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July 19, 2024

Mr. Jeffrey G. Lantz
Director of Commercial Regulations and Standards
U.S. Coast Guard
2703 Martin Luther King Jr. Avenue, SE
Washington, DC 20593-7501

RE: Recordkeeping and Reporting
Requirements to Document Environmental
Compliance on Certain Commercial Vessels
(Docket No. USCG-2024-0046)

Dear Mr. Lantz:

The American Waterways Operators (AWO) 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. Our industry is the largest segment of the nation's 40,000-vessel domestic maritime fleet and moves 665 million tons of cargo each year safely, sustainably, and efficiently. On behalf of AWO's more than 300 member companies, we appreciate the opportunity to respond to the U.S. Coast Guard's request for information about the recordkeeping and reporting procedures required under the Coast Guard's ballast water regulations and the monitoring, recordkeeping, and reporting required by the U.S. Environmental Protection Agency (EPA).

We applaud the Coast Guard's intent to use this information to evaluate new and updated solutions that inform data-driven policymaking, reduce the reporting and record-keeping burden on industry, and confirm environmental compliance. Tugboat, towboat, and barge operators and mariners work every day to ensure the safety of people and the environment as they move the nation's waterborne commerce. Recordkeeping and reporting requirements that serve only administrative purposes, without enhancing environmental protection, should be eliminated.

The reporting and recordkeeping requirements of 33 CFR Part 151 Subparts C and D, established and enforced by the Coast Guard, and the Vessel General Permit, established and enforced by EPA, impose significant burdens on the towing vessel and barge industry. These include not only the administrative costs associated with maintaining records and preparing

and submitting reports, but also the ongoing time and expense of training new vessel and shoreside personnel to understand and meet those requirements. The requirements also create a critical safety concern by inflicting additional administrative duties on vessel masters and mariners who already have a wide range of safety-sensitive operational and management responsibilities. Those issues must be weighed against the purpose and effectiveness of the requirements in advancing environmental protection. Unfortunately, after fulfilling the Coast Guard's and EPA's recordkeeping and reporting requirements for two decades, vessel operators have not perceived any tangible environmental benefit that either agency can demonstrate.

The history of the Coast Guard's ballast water reporting requirements is illustrative. The agency first promulgated these requirements to develop a "complete picture" of industry ballast water uptake and discharge practices. As AWO pointed out at the time, this exceeded the statutory authority of the National Invasive Species Act, which did not require the Coast Guard to establish mandatory ballast water reporting requirements for vessels operating within the U.S. Exclusive Economic Zone (EEZ).¹ However, acknowledging the burdens that universal reporting would impose, the agency characterized the reporting requirements for domestic vessels as a means to an end – better information on which to base future regulatory efforts to control the introduction and spread of invasive species – and not an end in themselves. The Coast Guard has continued to enforce and even expand its requirements in the ensuing years to "monitor discharge trends and practices"² and "to obtain a better understanding of the [ballast water management] practices of vessels that were previously exempt from reporting."³ Today, the agency has 20 years of reports comprising the most comprehensive data available on where barges and towing vessels equipped with ballast tanks operate, how often they take on and discharge ballast, 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. Nevertheless, despite AWO's repeated questioning of the value of such large-scale, indefinite reporting, the agency has had little interest in scaling back its requirements, and it has become increasingly clear to the towing vessel and barge industry that the administrative act of reporting has itself become entrenched as the only end goal of the process.

Per the Vessel Incidental Discharge Act (VIDA), the Coast Guard is currently preparing to promulgate implementation, compliance, and enforcement requirements for EPA's vessel incidental discharge national standards of performance. At this important juncture, it is paramount that the Coast Guard critically evaluate what information is necessary to evaluate and enforce environmental compliance and create a recordkeeping and reporting framework that is narrowly tailored to meet those needs. It is with that goal in mind that AWO provides the following comments for the Coast Guard to consider in developing and implementing future recordkeeping and reporting requirements.

¹ See Jennifer Carpenter's March 15, 2007 letter to Docket No. USCG-2006-26136.

² 71 Federal Register 65445.

³ 78 Federal Register 33776.

Recordkeeping and Reporting Procedures Required under the Coast Guard's Ballast Water Regulations

AWO believes that the Coast Guard can reduce compliance burdens on vessel operators in its future regulations without either undermining environmental protection or compromising environmental compliance verification.

For example, the Coast Guard's current ballast water reporting regulations require vessels equipped with ballast tanks that operate between multiple Captain of the Port (COTP) Zones to submit a report for every single voyage, whether or not the vessel took up or discharged ballast water on that voyage, and even if the vessel used water from a public water supply as ballast water. Both situations pose no environmental risk of contributing to the introduction of aquatic invasive species and continuing to require reporting in these situations represents a clear administrative burden with no environmental benefit. Vessels that do not take up or discharge ballast water and vessels that use water from a public water supply should be exempted from future reporting requirements. For similar reasons, AWO also advocates for the exemption of vessels discharging treated ballast water from a type-approved ballast water management system from reporting requirements, provided that there is no system failure or malfunction or utilization of a safety exemption during the voyage.

There are several other issues presented by the Coast Guard's ballast water recordkeeping and reporting requirements that AWO would like to raise for the Coast Guard's consideration.

First, the documentation currently required to fulfill the criteria of exclusion from ballast water management requirements for vessels that solely discharge ballast water from public or commercial sources does not reflect operational realities and cannot practicably be obtained. Vessels are required to "maintain a record of which [public water system (PWS)] they received the water and a receipt, invoice, or other documentation from the PWS indicating that the water came from that system"[emphasis added]. Vessel operators that use water from a public source as ballast water most often use hoses to load it directly into the vessel's ballast tanks from connections at docks or terminals that in some cases are owned and operated by third parties. It is exceedingly difficult and time consuming for these companies to secure documentation from the public water supply. In the future, to qualify for a PWS exemption from ballast water management system requirements, certification in a logbook or record book entry, together with procedures in the ballast water management plan or safety management system outlining the exclusive use of water from a public source as the vessel's ballast water management strategy, should be sufficient documentation.

Second, in forthcoming regulations, the Coast Guard must clarify the definition of a "voyage" in a way that accounts for real-world vessel operations. The current definition of a voyage at 33 CFR §151.2005 is ill-suited for inland line-haul towing vessels that make frequent stops over the course of a vessel's entire, longer transit when dropping off or picking up barges. Estimating ballast water volumes can be challenging and impracticable for these towing vessels that may take on and discharge ballast water frequently to compensate for cargo loading or unloading and changes in fuel levels over the duration of a trip. AWO encourages the Coast Guard to utilize cancelled Navigation and Vessel Inspection Circular 07-04, Change

1, *Ballast Water Management for the Control of Aquatic Nuisance Species in the Waters of the United States*, as a reference point in developing clearer, more relevant guidance on the definition of a voyage.

Third, using movement between COTP Zones as a trigger for reporting requirements is arbitrary. COTP Zones are administrative boundaries defined in 33 Code of Federal Regulations Part 3 and used to delineate and assign authority between Coast Guard officers responsible for enforcement responsibilities in each zone. Many COTP Zone boundaries follow existing state boundaries and extend those straight line boundaries into adjacent waters. These boundaries do not reflect changing water conditions or ecosystems that warrant ballast water management practices to protect against the introduction of aquatic invasive species. AWO encourages the Coast Guard to abandon the arbitrary use of transiting these administrative COTP Zones as a reporting requirement trigger and instead develop a risk-based approach that aligns reporting requirements with environmental protection needs.

Monitoring, Recordkeeping, and Reporting Required by the EPA

The implementation of VIDA presents a landmark opportunity for the Coast Guard to provide relief from regulatory burdens by eliminating requirements imposed by EPA's Vessel General Permit (VGP) under the framework of the National Pollutant Discharge Elimination System permitting program that do not serve any environmental protection purpose and have always been a poor fit for the U.S. commercial vessel fleet. In particular, AWO urges the Coast Guard to reduce duplicative administrative burdens by eliminating the requirement for a U.S. vessel to submit Electronic Notices of Intent (eNOI) or Notices of Termination (NOT) in order to notify the enforcing agency that the vessel is subject to the regulations for incidental vessel discharges or that the responsible entity for the vessel has changed. In enacting VIDA, Congress' clear intent was to vest the enforcement role solely with the Coast Guard. Unlike EPA, the Coast Guard already has access to extensive and comprehensive databases of relevant vessel information that it can utilize to determine whether a U.S. vessel must comply with vessel discharge standards, and if so, what entity is responsible for the vessel's compliance, including Certificates of Documentation, Certificates of Inspection, and other vessel particulars documented in the Marine Information for Safety and Law Enforcement database. It would be redundant and inappropriate for the Coast Guard to continue requiring U.S. vessel operators to submit eNOIs and NOTs (or make any similar notifications) as part of a new implementation, compliance, and enforcement regime when the agency already collects and verifies the necessary information through its ongoing vessel documentation and inspection authorities.

The EPA VGP's monitoring, recordkeeping, and reporting requirements have long been among the most costly and administratively burdensome aspects of permit compliance. Many of our members operate fleets of dozens, hundreds, or even thousands of towing vessels and barges, and the management and documentation of per week or per voyage visual inspections, together with the preparation and submission of annual reports, is very time-consuming and resource-intensive. AWO strongly believes that the Coast Guard can streamline these requirements without undermining the environmental protection objectives of VIDA. For example, EPA currently requires an annual report to be submitted for each vessel with VGP coverage even if a vessel has had no instance of non-compliance during the reporting period

and is not required to perform analytical monitoring. These annual reports serve no environmental protection or environmental compliance purpose. Furthermore, a vessel operator's answers to most of the questions on the annual report form do not change meaningfully from year to year, making the data collection redundant. Low-value reporting like this, which does not enhance the protection of the marine environment or facilitate the enforcement of vessel discharge standards, should be eliminated in a future Coast Guard regulatory framework.

Further, streamlining compliance for unmanned, unpowered barges is a critical step the Coast Guard must take when creating an improved future regulatory framework. Unmanned, unpowered barges produce far fewer effluent streams, and much smaller volumes of effluent, than self-propelled vessels. Particularly in the inland barge industry, a single company may own hundreds or even thousands of barges, which may be handled by multiple other operators (including fleeting and other towing service providers) over relatively short spans of time. Current EPA VGP requirements for weekly visual inspections and extensive recordkeeping and reporting impose significant administrative and financial burdens on barge owners and custodians with little or no corresponding environmental benefit given the limited risk posed by vessel discharges from barges. Since barge owners are responsible for compliance, even when the vessel is not in their custody, they must communicate permit requirements and coordinate inspections, recordkeeping and reporting with the current barge custodians. Over the past 15 years, this has been time-consuming and costly, and has caused significant confusion and concern for the accuracy and completeness of information, without meaningfully enhancing environmental protection. AWO encourages the Coast Guard to develop implementation, compliance, and enforcement regulations that treat unmanned, unpowered barges as a distinct and operationally unique vessel class, with corresponding barge-specific discharge best management practices, monitoring and recordkeeping requirements.

Electronic Reporting Processes and Systems

Eliminating unnecessary or redundant monitoring, recordkeeping, and reporting requirements that do not enhance environmental protection or environmental compliance should be paramount in the Coast Guard's development of a future regulatory framework, but creating efficient processes for submitting necessary data must also be a key priority.

AWO members have raised the following specific concerns about the current report submission processes and systems utilized by the Coast Guard and EPA:

- The National Ballast Information Clearinghouse's (NBIC) Ballast Water Management Report Web App is cumbersome and can be difficult for crewmembers to use due to difficulty managing log-in credentials across crew changes. While the PDF form may be easier for crewmembers to use, it isn't possible for vessel operators to export information. It would be much easier for vessel operators to collect and upload data via .xml.

- The Central Data Exchange (CDX) utilized by EPA for VGP annual reporting is inefficient and difficult for vessel operators to use. The system does not transfer data from screen to screen and does not update data when it is modified (for instance, when a vessel name, vessel owner, or drydock date is changed). AWO members also report that the Excel spreadsheet templates provided for batch reporting can be very time-consuming to correct when the embedded macros break and cannot be disabled.
- Report form fields must be designed to reflect real-world equipment installations. For example, the current NBIC Ballast Water Management Report form doesn't allow vessel operators to list both the tug and the barge of an articulated tug-barge unit on a single form; operators must submit two reports for each ATB voyage. Report form fields must also be carefully considered to ensure that information unnecessary for environmental compliance verification is not required to be reported, such as, in the current VGP annual report, the geographic areas in which the vessel operated during the reporting period.

Any future reporting system designed by the Coast Guard should take these concerns into account and be narrowly tailored to environmental compliance needs, align with actual vessel arrangements, automate as much data entry as possible, and include more flexibility to efficiently upload large data sets in commonly used file formats. AWO strongly encourages the Coast Guard to consult with the developers of widely adopted maritime fleet management software to develop data submission options that integrate with existing platforms to further maximize efficiency and enhance the reliability of data.

Conclusion

Thank you again for the opportunity to submit comments for the Coast Guard to consider in implementing future recordkeeping and reporting requirements to document environmental compliance. AWO looks forward to continuing to work with the Coast Guard to implement a regulatory framework that eliminates low-value and unnecessary reporting, reduces reporting frequency, and ensures that triggers and criteria for reporting are clear, practicable, and explicitly linked to enhancing environmental safety.

Sincerely,



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