The American Waterways Operators

801 North Quincy Street
Suite 500
Arlington, VA 22203

PHONE: 703.841.9300
EMAIL: cstewart@americanwaterways.com

Caitlyn E. Stewart
Vice President – Regulatory Affairs

October 29, 2026

Rear Admiral Robert C. Compher
Assistant Commandant for Prevention Policy
U.S. Coast Guard
2703 Martin Luther King Jr. Avenue SE
Washington, DC 20593

RE: Notice of Availability and Request for Comments on Draft Navigation and Inspection Circular 02-99, Change 1 – Guidance on the Streamlined Inspection Program

Dear Rear Admiral Compher:

The American Waterways Operators is the tugboat, towboat, and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. As the largest segment of the nation's 45,000-vessel domestic maritime fleet, our industry plays a vital part in America's supply chain and national security, moving the nation's commerce on U.S. inland and intracoastal waterways; the Atlantic, Pacific, and Gulf coasts; and the Great Lakes. On behalf of AWO's more than 300 member companies, we appreciate the opportunity to comment on the U.S. Coast Guard's draft Navigation and Vessel Inspection Circular (NVIC) 02-99, Change 1, to modernize guidance on the Streamlined Inspection Program (SIP).

AWO appreciates the Coast Guard's efforts to modernize its policy guidance. We are deeply committed to ensuring that the federal regulatory regime governing our industry provides for a high level of safety, security, and environmental protection while allowing our members' businesses to succeed, preserving our industry's economic efficiency, and facilitating the free flow of maritime commerce. We continually seek to manifest this commitment through our constructive engagement in the rulemaking and policymaking processes to assist federal agencies in developing, implementing, and enforcing practical, effective regulations and policy guidance for our industry. We are therefore grateful to the Coast Guard for publishing this draft Change 1 for public notice and comment to provide all maritime stakeholders with the opportunity to review the proposed policy changes and offer recommendations informed by our experience with and expertise on safety management, regulatory compliance, and operational and commercial matters. AWO firmly believes that asking for feedback from the

regulated community on draft policy prior to publication leads to more durable policy and better outcomes for the federal government, the maritime industry, and the American public.

Effects on the Joint Eighth and Ninth District Tank Barge Streamlined Inspection Program

AWO members have accumulated extensive experience with the SIP due to the inland tank barge industry's widespread adoption of the Joint Eighth and Ninth District Tank Barge Streamlined Inspection Program (TBSIP). For 25 years, the TBSIP has provided qualified operators of unmanned U.S. tank barges with an alternative to traditional Coast Guard inspection under 46 CFR Subchapters D and O. The TBSIP was developed cooperatively by personnel of the now-Heartland and Great Lakes districts and tank barge operators, and together they have evolved and adjusted the program over time to respond to changes in Coast Guard marine inspection regulations and policy and incorporate lessons learned from the implementation of the program. The current TBSIP guide, version 3.0, was released in 2019.[1]

As of 2024, the Coast Guard reported 4,922 inspected barges in the U.S. fleet of responsibility.[2] While AWO does not know the exact number of tank barges currently enrolled in the TBSIP, we are confident that thousands of these vessels participate in the program. Through their enrollment in the TBSIP, tank barge operators with strong safety cultures – many, if not most, of whom have implemented a safety management system such as the AWO Responsible Carrier Program (RCP) – have been able to use company personnel, working under Coast Guard-approved action plans, to verify regulatory compliance and reduce the number of onboard inspections conducted by Coast Guard marine inspectors. This has had significant benefits for both the Heartland and Great Lakes districts, in the risk-informed reduction of the workload of their marine inspectors, and for tank barge operators, in increased operational efficiency.

The tank barge industry's safety record affirms that the TBSIP has been a tremendous success. As demonstrated in the annual safety reports of the Coast Guard-AWO Quality Partnership for Marine Safety and Environmental Protection, which has been tracking towing industry safety metrics since its inception in 1995, the volume of oil spilled from tank barges has trended downward overall since the first iteration of the TBSIP was introduced in 2001. With one exception,[3] the oil spill rate over that time has remained well below five gallons spilled per million gallons transported, and for 12 of the past 15 years, the spill rate has dropped below one gallon spilled per million gallons transported. In 2025, only 1,400 gallons of oil was spilled from tank barges, the second-lowest spill volume on record.[4] Clearly, the alternative

[1] U.S. Department of Homeland Security, U.S. Coast Guard. (2019). *Joint D8/D9 Tank Barge Streamlined Inspection Program (TBSIP), Change 3* (Joint CGD8/9 Inst. 16703.1A).
[2] U.S. Department of Homeland Security, U.S. Coast Guard. (2024). *Flag State Control in the United States: 2024 Domestic Annual Report.* https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/CVC1/AnnualRpt/2024%20Flag%20State%20Annual%20Report.pdf
[3] In 2005, over 1.94 million gallons of oil was spilled by tank barges, 1.8 million of which was spilled in a single incident by the tank barge DBL-152 when it struck a collapsed pipeline service platform in the Gulf of Mexico. If this incident had not occurred, the oil spill rate for 2005 would have been below 5 gallons spilled per million gallons transported.
[4] U.S. Coast Guard Office of Investigations and Casualty Analysis. (2026). *U.S. Coast Guard-American Waterways Operators Annual Safety Report*. USCG-AWO Quality Partnership for Marine Safety and

inspection framework established by the TBSIP, with its complementary roles for regular company compliance verification and periodic Coast Guard inspection and programmatic oversight, has supported the strong safety performance of the tank barge industry.

The Coast Guard has proposed to cancel the TBSIP on publication of Change 1 and allow current TBSIP enrollees to maintain enrollment in the revised SIP. However, it is not clear how the transition will work in practice, and there are differences between the TBSIP and the SIP as proposed in draft Change 1 that would have an adverse effect on current TBSIP enrollees' experience of the program's administration, regulatory flexibilities, and associated operational efficiencies. We do not believe the Coast Guard intended to target the TBSIP for reform and negatively impact the experience of current TBSIP enrollees. In fact, the opposite appears to be true: AWO appreciates the Coast Guard's recognition in the draft Change 1 that the TBSIP has been "highly successful" and its statement that one of its goals in updating the guidance is to expand the risk-based regulatory flexibilities pioneered in the TBSIP to all eligible inspected vessels. Therefore, it is extremely important that as the Coast Guard finalizes and implements Change 1, the following issues are addressed so that current TBSIP enrollees do not experience administrative or operational disruptions or increases in regulatory burdens.

Clarify Prohibition on Multi-Program Enrollment

In Section F.3. of Enclosure 1, the Coast Guard writes, "Companies and their associated vessel(s) may only be enrolled into a single, primary Coast Guard compliance inspection program at any time, dual/multi program enrollment is not authorized," and goes on to state that "an operator may not maintain active enrollment in both the TSMS option and the SIP option concurrently." This provision can be interpreted to mean a company operating both towing vessels inspected under Subchapter M and tank barges inspected under Subchapters D and O cannot use the TSMS option for its towing vessels while also enrolling its tank barges in the SIP. If such a prohibition were to be enforced, many AWO members who are current TBSIP enrollees would be forced to choose between transitioning their towing vessels from the TSMS option to the Coast Guard option or disenrolling their tank barges from the SIP – in either case, losing access to regulatory flexibilities for a portion of their fleet for no risk-based reason and increasing the demand for Coast Guard marine inspection services. While we do not believe the wording of this section was intended to be interpreted this way, we will take this opportunity to express AWO's strong opposition to any limitation on a company's ability to leverage more than one alternative inspection option for the eligible vessels it operates. We urge the Coast Guard to clarify that a vessel, not a company, may only be enrolled in a single, primary Coast Guard compliance inspection program at any time.

Provide Defined Transition Period and Clear Transition Guidance for Current TBSIP Enrollees

In its note to Section A. of Enclosure 1, the Coast Guard writes, "Vessels already enrolled in SIP upon publication of this CH-1 update may remain enrolled. However, their existing program will be reevaluated at the next inspection to ensure all regulatory requirements are

---

Environmental Protection. https://www.americanwaterways.com/resources/2026-uscg-awo-safety-partnership-annual-report

satisfied and policy updates are accurately reflected in their CAP/VAP." This is the only guidance offered to current SIP enrollees on the transition to the updated SIP when Change 1 is finalized and implemented. AWO encourages the Coast Guard to include a new section in Enclosure 1, or a new enclosure altogether, to provide clear transition guidance, including a defined transition period, for current SIP enrollees.

Specifically, AWO recommends that Coast Guard state explicitly that vessels eligible to maintain enrollment in the SIP upon publication of Change 1 include tank barges currently enrolled in TBSIP. The Coast Guard does not say whether current enrollees will remain enrolled automatically or if it is contingent on a notification or application to the Coast Guard from the vessel operator; AWO recommends that enrollment for current TBSIP participants be automatically extended. The Coast Guard also does not say whether current enrollees will be subject to Provisional SIP status and an operational evaluation period as part of the transition to the updated SIP; AWO recommends that they are not.

The proposed requirement for a current enrollee's "program" to be reevaluated "at the next inspection" lacks necessary specificity. Does the Coast Guard expect the company to submit the entire CAP and VAP(s) for review, or only the revisions (as otherwise required by Sections W. and X. of Enclosure 1)? Is the timeline for reevaluation determined by a vessel's next scheduled inspection after the publication date of Change 1? (AWO members may operate hundreds of barges currently enrolled in the TBSIP and, across their fleet, may be subject to multiple inspections per week, which could create an extremely inconsistent timeline for revision and reevaluation from company to company that, for some, is unfairly truncated.) Who is responsible for conducting the reevaluation? (Section G. indicates the Homeport OCMI is responsible for the review of plan submissions; for revisions, Section W. indicates a role for the USCG SIP Advisor, while Section X. states revisions must be submitted to the cognizant OCMI.) AWO recommends that the Coast Guard provides one year following the publication of Change 1 for current enrollees to update their CAP and VAP(s) to incorporate any changes necessitated by the revisions to the guidance and submit the revisions to the SIP Homeport OCMI for approval.

Allow Current TBSIP Enrollees to Maintain Existing TBSIP Homeport OCMIs and Coast Guard TBSIP Advisors

Under Section II of D8/D9 TBSIPv.3.0, the "TBSIP Homeport OCMI" is defined as "The OCMI that enrolls a company and its barge fleet into the TBSIP." The "Coast Guard TBSIP Advisor," or TBSIP Shepherd, is defined as "A qualified Coast Guard Marine Inspector assigned by the Homeport [OCMI] to assist the company in the development or implementation of their program." Over 25 years of TBSIP implementation, current TBSIP enrollees have developed strong relationships with their Homeport OCMIs and TBSIP Advisors, who in many cases have long experience with and detailed knowledge of their companies, their programs, their vessels, and their personnel.

Section B. of Enclosure 1 redefines "Homeport OCMI" as "The OCMI Zone where the Company headquarters is located, not where the vessels are inspected or frequent," and defines "Coast Guard SIP Advisor" as "the Marine Inspector assigned by the [OCMI] to assist in the

development of an action plan." Presumably, based on Section G., the SIP Advisor is assigned by the Homeport OCMI. If a current TBSIP enrollee's TBSIP Homeport OCMI and Coast Guard TBSIP Advisor are not based in the OCMI Zone where the company's headquarters is located, draft Change 1 can be interpreted to require them to work with entirely different units and marine inspectors than those with whom they worked as their programs were developed and have evolved. AWO is concerned that severing these longstanding working relationships will lead to unnecessary administrative and operational disruptions and inefficiencies. AWO urges the Coast Guard to provide that current TBSIP enrollees may continue to work with their existing TBSIP Homeport OCMIs and Coast Guard TBSIP Advisors during and after their transition to the updated SIP.

Preserve TBSIP Select Privileges

In 2019, D8/D9 TBSIPv.3.0 introduced a two-tiered compliance system for enrolled companies. At TBSIP, the "entry level" status, the Coast Guard conducts onboard inspections twice in five years (the inspection for certification and a periodic inspection) and credits three annual company-conducted inspections. Companies that successfully complete two Coast Guard-conducted company audits during the initial five-year inspection schedule can be elevated to TBSIP Select status, under which the Coast Guard conducts only one onboard inspection in five years (the inspection for certification) and accepts four annual company-conducted inspections.

Section J.2. of Enclosure 1 provides a baseline guide to SIP inspections based on inspection subchapter that describes how the scope and methodology of required inspections can be adjusted. For inland tank barges inspected under Subchapters D and O, the baseline is an onboard inspection once in five years (COI renewal) and four documentary inspections in five years (SIP Annuals 1, 2, 3, and 4). In Paragraph 9.2. of draft Change 1, the Coast Guard writes, "For vessels demonstrating sustained compliance, this change establishes baseline intervals that maximize remote crediting of annual and periodic inspections." It is unclear what the first phrase of this sentence means. Does it refer to the performance evaluation period during the Provisional SIP stage of the enrollment process? In Section J. of Enclosure 1, there is no requirement for SIP-enrolled companies or vessels to demonstrate sustained compliance to qualify for documentary reviews in lieu of onboard inspections (although Note 1 to Section J.2. notes that the OCMI retains discretion to mandate an Onboard Verification in any given year if performance degrades).

AWO is not seeking an increase in the baseline Coast Guard verification intervals for SIP-enrolled inland tank barges. However, if the Coast Guard does intend to require vessels to demonstrate sustained compliance under the SIP in order to qualify for the applicable baseline verification interval, we urge the Coast Guard to provide that current TBSIP enrollees that have achieved TBSIP Select status automatically qualify for the baseline verification interval for inland tank barges so that their transition from the TBSIP to the SIP does not lead to an increase, even temporarily, in onboard inspections.

Preserve Established TBSIP Annual Inspection and Documentary Review Procedures

Section IV of D8/D9 TBSIPv.3.0 details program administration clearly and, in so doing, promotes consistency among companies implementing the program and OCMIs enforcing it. Specifically, in Paragraph C., the guide establishes procedures for how companies will document company-conducted annual inspections, when and how the Coast Guard will review that documentation, and how the company will endorse the Certificate of Inspection upon completion of company-conducted annual inspections. These are not clearly articulated in draft Change 1. It would be possible, of course, for a company to maintain the TBSIP procedures in its CAP. However, if the Coast Guard does not set expectations about what is acceptable for its personnel, it increases the possibility (if not the likelihood) that different OCMIs will come to different determinations. To support and facilitate consistency, AWO encourages the Coast Guard to preserve these procedures.

Do Not Reduce Existing TBSIP Regulatory Flexibilities for Management of Temporary Minor Repairs

The first iteration of the TBSIP was designed by the Eighth District Barge Industry Quality Action Team in recognition that, according to the Coast Guard, the "different operational nature of the unmanned inland tank barge fleet in contrast to the self-propelled fleet necessitates a fleet-specific solution."[5] As the TBSIP has evolved, it has continued to be tailored to the unique operational profile of inland tank barges. AWO understands that NVIC 02-99 provides SIP guidance applicable to all inspected vessel types, and that as a result Change 1 will be less specific than D8/D9 TBSIPv.3.0. However, AWO believes that Change 1 should not roll back any regulatory flexibilities included in D8/D9 TBSIPv.3.0. In our assessment, backed up by an objective review of the safety record and the Coast Guard's own words, the TBSIP has been highly successful. There is no justification for increasing regulatory burdens on current TBSIP enrollees by eliminating elements of the TBSIP because they are not appropriate for all inspected vessel types.

Enclosure 3 establishes a risk-based framework for the initial assessment and management of temporary minor repairs that is similar to Section VI of D8/D9 TBSIPv.3.0. However, there is an important difference that, if unaddressed, will result in less regulatory flexibility for current TBSIP enrollees. D8/D9 TBSIPv.3.0 defines minor hull damage that may be temporarily repaired by the company without prior Coast Guard approval very clearly and narrowly: "A fracture or hole to the outer hull plating not to exceed the size of a dollar bill; There is no more than 1 temporary repair per void and 3 temporary repairs total on a barge; It is not adjacent to any cargo tank."[6] In contrast, Section A. of Enclosure 3 outlines three levels of damage. Level 1 "applies to nonstructural hull damage and encompasses minor deficiencies that do not affect the vessel's primary structure, watertight integrity, or essential safety systems. Examples include minor indents, surface corrosion, cracked non-structural welds, or bent handrails." Level 2 "applies to nonstructural hull damage [and encompasses] more significant deficiencies that, while not affecting structural or primary hull girder strength, may if left unaddressed, impact watertight integrity, weather-tightness, or the function of essential systems. Examples

[5] U.S. Department of Transportation, U.S. Coast Guard. (1999). *Navigation and Vessel Inspection Circular No. 2-99, Guidance on the Streamlined Inspection Program* (COMDTPUB P16700.4). https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/NVIC/1999/n2-99a.pdf
[6] D8/D9 TBSIPv.3.0, Section VI.B., p. 33.

include indentations not to exceed, 12 inches X ¼ inch or 3 square inches, whether above or below the waterline, localized corrosion, or damage to the housings of essential equipment." Level 3 includes all other damage including "breaches of the watertight envelope." Under this proposed framework, a fracture or hole to the outer hull plating meeting the $1-bill-size criteria for minor hull damage that current TBSIP enrollees have been safely and effectively temporarily repairing without prior Coast Guard approval would be categorized as Level 3 damage and the company would be required to "revert to traditional Coast Guard damage survey and repair processes." This would significantly reduce operational efficiency for current TBSIP enrollees. AWO strongly urges the Coast Guard to add a provision to Section A. of Enclosure 3 that defines a $1-bill-size fracture or hole to the outer hull plating of an inland tank barge, provided that the barge has no more than one temporary repair per void and three temporary repairs total and that it is not adjacent to any cargo tank, as Level 2 damage.

In addition, AWO has concerns about the stated example of "indentations not to exceed, 12 inches X ¼ inch or 3 square inches, whether above or below the waterline" as a deficiency that "may, if left unaddressed, impact watertight integrity." Although provided as an example, the term "not to exceed" indicates that this can be interpreted as a limit – and because the limit is not linked to any additional criteria such as vessel size, it could be applied to all vessels. This is not an appropriate criterion for an indentation that requires repair on an inland tank barge. NVIC 7-68 does not provide specific dimensions for indentations requiring repair but states, "A fair degree of deformation of the hull plates in the forward portion of a vessel ordinarily may be accepted without resulting in serious impairment of structural strength," and goes on to discuss considerations for the location and severity of set-ins to determine whether corrective measures are needed. Section 10 of the Heartland District's Inland Tank Barge Inspection and Repair Guidelines states, "The severity and need for repair of shell set-ins depends upon location, orientation (transverse/longitudinal), sharpness, size, and framing. Each must be evaluated on a case-by-case basis." The guidelines continue to discuss set-ins that may not require repair provided the internal members in way of the set-ins are intact and associated considerations given the location of the indentation, its length relative to internal framing, and the type of internal framing of the barge.[7] These guidelines have been effectively applied to inland tank barges for over 30 years as the overall safety of the inland tank barge fleet has steadily and significantly improved, and we see no justification to establish a more restrictive standard. We encourage the Coast Guard to preserve the ability of inland tank barge operators to manage indentations consistent with these longstanding, successfully implemented guidelines and amend the "not to exceed 12 inches X ¼ inch or 3 square inches" indentation criterion for Level 2 repairs so that it does not prescribe a one-size-fits-all approach.

Clarifications Needed and Other Recommendations

Allow Enrollees to Choose Homeport OCMI

As mentioned above, Section B.19. of Enclosure 1 redefines "Homeport OCMI" as "The OCMI Zone where the Company headquarters is located, not where the vessels are inspected

[7] U.S. Coast Guard. (1994). *Inland Tank Barge Inspection and Repair Guidelines.* https://www.dco.uscg.mil/Portals/9/TVNCOE/Documents/PolicyLetters/InlandRiverRepairGuide.pdf?ver=2017-08-11-125745-573

or frequent." The problem with this definition is that a company's headquarters may be located in a place with little or no connection to the company's vessel operations. There is no reason to require companies to work closely on SIP enrollment and oversight with OCMIs and marine inspectors that may be based in very different geographic areas and operating environments from the vessels enrolled in the SIP. Section B.19. includes a footnote which directs readers to the SIP final rule promulgated in 1998 "for additional background information." However, the final rule does not define "Homeport OCMI," and in the preamble's discussion of the role of the OCMI, it states, "For companies with vessels in more than one OCMI inspection zone, the CAP will be approved by the cognizant OCMI in the zone where the initial application for SIP enrollment is made." This is consistent with D8/D9 TBSIPv.3.0, which defines the "TBSIP Homeport OCMI" as "The OCMI that enrolls a company and its barge fleet into TBSIP." AWO strongly recommends that the Coast Guard amend draft Change 1's definition of Homeport OCMI to allow the company initiating enrollment in the SIP to submit its application package to an OCMI of its choosing, which then becomes the company's Homeport OCMI.

Clarify Coast Guard Oversight of Training and Qualifications of Company SIP Examiners and Designated SIP Support Persons

Draft Change 1 provides little guidance on what constitutes adequate training and qualifications for a Company SIP Examiner or Designated SIP Support Person. 46 CFR §8.530(a)(8) requires the CAP to include "A description of the company's training infrastructure, the method used to track and record training for individual employees, and the training required for the designated SIP support personnel to implement the CAP and the VAP." Section A. of Enclosure 2 expands on the Coast Guard's expectations for a company's training-related responsibilities under SIP, including:

- "Develop a company training curriculum which addresses the skills necessary to carry out all SIP functions,"
- "Provide training to all company personnel involved with SIP, based upon their respective positions and responsibilities,"
- "Ensure Company SIP Examiners are provided the training necessary to carry out all activities associated with ICR and Exam Checklists,"
- "Establish training records for each company person involved with SIP," and,
- "Adjust the training curriculum as necessary to address problems discovered during internal inspections or USCG inspections, changes in company personnel, or changes in relevant vessel systems and subsystems."

The Coast Guard writes that these responsibilities will be designated to company personnel through the CAP and VAP(s), which are approved by the Homeport OCMI. Draft Change 1 does not otherwise outline a standard for training or state required qualifications, if any, for specific SIP roles.

But, in Section J.8., the Coast Guard writes that CG-CVC-4 may review select CAPs to assess the programmatic effectiveness of the SIP and that these reviews "will focus on company internal training protocols to ensure company personnel with designated SIP responsibilities

are appropriately trained and qualified." Later, in Section Y., the Coast Guard writes that CG-CVC may review CAPs every five years and, again, that these reviews "may focus on company internal training protocols to ensure that Company personnel with designated SIP responsibilities are appropriately trained and qualified." (It is not clear whether these describe the same audit process.) What is "appropriately trained and qualified"? Are these reviews evaluating a company's training and personnel qualifications against a specific standard that has not been defined, assessing their adequacy according to the Coast Guard reviewer's judgement, or examining training records to ensure the company is providing and documenting training according to the processes in its Coast Guard-approved CAP/VAP(s)? AWO recommends that the Coast Guard clarify that training and qualifications for Company SIP Examiners and Designated SIP Support Persons are established by the company's CAP/VAP(s). However, if the Coast Guard does intend to assess whether company personnel are appropriately trained and qualified, its expectations must be clearly spelled out.

Eliminate OCMI Approval of Individual Designated SIP Support Persons

In Section H. of Enclosure 1, the Coast Guard writes, "Certified technicians, third-party surveyors from a Recognized Classification Society or a Third Party Organization, or other Designated Support Persons hired by the Company SIP Agent to fill this designated role within the CAP and VAP are subject to approval by the OCMI." In Section B.26., the Coast Guard also states, "Any use of a Third-Party Surveyor as a Designated SIP Support Person must be included in the CAP/VAP and approved by the OCMI." Again, there are no stated qualification criteria that the OCMI will weigh to approve or disapprove the Designated Support Person, and no approval process is proposed.

Section H. goes on to say that a company's CAP and VAP(s) must "explicitly identif[y]" the roles of a Designated SIP Support Person and the CAP must "detail [their] responsibilities and how their satisfactory performance will be verified and recorded by the company." The Homeport OCMI approves the CAP and VAP(s) and therefore – even if qualification criteria were specified – any OCMI approval of an individual Designated Support Person is redundant. Further, because the Section H. states, "Any work performed under the SIP framework as a Designated Support Person is the responsibility of the company," it is not clear why Coast Guard approval of an individual Designated Support Person is necessary. AWO recommends that the Coast Guard eliminate the requirement for OCMI approval of individual Designated Support Persons.

Provide More Guidance on Acceptable Objective Evidence Provided by Designated SIP Support Person

In Section H. of Enclosure 1, the Coast Guard describes how a company may use a Designated SIP Support Person to gather inspection data using the example of a third-party auditor, and specifically, a SIRE inspector, stating, "This third-party report can serve as objective evidence for the company's internal verification process. After a SIRE inspection, the Company SIP Examiner can review the report and sign the corresponding ICR, citing the specific SIRE report section as proof of inspection." The Coast Guard writes that the CAP and VAP(s) must detail the responsibilities of Designated Support Persons and how their satisfactory

performance will be verified and reported by the company. It also states that the responsibility for inspecting and servicing equipment always remains with the Company SIP Examiner and this process does not transfer liability to the Designated Support Person. However, SIP enrollees and Homeport OCMIs would benefit from more guidance about what constitutes acceptable objective evidence provided by a Designated Support Person. The purpose, protocol, and scope of third-party inspections, surveys, and audits can take many different forms and may or may not be aligned with the regulatory criteria of an ICR. AWO encourages the Coast Guard to provide more guidance on the use of information from Designated Support Persons as objective evidence, including who is responsible for verifying that this information aligns with ICR criteria or performance standards and how this verification should be documented.

Reconsider Essential Systems Notification Requirement

Section O. of Enclosure 1 requires companies to notify the Homeport OCMI within 48 hours of discovering a deficiency that does not pose an immediate threat to safety or the environment "in a regulatory system that is essential to the safe operation or seaworthiness of the vessel." The provision states that essential systems include "vital systems as defined in the vessel's applicable subchapter (e.g., steering, propulsion, bilge systems)," "emergency and safety systems required by regulation (e.g., firefighting equipment, primary lifesaving appliances)," and "operational systems essential to the vessel's service (e.g. towing, cargo, or other systems as defined by the operator)." As written, the Coast Guard's description of essential systems is so broad that it could be interpreted as encompassing routine conditions (e.g., a barge pumping slowly). This would impose administrative burdens on both SIP enrollees and the Coast Guard without providing urgent or actionable safety data. In leaving this interpretation as well as, in part, the designation of essential systems themselves to the company, the definition further opens the door to inconsistency. This notification requirement may also be redundant to existing requirements to report marine casualties and hazardous conditions. AWO encourages the Coast Guard to revise Section O. to more narrowly define essential systems or eliminate the requirement altogether.

Flexibilities for Remote and Third-Party Clearances of Deficiencies are Ambiguous

In Section P.2. of Enclosure 1, the Coast Guard describes how documented deficiencies can be cleared. Specifically, it states that "the attending MI has the discretion to allow the company to submit objective evidence of a correction in lieu of a physical Coast Guard reinspection." However, there are no criteria identified for the MI to consider in determining whether a deficiency is eligible to be verified remotely, leaving the matter entirely to their discretion. This invites inconsistency in how this discretion is exercised within and across OCMI Zones and increases uncertainty for SIP enrollees. We encourage the Coast Guard to add to this provision examples or categories of deficiencies that are usually eligible for remote verification to promote consistency and predictability.

Later in Section P.2.i., the Coast Guard writes, "Third-Party Verification: With prior OCMI approval, a Third-Party Surveyor or Designated Support Person may also verify the correction and submit the evidence on the company's behalf." This can be interpreted to mean that the

OCMI must pre-approve third-party verifications of deficiencies on a case-by-case basis, which would undermine the efficiency that third-party verification would otherwise advance. We encourage the Coast Guard to clarify that the OCMI may accept objective evidence from a Third-Party Surveyor or Designated Support Person submitted on the company's behalf, and that the Coast Guard retains the sole authority to formally clear the CG-835V on the basis of the evidence submitted or to determine that the submitted evidence is insufficient.

Proposed Coast Guard Program Management Framework May Create Inconsistencies

Draft Change 1 establishes a framework for SIP program management that assigns overlapping and conflicting authorities to Homeport and cognizant OCMIs, which may create inconsistencies and lead to confusion for Coast Guard personnel as well as SIP enrollees.

Per Enclosure 1, the Homeport OCMI receives and reviews a company's formal application package including the proposed CAP and VAP and (presumably) assigns a Coast Guard SIP Advisor (Section G., Phase 1). The Homeport OCMI and SIP Advisor set and monitor the performance evaluation period, perform the final verification visit, and formally complete the enrollment process (Section G., Phase 2 and Phase 3; also Enclosure 4, Section B.). The Homeport OCMI and SIP Advisor conduct and credit documentary inspections (Section K.1.i.). The Homeport OCMI receives reports of company-discovered, non-emergency deficiencies and enters them into MISLE as appropriate (Sections M., N., and O.). The Homeport OCMI receives notices of a company's voluntary SIP disenrollment and has the discretion to immediately disenroll a company on the basis of serious or sustained breakdowns in its implementation of the SIP (Section U.).

The cognizant OCMI is assigned the responsibility of reviewing the relevant portions of the VAP following a marine casualty (Section W.3.) According to the Note in Section V., "the final decision and regulatory authority to execute SIP enrollment status changes remain strictly with the cognizant OCMI." The cognizant OCMI also receives and approves the company's revisions to the CAP and VAP(s) (Section X.); receives, reviews, and makes recommendations on the company's request to waive SIP regulatory requirements (Section Z.); receives notifications of and temporary repair plans for Level 2 hull damage (Enclosure 3, Section A.); and verifies that a company's digital compliance system satisfies ISO and Coast Guard requirements during the CAP approval process (Enclosure 4, Section B.). Some of these authorities duplicate or contradict the articulated authorities of the Homeport OCMI to the extent that AWO suspects they may be errors.

In several places, the undifferentiated term OCMI is used, and it is unclear whether the Homeport OCMI or cognizant OCMI is intended.

AWO recommends that the Coast Guard review the program management framework proposed in Draft Change 1 to ensure accuracy, consistency, and alignment with the goals of the program. Specifically, we urge the Coast Guard to reinforce the Homeport OCMI as the unit with the primary oversight of the company's SIP, including approval of revisions to the CAP/VAP(s) and any waiver requests, and the only office with the authority to execute SIP enrollment status changes. To the maximum extent possible under the regulations, with the

exception of marine casualty and hazardous condition reports, we encourage the Coast Guard to consolidate required SIP reports and notifications, including temporary hull repair notifications, to the Homeport OCMI. When an immediate safety concern involving a SIP-enrolled vessel necessitates corrective measures, up to and including operational controls or detention, by a cognizant OCMI other than the Homeport OCMI, we recommend that the cognizant OCMI should refer any proposed enrollment status changes to the Homeport OCMI for consideration and execution. We encourage the Coast Guard to state that any disagreements between a cognizant OCMI and the Homeport OCMI should be resolved under 46 U.S.C. §3305(d)(2).

Clarify CG-CVC Oversight Role

Both Section J.8. and Section Y. of Enclosure 1 state that CG-CVC may review CAPs every five years "using established maritime auditing techniques" in order to "assess program-wide health of the SIP" or "assess the health of the national SIP program," but these provisions are confusing. Section J.8. specifies that CG-CVC-4 "may provide program oversight and review select CAPs" [emphasis added]. AWO interprets this to mean that CG-CVC-4 will review a sampling of CAPs for Coast Guard quality control purposes. Section Y. does not include the word "select," and goes on to state, "Because CAP reviews are conducted every five years, Companies are encouraged to retain all CAP, VAP, and other associated documentation for a period of five years from the last review. Companies that are unable to provide supporting documentation risk being found in non-compliance with the SIP, which could lead to potential probation or disenrollment." This can be interpreted to mean that all CAPs will be subject to five-year review and that this review will be a company compliance verification event. Further, both provisions state (as discussed above) that "this review may focus on company internal training protocols to ensure that Company personnel with designated SIP responsibilities are appropriately trained and qualified." Again, this can be interpreted to mean that the review is not for the purposes of program oversight but is to verify the company's compliance. AWO recommends that the Coast Guard align these provisions; clarify that this is a program audit to evaluate the Coast Guard's implementation of SIP, not the company's implementation of its CAP; and delete the sentences referencing company internal training protocols.

Safety Management Systems and the TSMS Option

The Coast Guard is correct to observe in Paragraph 6 of draft Change 1 that, since the promulgation of NVIC 02-99 in 1999, "the widespread use of third parties, such as Authorized Classification Societies (ACS), Recognized Organizations (ROs), and approved Third-Party Organizations (TPOs), alongside more comprehensive and robust standards (e.g., Safety Management Systems, Towing Safety Management Systems, and established quality management standards), has fundamentally changed the approaches to maintenance and inspection." These two things are linked: the maritime industry's embrace of safety management systems (SMS) as a tool to promote continuous regulatory compliance and safety improvement has increased the use of third parties to conduct independent audits of those programs to verify that a company and its vessels are complying with their stated policies and procedures and that those policies and procedures comply with an established regulatory or quality standard.

Clarify Whether SMS is Required for SIP Enrollment

Throughout draft Change 1, the Coast Guard encourages companies with an existing SMS to use their program to facilitate their SIP enrollment. For example, in the Note to Section G. in Enclosure 1, the agency writes, "[O]perators who utilize existing corporate Quality Management System (QMS), such as [SMS] and [TSMS], are highly encouraged to leverage that existing documentation as the technical basis for their CAP and VAP. Rather than creating new, redundant CAP/VAP, operators may submit a 'System Crosswalk' that directly maps their existing QMS procedures to the applicable SIP regulations to allow the Homeport OCMI to expedite the enrollment process." AWO interprets this and other sections of draft Change 1[8] to mean that the Coast Guard views an existing SMS as the foundation for and bridge to the development of a CAP/VAP(s), not that an existing SMS is a prerequisite of SIP enrollment.

But elsewhere in draft Change 1, the Coast Guard's language could be interpreted to mean that the agency expects an SIP enrollee to have an existing SMS. Because this language is found in the introductory paragraphs to Enclosure 1 and Enclosure 4, it takes special significance. The Coast Guard writes very early in Enclosure 1, Section A.: "By integrating these plans with existing company [SMS] and established quality standards, the SIP fosters a proactive safety culture that effectively manages risk and prevents accidents." Is a company required to have an existing SMS to enroll in the SIP? What established quality standards is the Coast Guard referencing and how does the agency expect the company's CAP/VAP(s) to be integrated with them? More explicitly, in the first sentence of Section A. of Enclosure 4, the Coast Guard writes: "To empower trusted operators and leverage the robust safety management systems required by SIP, this section establishes a risk-based framework for" the management of temporary hull repairs [emphasis added]. Again, is a company required to have an SMS to enroll in, or maintain enrollment in, the SIP?

AWO is not recommending that the Coast Guard require a company to have an existing SMS to enroll in the SIP. AWO also notes that SIP enrollment does not and should not prevent a company from maintaining an SMS. But it is important that the Coast Guard clarify this point because, while there are similarities between the SIP and an SMS (as the agency notes in Sections F.2.-3. of Enclosure 1), AWO does not believe that the SIP as described in draft Change 1 is an SMS. In Section F.3. of Enclosure 1, the Coast Guard writes, "the CAP, associated VAP(s), and ICRs functionally fulfill the same purpose as a [SMS] to ensure that enrolled vessels are *reliably* maintained and operated safely" [emphasis in the original]. However, an SMS is not only a system for the continuous management of vessel maintenance.

---

[8] See also: "Components of other quality management schemes […] may be incorporated into the SIP Plans" (Enclosure 1, Section F.4.); "[S]ubmissions could be a comprehensive CAP/VAP System Framework *(System Crosswalk)* that explicitly maps the company's existing [QMS] to SIP regulations" (Enclosure 1, Section G., Phase 1); and, "Companies with existing preventive maintenance systems and/or quality management systems such as the ISM Code, [TSMS], or other quality management systems such as those developed per the International Standards Organization 9001 standards, may have much of the fundamental material necessary for development of appropriate CAP and VAP(s). The Coast Guard does not intend to disrupt well-established safety systems. Companies that have these systems in place […] may cross-reference or include those components directly in the CAP and VAP, as appropriate" (Enclosure 2, Section A.4.).

An SMS is a company-wide, comprehensive approach to the proactive identification and mitigation of hazards that uses audits to evaluate implementation.

Continuous Regulatory Compliance

In Section A. of Enclosure 1, the Coast Guard writes, "The foundational objective of the SIP is to have vessels operate in a constant state of regulatory compliance, rather than the traditional cyclical readiness associated with periodic Coast Guard inspections." It is the responsibility of all vessel operators to maintain continuous compliance with all regulatory requirements, whether their vessels undergo traditional Coast Guard inspection or are enrolled in an alternative compliance option. The benefit of alternative inspection options, such as the TSMS option and the SIP, is that they promote, sustain, and ultimately facilitate continuous regulatory compliance better than a periodic, checklist-driven inspection by the Coast Guard. Whereas a periodic Coast Guard inspection is a point-in-time snapshot of the vessel's equipment and material condition, a company using an alternative compliance option like the TSMS option or the SIP assigns company personnel with responsibilities for ensuring continuous attention to routine vessel maintenance.

Differences Between SIP and SMS

AWO members have long experience implementing SMS, specifically the AWO Responsible Carrier Program, which was established in 1994 and which the Coast Guard accepted as an existing Safety Management System that meets the requirements of 46 CFR Part 138 in 2016, and the International Safety Management (ISM) Code, which is implemented in 33 CFR Part 96. The required elements of an SIP CAP and VAP are listed at 46 CFR §8.530, and draft Change 1 provides additional guidance, most notably in Enclosure 2, Section A., which describes company roles and responsibilities that must be designated in the CAP/VAP(s). While many of these requirements are similar to ISM Code and TSMS requirements, there are major differences. Perhaps the most significant difference is that, under the SIP, a CAP and VAP are narrowly focused on the company's examination and maintenance of vessels against applicable regulatory criteria. While there are requirements for corrective action and training procedures, these requirements are largely limited to correcting vessel deficiencies and ensuring company personnel are trained to identify vessel deficiencies. The ISM Code and TSMS regulations are much more comprehensive, and verification of vessel compliance with regulatory requirements is just one of many functional requirements.

As an example of the differences between the SIP and an SMS in terms of company safety culture and risk mitigation, the ISM Code and RCP/TSMS require companies to establish procedures for any person to report non-conformities and for those non-conformities to be investigated. Such procedures encompass not only corrective but also preventive action through updates to affected procedures, and therefore, their objective is not only to fix a problem but also, perhaps more critically, to improve the system. A deficiency in and of itself may be a lagging indicator of a safety problem; under the ISM Code and RCP/TSMS, companies use leading indicators like near accidents or near misses to identify emerging and developing safety problems, then devise interventions and evaluate how well they mitigate risk. The Coast Guard's description of the SIP's Correction Report process in draft Change 1

rightly discusses the identification of deficiencies and the initiation of CRs positively, not negatively. However, the agency's focus is on the issuance, resolution, and documentation of CRs. There is no requirement for investigation and no discussion of continuous safety improvement to ensure contributing conditions have been understood, similar exposures across the vessel fleet have been assessed, or corrective actions have been evaluated for effectiveness.

The Role of Audits

Under both the ISM Code and TSMS, internal audits of both shoreside and vessel operations, as well as independent external audits or certifications, are a functional requirement.[9] The purpose of an audit is to verify that a company's SMS is being effectively implemented. An audit does not identify deficiencies, or a failure to meet a regulatory requirement; instead, an audit identifies non-conformities, or a failure to meet a requirement of the company's SMS. Within an SMS, an internal audit is critical not only so that the company can evaluate the effectiveness of its SMS, but also so that the company can foster ownership of its SMS. The SIP does not include any internal audit requirement. Per Section W. of Enclosure 1, the company is required to review the CAP and "update all information" every two years after CAP approval, which comports with 46 CFR §8.550(a)(1). According to Section J.5., the company review is an "evaluation of their SIP implementation," but the stated objective again is to update the information required by regulation, and no further criteria for this evaluation are provided. Also per Section W., the Company SIP Agent and Coast Guard SIP Advisor are required to review the VAP every five years after VAP approval, which mirrors 46 CFR §8.550(a)(2). Section J.5. states that the objective of the VAP review is to "ensure they remain complete and up to date," not to evaluate their implementation. Under the SIP, the responsibility for evaluating CAP and VAP implementation is assigned to the Coast Guard through its SIP inspections. Throughout draft Change 1, the Coast Guard's SIP oversight as well as the documentary and onboard verifications are described in these terms, although the term "audit" is not used and there is no quality standard referenced.

Provide Commensurate Regulatory Flexibilities to TSMS Option Users

Draft Change 1 offers a number of regulatory flexibilities to SIP enrollees that correspond to the ways in which the SIP reduces risk by promoting continuous regulatory compliance. While this is not a recommendation to amend draft Change 1, AWO encourages the Coast Guard to review its other policy guidance to ensure that commensurate regulatory flexibilities are offered to users of other alternative inspection options, and particularly to companies using the TSMS option to verify their inspected towing vessels' compliance with Subchapter M. Specifically, companies using the TSMS option should be authorized to manage temporary repairs associated with minor nonstructural hull damage consistent with the framework established in Enclosure 3. The Coast Guard states that this framework is intended "[t]o empower trusted operators and leverage the robust safety management systems required by SIP." As discussed above, an SMS does not seem to be a requirement of the SIP, but an SMS that is independently certificated by a Coast Guard-approved TPO to comply with 46 CFR Part 138 is the foundation of the TSMS option. Moreover, a company using the TSMS option is required to implement an internal or external survey program that meets the criteria of 46 CFR

[9] For ISM Code, see 33 CFR 96.240(f)-(g) and Subpart C. For TSMS, see 46 CFR §138.215(f)-(h).

Part 136 into which procedures for the assessment and temporary repair of minor nonstructural hull damage could be integrated. Both types of programs include roles for Coast Guard-approved TPOs: an external survey program is carried out by a TPO, and an internal survey program is conducted with the oversight of a TPO. Part 136 also specifies qualifications for personnel authorized to carry out the internal survey program as well as for third-party surveyors. These factors strongly support the risk-based application of the policy described in Enclosure 3 to companies using the TSMS option.

Thank you again for the opportunity to provide comments on draft Change 1. We would be pleased to answer any questions or provide additional information as needed to support the Coast Guard's finalization and implementation of NVIC 02-99, Change 1.

Sincerely,



Caitlyn E. Stewart
Vice President – Regulatory Affairs
The American Waterways Operators