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Jennifer A. Carpenter
President & CEO

July 14, 2021

Ms. Lucinda Lessley
Acting Administrator
Maritime Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Coastwise Endorsement Eligibility Determination
for a Foreign-Built Vessel: TACO (Barge, Motor)
(Docket No. MARAD-2021-0020)

Dear Ms. Lessley:

The American Waterways Operators is the national trade association for the tugboat, towboat and barge industry. AWO's more than 300 member companies own and operate barges and towing vessels on the U.S. inland and intracoastal waterways; the Atlantic, Pacific and Gulf coasts; and the Great Lakes. Each year, our industry's 5,500 towing vessels and 31,000 barges safely, securely and efficiently move more than 760 million tons of cargo critical to the U.S. economy and provide essential services in our nation's ports and harbors.

On behalf of AWO's member companies, thank you for the opportunity to comment on the ineligibility of this application and the negative impacts to the U.S. domestic maritime industry that would occur if the Maritime Administration (MARAD) grants coastwise eligibility to the motor barge TACO.

1. The vessel's proposed scope of work disqualifies it from consideration for an eligibility determination for foreign-built small passenger vessels.

46 U.S. Code §12121 only grants MARAD the authority to issue a certificate of documentation with an appropriate coastwise trade endorsement for a foreign-built or foreign-rebuilt vessel employed "as a small passenger vessel...authorized to carry no more than 12 passengers for hire..." However, the application for the TACO states its intended service as: "For use in maintenance service business in and around harbor and waterway." The statutory definitions of "small passenger vessel" and "passenger for hire" at 46 U.S. Code §2101(30) and (45) do not include or encompass vessels performing maintenance services, and MARAD should not interpret its statutory authority to grant waivers of U.S.-built requirements to broad classes of vessels and operations.

2. Granting eligibility would adversely affect operators that utilize vessels built in the U.S. and U.S. vessel builders.

Over two dozen AWO members operate U.S.-built vessels or operate U.S. shipyards in California, Oregon, Washington and Alaska, corresponding to the proposed area of operation for the TACO. Among other services, those vessel operators perform construction, towing and repair work like the TACO's proposed maintenance service business. Granting a coastwise endorsement to the TACO, and effectively waiving the U.S.-built requirement for it, would create an uneven playing field weighted against operators using U.S.-built vessels.

Additionally, U.S. vessel builders on the West Coast and throughout the country have demonstrated capability and capacity to construct, repair and overhaul motorized barges like the TACO. Granting eligibility to a foreign-built vessel when domestic shipyards can perform the requisite construction, repair and overhaul work for motorized barges would directly and adversely impact the commercial interest of those builders.

MARAD should summarily deny the TACO's coastwise endorsement eligibility because its operations fall outside the statutorily required scope of passenger service into a field of work that is readily performed by operators of U.S.-built vessels. Additionally, AWO urges MARAD to read its waiver authority narrowly when considering future vessel eligibility determinations. President Biden's Executive Order 14005 on "Ensuring the Future is Made in All of America by All of America's Workers" affirmed support for Made In America Laws including the Merchant Marine Act of 1920, which requires vessels in the coastwise trade to be U.S.-built. While MARAD has the statutory authority to waive the U.S.-build requirements for certain small passenger vessels, interpreting that authority broadly to allow foreign-built vessels to perform non-passenger services would be at odds with statutory construction, Administration policy directives, and MARAD's responsibility to foster, promote and develop the maritime industry of the U.S.

Thank you for the opportunity to respond and comment on the impacts of this determination. We would be pleased to answer any questions or provide further information as you see fit.

Sincerely,

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

Jennifer A. Carpenter
President & CEO

CC:

Ms. Celeste Drake, Director, Made in America Office

Docket No. MARAD-2021-0020

Page 3

Mr. Brian Deese, Director, National Economic Council

Ms. Joelle Gamble, Special Assistant to the President, National Economic Council

Mr. Cedric Richmond, Sr. Advisor to the President and Director, Office of Public Engagement

Mr. Zach Butterworth, Director of Private Sector Engagement, Office of Public Engagement