

VOLUME 66, No. 8 • MAY 22, 2009

HIGHLIGHTS IN THIS ISSUE

Obama Administration FY10 Budget Continues to Push Lock Tax.....1

Language Eliminating Second Trip to TWIC Enrollment Center Approved by House Homeland Security Committee....3

Corps Testifies Before House Subcommittee on FY10 Civil Works Budget Proposal.....4

TSA Makes TWIC Announcements.....5

TWIC Card Reader ANPRM Comments Due May 26.....5

Responsible Carrier Program Updated, Available on the Web.....6

Eight Members Complete RCP Audits.....6

AWO Marks National Maritime Day.....7

This Is National Safe Boating Week!....8

New York State Proposes Fund to Retrofit Heavy Duty Diesel Engines.....9

North Carolina House Passes Pumpout Facilities Bill.....9

Massachusetts Regulation on Pilotage, Notification in Buzzards Bay Becomes Permanent.....9

Coast Guard Proposes RNA for New Orleans.....10

Obama Administration FY10 Budget Continues to Push Lock Tax

The Obama Administration’s detailed Fiscal Year 2010 (FY10) budget, released May 12, continues to include a proposal to replace the inland waterways fuel tax with a lock usage tax, as previewed in the Administration’s February 26 budget blueprint. A similar proposal by the Bush Administration was soundly rejected by the 110th Congress. Members of the 111th Congress and AWO continue to urge the Obama Administration to reconsider the idea of replacing the fuel excise tax with a lock usage tax that would impose a regionally disproportionate tax burden on vessels traversing the northern boundaries of the inland waterways system and triple the industry’s tax burden.

“This flawed approach would increase the cost of shipping essential commodities such as grain and petroleum and would undermine the nation’s inland waterways transportation system, the most economical and environmentally friendly mode of cargo transportation,” AWO stated in a press release following release of the budget (see press release, page 2). “Moreover, it would not solve the waste and over-expenditure problems that plague the current system for constructing and funding vital inland waterways infrastructure.”

Congressional opposition to the proposal was evident even before the Administration

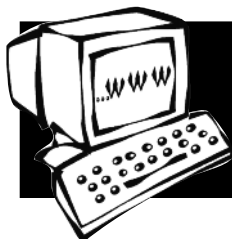


Mel Price Lock & Dam, USACE photo.

released its detailed budget. On April 3, a bipartisan group of ten senators, led by Senators Tom Harkin (D-IA) and Charles Grassley (R-IA), sent a letter to Peter Orszag, Director of the Office of Management and Budget, urging the Administration to reconsider the “unfair and unbalanced” lockage tax proposal and expressing the senators’ expectation that the proposal would be rejected by Congress for the second year in a row (see April 13 *AWO Letter*).

In similar fashion, on March 30, the Senate Budget Committee released a resolution concerning the FY10 Budget, including a report from the Senate Committee on Environment and Public Works, indicating that “The Committee supports increased involvement in the inland waterways system, but believes it would be inappropriate to assume enactment of a [lockage fee] plan that Congress has not yet had time to carefully consider.”

(continued on page 2)



The new and improved...

www.americanwaterways.com

This edition of the *AWO Letter* is sponsored by:

Obama Administration FY10 Budget Continues to Push Lock Tax

(continued from page 1)

Imposing a lockage fee now would short-circuit a promising government-industry initiative currently underway to develop a new Capital Projects Business Model for the nation's inland waterways infrastructure. The Capital Projects Business Model is a comprehensive, consensus-based capital investment program being developed by the U.S. Army Corps of Engineers and the Inland Waterways Users Board. It will ensure that resources and processes are in place to achieve a safe, reliable, cost-effective and environmentally sustainable inland marine transportation system, along with the necessary funding stream. The model will be presented to Congress later this year for consideration in the development of the 2010 Water Resources Development Act. AWO urges Congress to reject the lock usage tax and support a comprehensive solution to meeting the nation's long-term waterways infrastructure needs.

For more information on AWO's effort to defeat the proposed lockage tax, please contact Chris Coakley at (703) 841-9300, extension 297, or via email at ccoakley@vesselalliance.com.



The American Waterways Operators
www.americanwaterways.com

801 North Quincy Street, Suite 200
Arlington, VA 22203

PHONE: (703) 841-9300
FAX: (703) 841-0389

FOR IMMEDIATE RELEASE
May 12, 2009

CONTACT: Chris Coakley
(703) 841-9300

BARGE AND TOWING INDUSTRY OPPOSES DISCREDITED PROPOSAL TO IMPOSE UNFAIR INLAND WATERWAYS LOCKAGE TAX

WASHINGTON, D.C. -- The American Waterways Operators, the national trade association for the tugboat, towboat and barge industry, today criticized the proposal in the Obama Administration's Fiscal Year 2010 budget to replace the inland waterways fuel tax with an unfair and counterproductive lockage tax. A similar discredited idea was proposed by the Bush Administration and rejected by the 110th Congress. AWO urges Congress to reject it again. Replacing the excise tax on fuel that equitably distributes taxes on all commercial waterways users with a lock usage tax would impose disproportionate tax burdens on vessels transiting certain segments of the inland waterways, while other vessels using the system would pay little or nothing. This flawed approach would increase the cost of shipping essential commodities such as grain and petroleum and would undermine the nation's inland waterways transportation system, the most economical and environmentally friendly mode of cargo transportation. Moreover, it would not solve the waste and over-expenditure problems that plague the current system for constructing and funding vital inland waterways infrastructure.

The FY10 Budget proposes to 'spend wisely' and 'reform bad habits.' These are worthy goals that should be applied to the broken system that spends Inland Waterways Trust Fund (IWTF) monies ineffectively and results in long project delays. Noting the broad benefits to the nation from its waterways, from commerce to recreation to flood control, AWO President & CEO Tom Allegretti asserted, "Spending tax money wisely cannot occur until bad habits have been reformed. While it is industry's responsibility to pay its fair share of taxes, it is the government's responsibility not to waste tax dollars. The lock usage tax proposal doesn't achieve either goal. Imposing this tax would unfairly burden the mode of transportation that has the smallest carbon footprint and still has unused capacity. It is totally counterproductive."

Imposing a lockage fee now would short-circuit a promising government-industry initiative currently underway to develop a new Capital Projects Business Model for the nation's inland waterways infrastructure. The Capital Projects Business Model is a comprehensive, consensus-based capital investment program that will ensure that resources and processes are in place to achieve a safe, reliable, cost-effective, and environmentally sustainable inland marine transportation system, along with the necessary funding stream. The model will be presented to Congress later this year for consideration in the development of the 2010 Water Resources Development Act. AWO urges Congress to reject the lock usage tax and support a comprehensive solution to meeting the nation's long-term waterways infrastructure needs.

Language Eliminating Second Trip to TWIC Enrollment Center Approved by House Homeland Security Committee

On May 14, the House Homeland Security Committee approved legislation that would require the Transportation Security Administration (TSA) to develop a process for mailing Transportation Worker Identification Credentials (TWICs) to applicants' homes, eliminating the requirement for a second trip to the TWIC enrollment center. The legislation, strongly supported by AWO and maritime labor, was introduced by Congresswoman Loretta Sanchez (D-CA), Chairwoman of the Border, Maritime and Global Counterterrorism Subcommittee, as an amendment to the TSA Authorization Bill (H.R. 2200). The bill is scheduled for floor consideration by the full House of Representatives this week.

The legislation (available [here](#)) mandates that within 180 days after enactment of the TSA Authorization Bill, the Agency "shall develop a process to permit an individual approved for a transportation security card... to receive the card at the individual's place of residence." Under current TSA regulations, workers applying for a TWIC are required to make at least two separate trips to an enrollment center in order to obtain the card. First, workers must visit an enrollment center to enroll or apply for their TWIC. Second, once the required background checks have been conducted and the TWIC has been produced, workers are required to make a second trip to the enrollment center to pick up and activate their card. For some applicants, the nearest enrollment center is hundreds of miles away, requiring a time-consuming and expensive round trip.

The bill also includes other provisions aimed at improving the efficiency and practicality of the TWIC program, including time limits within which TSA must review TWIC applications and requests for waivers

and appeals; a provision allowing escorting of individuals who have applied for but not yet received a TWIC; and, a requirement that TSA establish procedures allowing fingerprinting to be conducted at security facilities (other than TWIC enrollment centers) operated by or under contract to agencies of the Department of Homeland Security.

Eliminating the second trip to the TWIC enrollment center is one of AWO's major advocacy objectives for 2009. AWO has worked closely with more than a dozen maritime labor unions and trade associations to send the unified message that requiring workers to make two trips to an enrollment center is an unnecessary burden on working men and women. AWO members have also been actively involved in grassroots advocacy to emphasize the need for a solution, and this issue was a key focus of AWO's Congressional "Barge-In" on April 1.

AWO thanks its maritime partners as well as Chairwoman Sanchez, Homeland Security Committee Chairman Bennie Thompson (D-MS) and other members of the House Homeland Security Committee who have worked closely with industry to ensure that the TWIC program meets its security goals without placing unnecessary burdens on the individuals and companies it is intended to protect. AWO will continue to advocate for similar legislative language as the Senate takes up TSA authorization legislation later this year. For more information, please contact Jennifer Carpenter or Chris Coakley at (703) 841-9300 extensions 260 and 297, respectively, or via email at jcarpenter@vesselalliance.com or ccoakley@vesselalliance.com.



Important Dates and Reminders

..... at a glance

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

June 10-11: AWO Coastal Safety Committee Meeting, Las Vegas, NV

July 15-16: AWO Interregion Safety Committee Meeting, St. Louis, MO

July 23-24: AWO Southern Region Meeting, Houston, TX

August 5-6: AWO Executive Committee Meeting, Arlington, VA

August 19-20: AWO Midwest and Ohio Valley Regions Joint Summer Meeting, St. Louis, MO

August 26-27: AWO Atlantic Region Summer Meeting, Norfolk, VA

September 3: AWO Pacific Region Summer Meeting, Seattle, WA

October 13-16: AWO Fall Convention, New Orleans, LA

December 2-3: AWO Executive Committee Meeting, Arlington, VA

Corps Testifies Before House Subcommittee on FY 10 Civil Works Budget Proposal

On May 12, the Subcommittee on Energy and Water Development of the House Appropriations Committee heard testimony from officials from the U.S. Army Corps of Engineers on the Fiscal Year 2010 (FY10) budget proposal for the Corps' Civil Works program. During the Corps' presentations, the agency made clear that introducing a lock usage tax to fund the industry portion of the Inland Waterways Trust Fund (IWTF) was its preferred method for addressing the declining amount of revenue coming into the fund.

In his opening statement, Terrence "Rock" Salt, Acting Assistant Secretary of the Army for Civil Works, informed the subcommittee that the budget "proposes enactment of legislation to authorize a lock usage fee, which would over time replace the diesel fuel tax now paid by most commercial users of the inland and intracoastal waterways." When Subcommittee Ranking



Member Rodney Frelinghuysen (R-NJ) asked Corps officials if the Corps had forged a consensus with the waterways stakeholders on the enactment of this tax, Major General Meredith "Bo" Temple, Director of the Civil Works

Program, responded that the Corps had been working toward a consensus on this subject with the Inland Waterways Users Board (IWUB). AWO's position opposing this tax is articulated in the press release issued on May 12 (see page 2).

While no member of the subcommittee officially endorsed or rejected the lock usage tax proposal, Chairman Peter Visclosky (D-IN) stated that the IWTF's shortage will require "difficult political choices" to be made in the future. Chairman Visclosky did not suggest any specific method for addressing the deficit, however.

AWO remains committed to working with Waterways Council, Inc. and the IWUB to prevent the imposition of a lock usage tax and seek a comprehensive solution to meeting inland waterways infrastructure and funding needs for the future. For questions about the hearing, please contact Chris Coakley or Benjamin Rogers at (703) 841-9300, extensions 297 or 264, respectively, or via email at ccoakely@vesselalliance.com or brogers@vesselalliance.com.

2009 AWO Letter Sponsorships Still Available!

In the current economic climate, advertising and marketing become even more important to a company's health. AWO is currently accepting sponsorship applications for the 2009 *AWO Letter*. Each great advertising opportunity costs \$500, which includes a front-page "sponsorship block" featuring your company's name, location, logo, and Web site address.



Sponsorship forms can be found by visiting the AWO Web site, or by clicking [here](#). If you have any questions, please contact Susan Miller at (703) 841-9300, extension 262, or via email at smiller@vesselalliance.com.

Welcome, New Members!

CARRIER

Dupre Marine Transportation
P.O. Box 3358
Houma, LA 70361

Rep: Mr. Rory Dupre
Owner & President

T & R Tugs LLC
P.O. Box 3358
Houma, LA 70361

Rep: Mr. Rory Dupre
Owner & President

Gambarella Marine, LLC
P.O. Box 3298
Houma, LA 70361

Rep: Mr. Vince Gambarella
Owner

AFFILIATE

Stewart & Stevenson
8631 East Freeway
Houston, TX 77029

Rep: Ms. Donna Adame
Manager Marine Sales

TSA Makes TWIC Announcements

On May 1, the U.S. Transportation Security Administration (TSA) announced that individuals can no longer pre-enroll for a Transportation Worker Identification Credential (TWIC) over the phone. Pre-enrollments can only be made via the TSA TWIC deployment Web site located [here](#). Please note: workers needing a TWIC are not required to pre-enroll, but TSA advises that it could significantly speed up their wait time at the TWIC enrollment center.

TSA has also reiterated that TWIC holders who received their card prior to October 21, 2008, and have forgotten their personal identification number (PIN) should contact the TSA help desk at (888) DHS-TWIC to arrange to receive a new TWIC free of charge if they expect to need the PIN to access facilities where they work. While TSA had been working to implement a technical fix to allow individuals who received their card prior to the power outage that damaged the TWIC computer system to reset their PIN, the agency now advises that such a fix is unlikely to be found. While neither the U.S. Coast Guard nor TSA intends to require use of the PIN to confirm validity of a TWIC, some facilities may choose to do so. TSA reiterated that TWICs activated prior to October 21, 2008 are still valid and if workers with such cards can remember their PIN (or do not expect to need it), there is no need to request a new card.

If you have any questions regarding recent TWIC developments, please contact Brian Vahey at (703) 841-9300, extension 251, or via email at bvahey@vesselalliance.com.

TWIC Card Reader ANPRM Comments Due May 26

Tuesday, May 26 is the final day to submit comments to the docket on the U.S. Coast Guard's advance notice of proposed rulemaking (ANPRM) on Transportation Worker Identification Credential (TWIC) card reader requirements. AWO encourages all members to submit comments. A copy of the ANPRM, which includes detailed information about how to submit written comments, is available [here](#). For a copy of AWO's draft comments, please contact Brian Vahey at (703) 841-9300 extension 251, or via email at bvahey@vesselalliance.com.



At its May 6 public meeting, the Coast Guard emphasized that its card reader ANPRM was very much a "work in progress" and hoped it would receive substantive comments from all stakeholder groups. By commenting on the ANPRM, industry is in a strong position to influence the notice of proposed rulemaking (NPRM) and eventually the final rule on card readers. AWO members represent the employers who are most impacted by the Coast Guard's proposal, and AWO encourages all members to comment individually. Comments can be submitted online at www.regulations.gov, faxed to (202) 493-2251, or mailed to the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

CEMS Training Opportunities Available

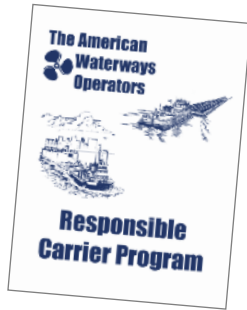
The Crew Endurance Management System (CEMS) is a system for managing risk factors in maritime work environments that can lead to human error and performance slumps. The Coast Guard and AWO have been working together to help companies implement the principles of CEMS. In this space, AWO will publish details of CEMS training opportunities around the country. For further information on CEMS training opportunities, please contact Pik Kwan Rivera, U.S. Coast Guard, at (202) 372-1354.

DATE	LOCATION	CONTACT
June 23-24	Salyers Solutions, LLC Norfolk, VA	Jo Ann Salyers (Instructor) (504) 236-4962 salyers_solutions@hughes.net
July 20-21	Salyers Solutions, LLC Mobile, AL	Jo Ann Salyers (Instructor) (504) 236-4962 salyers_solutions@hughes.net
August 11-12	Salyers Solutions, LLC Seattle, WA	Jo Ann Salyers (Instructor) (504) 236-4962 salyers_solutions@hughes.net
August 17-18	Salyers Solutions, LLC Houston, TX	Jo Ann Salyers (Instructor) (504) 236-4962 salyers_solutions@hughes.net

Responsible Carrier Program Updated, Available on the Web

The Responsible Carrier Program (RCP), AWO's award-winning safety management system, has been revised and can be accessed on the AWO Web site by clicking [here](#).

Additionally, hard copies of the RCP will be distributed to all AWO members in early June.



The Audit Checklist, which is the tool used to verify compliance with the RCP, is also being updated and will be posted on the Web site next month. The changes to the RCP since the October 2008 version, noted by bold, italicized text, are in the areas of safety performance, record keeping and fall overboard training. These latest changes were approved by the Board of Directors at its April 2009 meeting, and are effective May 1.

AWO is proud of the evolution of the RCP as a living document, reflecting industry-generated initiatives that take the program and AWO to higher levels of safety and environmental protection.

If you have questions regarding the Responsible Carrier Program, please contact Bob Clinton at (703) 841-9300, extension 253, or via email at bclinton@vesselalliance.com.

Eight Members Complete RCP Audits

Eight AWO member companies have completed certification or recertification of their Responsible Carrier Program (RCP) audit. Congratulations to these companies on their successful participation in the program! The RCP is the award-winning safety management program of the tugboat, towboat and barge industry. Members are required to undergo a certification audit by an AWO-certified third-party auditor within one year of joining AWO and to undergo regular recertification audits to verify their compliance with the RCP.

For these companies, this achievement is tangible proof of their commitment to continued safety and environmental



protection. AWO is proud of their accomplishment. For information on the RCP or the audit, please contact Bob Clinton at (703) 841-9300, extension 253, or via email at bclinton@vesselalliance.com.

The following companies have achieved audited certification:

Norfolk Tug Company
Norfolk, VA
Audit date: 05/25/09
Reaudit due: 05/25/12

Hard's Marine Service Ltd.
Hull, TX
Audit date: 05/15/09
Reaudit due: 05/15/12

T.D. Boats, LLC
Cut Off, LA
Audit date: 05/03/09
Reaudit date: 05/03/12

Port Arthur Towing Company
Groves, TX
Audit date: 05/16/09
Reaudit due: 05/16/12

American Marine Corporation
San Pedro, CA
Audit date: 07/01/09
Reaudit due: 07/01/12

Canal Towing & Assist, Inc.
Belfast, ME
Audit date: 05/8/09
Reaudit due: 05/8/12

Imperial Towing, Inc.
Imperial, PA
Audit date: 06/30/09
Reaudit due: 06/30/12

Poling & Cutler Marine Transportation, Inc.
East Brunswick, NJ
Audit date: 05/16/09
Reaudit due: 05/16/12

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 at mmccarthy@vesselalliance.com.





The American Waterways Operators
www.americanwaterways.com

801 North Quincy Street, Suite 200
Arlington, VA 22203

PHONE: (703) 841-9300
FAX: (703) 841-0389

FOR IMMEDIATE RELEASE
May 22, 2009

CONTACT: Anne Davis Burns
(703) 841-9300


AWO MARKS NATIONAL MARITIME DAY



WASHINGTON, D.C. – The American Waterways Operators (AWO), the trade association for the U.S. tugboat, towboat and barge industry, commemorates National Maritime Day on Friday, May 22. National Maritime Day was first declared by Congress in 1933 to honor the sacrifices of U.S. merchant mariners. Furthermore, as the U.S. Maritime Administration declares, “Observance of National Maritime Day also honors the maritime industry and the benefits it brings Americans in terms of transportation, jobs, goods, and recreational opportunities.”

Barge transportation is the most energy-efficient, economical and environmentally friendly way to transport commodities that are the building blocks of the American economy, including 60% of U.S. export grain, coal for electricity, petroleum products to heat homes, and chemicals for industrial use. The tugboat, towboat and barge industry offers attractive career opportunities, providing good paying, family-wage jobs for tens of thousands of Americans.

This year, the Smithsonian Institution will open its new exhibit, “On the Water: Stories from Maritime America,” at the National Museum of American History in Washington on National Maritime Day. The exhibit is the newest addition to the museum’s transportation exhibit, “America on the Move.” U.S. Transportation Secretary Ray LaHood has been invited as the keynote speaker for the opening ceremony.

National Maritime Day has also been declared a Day of Remembrance and Prayer for Mariners and People of the Sea by the U.S. Conference of Catholic Bishops. The Apostleship of the Sea has celebrated a Mass on this day each year since 2005 for people who earn their living on the water. This Day of Remembrance and Prayer will be observed nationwide on May 22 and celebrated in Washington at St. Dominic Church, a church with historic ties to Washington’s waterfront. 

This Is National Safe Boating Week!

Caution Urged for Recreational Boaters around Commercial Vessels; AWO "Lifelines" Brochure Explains Safety Considerations



As this week, May 16-22, is National Safe Boating Week, AWO urges recreational boaters to use special caution when operating around commercial vessels and to educate themselves on the constraints under which those vessels operate. This awareness can arm recreational boaters with the best protection against danger and could save lives.

In a statement about safe boating, President Obama said, "Many serious incidents are preventable, and during National Safe Boating Week, I ask Americans to learn more about how to enjoy our Nation's waters safely and responsibly."

What Should Recreational Boaters Do?

- **Stay out of the path of towboats and barges approaching bridges and locks.**
- **Designate a lookout.**
- **Understand whistle signals.**
- **Don't water ski or jet ski in and around tows.**
- **Wear a life jacket at all times.**
- **Watch for ship, tug or towboat sidelights at night.** If you see both sidelights (red and green), you're dead ahead, and in the path of danger.
- **Don't tie up to buoys**, which mark shipping channels. This is both illegal and dangerous, placing you in the path of commercial vessels.



According to U.S. Coast Guard statistics, the leading causes of boating accidents are operator-controlled, such as inexperience, inattention and collisions with other vessels or fixed objects, such as docks. In addition, most fatalities occur on boats where the operator has had no boating safety instruction. **Finally, nearly 90 percent of boating fatality victims were not wearing a life jacket.**

It is the responsibility of the boat operator to know the boating "rules of the road." The *U.S. Coast Guard Navigation Rules* are available from the U.S. Government Printing Office by calling (202) 512-1800. Boating safety courses are available through many organizations, including the U.S. Coast Guard Auxiliary and the U.S. Power Squadrons. Boaters should contact their state boating law agency for more information about where and when these courses are available.

For more information on what recreational boaters should know about operating around towing commercial vessels on the waterways, download AWO's "Lifelines" brochure [here](#). For copies of the brochure, please contact Susan Miller at (703) 841-9300, extension 262, or via email at smiller@vesselalliance.com. Shipping charges apply. 📧

What Should Recreational Boaters Know?


- Commercial vessels, including towboats and tugboats, **operate 24 hours a day, every day of the year.**
- **The speed of a ship, towboat or tugboat can be deceptive.** A tow can travel one mile in seven minutes, and it generally takes three-quarters to one-and-a-half miles to stop. For example, if a water skier falls a thousand feet in front of a moving tug or tow, the skier has less than one minute to get out of the way.
- **Large vessels must maintain speed to steer, and they must stay in the channel.**
- A pilot's "blind spot" can extend for hundreds of feet in front of tugboats and towboats pushing barges.
- In narrow channels, a tug's or tow's powerful engines can cause a smaller vessel to be pulled toward the tow when passing alongside.
- "Wheel wash" is a strong underwater current caused by towboat or ship engines that can result in severe turbulence hundreds of yards behind a large vessel.
- A tug without barges in front could be towing a barge or other objects behind it on a long submerged line, which lies low in the water and is difficult to see. **Never pass closely behind a tugboat.**
- **Ships, towboats and tugboats use VHF radio channels 13 and 16.**

Atlantic Region

New York State Proposes Fund to Retrofit Heavy Duty Diesel Engines

On April 27, New York State Senator Antoine M. Thompson (D) introduced SB 5071, a bill to create a Diesel Emissions Retrofit Fund. The fund would consist of grant money from the Federal Government for retrofitting heavy duty diesel engine vehicles with the best available retrofit technologies. Vessels owned and operated by state municipal or private entities would be eligible for funding, and the bill does not pose any requirements pertaining to time spent in New York waters.

Applicants seeking grant money from this fund would be subject to Diesel Emissions Reduction Act (DERA) grant requirements, meaning any private companies seeking funding would need to partner with a state agency or non-profit. Priority is to be given to programs or projects that provide the most benefit to public health at the least cost, and that serve the parts of New York that are in ozone non-attainment, environmentally disenfranchised, or receive disproportionate amounts of air pollution.

The full text of the bill is available [here](#). If you have additional questions, please contact Nicole deSibour or Brian Vahey at (703) 841-9300 extensions 292 or 251, respectively, or via email at ndesibour@vesselalliance.com or bvahey@vesselalliance.com.

Massachusetts Regulation on Pilotage, Notification in Buzzards Bay Becomes Permanent

Language Pertaining to Rescue Tug is Removed


On May 1, the Massachusetts Department of Environmental Protection (MassDEP) made regulation 314 CMR 19.00, "Oil Spill Prevention and Response," permanent. The regulation had been in effect on an emergency basis since March 1. Among its components, the regulation allows MassDEP to triple fines for an oil spill into Buzzards Bay if an owner or operator of a tank barge carrying more than 6,000 barrels of oil through the bay fails to provide 24-hour notice of his or her entry. If the owner or operator does provide such notice and requests a state pilot to accompany the vessel, MassDEP must provide the pilot, paid for by the Commonwealth. A provision in the emergency rule that that would have required MassDEP to dispatch a rescue tug manned by a state pilot if a vessel providing notice did not request a state pilot was removed, however.

AWO submitted both written and oral comments in opposition to the regulation. Among AWO's comments were concerns about the MassDEP's use of fines to coerce operators into compliance with what Massachusetts claims is a voluntary 24-hour notification provision, thereby making the provision involuntary in practice. Also, AWO reminded MassDEP that any notification requirement is preempted by the U.S. Coast Guard's August 2007

North Carolina House Passes Pumpout Facilities Bill

On May 14, a bill passed the North Carolina House of Representatives that would require marinas located in no discharge areas (NDAs), or in areas petitioning to become NDAs, and accommodating vessels larger than 25 feet to provide pumpout facilities. Currently, only New Hanover county, which includes Wilmington, has applied to become an NDA, so the bill (HB 1378) would only affect those waters. The bill also requires vessel owners to keep a log of the date of each pumpout of their marine sanitation devices, requires marinas to report vessels they observe not complying with this law to the authorities, and allows this law to be enforced on vessels by state wildlife, fisheries and law enforcement officials.

The bill has been referred to the state Senate Committee on Agriculture/Environment/Natural Resources. While AWO supports legislation that provides pumpout facilities to accommodate vessels, it is concerned that the enforcement provisions infringe on the U.S. Coast Guard's sole jurisdiction to board AWO member vessels. AWO is working with its North Carolina operators, as well as the bill sponsor, Representative Daniel McComas (R-19), on the bill to ensure that it is not overly burdensome for vessel operators.

For more information, please contact Nicole deSibour or Mary McCarthy at (703) 841-9300, extensions 292 or 254, respectively, or via email at ndesibour@vesselalliance.com or mmccarthy@vesselalliance.com.

(continued on page 10)

Massachusetts Regulation on Pilotage, Notification in Buzzards Bay Becomes Permanent

(continued from page 9)

Regulated Navigation Area (RNA) for the First Coast Guard District.

Mass DEP reiterated in its response to these comments that the “notification is not a requirement,” and that “it is strictly voluntary.” As a result, according to MassDEP, the notification provision does not present a conflict with the Coast Guard’s RNA. In response to AWO’s reference to a Coast Guard study that pointed to the limited ability of rescue tugs to prevent collision, allisions, or groundings, MassDEP indicated that it “is not going forward with the rescue provisions at this time,” and that the “Massachusetts legislature is currently

considering changes to the statute relative to the tugboat escort requirements.”

AWO remains opposed to the 24-hour notification provision for the reasons stated above, and is currently consulting with legal counsel to determine the appropriate next steps. To read MassDEP’s responses to the comments submitted by AWO and others, please click [here](#). To read the newest version of the regulation, please click [here](#). For questions about the regulation, please contact Nicole de Sibour at (703) 841-9300, extension 292, or via email at ndesibour@vesselalliance.com.

Southern Region

Coast Guard Publishes Mobile, AL, Security Zone Final Rule

On May 12, the U.S. Coast Guard published a notice making permanent an interim rule establishing a security zone around any vessel being escorted by one or more Coast Guard assets, or other Federal, State, or local law enforcement assets, within the Captain of the Port Zone Mobile, AL. This final rule becomes effective on June 11.

In December 2008, AWO submitted comments to the docket on the interim rule, requesting that:

1. The Coast Guard always be on scene when a security zone is in effect;
2. The Coast Guard have command responsibility for other government assets;
3. The security zone be announced 12 hours prior to taking effect via a Marine Safety Information Bulletin; and,
4. The security zone be modified when the bank-to-bank width is less than 50 yards in order to allow commercial traffic to move.

The Coast Guard only agreed to the first comment as it pertains to moored vessels, amending the rule so that a security zone will only remain in effect for moored vessels if Coast Guard or other law enforcement vessels are on scene.

To read the final rule, please click [here](#). To read AWO’s comments, please click [here](#). If you have any questions about the security zone, please contact Mark Wright at (985) 222-5230 or Mary McCarthy at (703) 841-9300, or via email at mwright@vesselalliance.com or mmccarthy@vesselalliance.com.

Southern Region

Coast Guard Proposes RNA for New Orleans

On May 14, the U.S. Coast Guard proposed instituting a Regulated Navigation Area (RNA) in New Orleans, LA, prohibiting the mooring of vessels in parts of the Inner Harbor Navigation Canal (IHNC) and Harvey Lock 24 hours prior to expected gale force winds (Yankee Port Condition) through post-storm landfall, and during any other tropical storm or hurricane conditions as determined by the Captain of the Port of New Orleans. The purpose of this RNA is to prevent a moored vessel from coming loose during a storm and damaging the levees, thus putting the city at risk of flooding.

Specifically, the RNA will be in effect for the IHNC from Mile Marker 22 on the Gulf Intracoastal Waterway (GIWW) west out to Lake Ponchartrain and the Mississippi River, and for part of the Harvey Canal, between Lapalco Boulevard Bridge and the intersection of the Harvey Canal and the Algiers Alternate Route of the GIWW.

Comments on the proposed RNA are due on June 15. AWO is working with members to determine the RNA’s potential affect on them, and to draft comments as necessary. To read the final rule, please click [here](#). If you have any questions about the security zone, please contact Mark Wright at (985) 222-5230 or Mary McCarthy at (703) 841-9300, or via email at mwright@vesselalliance.com or mmccarthy@vesselalliance.com.