

FOR IMMEDIATE RELEASE
June 10, 2010**CONTACT:** Anne Davis Burns
(703) 841-9300**OPA 90 Oil Spill Prevention and Liability Regime for Tank Barges Working Well, AWO Testifies; Lawmakers Acknowledge Vessels Present Lower Risk than Offshore Facilities**

Arlington, VA – The American Waterways Operators (AWO), the national trade association for the tugboat, towboat and barge industry, testified before Congress yesterday that the oil spill prevention, response, and liability and financial responsibility regulations established by the Oil Pollution Act of 1990 (OPA 90) have been a public policy success, creating a safer operational environment for the tank barge industry and resulting in an enormous reduction in oil spills from vessels. Testifying before the House Transportation & Infrastructure Committee, Mr. Buckley McAllister, a member of AWO's Executive Committee, and Vice President and General Counsel of McAllister Towing, told lawmakers that:

- Tank barge oil spill volumes have plummeted 99.6 percent since OPA 90, with a record low of 4,347 gallons in 2009. That is about the same amount of oil estimated to be escaping from the ocean floor in the Gulf of Mexico every 10 minutes in the aftermath of the *Deepwater Horizon* spill.
- Today, more than 90 percent of U.S. tank barges are fitted with double hulls, five years ahead of the OPA 90 deadline.
- Coast Guard-approved tank vessel response plans require vessel owners to plan for a worst-case discharge: the loss of a vessel's entire cargo in adverse weather.
- OPA 90 has challenged industry to lead improvements in safety and environmental stewardship, above and beyond the requirements of law and regulation. Developed in 1994, the AWO Responsible Carrier Program, a safety management system for tugboat, towboat, and barge companies, has been a condition of membership in AWO since 2000. All AWO members must undergo an independent third-party audit every three years to demonstrate their continued compliance. Companies that fail their audit forfeit their membership.
- In 2004, AWO joined the Coast Guard in supporting the passage of historic legislation to bring towing vessels under a Coast Guard inspection regime and require all towing vessels to have a safety management system, as recommended by the National Transportation Safety Board.

The liability and financial responsibility provisions of OPA 90 have been an important contributor to this record. Vessel owners must demonstrate financial responsibility up to statutorily imposed limits that were raised by Congress in 2006 and by the Coast Guard in 2009 to keep up with inflation. Those limits can be breached in the event of gross negligence, willful misconduct, or the violation of applicable regulations. Today, liability limits for tank and non-tank vessels are two to three times higher than they were in 1990, and a regulatory mechanism is in place to continue to increase the limits as needed over time.

As Congress develops a legislative response to the *Deepwater Horizon* disaster, Mr. McAllister urged lawmakers to recognize the differences between vessels and offshore oil production facilities. "Tank vessels are not oil production facilities. A worst-case discharge from a vessel is a quantifiable amount," he emphasized.

Mr. McAllister also explained that, "For a vessel owner, unlimited liability is not insurable. However, it is not only unlimited liability that places independent vessel owners at risk. Proposals to significantly raise liability limits also threaten to raise the costs of insurance to a price that responsible small- and medium-sized companies cannot afford."

Committee Chairman James L. Oberstar (D-MN) and other committee members acknowledged that the oil spill risks presented by vessels are lower than for offshore drilling activities and that this should be reflected in Congressional consideration of increases in liability caps. In his opening statement, Chairman Oberstar observed that "the potential damages from a spill from a vessel are more predictable than the losses from an uncontained well. The amount of oil carried by a vessel is known, while the amount of oil that would be released by a spill such as the *Deepwater Horizon* is highly speculative scientific guesswork." Chairman Oberstar also noted that "if smaller vessels, such as . . . barges carrying home heating oil, are subject to a major increase in expenses for insurance, there may be a loss of shipping capacity that would be detrimental to consumers."

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