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HIGHLIGHTS IN THIS ISSUE

FAQ: EPA Vessel General Permit for Vessel Discharges.....1

TSA Resumes TWIC Activations Nationwide.....3

AWO Participates in U.S. Department of Commerce Roundtable on Competitive Domestic Transportation Infrastructure...4

Rogers Named Small Business Ombudsman for EPA.....4

VSO Endorsement Requirement Clarified.....5

MarAd Forecasts Water and Rail May Adjust Better to High Oil Prices.....5

EPA, Coast Guard Brief AWO Members on MARPOL Annex VI Requirements....6

NAVSAC to Hold Meeting in December.....6

"Rivers of Green: The New Administration Must Fix Locks and Dams".....7

2009 Annual Regional Meetings Planned.....8

Washington State Tidal Power Study Underway.....8

Preliminary Feasibility Study on Invasive Species Released.....9

AWO Comments on the Missouri River Draft Annual Operating Plan.....10

New York State Fuel Tax to Increase January 1.....10

Frequently Asked Questions: EPA Vessel General Permit for Vessel Discharges

During the AWO Fall Convention, a Special Discussion Session was held on the U.S. Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) draft Vessel General Permit (VGP) for vessel discharges. The discussion highlighted the fact that many members have questions about the requirements of the permit, what will happen once it's finalized, and AWO advocacy work to gain relief. Below are some Frequently Asked Questions aimed at clearing up this confusion.



The permit can be found by clicking [here](#). The permit fact sheet can be found by clicking [here](#). If you have additional questions, please contact Mary McCarthy, Brian Vahey, or Jennifer Carpenter at (703) 841-9300, extensions 254, 251, or 260, respectively, or via email at mmccarthy@vesselalliance.com, bvahey@vesselalliance.com, or jcarpenter@vesselalliance.com.

1. How do I know if my vessel is subject to the permit?

If your towing vessel or barge is 79 feet or more in length, you will be required to operate it in compliance with the permit when it is finalized. If your vessel is less than 79 feet, it will be exempt from the permit for two years while EPA conducts a statutorily mandated study of vessel discharges.

2. When will my vessel be required to comply with the permit?

As of now, compliance will be required on December 19, 2008, the date the exemption of vessel discharges from the NPDES permit program expires as mandated by the federal district court in *Northwest Environmental Advocates v. EPA*. EPA is working to finalize the permit by that date. However, it is possible that EPA will request a modest extension of the deadline from the court if it is unable to finalize the permit in time.

AWO is also urging EPA to build a compliance period into the permit that would allow a vessel to be considered in compliance for a period of time after December 19, 2008, as long as the vessel owner takes certain defined steps toward implementation of the requirements. AWO has argued that it is unrealistic and unfair for EPA to publish the final permit on or about December 19, and expect immediate implementation of all required Best Management Practices (BMPs).

3. How do I comply with the permit?

On December 19, 2008, you must comply with the BMPs required under the permit. After six months (but no later than nine months after publication of the final permit), you will need to file

(continued on page 2)



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FAQ: EPA Vessel General Permit for Vessel Discharges

(continued from page 1)



a Notice of Intent (NOI) to be covered under the permit for each of your vessels that is more than 300 GRT or has more than eight cubic meters (about 2100 gallons) of ballast water capacity.

4. Do I have to fill out an NOI for every vessel in my fleet?

As of now, you must fill out a separate NOI for every vessel that is over 300 GRT or has eight cubic meters or more of ballast water capacity. However, AWO has recommended, and EPA seems receptive to, incorporating a fleet-wide NOI option into the final permit.

5. What if I lease my barge to another company to operate? Am I still responsible for making sure the operator complies with the permit's requirements?

EPA has not been clear about whether responsibility for discharges will fall on the barge owner or the barge operator, if those are two separate companies, and it is not clear whether the agency will clarify this question when the final permit is issued. If EPA does not, it will be very important for companies to establish clear contractual provisions specifying who is responsible for what.

6. Will I receive an actual permit to discharge?

No, you will not receive a permit. EPA is using a "general permit" to establish requirements to apply to the entire industry.

7. Does this mean I won't be able to discharge any effluents from my vessel anymore?

EPA's draft VGP does not prohibit the listed vessel discharges; it contains

BMPs that specify the conditions that must be met when certain effluents are discharged. However, it is likely that some states will add conditions to the EPA permit through the so-called "401 certification" process that will prohibit certain discharges (such as graywater) in their waters.

8. What is the 401 certification process?

Under the NPDES program, states are required to certify that EPA's VGP meets state water quality standards. During this process, states can add additional requirements that become part of the permit and apply to vessels transiting the waters of that particular state. This is one of the most problematic aspects of applying the NPDES program, which was developed for land-based sources, to mobile sources like vessels: it will result in a confusing and burdensome patchwork of requirements that differ from state to state. For example, the state of New York has certified the permit but notified EPA that it will add provisions requiring stricter ballast water exchange standards, requiring ballast water treatment beginning in 2013, and prohibiting the discharge of graywater and bilgewater for vessels operating in state waters.

9. What about barges? What kind of requirements are they subject to?

Pumping below-deck condensation from barges cannot result in a sheen on the water. When washing out the cargo compartment, cargo residue must be minimized. Tank barges must have spill rails and plug their scuppers before cargo operations. AWO has urged EPA to not require spill rails on barges that aren't already required to

have them by the U.S. Coast Guard or a class society, due to the large installation cost. This issue will be clarified when the final permit is issued.

10. I noticed that the permit contains ballast water requirements, but I'm already complying with Coast Guard ballast water regulations. Which set of requirements should I follow?

Since EPA purposely modeled the ballast water requirements of the permit on existing Coast Guard regulations, the two sets of rules do not contradict each other. You need to make sure you're complying with both sets of regulations.

11. I heard that any Tom, Dick or Harry can sue me if they see my vessel not complying with the permit. What's the likelihood of this happening?

By statute, citizens are allowed to file suit against vessel owners for discharging in violation of the permit. Unfortunately, we've heard that some environmental groups may be planning to file lawsuits as soon as the permit comes into effect.

That's why AWO has convened a BMP Working Group to develop recommended practices for controlling tugboat, towboat and barge discharges. The goal is to add specificity to the draft BMPs where possible, drawing on current industry practice to add clarity to the requirements contained in the VGP. (In many cases, EPA's proposed BMPs are very general, requiring vessel owners to "minimize" certain

(continued on page 3)

FAQ: EPA Vessel General Permit for Vessel Discharges

(continued from page 2)

discharges without further defining what that means.) This will give AWO members more defensible procedures to point to if ever challenged by a citizen suit.

12. So, is there any chance of relief from this burdensome program and timeline?

There are three possibilities for relief:

1. Compliance Period: As noted above, AWO is urging EPA to build a compliance period into the permit so that full compliance with the BMPs is not required immediately upon publication. In discussions with AWO and the Shipping Industry Ballast Water Coalition, EPA has said that it is sympathetic to this industry concern and is working to find a way to address it in the final permit.
2. Extension: Also as discussed above, EPA has indicated that it may ask the court for a limited extension of the December 19, 2008, deadline if necessary to finalize the permit or complete the state 401 certification process. However, any such request would likely be made very close to December 19, and would probably only request a few months. Therefore,

it's wise to begin preparing to bring your operations into compliance now, without counting on a possible extension.

3. Legislation Changing Regulatory Framework: The relief our industry really needs is federal legislation that removes the regulation of vessel discharges from the NPDES program and establishes a uniform set of national requirements that do not vary by state or waterbody. AWO and the Shipping Industry Ballast Water Coalition are meeting this fall with key congressional staff and Members of Congress to get their advice on the best way to advance this objective in the 111th Congress. This will be a challenging task, to be sure, and a high priority for AWO when the new Congress is seated next January.

13. So, what should I do?

You should start preparing your operations to comply with the permit when it is finalized. Also, be sure to read the *AWO Letter* and any email alerts from us to stay up-to-date on any news of an extension or the progress of the AWO BMP Working Group. ☺

Important Dates and Reminders

..... at a glance

For more information, please contact Hermoine Wellman at (703) 841-9300, extension 291, unless otherwise noted.

January 22-23, 2009:
Southern Region Annual Meeting, New Orleans, LA

January 28-29, 2009:
Midwest & Ohio Valley Regions Joint Annual Meeting, Pittsburgh, PA

February 4-5, 2009:
Atlantic Region Annual Meeting, Tampa, FL

February 11-12, 2009:
Pacific Region Annual Meeting, Seattle, WA

TSA Resumes TWIC Activations Nationwide

On November 17, the U.S. Transportation Security Administration (TSA) announced that Transportation Worker Identification Credential (TWIC) activations resumed for all enrollment centers nationwide. A delay was caused by an October 21 power outage at the government facility that houses the TWIC system. With all enrollment centers across the country once more capable of handling activations, workers are encouraged to call their nearest center to schedule an appointment to activate their TWIC. The deadline for mariners to receive a TWIC is still scheduled for April 15, 2009. ☺



AWO Participates in U.S. Department of Commerce Roundtable on Competitive Domestic Transportation Infrastructure

On October 29, AWO participated in the “Competitive Domestic Supply Chain Infrastructure Roundtable” held by the U.S. Department of Commerce’s Office of Service Industries on how to achieve and maintain a competitive domestic supply chain transportation infrastructure. The Roundtable brought together 35 supply chain stakeholders from companies, associations, federal agencies and business advocacy groups to get their views on the major pertinent issues for a series of workshops leading to a major conference next year. The Office of Service Industries advocates for business on supply chain matters and set up the Roundtable discussion to ensure that private sector priorities for how to develop an effective, reliable and cost-efficient supply chain are considered in the federal policy making process.

One of the main ideas put forth by many participants was that there is a critical need for a national strategic vision for a freight policy that recognizes intermodalism. The common view held by the participants was that infrastructure modernization and maintenance is a vital component of the development of a modern and efficient supply chain logistics industry and is essential for U.S. global competitiveness. The unique approach of the Roundtable was that if policymakers have a greater understanding of the relationship between infrastructure and competitiveness, it can lead to an improved use of taxpayer funding to the benefit of the nation.

Feedback from participants at the Roundtable included the following:

- Infrastructure investment priorities must be integrated into the national and business competitiveness dialogue.
- It is important to confront domestic bottlenecks because nearly 90 percent of total freight movements are domestic.
- National and local regulations are being developed without considering how vital freight movements are to the national economy and often cause slowdowns in productivity and growth.
- Increased user fees are troubling because they give the appearance that the U.S. lacks a holistic view of transportation and infrastructure funding.

Positive feedback was received from participants in the Roundtable on creating a comprehensive supply chain advisory committee, provided that it not duplicate the efforts of existing committees handling transportation and logistics issues, and provided that it



includes policymakers at the Secretarial or Presidential Export Council level.

Some of the participants besides AWO included: American Association of Port Authorities, American Trucking Association, Association of American Railroads, Coalition for America’s Gateways & Trade Corridors, Committee on the Marine Transportation System, Council on Foreign Relations, U.S. Maritime Administration, the International Air Cargo Association, National Industrial Transportation League, and Waterfront Coalition.

For more information, please contact Anne Burns at (703) 841-9300, extension 252, or via email at aburns@vesselalliance.com.

Rogers Named Small Business Ombudsman for EPA

The U.S. Environmental Protection Agency (EPA) announced that Joan B. Rogers, previously of EPA’s Office of Policy, Economics and Innovation, was named as the new Small Business Ombudsman (SBO). As SBO, Rogers is tasked with facilitating communications between EPA and small businesses. AWO looks forward to working with Ms. Rogers in representing the interests of member companies to the EPA.



VSO Endorsement Requirement Clarified

The U.S. Coast Guard has clarified its May 20 interim final rule requiring Vessel Security Officers (VSOs) subject to the International Convention on Standards of Training, Certification and Watchkeeping (STCW) to obtain a Coast Guard endorsement on their license or Merchant Mariner's Document and complete a Coast Guard-accepted VSO training course (see June 6 *AWO Letter*). Due to some confusion over the requirements, AWO reached out to the Coast Guard for clarifications on some aspects of the rule. According to the Coast Guard:

- The VSO endorsement is not required for persons serving as VSO on a towing vessel of any size operating inside the Boundary Line.
- A VSO endorsement is required for persons serving as VSO on a towing vessel over 200 GRT on domestic voyages beyond the Boundary Line.
- A VSO endorsement is required for persons serving as VSO on a towing vessel traveling on an international voyage, regardless of tonnage.
- The VSO endorsement is a one-time certification. After the initial training requirement is met and certification obtained by July 1, 2009, a VSO does not need to repeat the training or take any refresher training.
- The endorsement will be placed on the mariner's STCW certificate until Merchant Mariner Credential (MMC) regulations are promulgated, after which it will be placed on the MMC.

AWO members with questions about the new VSO endorsement requirement should contact Mary McCarthy or Jennifer Carpenter at (703) 841-9300, extensions 254 or 260, respectively, or via email at mmccarthy@vesselalliance.com or jcarpenter@vesselalliance.com.

MarAd Forecasts Water and Rail May Adjust Better to High Oil Prices

On November 12, the U.S. Maritime Administration (MarAd) released its latest report, *Impact of High Oil Prices on Freight Transportation: Modal Shift Potential in Five Corridors*, a trends study that analyzes potential U.S. and international oil price forecasts, estimating how higher fuel prices could create a higher demand for shipping freight via domestic waterways over other modes of transportation. According to MarAd's executive summary of the report, the study found that:



- Oil prices could range between a low of \$60 to a high of \$160 per barrel through 2020 (in constant 2008 dollars), but the central scenario indicates that oil prices could stabilize at around \$90 per barrel.
- The more fuel-efficient rail and water modes are far less affected by fuel price increases than trucking, particularly over longer shipping distances.
- Because the demand for rail/truck intermodal services is increasing, available rail capacity is being depleted, giving the railroads the ability to increase prices and making existing and potential water services even more attractive.
- Analysis of five major U.S. freight corridors that serve over 95 percent of the U.S. population – Great Lakes (and St. Lawrence Seaway), Gulf Coast, Mississippi River, East Coast, and West Coast – indicates that domestic waterborne containerized traffic has the potential to increase by a factor of two to three as diesel fuel prices increase from \$2 up to \$7 per gallon.
- The Great Lakes, Mississippi River and Gulf Coast freight corridors (which can divert traffic from truck and, to a lesser extent, from rail transportation) generate sufficient domestic traffic volume to initiate new water services.
- Along both the East and West Coast, a portion of the huge and growing volume of U.S. international trade now distributed inland through gateway Atlantic and Pacific seaports can be moved by new coastal feeder services.

The report's forecast is consistent with AWO's longstanding message that shipping freight at the domestic waterways is one of the most cost- and fuel-efficient means of transportation. The report is available on the MarAd Web site. To view the full report, click [here](#); to view the executive summary, click [here](#).

For more information, please contact Robert McCaw at (703) 841-9300, extension 279, or via email at rmccaw@vesselalliance.com.

EPA, Coast Guard Brief AWO Members on MARPOL Annex VI Requirements

On November 12, the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard hosted a conference call to brief AWO members on MARPOL Annex VI, a set of international regulations intended to reduce harmful air emissions from vessels. The United States became a party to this Annex in October, and larger vessels over 400 gross tons (GT) engaged on international voyages will be expected to comply with the Annex by January 8, 2009.

In order to show compliance with Annex VI, engines over 130 kW installed on vessels of any size built after January 1, 2000, must obtain an Engine International Air Pollution Prevention certificate (EIAPP) demonstrating that the engine meets international NOx limits. EIAPPs are issued by EPA to engine manufacturers, and vessel owners are encouraged to speak with their engine manufacturer to confirm that its engines are Annex VI compliant.

Owners of vessels over 400 gross tons engaged on international voyages must also obtain an International Air Pollution Prevention (IAPP) certificate. IAPPs are issued by the Coast Guard to confirm a vessel's compliance with Annex VI, including the EIAPP certificate requirement (if the vessel was built after January 1, 2000) and

requirements for bunker delivery notes confirming that fuel used by the vessel does not exceed international standards for sulfur content, among other requirements. Vessel certification is required at the time of the first scheduled drydocking after January 8, 2009.

EPA has confirmed that the initial Annex VI certification focus is on vessels that travel to foreign ports and thus must be able to demonstrate compliance outside the United States. However, Annex VI requirements apply to all vessels and all engines greater than 130 kW, and the EPA and Coast Guard are in the process of determining how vessels that operate only in the United States will eventually be expected to demonstrate compliance. AWO will continue to work with EPA and the Coast Guard to represent member interests and to ensure smooth compliance with the Annex. For more information, please contact Mary McCarthy or Brian Vahey at (703) 841-9300, extensions 254 and 251 respectively, or at mmccarthy@vesselalliance.com and bvahey@vesselalliance.com. For a copy of EPA's MARPOL Annex VI presentation, click [here](#).



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, extension 254, or mmccarthy@vesselalliance.com.

NAVSAC to Hold Meeting in December

On December 10-11, the Navigation Safety Advisory Council (NAVSAC) will meet in Washington, D.C. NAVSAC advises the U.S. Coast Guard on matters relating to the prevention of collisions, ramblings and groundings. The meeting, which will be held at the Marriott Capitol Hill/Navy Yard on 104 L Street, SE, will be open to the public and run from 8:00 a.m. to 5:00 p.m. on both days.



Various issues related to the safety of navigation will be discussed at the meeting, including: E-navigation requirements; arctic navigation requirements; navigation fairways; and unmanned surface vessels. To read the official announcement of the meeting, please click [here](#). For more information on the meeting, please contact Mr. John Bobb of the Coast Guard at (202) 372-1929, or via email at john.k.bobb@uscg.mil.

“Rivers of Green: The New Administration Must Fix Locks and Dams”

The following editorial appeared on November 13 in the *Pittsburgh Post-Gazette* as the result of an editorial board meeting with the National Waterways Foundation, including AWO member Peter Stepfaich, Chairman, Campbell Transportation Company, Inc. The editorial describes the results of a multimodal comparison study done by the Texas Transportation Institute that demonstrates the economic and environmental advantages of barge transportation over rail and truck.

Pittsburgh owes its existence to its rivers, which first served as roads through the wilderness. To this day, the city’s economic fortunes are still linked to river traffic – this is the second-largest inland port in the United States.

Those barges plying our three rivers require an efficient, reliable system of locks and dams, which, in the region’s best interest, should be kept in good repair. As it happens, this is also in the nation’s interest. As he sets his national agenda, it is vital that President-elect Barack Obama keep this in mind because the system is under severe strain.

The value of a good waterborne transportation system should be obvious, but a study, funded by the National Waterways Foundation and the U.S. Maritime Administration and released earlier this year, underscored the point. The Texas Transportation Institute’s Center for Port and Waterways at Texas A&M University drew telling comparisons with alternatives, namely trucks and trains.

Worried about truck-clogged roads? The study found that one common

15-barge river tow has the same capacity as 1,050 trucks (as well as 216 rail cars pulled by six locomotives).

How about pollution and the environment? The study found that barges generate fewer emissions of particulate matter, hydrocarbons, carbon monoxide and nitrous oxide than trains or trucks on a per-ton-mile-moved basis.

Concerned about fuel consumption? The study determined that barges can move a ton of cargo 576 miles with a single gallon of fuel compared to 413 ton miles per gallon for trains and 155 ton miles per gallon for trucks.

The study underscores the importance of keeping inland barge traffic moving to the greater benefit of the nation. Unfortunately, that is not assured and Pittsburgh is a symbol of the problem. The Army Corps of Engineers, Pittsburgh, which operates 23 locks and dams for navigation in its five-state district, describes this as the nation’s

oldest, largest and most fatigued navigation system in the corps’ inland inventory.

Nationwide, the system is struggling for funding for repairs and construction. The Inland Waterways Trust Fund, the funding mechanism jointly supported by the federal government and barge operators (who pay a 20 cent a gallon tax on fuel) is seriously depleted, and projects vital to the system’s efficiency are suffering. If the infrastructure goes on being under-funded, the system itself may crack at great cost to the nation’s commerce.

During the presidential campaign, Mr. Obama proposed creating a National Infrastructure Reinvestment Bank that would have \$60 billion over 10 years to spend on a wide range of infrastructure projects in general. Inland barge transportation and its needs must be part of any future discussion.

Infrastructure isn’t sexy, it’s just vital. And in Pittsburgh we know that better than anybody. 🌊

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
January 8-9, 2009	Salyers Solutions, LLC New Orleans, LA	Jo Ann Salyers (Instructor) (504) 236-4962 salyers_solutions@hughes.net

Mark Your Calendar – 2009 Annual Regional Meetings Planned

The 2009 AWO Annual Regional Meetings will be held in January and February. Important association business including election of regional directors and approval of regional priorities along with national and regional reports are scheduled. Membership attendance and involvement is essential.

Registration will be sent soon for the following meetings:

January 22-23

Southern Region Annual Meeting
New Orleans, LA

January 28-29

Midwest & Ohio Valley Regions Joint Annual Meeting
Pittsburgh, PA

February 4-5

Atlantic Region Annual Meeting
Tampa, FL

February 11-12

Pacific Region Annual Meeting
Seattle, WA

For more information, please contact Hermoine Wellman at (703) 841-9300, extension 291, or via email at hwellman@vesselalliance.com ☘

Midcontinent Office

Sector Mobile Security Interim Rule

On November 13, a Coast Guard interim rule went into effect for Sector Mobile. This rule establishes a 500-yard moving security zone around any vessel being escorted by one or more federal, state or local law enforcement assets, including the Coast Guard, on the navigable waters of this Sector.

Under the interim rule, only the Mobile Captain of the Port, CAPT Edwin Stanton, or a designated representative can authorize the entry of a person or vessel into the security zone. The purpose of this security zone is “to ensure the safe transit and mooring of escorted vessels as well as the safety and security of personnel and port facilities.”

Comments on this rule are being accepted until December 15, 2008. For instructions on how to submit comments and to read the complete announcement of this interim rule, please click [here](#). For questions, please contact Lynn Muench or Benjamin Rogers at (314) 446-6474 or (703) 841-9300, extension 264, respectively, or via email at lmuench@vesselalliance.com or brogers@vesselalliance.com. ☘

Pacific Region

Save the Date for the Pacific Region Annual Meeting

The Pacific Region Annual Meeting has been scheduled for February 12 from 8:00 a.m. to noon with registration starting at 7:30 a.m. The meeting will be held at Salty's on Alki Restaurant, 1936 Harbor Avenue S.W., Seattle, WA. Discussion topics include regional priorities, new board member nominations and issues that are critical to both the regional and national tugboat, towboat and barge industry. For more information, please contact Jason Lewis at (206) 245-5758, or via email at jlewis@vesselalliance.com. ☘



Washington State Tidal Power Study Underway

The Snohomish County Public Utility District (PUD) is studying the feasibility of utilizing tidal power for as many as 70,000 residents. PUD has received permits from the U.S. Federal Energy Regulatory Commission to study seven locations in and around the Puget Sound – from Rich Passage near Bremerton to Speiden Channel in the northern San Juan Islands.

Energy would be created by using the tidal currents to drive energy conversion devices attached to the seabed. These devices would be completely submerged and would not be visible from the surface. AWO is working with the Snohomish County PUD to ensure that the devices will not be an impediment to commerce. For more information or if you have any comments on the project, please contact Jason Lewis at (206) 245-5758, or via email at jlewis@vesselalliance.com. ☘

Midcontinent Office

Preliminary Feasibility Study on Invasive Species Released

Physical Barrier between the Great Lakes and Illinois Waterway is Necessary

On November 10, the Great Lakes Fishery Commission (GLFC) and the Great Lakes Fishery Trust (GLFT) released the results of a preliminary feasibility study on how to stop the movement of aquatic invasive species (AIS) between the Great Lakes and the Mississippi River Basin. The study recommended physical separation between Lake Michigan and the Mississippi River Basin to stop AIS movement from one ecological basin to another. It stated that such a physical separation will be the most effective way to prevent “a transfer of aquatic organisms via the Chicago Waterway System (CWS) at any time – 100% effectiveness.” In order to achieve this, its authors, Joel Brammeier of the Alliance for the Great Lakes, Irwin Polls of Ecological Monitoring and Assessment and Scudder Mackey of Habitat Solutions, recommended significant changes to the CWS, which connects the two bodies. The CWS is composed of natural rivers and artificial canals in Chicago area, including the Chicago Sanitary and Ship Canal, the Chicago River and the Des Plaines River.

Notably, the study was ambiguous on how navigation will be impacted. It documented the importance of commodity movement in the CWS, pointing to the Lockport Lock in Will County and the O’Brien Lock in the City of Chicago as being particularly busy sites for barge movements. Six different CWS locations were studied as potential sites for the barrier, two of the locations near locks. Stakeholders in the region, not including any representatives from the barge industry, had their opinions on ecological separation solicited.

The study further recommended a system-wide logistics study for the purpose of determining “the source and destination of all cargo on the system.” The authors further noted that “it is unclear if technology exists to move a loaded barge overland around a physical barrier without compromising the cost savings of barge movement.” Several unproven options described included a drydocking or water differential system, or eliminating “barge movement completely at the chosen barrier site.”

With regard to the regulatory and legislative framework of any separation plan, the Water Resources Development Act (WRDA) of 2007 authorized “a feasibility study of the range of options and technologies available to prevent the

spread of aquatic nuisance species between the Great Lakes and Mississippi River Basin through the Chicago Sanitary and Ship Canal and other aquatic pathways.” Beyond that, the authors suggested that Congress or the President, via an executive order, could prioritize the project’s construction. The study noted that any plan including a navigation blockage would require approval from the state of Illinois and the U.S. Army Corps of Engineers.

In terms of achieving ecological separation, the authors wrote that a “leadership vacuum” within the Corps “makes envisioning ecological separation difficult,” and that political leadership will be necessary to begin and fully fund the WRDA-authorized study. In terms of what else to do in the short-term, until what they believe to be the long-term necessity of ecological separation gets underway, they also recommended completing the electrical barrier system.

The GLFC, which conducted the study, is under the joint management of the U.S. and Canadian governments, and was chartered in 1955 to recommend measures that “permit the maximum sustained productivity of stocks of fish of common concern” between the nations. GLFC is governed directly by eight Commissioners, four from each country. The U.S. Commissioners are appointed by the President and serve six-year terms. The study was funded by the GLFT, a funding program created in 1996 as part of a settlement with Consumers Energy and the Detroit Edison Company for fish losses caused by the operation of the Ludington Pumped Storage Plant on Lake Michigan. This study came about as the result of a recommendation from a 2003 Invasive Species Summit meeting convened by Mayor Richard Daley of Chicago.

AWO will work with the Corps and all relevant parties to ensure that any efforts to alter the ecology of CWS will only be done with the continuity of navigation as a priority. To read the full study, please click [here](#). To provide thoughts or opinions on the study and the future of CWS, please contact Lynn Muench or Benjamin Rogers at (314) 446-6474 or (703) 841-9300, extension 264, respectively, or via email at lmuench@vesselalliance.com or brogers@vesselalliance.com. 🌐

Notably, the study was ambiguous on how navigation will be impacted. It documented the importance of commodity movement in the CWS, pointing to the Lockport Lock in Will County and the O’Brien Lock in the City of Chicago as being particularly busy sites for barge movements.

Midcontinent Office

AWO Comments on the Missouri River Draft Annual Operating Plan

On November 20, AWO submitted comments to the U.S. Army Corps of Engineers - Northwestern Division, on the proposed Missouri River Mainstem System 2008-2009 Annual Operating Plan (AOP).

In its comments, AWO stated that, "Over the past several years, time and again, large, unpredicted rain events have created significant damage to Missouri River Basin floodplain farmers" and that, "to avoid future economic devastation, AWO continues

to ask the Corps to discontinue the artificial spring releases for the ostensible practice of triggering the naturally unpredictable behavior of pallid sturgeon spawning." These releases also waste water that could be used for navigation later in the season and causes damage to flood control and navigation structures.

In analysis of the Corps' 2008-2009 AOP, AWO cited current U.S. Geological Survey (USGS) research,

"that manmade spring rises are not needed to cue a pallid sturgeon spawning as the [U.S. Fish and Wildlife (USFWS)] Amended Biological Opinion currently hypothesizes" and that, "the USGS finds that pallid sturgeons have a protracted spawning which occurs over a multi-month period, strongly implying that spawning is not triggered by a single event and that a manmade spring rise is not needed to cue spawning."

Missouri River flooding in 2008 destroyed or damaged many levees and navigation structures that are still not repaired. It is unlikely that all damaged levees and navigation structures will be repaired by the next scheduled mandated manmade

spring rise (flood) in March. AWO strongly recommended to the Corps that it suspend all 2009 manmade spring rises until: 1) all levee and navigation structure repairs are completed, and 2) the Corps initiates a study to determine the impact of those recovery efforts on channel depth and navigation service levels. The comments further recommend that the Corps and the USFWS transition toward a recovery program that is both scientifically verifiable and beneficial to the pallid sturgeon. The Missouri River Recovery Implementation Committee (MRRIC) will be involved in this type of recommendation to the federal agencies. Both AWO and the Coalition to Protect the Missouri River (CPR) sit on MRRIC.

AWO urged the Corps to act without delay in regards to its recommendations. To read the proposed 2008-2009 AOP, please click [here](#). To view AWO's comments, please click [here](#). For more information, please contact Lynn Muench or Robert McCaw at (314) 446-6474 or (703) 841-2279, respectively, or via email at lmuench@vesselalliance.com or rmccaw@vesselalliance.com.

Atlantic Region

New York Fuel Tax to Increase January 1

The New York State Department of Taxation and Finance has released an important notice, N-08-14, regarding a one-cent increase in the Petroleum Business Tax Rates for Commercial Vessels. This change will become effective January 1, 2009. The notice has been posted on the department's Web site, which can be accessed [here](#), and will be mailed to businesses that are currently filing Form PT-350, Petroleum Business Tax Return for Fuel Consumption for Commercial Vessels. If you have questions about this tax change specifically, please contact Tom Curry, Taxpayer Guidance Division, New York State Department of Taxation and Finance at (518) 457-9073, or Nicole DeSibour at (703) 841-9300, extension 297, or via email at ndesibour@vesselalliance.com.



2009 AWO Safety Calendar on Sale!

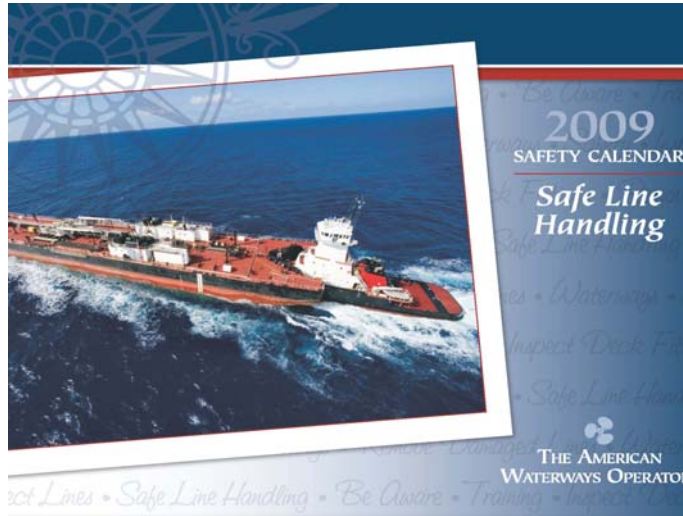
The 2009 AWO Safety Calendar, which features 13 beautiful, full-color industry photos, is now for sale. The theme of this year's calendar is "Safe Line Handling," and each page contains an important safety message.

Each AWO member company will receive a calendar as a gift when they are printed in early November, and additional calendars are on sale

for \$12 each. If you would like to order calendars, please fill out an order form (attached) and mail it with a check, or fax it and have it invoiced, to:

Susan Miller
The American Waterways Operators
801 North Quincy Street
Suite 200
Arlington, VA 22203
(703) 841-0389 (fax)

2009 AWO SAFETY CALENDAR ORDER FORM



AWO's Safety Calendar is back and better than ever! The 2009 calendar focuses on Safe Line Handling, and features a number of beautiful, full-color photos – all winners of AWO's ninth annual Safety Calendar Photo Contest.

To order copies of the **2009 AWO Safety Calendar**, please complete the form below and mail it with payment to the address indicated.

✂ *Detach lower portion and mail (with check or money order) to the address below.*

Number Ordered: _____ @ **\$12.00 each** = \$ _____

Company Name: _____

Attn: _____

Title: _____

Address *: _____

Phone: _____

Email address: _____

** No P.O. Boxes, please!*

Order your **2009 AWO Safety Calendar** today! Forms should be mailed to the address below.

Please submit payment with your order and make all checks payable to the
American Waterways Operators

The American Waterways Operators
801 North Quincy Street
Suite 200
Arlington, VA 22203
Attn: Susan Miller - SAFECAL