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AWO Testifies on TWIC at Coast Guard Subcommittee

On July 12, the Coast Guard and Maritime Transportation Subcommittee of the House Transportation and Infrastructure Committee held a hearing on the Transportation Worker Identification Credential (TWIC). Chairman Elijah Cummings (D-MD) and other committee members expressed their elevated level of frustration with the lack of progress that has been made on the program and the Transportation Security Administration's (TSA) plans to push trial enrollment back to the fall.

AWO President & CEO Tom Allegretti testified before the committee and conveyed the towing industry's concerns that the TWIC would exacerbate the already severe personnel shortage. He described the process by which an applicant would have to obtain a TWIC card and highlighted an amendment, offered by Congressman Richard Baker (R-LA), to enable a new mariner to work for 90 days before having to apply for a TWIC card. Mr. Allegretti emphasized that this 90-day interim work authority is in no way a "degradation of the security that Congress intended to achieve through passage of MTSA 2002," and said that "The provision will only apply to vessels operating in compliance with all elements

of a Coast Guard-approved vessel security plan, and will only apply to an applicant who passes both a pre-employment drug test and a name-based security screen against the Terrorist Watch List."

Mr. Allegretti also expressed a concern with the delayed startup of the TWIC enrollment program, explaining that this is making it more difficult for mariners to obtain their TWIC cards.

He also suggested that a card reader be required only on a vessel with a crew of 12 or more.

Congressman Jim Oberstar (D-MN), Chairman of the House Transportation and Infrastructure Committee, said that he will consider adding an interim work authority provision to the Coast Guard authorization bill and expressed a willingness to continue to pursue the matter with Chairman Cummings and Ranking Member Steve LaTourette (R-OH).

Congressman Baker imparted that this issue creates a strong sense of urgency for Louisiana's maritime industry and that a trip to the enrollment center and the enrollment fee creates a barrier for a mariner who is yet unsure whether the maritime industry will be a good fit for him or her. Rep. Baker made the point



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Important Dates and Reminders
at a glance

All contact persons can be reached by calling AWO's Arlington, VA office at (703) 841-9300 unless otherwise noted.

August 6-7: Atlantic Region Summer Meeting, Baltimore, MD. For more information, contact Chris Coakley.

August 15-16: Midwest and Ohio Valley Regions Joint Summer Meeting, St. Louis, MO. For more information, contact Lynn Muench at (314) 446-6474.

August 29-30: Pacific Region Summer Meeting, Seattle, WA. For more information, contact Jason Lewis at (206) 262-7308.

October 4-5: Fall Convention and Board Meeting. For more information, contact Mary McCarthy.

AWO Testifies at Coast Guard Subcommittee on TWIC

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that the risk profile of entry-level deckhands is very low.

The government witnesses who testified before the committee were RADM Brian Salerno, Director, Inspection and Compliance, U.S. Coast Guard, and Ms. Maurine Fanguy, TWIC Program Manager, TSA. Chairman Cummings, addressing RDML Salerno and Ms. Fanguy, stated, "I must tell you that this has been extremely frustrating." While Congressman Frank LoBiondo (R-NJ) informed the witnesses that he was running out of patience, Congressman Rick Larsen (D-WA) expressed that he had already "run out of

patience" with the TWIC program implementation process.

Also testifying before the committee were Mr. Larry Willis, General Counsel, Transportation Trades Department, AFL-CIO; Mr. Mike Rodriguez, Executive Assistant to the President, International Organization of Masters, Mates & Pilots; Mr. Otto Candies, III, Secretary & Treasurer for Otto Candies, LLC, Offshore Marine Services Association; Ms. Debbie Gosselin, Owner of Chesapeake Marine Tours/Watermark Cruises, Passenger Vessel Association; and Ms. Tamara Holder, Rainbow PUSH Coalition. 🌈

Hearing Planned on Proposal to Move Coast Guard Marine Safety Functions

The Coast Guard and Maritime Transportation Subcommittee of the House Transportation and Infrastructure Committee will hold a hearing on August 2 on Committee Chairman James Oberstar's (D-MN) proposal to transfer the marine safety functions of the Coast Guard to another federal agency. AWO has accepted an invitation to testify at the hearing, which will be presided over by Subcommittee Chairman Elijah Cummings (D-MD). Coast Guard Commandant ADM Thad Allen will also testify, along with representatives of other maritime trade associations and labor unions. AWO President & CEO Tom Allegretti will testify on behalf of AWO.

The hearing will probe industry views on the Coast Guard's marine safety functions and explore options for addressing perceived problems.

AWO's testimony is currently under development. AWO members with questions or comments about this issue should contact Tom Allegretti or Jennifer Carpenter at (703) 841-9300, extensions 250 and 260, respectively; or via email at tallegretti@vesselalliance.com or jcarpenter@vesselalliance.com, respectively. 🌈



Commandant's Message on Proposal to Move Coast Guard Marine Safety Functions



U.S. Coast Guard Commandant ADM Thad Allen recently sent this message to Coast Guard field units expressing opposition to the prospect of transferring the marine safety functions of the Coast Guard to another federal agency. (See related story, page 2.) The Commandant's message is reprinted here in its entirety. 🌊

SUBJECT: Maritime Safety – Multiple Benefits of a Multi-Mission Coast Guard

You may have seen an article recently published in an international shipping trade magazine, *Tradewinds*, reporting potential legislation being considered to transfer the maritime safety duties and authorities of the Coast Guard to a new federal agency in another department. No legislation has been introduced by Congress. However, it's important that you understand where I stand on any such proposal. This is not in the best interest of the Coast Guard or the nation. I am committed to preserving our longstanding role as the world's leader in maritime safety and am working with Congress to ensure we maintain our current maritime safety duties and authorities. One of our greatest strengths is our multi-mission character which provides the best value to the American public. While I'm confident others will see it this way as well, I also realize that we need to be open to critiques of the service that we provide to the nation and our professional mariners.

- I recently met with a group of maritime industry leaders to discuss these concerns. Specifically, maritime industry leaders and associations have commented about the professionalism and expertise of our marine inspectors and boarding teams, access to Coast Guard leadership in our ports, and a rigid adherence to strict practices and protocols when alternative means for compliance may prove more beneficial within existing authorities. As professional mariners and federal officials, it is our duty to consider this feedback objectively as we continually strive to balance strong enforcement of our regulatory duties with working collaboratively with our maritime industry partners to facilitate the safe, secure and efficient flow of commerce.

- I will make every effort to ensure that decisionmakers and national leaders understand the value the Coast Guard brings to maritime safety and the absolute necessity to retain these duties within the Coast Guard. As Coast Guard leaders, I need you to continue to actively seek additional opportunities to engage industry leaders on these and other issues important to them. In the context of explaining our ongoing efforts to modernize the Coast Guard and the true value of our entire mission set, be attentive to industry's concerns. Our decisions and actions have direct impacts on their businesses and their workforce. The maritime transportation system is the engine that drives our nation's economy. Although we are not bound to act in accordance with every concern expressed by our industry partners, we should always be informed by them. In some instances, minor changes in the way we approach our duties which in no way compromise our safety, security, or stewardship duties, can have significant benefits in generating goodwill while reinforcing partnerships that are so key to achieving our mutual objectives.
- Your active outreach is a critical part of Coast Guard mission execution. Keep the dialogue going and share your best practices with each other and your senior leadership. Our success as America's lifesavers and guardians depends upon our ability to engage, listen, and act appropriately.

America's maritime transportation system is one of the largest and most complex in the world. It is also one of the safest and most efficient due to the dedicated efforts of each one of you in close partnership with our maritime industry and government partners.

ADM Thad Allen, Commandant

TWIC NVIC Released; TSAC Makes Recommendations on Card Reader Rulemaking; Stakeholder Communications Committee Disappointed by Agency Reports

In the two weeks since publication of the last *AWO Letter*, the Coast Guard has finalized its Navigation and Vessel Inspection Circular (NVIC) on implementation of the Transportation Worker Identification Credential (TWIC) program; the Towing Safety Advisory Committee (TSAC) has made recommendations on the forthcoming “TWIC 2” rulemaking on card readers; and, the TWIC Stakeholder Communications Committee has expressed concern with several new pieces of information from the Transportation Safety Administration (TSA) and the Coast Guard.

TWIC NVIC

On July 6, the Coast Guard released NVIC 03-07, “Guidance for the Implementation of the Transportation Worker Identification Credential Program in the Maritime Sector.” (For a copy of the NVIC, click [here](#).) In response to comments provided by AWO and other industry stakeholders on a draft NVIC circulated earlier this year, the NVIC clarifies what will constitute “accompanied” access for new hires operating under the interim work authority provision of the January 25 final rule. Under the TSA/Coast Guard final rule, new hires who have applied for their TWIC (at a TWIC enrollment center), paid the \$137.25 enrollment fee and passed a name-based check against the terrorist watch list may be granted unescorted but “accompanied” access to secure areas of vessels and facilities.



For AWO, the key issue raised by the draft NVIC circulated for comment in the spring was what would constitute “accompanied” access on vessels with small crews, such as towing vessels.

The draft NVIC had said that an individual would be considered “accompanied” while in the living areas of the vessel provided that all provisions of the Vessel Security Plan were in place; however, in “restricted” areas such as the wheelhouse or engine room, a new hire would need to be “monitored” by such means as closed-circuit television, roving security patrols, etc. In its comments on the draft NVIC, AWO had asked the Coast Guard to provide more flexible options for small vessels.

The newly released NVIC addresses this concern by providing additional examples of acceptable monitoring of new hires while in restricted areas. These include making sure that an individual comes back from an assignment in a restricted area within the expected timeframe necessary to complete an assigned task, and briefing non-TWIC holders on spaces where they are not authorized to be. While the structure of the NVIC may provoke some confusion about the “accompanied” access provision, the Coast Guard has clarified to AWO that this interpretation reflects the agency’s intent. The Coast Guard is considering the need for additional clarification to avoid unnecessary confusion.

From AWO’s perspective, the new NVIC, while a step in the right

direction, does not solve the fundamental problem with the interim work authority provision contained in the January final rule: the requirement that a new hire travel to a TWIC enrollment center and pay the application fee before the check against the terrorist watch list can be performed. AWO continues to press for a legislative change that would allow the interim work authority process to begin with a computerized check against the terrorist watch list, not a trip to a TWIC enrollment center.

TSAC Recommendations on Card Readers

Meeting by conference call on July 17, TSAC unanimously approved recommendations to the Coast Guard on the agency’s forthcoming notice of proposed rulemaking (NPRM) on TWIC card readers. Among other things, TSAC recommended that card readers not be required on vessels with 14 or fewer required crewmembers; urged the Coast Guard to establish Internet and telephone options for verifying whether a TWIC has expired or been revoked; and, urged the Coast Guard not to establish new recordkeeping requirements to track individuals granted access to secure areas of a facility or vessel. TSAC also made the following statement to the Coast Guard:

TSAC appreciates the opportunity to provide feedback on the “TWIC 2” rulemaking at this early stage of the regulatory process. However, we are dismayed by the Coast Guard’s indication that the agency plans to publish a notice of proposed rulemaking (NPRM)

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TWIC Update

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before the pilot program to test TWIC card readers has been conducted. We believe this sequence should be reversed. The Coast Guard should strive to publish the highest-quality NPRM possible by: 1) completing the TWIC reader pilot program; and, 2) engaging in extensive consultation with stakeholders, including TSAC and other federal advisory committees, before a notice of proposed rulemaking is published.

The Coast Guard should use the preliminary feedback provided by TSAC and other federal advisory committees to develop a standard testing protocol – i.e., standard procedures for pilot program participants – for use during the card reader pilot program. The agency can test these procedures, along with the reader technology, during the pilot program, and then use the results of the pilot program to inform the development of the “TWIC 2” NPRM.

For a copy of the TSAC recommendations on the card reader rulemaking, click [here](#).

TWIC Stakeholder Communications Committee Meeting

Members of the TWIC Stakeholder Communications Committee, including AWO Senior Vice President - Government Affairs & Policy Analysis Jennifer Carpenter, reacted with dismay to several pieces of information relayed by TSA and Coast Guard officials at the July 11 meeting of the TWIC Stakeholder Communications Committee. TSA and Coast Guard officials told the committee that,

contrary to information discussed at the previous committee meeting, the agencies now have no plans to include in an upcoming regulatory action an extension of the September 25, 2008, deadline for mariners to have TWICs. AWO and other committee members voiced strong concern that such an extension is necessary given continuing delays in the start of the TWIC enrollment process that have significantly narrowed the window of time in which mariners will be able to apply for TWICs. TSA told the committee that its current plan is to begin enrollment in Wilmington, DE, this fall and quickly establish enrollment centers in other high priority ports, with the goal of having enrollment centers in half of the 130 port cities selected for fixed enrollment centers within six months. This means that by April 2008 – less than six months before the September 25, 2008, mariner deadline – there may only be enrollment centers in 65 port cities nationwide. AWO reiterated its concerns about this plan in its testimony before the House Coast Guard and Maritime Transportation Subcommittee the following day. (See related story, page 1.)

Committee members also expressed concern about the agencies’ plan to proceed with publication of an NPRM on card readers prior to completion of a pilot program to test reader technology and procedures. TSAC reiterated these concerns in its July 17 recommendations to the Coast Guard, as discussed above.

In other news, TSA released a package of materials that employers can use to inform employees of their obligation to acquire a TWIC. (For a copy of the package, click [here](#).) TSA also indicated that a revised list of fixed enrollment center sites, including the addition of Paducah, KY, would be available in the near future.


AWO members with questions about the TWIC implementation process should contact Jennifer Carpenter or Angela Madden at (703) 841-9300, extensions 260 and 262, respectively, or via email at jcarpenter@vesselalliance.com or amadden@vesselalliance.com, respectively. ☘

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President





If you receive a hard copy of the *AWO Letter* and need to know the exact Web addresses of the hyperlinks in any articles, please contact Mary McCarthy at (703) 841-9300 or via email at mmccarthy@vesselalliance.com. ☘

“Congressional Committee Blasts TWIC Delays, Restrictions on Felons”

The following article, written by Charlie Morasch, appeared in *Land Line* magazine on July 12 and quotes AWO President & CEO Tom Allegretti.

Truckers aren't the only ones frustrated by the federal government's pattern of announcements followed by delays for the Transportation Worker Identification Credential program.

The U.S. House of Representatives Committee on Transportation and Infrastructure's Subcommittee on Coast Guard and Maritime Transportation lashed out Thursday, July 12, at the TSA's inability to begin enrolling more than 14 million transportation industry workers who are mandated to possess a TWIC card.

The TWIC program will require more than 750,000 port employees, longshoremen, mariners, truckers and others

who require unescorted access to secure areas of ports to have background checks before being issued cards with their biometric data.



The Transportation Security Administration acknowledged last week that it was delaying TWIC enrollment until at least this fall, which is the third date TSA has set for enrollment to begin.

“I must tell you that this has been extremely frustrating,” said Rep. Elijah Cummings, D-MD, during a subcommittee hearing attended by officials from the TSA, the U.S. Coast Guard, the AFL-CIO, several mariner organizations and the Rainbow Push Coalition.

TWIC will combine the collection of workers' biometric data, such as fingerprints and digital photographs, with documentation such as hazmat endorsements and birth certificates. The cards will include technology that can be read remotely by port employees and security, and the ID will be good for five years.

Committee members and several witnesses were particularly critical of the TWIC program's power to designate convicted felons as a “terrorism security risk” if they've been incarcerated within five years or convicted of a felony within seven years of enrolling for TWIC.

“Our concern though is that we not punish someone twice for something that happened seven years ago and had nothing to do with terrorism,” said Larry Willis, general counsel with the AFL-CIO's transportation trades department.

The chairman of the T&I Committee, James Oberstar, D-MN, said TWIC disqualifications should be based on serious crimes such as espionage, sedition, treason and terrorism and less about isolated felonies.

Applicants who are rejected for TWIC as a security risk may appeal. However, in the meantime their employers may be notified of the government's rejection.

Though dock workers have been characterized as being linked with organized crime, they have historically had little to do with terrorism, said Tamara Holder of the Rainbow Push Coalition.

She said that the coalition worries that many convicted felons who have changed their lives and moved forward

EPA/AWO Seek Comments on Vessel Discharge Program

As reported in the July 6 *AWO Letter*, AWO is requesting member help in preparing for the possibility that the Environmental Protection Agency (EPA) will be required to regulate ballast water and other vessel discharges under the Clean Water Act. AWO sent out an email to all AWO-designated representatives on June 29 requesting feedback by July 13. If you have not responded, please do so right away so that your input can be used in the development of AWO's comments to EPA, due August 6.



For more information, please contact Jennifer Carpenter at (703) 841-9300, extension 260, or Angela Madden at extension 262. You may also contact them via email at jcarpenter@vesselalliance.com or amadden@vesselalliance.com. (For a copy of EPA's Notice, click [here](#).)

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“Congressional Committee Blasts TWIC Delays, Restrictions on Felons”

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will be discouraged by months of waiting for TWIC appeal processes and the coalition fears they will face a bleak future.

“Many of these employees will not be able to read or write,” Holder said.

In January, TSA officials announced enrollment would begin in March, though they acknowledged in April that they wouldn’t likely meet the Congressional deadline set for July.

In early July, TSA acknowledged that it would begin enrolling workers in Wilmington, DE, in October, followed by enrollment for workers at an estimated 3,200 other locations.

TSA has delayed TWIC’s implementation to ensure it’s done right the first time, according to Maurine Fanguy, a TWIC program manager with TSA.

TSA has tested TWIC enrollment and background checks on about 5,000 workers during a 12-month prototype, Fanguy said, adding that once enrollment begins, the agency will process the 5,000 applicants every day.

“For us, the stakes are tremendously high,” Fanguy told committee members.

Rep. Rick Larsen, D-WA, said he had run out of patience with TWIC’s implementation and said it reminded him of sports anchor Chris Berman’s “rumbling, stumbling” characterization of a fumbled football play.

“We don’t invade citizens’ privacy very well in this country,” Larsen said.

Cummings said he wanted TSA and Coast Guard officials to keep him apprised of any other TWIC delays.

“If there are any significant problems we’d like to know about them,” Cummings told TSA and Coast Guard officials. “We don’t want to read about them in the Washington Post.”

Maritime workers are required by the U.S. Coast Guard to be enrolled in TWIC by September 2008. The program’s multiple delays have worried shipping businesses and members of the American Waterways Operators, according to AWO President Thomas Allegretti.

“The continual delay in start-up makes it increasingly difficult for mariners to obtain TWIC cards in time,” Allegretti said. “DHS and Congress need to be prepared to extend the September 2008 deadline.”

Cummings told DHS and Coast Guard representatives present at Thursday’s hearing that he would require an update in another hearing scheduled in 90 days for “clarity.”

Cummings also urged witnesses concerned with TWIC to suggest solutions that Congress can make to change the program.

“Help us help you,” he said. ☺



CEMS
Training Opportunities

The Crew Endurance Management System (CEMS) is a system for managing risk factors in maritime work environments that can lead to human error and performance slumps. The Coast Guard and AWO have been working together to help companies implement the principles of CEMS. In this space, AWO will publish details of CEMS training opportunities around the country. For further information on CEMS training opportunities, please contact LCDR Vivianne Louie, U.S. Coast Guard, at (202) 372-1358. ☺

DATE	LOCATION	CONTACT
July 25-26	Coaches Training Inland Waterways Academy Huntington, WV	Jo Ann Salyers (Instructor) (504) 236-4962 salyers_solutions@hughes.net Capt. John Whiteley (Director) (304) 697-5616
August 9-10	Kirby Corporation Houston, TX	Ms. Kelly Parker (Contact) kelly.parker@kirbycorp.com (713)-435-1775
August 14-15	ARTCO St. Louis, MO	Mr. Joseph Garuccio (Contact) joe_garuccio@admworld.com (866) 355-7105

INTERREGION SAFETY COMMITTEE MEETS IN ST. LOUIS

The summer meeting of the AWO Interregion Safety Committee was held in St. Louis, MO, on June 27-28. Forty-eight attendees represented 33 AWO member companies.

Chairman Steve Brundrett, Canal Barge Company, presided over the meeting. Invited speakers included Bert Cattoni, Cardiac Rescue Systems, who reported that a growing number of states are mandating the use of Automatic External Defibrillators (AEDs) in various settings. Mike Gettinger, U.S. Environmental Services, explained the range of marine firefighting, incident response and clean-up services that his company provides.

A majority of the meeting's presentations were by committee members who contributed their expertise. Chairman Brundrett presented some of his company's business continuity plans in the aftermath of a disaster, such as hurricane, earthquake or terrorist attack. Michael Van Lowry, Magnolia Marine Transport, shared his company's positive experience with the Spills of National Significance (SONS) program. SONS is an exercise in emergency management that includes personnel from the U.S. Coast Guard, the Federal Emergency Management Agency (FEMA), the U.S. Environmental Protection Agency (EPA), and local authorities. AWO carrier members, whether engaged in the transport of liquid products or not, may participate in the program, which includes incident command system experience and is invaluable in forging relationships with government agencies.

A highlight of the meeting was a presentation on "Safety Statistics 101." John Patterson, Ingram Barge Company, and Mike Weisend, AEP River Transportation (MEMCO Barge Line), explained basic information on leading



and lagging indicators and conducted several exercises on how to accurately calculate personal injury statistics.

The Crew Alertness Subcommittee has a new Chair, Jo Ann Salyers, Salyers Solutions, and plans to compile sample policies in support of the Crew Endurance Management System (CEMS). The Lesson Plan Subcommittee solidified its goals for developing lesson plans on galley safety and safe food handling.

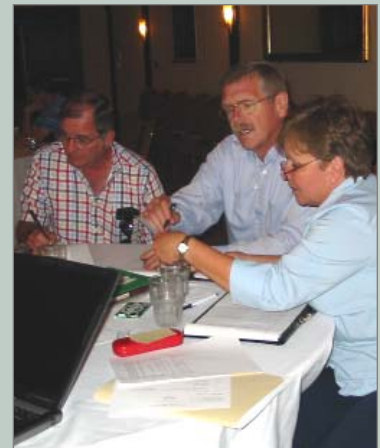
Lynn Muench, Senior Vice President - Regional Affairs, reported on a Coast Guard-AWO Safety Partnership Quality Action Team (QAT) that has been formed to examine casualty data that the Eighth Coast Guard District is collecting (see June 8 *AWO Letter*).

The Interregion Safety Committee is grateful to MEMCO Barge Line (AEP River Transportation) for its generous sponsorship of an evening reception.

The committee will next meet in a joint session with the Coastal Safety Committee on October 31- November 1 in Baltimore, MD. For further information on any of the above topics, please contact Kathy Rehak at (703) 841-9300, extension 263, or via email at krehak@vesselalliance.com.

TOP: A prize for the first correct answer in the personal injury statistics exercise was awarded to the team of (L to R:) Kate Carlton, Ergon; Michael Van Lowry, Magnolia Marine Transport; Jeremy Dyer, Marquette Transportation; and, Bill Barr, Madison Coal & Supply.

BOTTOM: Chuck McAllister, American River Transportation Co.; Jack Buri, Crouse Corporation; and, Jo Ann Salyers, Salyers Solutions, teamed up to work through the personal injury statistics exercise.



Midcontinent Office**Midwest and Ohio Valley Regions to Hold Joint Summer Meeting*****Two Special Informational Sessions Also Planned***

The 2007 Midwest and Ohio Valley Regions Joint Summer Meeting will be held on August 16 in St. Louis, MO. All events will be held at the host hotel, the Crowne Plaza - Downtown.



Several events will precede the regional meeting. The first special session on August 15 from 3:00 p.m. to 5:00 p.m. will address how to implement the limited geographic license training program as outlined in the Eighth Coast Guard District Policy Letter (see April 13 *AWO Letter*). AWO members involved with harbor services are encouraged to attend. Non-AWO members are welcome to attend this session.

The second special session will be presented by Bob Murgatroyd, American Commercial Lines, from 5:00 p.m. to 6:00 p.m., immediately following the licensing discussion. The program will update the industry on progress made on BargeEx™ and Electronic Data Interchange (EDI) Standardization. Mr. Murgatroyd will update the industry on an effort to electronically capture service provider information from the provider's computer system and send it directly to the barge company's computer system. The effort is also focused on data standardization that can be utilized throughout the customer side of the towing business as well as government bodies and intermodal operations.

A reception follows the two special sessions from 6:00 p.m. to 7:30 p.m. Congressman Kenny Hulshof (R-MO) will provide brief comments.

The AWO meeting will include remarks from the AWO Chairman of the Board Royce Wilken, American River Transportation Co., an update of critical national issues by AWO President & CEO Tom Allegretti, a regional progress report, updates from government partners and two mini-strategic dialogue sessions.

Following the AWO meeting, the Mississippi River Commission (MRC) will hold a hearing on Friday, August 17, at 9:00 a.m. on the St. Louis Riverfront. AWO members are encouraged to provide public statements to the MRC on waterway issues that are managed by the U.S. Army Corps of Engineers.

To register for a hotel room, please go to www.crowneplaza.com. The reservation deadline was July 16. Rooms at the special AWO rate are based on availability. Enter the code "AWO" in the left hand column to receive the \$112 rate for a single or double. You can also call (800) 925-1395 for the \$112 rate or for a suite at \$142.

For more information or to receive a copy of a draft agenda, please contact Lynn M. Muench at (314) 446-6474, or via email at awo_midcontinent@msn.com.

Sector Ohio Valley Sees Change of Command

On July 6, RADM Joel R. Whitehead, Commander, Eighth Coast Guard District, officiated the change of



command for Sector Ohio Valley from CAPT John R. Bingaman to CAPT Hung M. Nguyen. Sector Ohio Valley is responsible for all or part of 10 states from Pennsylvania to Alabama. The Sector includes over 8,000 miles of the Ohio, Mississippi, Tennessee and Cumberland rivers and their major tributaries. Marine Safety Unit (MSU)-Pittsburgh, MSU-Huntington and MSU-Paducah report to Sector Ohio Valley in Louisville, KY.

CAPT Nguyen earned a Bachelor's degree in Chemistry from the U. S. Coast Guard Academy. He also holds a Master of Science degree in Chemical Engineering from Rice University and a Master of Business Administration from Averett College in Danville, VA. CAPT Nguyen has served as Chief, Merchant Vessel Safety Department, at MSU-Galveston; Commanding Officer, MSU-Duluth; in various posts overseas and at headquarters. This is his first river assignment.

CAPT Bingaman will next serve as Chief of Prevention for the Eleventh Coast Guard District in California.

MEMBER NAME CHANGE

Affiliate member Thompson Coburn has changed its name to:
Thompson Coburn Fagel Haber.

Atlantic Region

New York Governor Spitzer Vetoes Petroleum Business Tax Exemption Based on Mistaken Information

On July 3, New York Governor Eliot Spitzer vetoed the petroleum business tax (PBT) exemption bill, A.7031, on the mistaken grounds that the bill would favor the purchase of out-of-state fuel and set a precedent for other industries to request exemptions for the PBT user tax. Prior to the veto, on June 28, AWO met with the Governor's Deputy Counsel to explain the issues surrounding the legislative exemption request and answered questions from the counsel's office on the effects and intent of the bill. The New York Assembly and Senate votes in favor of the PBT exemption were overwhelming.

The fundamental basis of the veto is flawed and confusing. Governor Spitzer's staff interpretation of A.7031 states that the bill would create a "detrimental effect on in-state [fuel]

businesses" because "fuel purchased in-state and consumed in-state would be taxed, while fuel purchased out-of-state and consumed in-state would not." This reasoning is flawed for two reasons. First, the veto interpretation indicates a lack of understanding of the current commercial marine fuel market in New York. There are no vendors of heavy fuels for use by tugboats in New York state, so the Governor's veto attempts to protect a nonexistent state commercial marine fuels industry at the expense of the vibrant tugboat industry which does reside in New York. A.7031 uses the same language that provides fisheries with a PBT exemption and no "detrimental effect" has materialized due to that industry's exemption. Second, since the PBT is truly a user tax, then point of sale should not affect exemption of fuel consumption. In the tax form used to file the PBT, special account is given to the sales, excise and user tax exemptions for fisheries. The tax form indicates that, "commercial fishermen who purchase motor fuel or diesel motor fuel at retail may obtain a reimbursement (refund) of the taxes paid on that fuel. For this reimbursement, the fuel must be for use in the operation of commercial fishing vessels engaged in the harvesting of fish for sale. Commercial fishermen may obtain a reimbursement of the excise tax, the state and local sales tax, and the petroleum business tax paid on the fuel." This language indicates a clear difference between the sales tax and the PBT.

Governor Spitzer's veto message also indicates that, "this bill would create yet another specialized exemption from the tax law," and "may set a precedent for other industries to request similar exemptions for the PBT user tax." This flawed statement indicates a severe misunderstanding of the current tax laws in New York. Tugboats are the last major industry without an exemption or modal equity for paying the PBT. Currently, commercial fisherman, passenger commuter ferries, manufacturers and farmers are already exempt from the PBT, while railroads and airlines enjoy a reduction of the PBT which is half the rate that tugboats pay.

Overall, the veto represents bad policy which AWO will work to resolve. With assistance from the bill sponsors, Assemblyman Michael Cusick (D-Richmond) and Senator Andrew Lanza (R-Staten Island), AWO is developing a strategy with the continued goal of eliminating or reducing the PBT. If you have questions regarding this issue, please contact Chris Coakley at (703) 373-2297, or via email at ccoakley@vesselalliance.com.

Atlantic, Pacific Summer Regional Meetings Scheduled

The **Atlantic Region Summer Meeting** has been scheduled for Tuesday, August 7, at the InterContinental Harbor Court Hotel in Baltimore, MD, from 8:30 a.m. until noon. This meeting will provide members with an opportunity to discuss priority and emerging issues that affect the Atlantic Region. The guest speaker for the meeting will be Rep. Elijah Cummings (D-MD), Chairman of the Coast Guard and Maritime Transportation Subcommittee of the House Transportation and Infrastructure Committee. To register for this meeting, click [here](#). For more information, please contact Chris Coakley at (703) 373-2297 or via email at ccoakley@vesselalliance.com.

The **Pacific Region Summer Meeting** has been scheduled for August 30 from 8:00 a.m. to noon in Seattle, WA at the Edgewater Hotel. The agenda will be packed with informative updates and interesting speakers. You will receive a national update and have the opportunity to ask questions about issues facing the industry. You will also hear updates on the regional issues on which many AWO members have been working over the last year. For more information, please contact Jason Lewis at (206) 262-7308, or via email at jlewis@vesselalliance.com.