We continually seek to manifest this commitment through our constructive engagement in the rulemaking and policymaking process to assist the Coast Guard in producing practical, effective regulations and policy guidance affecting our industry, including the towing vessel inspection regulations at 46 CFR Subchapter M. It is in this spirit that we offer the following recommendations for the Coast Guard's consideration as it works to identify regulations and guidance that should be repealed, replaced or modified.

Safety

Establish Equivalency Between Electronic and Paper Charts and Permit the Utilization of Electronic Charting Systems

AWO strongly believes that the requirements to carry paper charts and maps under 33 CFR §164.72(b)(1) and various subchapters of Title 46 are outdated. Software-based, platform-independent electronic charting systems (ECS) are widely utilized throughout the towing industry. These ECS have enhanced navigational safety through their ability to provide mariners with more navigational information, and to update that information more accurately and efficiently. By contrast, paper charts are increasingly time-consuming for mariners to keep up-to-date due to the requirement to maintain "currently corrected editions." Paper charts have become costly since 2014, when the National Oceanic and Atmospheric Administration (NOAA) stopped producing them; they are now only available for purchase from authorized printers.

Coast Guard Navigation and Vessel Inspection Circular (NVIC) 01-16, issued in February 2016, permits vessel operators to utilize ECS that meet the standards set by the Radio Technical Commission on Marine Services (RTCM) to meet the chart carriage requirements of Titles 33 and 46. However, the RTCM standards require ECS (unnecessarily, in AWO's opinion) to integrate software and hardware components and to undergo strict hardware testing. As a result, there are no commercially available ECS that meet the RTCM standards, with the exception of the Electronic Chart Display and Information System (ECDIS). The Towing Safety Advisory Committee (TSAC) has recommended that the Coast Guard permit the use of software-based, platform-independent ECS that can faithfully display official electronic charts produced by NOAA and U.S. Army Corps of Engineers in lieu of paper charts (Task 15-03). AWO strongly supports this recommendation, and urges the Coast Guard to amend its regulations to establish equivalency between official electronic charts and maps and the paper charts and maps prescribed in Titles 33 and 46.

Eliminate Unnecessary Requirements of the AIS Encoding Guide

AWO has previously registered with the Coast Guard our concerns about the requirements of the Automatic Identification System (AIS) Encoding Guide, which provides guidance to assist vessel operators in the proper encoding of AIS. The first version of the Encoding Guide, released in 2012, featured a complex encoding protocol for voyage-related data that the towing industry opposed due to its potential to distract wheelhouse personnel from the safe operation of a towing vessel and adversely impact the safety and security of vessel traffic. TSAC made several recommendations in March 2014 to the Coast Guard to reduce AIS encoding demands for towing vessels to the data fields required by regulation (Task 13-01). While the Coast Guard accepted some of these recommendations, the current Encoding Guide, released in 2015, still prescribes the input of estimated time of arrival and destination information for most voyages.

The AIS units with which most towing vessels are equipped are not designed and installed for convenient use by wheelhouse personnel. They have only a small LCD screen and an alpha-numeric keypad that is used to access an array of menus. As TSAC pointed out, entering data into these AIS units is analogous to using a mobile phone with an alpha-numeric keypad to type text messages, and requires the full attention of the operator. TSAC also correctly asserted that the encoding of destination and estimated time of arrival information for towing vessels and barges in tow has implications for vessel and cargo security and confidential business information, and does not serve a navigation safety purpose. AWO encourages the Coast Guard to further amend the Encoding Guide to alleviate unnecessary burdens on towing vessel wheelhouse personnel by eliminating the requirement for them to encode voyage-related data, with the exception of navigation status.

Implement Improvements to the Mariner Credentialing Process

AWO encourages the Coast Guard to move expeditiously to implement the statutory requirement of Section 304 of the Coast Guard Authorization Act of 2015 to establish a process to harmonize the expiration dates of merchant mariner credentials (MMCs), medical certificates and radar observer endorsements for eligible mariners. Providing a harmonization option will reduce administrative burdens on mariners and their employers by streamlining the credential renewal process. AWO also recommends that the Coast Guard expedite the promulgation of a rulemaking to repeal the requirement at 46 CFR §11.480(f) for radar observer endorsement refresher training. Not only will this help the Coast Guard to fulfill its statutory requirement, but it will also eliminate a regulation that imposes unnecessary costs on mariners and their employers, with no corresponding benefit to maritime safety. Mariners who hold a radar observer endorsement and serve on a radar-equipped vessel use radar systems daily and do not need refresher training to refamiliarize themselves with the functioning of this equipment.

Repeal Inappropriate and Unnecessary Firefighting Training Requirements

AWO believes that the requirement at 46 CFR §11.201(h)(3)(ii) for mariners seeking an officer endorsement as master or mate (pilot) of towing vessels, in all services except oceans, to meet international requirements for basic firefighting training is entirely inappropriate. This requirement was imposed on mariners who began their sea service after March 2014 by the Coast Guard's December 24, 2013 final rule to implement the amendments to the

International Convention on Standards of Training, Certification and Watchkeeping (STCW) for Seafarers, 1978, as amended. As a threshold matter, the STCW Convention is not applicable to inland waters. Further, in practical terms, the STCW Code requires instruction in firefighting equipment that towing vessels in inland service are not required to carry. AWO does not believe that it is prudent to train mariners in the use of firefighting equipment and techniques that will not be available to them in a fire emergency. In addition, in the event of a fire that progresses past the incipient stage, mariners on towing vessels in inland service typically have more options to safely evacuate the vessel than mariners on coastwise and oceans routes, for whom it may be safer to stay on board the vessel and continue to fight the fire.

Working with TSAC and the Merchant Marine Personnel Advisory Committee (MERPAC), AWO has reviewed casualty data and information made available by the Coast Guard and the National Transportation Safety Board (NTSB) to determine whether the growth of fires on board towing vessels, or any damage or injuries, can be attributed to a lack of training. AWO did not find evidence to suggest that current regulations at 46 CFR §27.209 and 46 CFR §142.245 requiring company-provided firefighting instruction and drills are inadequate. In fact, in the preamble to the Subchapter M final rule, the Coast Guard considered comments requesting that the agency mandate formal firefighting training courses for all credentialed towing vessel crewmembers, and concurred with its 2003 and 2004 position that the current level of training provides crewmembers “with adequate knowledge of the procedures and equipment on board their vessels needed to respond to fires” (81 Fed. Reg. 40059). The Coast Guard cited a previous TSAC analysis of casualty data that showed that over 80 percent of reported fires on inland towing vessels had been extinguished by crewmembers with only seven reported injuries, most of which were attributable to the fire outbreak, not firefighting efforts. Therefore, AWO recommends that the Coast Guard repeal 46 CFR §11.201(h)(3)(ii) and alleviate an unnecessary regulatory burden that will require mariners or their employers to pay for inappropriate firefighting training that does not address a demonstrated safety need.

Update and Reform Marine Casualty Reporting Requirements

AWO strongly supports the Coast Guard’s January 2017 proposal to raise the monetary property damage threshold amounts for reporting a marine casualty and a serious marine incident. We commend the Coast Guard for initiating a rulemaking that will save both the industry and the Coast Guard time and money, and ensure that the Coast Guard can direct its attention and resources to high-consequence incidents. Because the current thresholds were set more than 30 years ago and have not kept pace with the rate of inflation, vessel operators are now obligated to report casualties that result in relatively minor property damage, a regulatory burden that serves no safety purpose. AWO urges the Coast Guard to index the thresholds, or require them to be revisited on a regular basis, to ensure that they continue to keep pace with inflation and with the cost of labor and materials into the future.

AWO also notes its strong support for TSAC’s March 2015 recommendations to improve the marine casualty reporting program (Task 13-09). The publication of Coast Guard NVIC 01-15 in 2015 clarified casualty reporting requirements, and in particular, the requirements for reporting low severity incidents, for both the industry and Coast Guard investigating officers. These clarifications, together with Coast Guard changes to improve the accuracy of its data entry, contributed to a significant decline of 34% in all incidents reported to the Coast Guard

from 2014 to 2015, and a 62% decrease in low severity incidents. This decrease reflects time and cost savings for both industry and the Coast Guard, with no adverse impacts on safety. Establishing two categories of marine casualties as TSAC has advised—the first, marine casualties that are recorded according to a vessel operator’s safety management system or other means of recordkeeping, and reported to the Coast Guard on an annual summary basis; and the second, serious marine incidents that necessitate an immediate report to the Coast Guard—would further reduce the number of reported incidents, and the corresponding burden on industry and Coast Guard resources. It would also enhance safety by allowing the Coast Guard to take a risk-based approach to the deployment of its investigators’ time and attention, and by improving the quality and value of the data Coast Guard investigators collect. For these reasons, AWO strongly encourages the Coast Guard to implement TSAC’s recommendations to reform the casualty reporting process.

Cap Annual Inspection Fees for Towing Vessels that Utilize the TSMS Option

AWO urges the Coast Guard to expedite the promulgation of a rulemaking to establish user fees for inspected towing vessels, and in particular, to distinguish the fees for vessels that utilize the Towing Safety Management System (TSMS) option to document compliance with Subchapter M from vessels that utilize the Coast Guard option. Due to the continuous oversight of Coast Guard-approved third-party organizations, vessels that utilize the TSMS option will place less of a demand on agency resources than vessels that utilize the Coast Guard option, and should accordingly be charged less. A cap on annual inspection fees is also appropriate to reduce duplicative cost burdens on vessel operators that choose the TSMS option, who are already paying TPOs to conduct external management and vessel audits and possibly vessel surveys. Setting a lower user fee will help to ensure that vessel operators are not discouraged from choosing the TSMS option due to redundant costs; moreover, reducing disincentives to use of the TSMS option will also free up Coast Guard resources to be used in targeted, risk-based ways, thereby promoting the safety and efficiency of towing vessel operations.

Resolve Industry-Identified Issues with Certain Subchapter M Requirements

In addition, AWO encourages the Coast Guard to repeal the requirement of Subchapter M, found in Table 141.370 of 46 CFR §141.370, for towing vessels that operate solely on rivers to carry visual distress signals. These vessels operate within very short distances from shore, and are equipped with many other means of communicating and transmitting their location in the event of an emergency. 46 CFR §141.305(d)(3) provides exemptions for such vessels from the requirement to carry survival craft. The requirement that these vessels carry visual distress signals does not advance safety, and therefore imposes unnecessary and unjustified costs on the towing vessel operators that must purchase and periodically replace them.

AWO also recommends that the Coast Guard provide towing vessel operators with greater flexibility to safely store paints and coatings. Under 46 CFR §142.225(c), the Coast Guard requires that paints and other flammable or combustible products be stored in a storage cabinet made of steel. Many towing vessels are equipped with aluminum cabinets for this purpose, which provide a satisfactory level of protection. AWO encourages the Coast Guard to permit the use of suitable aluminum, as well as steel, containers, so that towing vessel operators are not forced to replace aluminum storage cabinets currently in use on their vessels.

Permit the Use of Universal Fire Extinguisher Brackets

Under 46 CFR §162.028-3(g), portable fire extinguishers must be supplied with “a suitable bracket which will hold the extinguisher securely in its stowage location” and “provide quick and positive release of the extinguisher for immediate use.” While the regulations do not require that only the bracket or brackets listed on the extinguisher’s name plate or approval label may be used, there is widespread confusion among towing vessel operators, Coast Guard inspectors and third-party auditors about whether this is the case, and AWO is aware of many instances in which vessel operators have been advised that the use of a specific bracket is required. Many manufacturers now produce high-quality universal brackets. Furthermore, when a fire extinguisher is discharged and needs to be replaced, vessel operators are sometimes unable to find a replacement extinguisher from the same brand and with the same approval number, but are often able to find one with the same dimensions. Under these circumstances, the bracket can continue to be utilized safely. AWO encourages the Coast Guard to clarify in policy that the use of universal fire extinguisher brackets and brackets that are not listed on the extinguisher’s approval label, are acceptable as long as the bracket is compatible with the dimensions of the extinguisher and meets the regulatory requirement for secure stowage and quick release.

Evaluate the Feasibility of Fire Pump Water Pressure Requirements for Towing Vessels

Subchapter I and Subchapter M require fixed fire pumps on towing vessels to be capable of delivering water from the two highest hydrants at a pitot-tube pressure of 50 pounds per square inch (psi) (46 CFR §95.10-5(c) and 46 CFR §142.325(a), respectively). This can be a challenging requirement for towing vessels to meet as built because of the effects of pipe sizes, routing and fittings on water pressure. By contrast, Subchapter L requires fixed fire pumps on offshore supply vessels to be capable of delivering water at 50 psi only from the highest hydrant. Requiring a higher fire pump performance standard for towing vessels than for offshore supply vessels is not justified by risk, given that offshore supply vessels, by statute and regulation, may carry cargoes that have a higher flammability, as well as many more persons in addition to crew, than towing vessels. AWO encourages the Coast Guard to evaluate the risks associated with fire pump performance and the feasibility of current water pressure standards for towing vessels, and amend its regulations in Subchapter I and Subchapter M accordingly.

Modify Outdated Policy for Articulated Tug-Barge Units

Articulated tug-barge units (ATBs) have proliferated and increased in size and sophistication since the publication of NVIC 2-81, Change 1, the Coast Guard’s primary guidance on ATB design, operation and manning, over 30 years ago. In mutual recognition of the fact that a policy review was needed, the Coast Guard and AWO formed a working group under the auspices of the Coast Guard-AWO Safety Partnership in 2015, which evaluated current ATB operating and manning practices and recommended a series of changes to existing agency policy and regulations to eradicate outdated terminology and promote consistency. TSAC is currently reviewing the working group’s March 2017 report and is expected to make further recommendations this fall (Task #15-02). AWO encourages the Coast Guard to modify

NVIC 2-81 and other related policy and regulations, consistent with the recommendations of the Coast Guard-AWO Working Group on ATB Operations and Manning and the forthcoming recommendations of TSAC, to eliminate out-of-date or inconsistent guidance and ensure the continued safe and efficient operation of ATBs.

Align Sidelight Screen Policy with Regulations

According to the codified Inland Navigation Rules at 33 CFR §84.09(a), vessel sidelights need not be fitted with external screens. Only inboard screens must be fitted to meet the requirements of 33 CFR §84.17 to establish horizontal sectors. However, Volume IV of the Marine Safety Manual (MSM), in Chapter 3, Section G.16, states that the International Regulations for Preventing Collisions at Sea, 1972 and the 1980 Inland Navigation Rules “require sidelights on vessels over 20 meters in length to have external screens.” This is incorrect, and AWO recommends that the Coast Guard strike the language in MSM Volume IV that is inconsistent with its regulations.

Repeal the Requirement for Inland Towing Vessels to Carry Day Shapes

AWO recommends that the Coast Guard repeal the requirement at 33 CFR §84.11 for inland towing vessels to carry day shapes. Technology has rendered day shapes obsolete for communicating navigation status among vessels, and they have not been utilized on the inland waterways for decades. Continuing to require inland towing vessels to be outfitted with obsolete equipment is inconsistent with the Administration’s regulatory reform initiative and serves no useful purpose.

Modify the Requirement for a Physical Bell or Gong

Towing vessels are required to carry a physical bell or gong that complies with the technical specifications of 33 CFR §§86.21-23 to toll when at anchor. However, many inland towing vessels do not anchor, and are not equipped with an anchor. AWO recommends that the Coast Guard modify 33 CFR Part 86, Subpart B, to exempt vessels that are not equipped with an anchor from the requirement to carry a physical bell or gong.

Eliminate Outdated Requirement for Bridge-to-Bridge Radiotelephone Certificate

Under the Vessel Bridge-to-Bridge Radiotelephone Act, which is implemented in Coast Guard and Federal Communications Commission (FCC) regulations at 33 CFR §26.01 et seq. and 47 CFR §80.1001 et seq., respectively, seagoing towing vessels required to have a radiotelephone on board must, with some exceptions, have the radiotelephone station inspected annually by an FCC-licensed technician and carry an endorsed Bridge-to-Bridge Radiotelephone Certificate or certify compliance in the vessel’s radio station log. The annual inspection and certificate requirements date from the Communications Act of 1934 and, due to technological advancements, are no longer necessary. Furthermore, the requirement for a certificate is being inconsistently enforced by Coast Guard inspectors. AWO encourages the Coast Guard to work with the FCC and Congress, if needed, to eliminate the requirement for annual inspections of towing vessel radiotelephone stations and for the carriage of an endorsed Bridge-to-Bridge Radiotelephone Certificate.

Security

AWO member companies continue to be concerned by the costs of compliance with the Maritime Transportation Security Act of 2002, implemented in Coast Guard regulations at 33 CFR Chapter I, Subchapter H, and in particular, with the requirement at §101.514 for persons requiring unescorted access to secure areas of regulated vessels or facilities to possess a Transportation Worker Identification Credential (TWIC). AWO recommends that the Coast Guard review these regulations and reassess their security benefit and economic impact, especially for vessel and facility operations that pose a low risk of serving as a vector or target for terrorist attacks due to their small size or remote location. Where possible, AWO urges the Coast Guard to eliminate or modify maritime security requirements that impose costs that exceed their benefits, and seek Congressional authorization to do so where statutory change is necessary.

Environmental Stewardship

Support Congressional Passage of the Commercial Vessel Incidental Discharge Act

AWO has long supported reform of the federal regulatory framework for ballast water and other discharges incidental to the normal operation of commercial vessels. Today, the Coast Guard's longstanding and comprehensive regulations for ballast water at 33 CFR Part 151, promulgated under statutory authorities including the Nonindigenous Aquatic Nuisance Prevention and Control Act and the National Invasive Species Act, are complicated by the U.S. Environmental Protection Agency's regulation of vessel discharges including ballast water under the Clean Water Act's National Pollutant Discharge Elimination System permit program. In addition, since neither NANPCA nor NISA nor the NPDES permit program preempts state regulation of vessel discharges, some states have independently instituted additional standards for ballast water. This dysfunctional regime of duplicative and sometimes conflicting federal and state regulations severely complicates compliance for vessel operators and mariners and requires American taxpayers to bear the cost of administering redundant federal and state regulatory programs.

The Commercial Vessel Incidental Discharge Act is bipartisan legislation that would rectify this untenable situation by establishing a uniform, national regime for the regulation of ballast water and other vessel discharges. CVIDA would uphold the highest standards of environmental protection by retaining the ballast water discharge standard currently enforced by both the Coast Guard and EPA, which the independent EPA Science Advisory Board has deemed the most stringent standard currently achievable, and establishing a process to raise the standard over time as technology improves. CVIDA would also create complementary rather than duplicative roles for EPA and the Coast Guard. In recognition of the Coast Guard's maritime expertise and enforcement capability, and its long record of ensuring vessel safety, exercising oversight of vessel operations and equipment, and protecting U.S. waterways from pollutants and invasive species, CVIDA would establish the Coast Guard as the lead agency in charge of regulating discharges from vessels. In recognition of EPA's scientific expertise in evaluating and maintaining water quality, CVIDA would require the Coast Guard to consult with EPA in the development and review of discharge standards.

AWO firmly believes that CVIDA is necessary to rationalize the regulatory regime for vessel discharges and provide much-needed certainty for vessel operators engaged in interstate commerce while enhancing environmental safeguards, and we respectfully request that the Coast Guard and the Trump Administration support the passage of CVIDA this year.

Eliminate Unnecessary Ballast Water Reporting Requirements

AWO reiterates—as we have argued in previous submissions to the Coast Guard—that the ballast water reporting requirements at 33 CFR Part 151 impose costs that exceed their environmental or informational benefits.

Beginning this year, and for the next two years, an Annual Ballast Water Summary Report must be submitted to the National Ballast Information Clearinghouse (NBIC) for each vessel with ballast tanks operating exclusively within a single Captain of the Port (COTP) Zone. Vessels with such a limited geographic area of operation pose a very low risk of contributing to the introduction or spread of aquatic invasive species. Although an annual reporting requirement limited to three years may seem to present a minimal burden, this information can be challenging and costly for towing vessel operators and crewmembers to compile and submit. These costs are difficult to justify given that much of the data provided has little value—for instance, a vessel operator cannot indicate in the Annual Ballast Water Summary Report whether the vessel uses water from a U.S. public water system as ballast, and is required to submit a report even if the vessel never discharges ballast water. AWO urges the Coast Guard to repeal 33 CFR §151.2060(e) to reduce regulatory burdens for the operators and crewmembers of these vessels.

In addition, AWO again urges the Coast Guard to repeal the requirements at 33 CFR §151.2060 for vessels with ballast tanks bound for ports or places in the United States to submit ballast water reports to the NBIC. These requirements have been in place since 2004. The Coast Guard has therefore collected over 10 years of comprehensive data on the ballast water management patterns and practices of vessels operating in U.S. waters, including where they operate, how often they take on and discharge ballast water, and in what quantities. This information should be sufficient to provide the Coast Guard with an adequate basis for programmatic and regulatory decision-making well into the future. Yet, vessel operators continue to incur costs as a result of these regulations: in addition to the administrative costs of preparing and filing reports, companies must train new vessel crewmembers and shoreside personnel, all of whom have other significant operational and safety responsibilities. Further, there is no exception for vessels that use water from a U.S. public water system as ballast or that never discharge ballast water. Continuing to impose such a large-scale reporting requirement on industry is not justified, nor is it an efficient use of governmental and taxpayer resources to collect, process and analyze additional data that will not meaningfully expand or enhance the Coast Guard's understanding of ballast water management. As the Coast Guard is not statutorily required by NANPCA or NISA to require mandatory ballast water reporting, AWO strongly recommends that these regulations be retired.

Modify the Requirements for PIC-Fuel Transfers on Inspected Towing Vessels

AWO has expressed its disappointment in previous submissions to the Coast Guard that the agency did not act on the recommendation of TSAC, AWO, and other commenters on the Subchapter M notice of proposed rulemaking to make changes to 33 CFR §155.710(e) to allow individuals carrying a letter of designation (LOD) to continue to serve as the person in charge (PIC) of fuel transfers on towing vessels inspected under Subchapter M. As we have previously stated, requiring the PIC of fuel transfers on inspected towing vessels to hold a license or MMC endorsed as Tankerman-PIC would have a substantial and detrimental economic impact on the 2,500 to 3,000 towing vessels that will be affected, with no commensurate benefit to safety. The Coast Guard has issued CG-MMC Policy Letter 01-17 to establish a streamlined process by which individuals currently supervising fuel transfers on towing vessels under an LOD may obtain an MMC endorsed as Tankerman-PIC Restricted to Fuel Transfers on Towing Vessels without additional training. While this is a needed stop-gap measure, it is not an effective long-term solution: it adds thousands of individuals to the pool of credentialed mariners, imposing administrative costs on these mariners and their employers and significantly increasing the National Maritime Center's workload. It is also not justified by risk or casualty data. The only reason for the change is the shift in towing vessels' status from uninspected to inspected, and it is therefore unnecessary. AWO urges the Coast Guard to modify 33 CFR §§155.710(e)(1) and (2) to permit individuals carrying an LOD to continue to serve as PIC of fuel transfers on inspected towing vessels.

Rationalize Requirements for PICs at Tank Barge Cleaning Facilities

Tank barge cleaning facilities are currently implicated by 33 CFR §155.710(b), which requires tank barges to employ a PIC of cargo-tank cleaning who holds a Tankerman-PIC or Tankerman-PIC (Barge) endorsement. However, tank barges serviced at cleaning facilities are empty to the extent that onboard pumps will allow, usually with only 200 to 500 gallons of cargo remaining. This cargo is then stripped, not utilizing the onboard pumps, but with a vacuum system or with similar equipment, and not following the barge's transfer procedures, but according to facility-specific procedures. Historically, this process has been performed very safely under the supervision of a facility PIC. Employing Tankerman-PICs in cargo-tank cleaning will increase industry costs and delays and exacerbate Tankerman-PIC shortages. AWO recommends that the Coast Guard amend 33 CFR §155.710(b) to remove cargo-tank cleaning from the operations requiring a tank barge PIC, so that cargo-tank cleaning may continue to be conducted under the sole supervision of a facility PIC.

Reduce Response Plan Exercise Requirements for Inland Nontank Vessel Operators

Under 33 CFR Part 155, Subpart J, nontank vessels—self-propelled vessels of 400 gross tons or greater that carry oil of any kind as fuel for main propulsion—are required to prepare and submit an oil spill response plan to the Coast Guard. This requirement implements a statutory mandate established by the Federal Water Pollution Control Act (FWPCA), as amended. According to 33 CFR §155.5060, nontank vessels must comply with the same response plan exercise requirements as tank vessels. For nontank vessels that can carry 250 or more barrels of oil, these requirements mandate that the plan holder conduct quarterly Qualified Individual notification and emergency procedures exercises and annual shore-based spill management team tabletop and oil spill removal organization equipment deployment exercises. AWO is concerned that these exercise requirements are excessive for nontank vessels that operate

solely on rivers. Inland towing vessels are largely protected from adverse weather conditions, and to our knowledge, there has never been a situation in which one has been involved in an incident that resulted in a worst-case discharge scenario. While 33 USC §1321(j)(5) requires vessel response plans to describe training, equipment testing and drills, it does not prescribe the frequency or type of drills and exercises to be conducted, nor require that they be the same for tank and nontank vessels. AWO recommends that the Coast Guard reassess the economic impact of its exercise requirements for nontank vessels that operate solely on rivers to determine whether they impose costs that exceed their environmental benefits, and if so, alleviate cost burdens on industry by working within the agency's authority under the FWPCA to establish exercise requirements that are commensurate with environmental risk.

Repeal the Requirement to Contract with Emergency Towing Resources for Inland Towing Vessels

When the Coast Guard published the salvage and firefighting requirements in 2008, which included the requirement (33 CFR §155.4030(e)) for vessel owners and operators to identify emergency towing resources in their vessel response plans, both the Coast Guard and AWO recognized that the regulations were written with blue-water operations in mind. The requirement to "identify towing vessels with the proper characteristics, horsepower and bollard pull to tow your vessel(s)" that are "capable of operating in environments where the winds are up to 40 knots" are inappropriate for inland tank barge and towing vessel operations for several reasons, including the facts that: an inland towing vessel of at least 800 horsepower, the smallest towing vessel in routine service on the inland waterways, is capable of pushing the largest inland tank barge, loaded with cargo, or of assisting a towing vessel over 400 gross tons; bollard pull is not relevant to inland towing vessels engaged in emergency towing, which do not pull, but rather push, the barges that they tow and are not equipped with towing bits or winches; and inland towing vessels are capable of operation without regard to wind velocity. Moreover, there are no towing vessels stationed on the inland waterways for the purpose of emergency towing, and it is neither possible nor desirable to create a fleet of stand-by vessels.

For these reasons, AWO requested and received Coast Guard acceptance of an alternative planning criterion (APC) for emergency towing for inland tank barges and towing vessels over 400 gross tons operating within the Eighth Coast Guard District and limited areas within the Ninth Coast Guard District. The AWO APC is premised on the longstanding mutual assistance approach to emergency response that is a hallmark of the towing industry, and has functioned successfully since its acceptance by the Coast Guard in 2010. AWO has amply demonstrated that the density of inland towing vessel operations in the Western Rivers is sufficient to ensure the availability of emergency towing services on a mutual assistance basis. AWO believes that this is a situation, and not the only one, in which the approach outlined in a Coast Guard-accepted APC is equivalent to, and a better fit for the operational environment than, the national planning criteria. In recognition of this, we recommend that the Coast Guard exempt inland tank barges and towing vessels from the requirement at 33 CFR §155.4030(e) to identify emergency towing resources in their vessel response plans, obviating the need for AWO to maintain and periodically resubmit, and the Coast Guard to reapprove, the AWO APC for emergency towing.

Publish Guidance to Institute a Standardized Process for the Carriage of Shale Gas Extraction Wastewater in Bulk

AWO strongly believes that shale gas extraction wastewater (SGEWW) can be safely and efficiently moved by barge, just as millions of tons of other potentially hazardous substances are carried safely and securely by barge every year. Currently, tank barge operators seeking to transport SGEWW must request Coast Guard approval on a case-by-case basis, and are required to provide detailed chemical composition and environmental analysis information for each individual barge load. This costly and extremely burdensome process has effectively foreclosed a potentially viable new business line for tank barge operators, inhibiting job creation.

A standardized process that specifies the conditions under which a tank barge may transport SGEWW in bulk would be entirely consistent with Coast Guard regulations and would offer significant safety, environmental and economic advantages over other modes of transportation. AWO urges the Coast Guard to publish policy guidance, consistent with 46 CFR §153.900(d), to institute a standardized process and specify conditions under which a tank barge operator could request and be granted a Certificate of Inspection endorsement or issued a letter allowing the carriage of conditionally permitted SGEWW in bulk.

State Regulation of Vessel Operations

In addition to the recommendations above to repeal, replace or modify current Coast Guard regulations or policy, we urge the Coast Guard and the Trump Administration to strongly support the constitutional principle of federal authority over navigation and vessel operations, and vigorously oppose state efforts that infringe upon this authority. The recognized primacy of federal regulation of interstate and international commerce has been a fundamental attribute of America's constitutional system of government since its founding, and clear federal regulations, consistently applied and administered, are necessary to facilitate the safe and efficient movement of interstate and international maritime commerce. We believe the Coast Guard's robust defense of the federal prerogative is completely consistent with the Administration's directive to alleviate unnecessary regulatory burdens. If the Coast Guard allows state laws that undermine federal supremacy over the navigation and operation of vessels to stand without challenge, the agency imperils the safety and efficiency of maritime commerce and enables the proliferation of state-imposed regulatory burdens on vessel operators that are not only unnecessary, but also unconstitutional.

Conclusion

Thank you again for the opportunity to comment on the Coast Guard's evaluation of regulations that may be appropriate for repeal, replacement or modification. We would be pleased to answer any questions or provide further information as the Coast Guard sees fit.

Sincerely,



Jennifer A. Carpenter
Executive Vice President & COO