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## Liability Limits on Vessels Should Not Change, AWO Testifies Before Congress

On June 9, AWO Atlantic Region Chairman Buckley McAllister, Vice President and General Counsel of McAllister Towing, testified at a day-long hearing in front of the House Transportation & Infrastructure Committee titled Liability and Financial Responsibility for Oil Spills under the Oil Pollution Act of 1990 (OPA 90). The hearing addressed proposed legislation that would lift liability caps for companies involved in oil spills. Mr. McAllister’s testimony and his responses to questions from lawmakers made very clear the distinction between oil carrying vessels and oil production facilities and it was evident that the leaders of the Committee heard and understood the difference.

Mr. McAllister’s testimony highlighted the effectiveness of OPA 90 and the industry’s significant leadership record in marine safety, its deep commitment to environmental stewardship, and the distinction between vessels and offshore oil production facilities with regard to the possible extent of a worst-case discharge. During questioning, Mr. McAllister urged the Committee to consider that “tank vessels are not oil production facilities” and to be mindful of the potentially

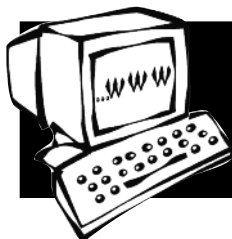
severe consequences of changes to the OPA 90 liability and financial responsibility regime for vessel owners. Mr. McAllister clarified that, “for a vessel owner, unlimited liability is not insurable,” but [even] “a worst-case discharge from a vessel is a quantifiable amount.” Mr.

McAllister’s testimony reinforced the message that legislative proposals to significantly raise liability limits on vessels would raise the costs of insurance to a price that responsible small- and medium-sized companies could not afford.



Statements by Chairman James Oberstar (D-MN), Rep. Elijah Cummings (D-MD) and Rep. Frank LoBiondo (R-NJ) and some other key members, all emphasized the contrast between the well-established structure of liability limits and financial responsibility for vessels and the need to address legislative and regulatory deficiencies in the liability limits for oil rigs. In his opening statement, Chairman Oberstar specifically cited vessels as carrying a known quantity of oil and said that “there is a reasonable basis for establishing the worst case of possible damages from the release of oil or all cargo from a vessel; this in turn is the basis for establishing a liability cap.” The Chairman even cited

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## Liability Limits on Vessels Should Not Change, AWO Testifies Before Congress

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the necessity of liability limits for tug/barges carrying home heating oil in order to protect consumers from bearing the pass-through costs of high insurance rates.



While both the House and Senate finalize separate legislative packages on the oil spill response, there is still a chance that the industry could face unintended legislative consequences. In both chambers, Democratic leadership has requested committees of jurisdiction submit oil spill related legislation before July 4, with the goal of completing a bill to respond to the Gulf oil spill before lawmakers leave for the August recess. In order to protect vessels from being unnecessarily included in the congressional response to the Deepwater Horizon spill, AWO is engaging all the House and Senate committees that have jurisdiction over draft legislation and educating them on the effective preventative and punitive measures for vessel operations established by OPA 90. AWO members who would like to reach out to their elected lawmakers to educate them about the impact of proposed liability changes on their companies, should contact Chris Coakley at (703) 841-9300, extension 297, or via email at [ccoakley@vesselalliance.com](mailto:ccoakley@vesselalliance.com).

To read Mr. McAllister's testimony, click [here](#). To read Chairman Oberstar's opening statement, click [here](#). To view the House Transportation and Infrastructure Committee's coverage of the hearing, click [here](#). For more information on this issue, please contact Jennifer Carpenter or Chris Coakley at (703) 841-9300, extensions 260 or 297, respectively, or via email at [jcarpenter@vesselalliance.com](mailto:jcarpenter@vesselalliance.com) or [ccoakley@vesselalliance.com](mailto:ccoakley@vesselalliance.com).

## No Need for Jones Act Waivers, National Incident Commander Reports

The Administration has "not seen any need to waive the Jones Act" as part of the government's response to the *Deepwater Horizon* disaster in the Gulf of Mexico, National Incident Commander Admiral



Thad Allen reported in response to recent public misconceptions about the availability of American vessels in the cleanup operation. Nonetheless, the U.S. Coast Guard is continuing to prepare for all possible scenarios and has established an expedited waiver process in the event that qualified American vessels are not available, ADM Allen noted.

The Jones Act requires that cargo moving between U.S. ports, including locations on the Outer Continental Shelf, be carried on U.S.-flagged vessels that are owned by U.S. citizens, built in U.S. shipyards and crewed by U.S. citizens. While 15 foreign-flagged vessels are currently involved in the Gulf of Mexico response effort, many of those vessels are oil skimmers operating outside U.S. territorial waters and therefore not subject to the Jones Act. At this time, no Jones Act waivers are needed or have been granted.

AWO is working closely with the Maritime Cabotage Task Force (MCTF) to ensure that Congress and the Administration are aware of the availability of Jones Act vessels to assist in the Gulf cleanup operation. Numerous American vessels are already responding in the Gulf, and many other American vessels are standing by ready to help. Moreover, if an instance arises where an American vessel is not available to meet a demonstrated need, there already exists an established Jones Act waiver process for the Coast Guard Federal On-Scene Coordinator, U.S. Customs and Border Protection, and the U.S. Maritime Administration to ensure that any waiver request receives immediate attention and action.

To read MCTF's most recent press announcement, click [here](#). To stay informed on the Gulf cleanup operation, please visit the official site of the *Deepwater Horizon* Unified Command at [www.deepwaterhorizonresponse.com](http://www.deepwaterhorizonresponse.com). For more information on the AWO/MCTF effort, please contact Chris Coakley or Robert McCaw at (703) 841-9300, extensions 297 or 279, respectively, or via email at [ccoakley@vesselalliance.com](mailto:ccoakley@vesselalliance.com) or [rmccaw@vesselalliance.com](mailto:rmccaw@vesselalliance.com).

## Senators Urge EPW Committee to Consider Inclusion of Inland Waterways Capital Development Plan in WRDA 2010

On June 9, a bipartisan group of 20 Senators sent a letter to Senators Barbara Boxer (D-CA) and James Inhofe (R-OK), the Chairman and Ranking Member of the Senate Environment & Public Works (EPW) Committee, urging the EPW Committee to consider including components of the Inland Waterways Capital Development Plan as part of a Water Resources and Development Act (WRDA) in 2010. The plan was developed as part of a year-long effort on behalf of representatives of the congressionally-authorized Inland Waterways Users Board (IWUB) and the U.S. Army Corps of Engineers. The IWUB unanimously approved the plan in April. To read about some of the components of the plan, please click [here](#). To read the plan in its entirety, please click [here](#).



In the letter, the Senators point to the unsustainability of the current system for funding infrastructure improvements on the nation's inland waterways. Specifically, they write that "construction and upkeep of our Inland Marine Transportation System has been problematic and inefficient." As the IWUB plan addresses and provides solutions for many of the shortcomings of the current system, the Senators believe that inclusion of the plan's reforms as part of a WRDA this year is appropriate. On this point, they write that, "we want to do what we can to maximize the chance that a broad agreement on legislative solutions can be included in the coming WRDA."

To read the letter from the Senators, please click [here](#). For a list of supporters of the plan, please click [here](#). To register your support for the plan, click [here](#). For more information on AWO's work with Waterways Council, Inc., and the National Waterways Conference to promote enactment of the Capital Development Plan into law and Obama Administration policy, please contact Jennifer Carpenter or Chris Coakley at (703) 841-9300, extensions 260 or 297, respectively, or via email at [jcarpenter@vesselalliance.com](mailto:jcarpenter@vesselalliance.com) or [ccoakley@vesselalliance.com](mailto:ccoakley@vesselalliance.com).

### Important Dates and Reminders *at a glance*

*For more information, please contact Ashley Smith at (703) 841-9300, extension 291, unless otherwise noted.*

**July 27:** Pacific Region Summer Meeting, Embassy Suites Hotel, Bellevue, WA

**August 4-5:** Executive Committee Meeting, AWO Headquarters, Arlington, VA

**August 11-12:** Atlantic Region Summer Meeting, InterContinental New York Barclay, New York, NY

**August 18-19:** AWO Midwest and Ohio Valley Regions Joint Summer Meeting, Four Seasons, St. Louis, MO

**September 1-2:** Southern Region Summer Meeting, Beau Rivage Resort & Casino, Biloxi, MS

**September 8-9:** Interregion Safety Committee Meeting, Sheraton Westport Lakeside Chalet Hotel, St. Louis, MO

**October 13-15:** 2010 AWO Fall Convention, The Fairmont, San Francisco, CA

**December 1-2:** Executive Committee Meeting, AWO Headquarters, Arlington, VA

## Coast Guard Publishes Revised Salvage and Firefighting FAQs

On June 7, the U.S. Coast Guard released a revised version of the Frequently Asked Questions (FAQs) document on its salvage and marine firefighting regulations. The first version of the FAQs was published in March (see March 26 *AWO Letter*) and was intended to provide guidance and clarification to vessel response planholders on how to amend their plans to comply with the requirements of the final rule by February 22, 2011.

Issues addressed in the revised FAQs include:

- How to list the extinguishing agent for firefighting in the vessel-specific appendix;
- Guidelines for how to prepare pre-fire plans;
- The definitions of "nearshore" and "offshore;"
- Referencing worker health and safety in the plan;

- Whether or not response providers can provide a certificate of coverage to planholders who are considering retaining them;
- Information to be included on the equipment list; and,
- Guidance in submitting waiver requests.

The issuance of the FAQs in March marked a change in the Coast Guard's

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## Coast Guard Publishes Revised Salvage and Firefighting FAQs

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original plan to publish a Navigation and Vessel Inspection Circular (NVIC) on the regulations, preceded by a public meeting to gather input on the draft NVIC. The agency's change of approach was motivated by a desire to provide more timely guidance than the lengthy NVIC clearance process would allow. The Coast Guard is considering not holding a public meeting if the

FAQs adequately clarify issues surrounding the regulations, but still plans on publishing a NVIC eventually.

To view the revised FAQs, click [here](#). AWO will continue to work with affected members, other tank vessel trade associations, and the salvage community to ensure that the FAQs adequately address stakeholders'

concerns and will provide feedback to the Coast Guard on further clarifications and additions to the FAQs that are needed. For more information, please contact Jennifer Carpenter or Mary McCarthy at (703) 841-9300, extensions 260 or 254, respectively, or via email at [jcarpenter@vesselalliance.com](mailto:jcarpenter@vesselalliance.com) or [mmccarthy@vesselalliance.com](mailto:mmccarthy@vesselalliance.com).

### Industry Coalition Comments on National Research Council Ballast Water Project

On June 3, the Shipping Industry Ballast Water Coalition (SIBWC), of which AWO is a member, provided input on a National Research Council (NRC) study project on "Assessing Numeric Limits for Living Organisms in Ballast Water." The coalition statement was presented by Doug Schneider, Vice President of the World Shipping Council.

The NRC study was requested by the Environmental Protection Agency and the U.S. Coast Guard to inform the agencies' efforts to set environmentally protective numeric discharge limits for ballast water discharges. In its comments, the Coalition thanked the two agencies for commissioning the study, noting that federal standards for ballast water treatment must be biologically protective, practicable for all types of vessels, and established on a uniform federal basis rather than a patchwork of state-by-state requirements.

The Coalition made three recommendations:

1. The study should promote the establishment of a uniform national standard to allow interstate commerce to flow unimpeded;
2. Ballast water discharge standards must be protective and practicable for all vessels to which the regulations apply; and,
3. The study should assess whether the risk of transferring invasive species would be reduced by establishing a standard more stringent than the IMO standard.

To read the coalition statement, click [here](#). Coalition members include the American Petroleum Institute, AWO, Chamber of Shipping of America, Cruise Lines International Association, INTERTANKO, Lake Carriers' Association, and World Shipping Council. For more information, please contact Jennifer Carpenter or Mary McCarthy at (703) 841-9300, extensions 260 or 254, respectively, or via email at [jcarpenter@vesselalliance.com](mailto:jcarpenter@vesselalliance.com) or [mmccarthy@vesselalliance.com](mailto:mmccarthy@vesselalliance.com).

### NMC Announces Policy Letter Cancellations, New Procedures for Course Providers

On June 9, the U.S. Coast Guard's National Maritime Center (NMC) issued a notice advising that



the Coast Guard has cancelled a number of Policy Letters and Guidance Documents related to mariner licensing that have been "superseded by regulation, time or other policy documents." The cancellation follows a Coast Guard review of all previously issued Navigation and Vessel Inspection Circulars (NVICs), Policy Letters and Guidance Documents involving licensing. The letters and documents in question will become void on June 30. To read the notice from the NMC that contains a link to the list of cancelled documents, please click [here](#).

In other licensing news, the NMC announced on June 14 that the Coast

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## NMC Announces Policy Letter Cancellations, New Procedures for Course Providers

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Guard will require approved course providers to include additional information on



Course Completion Certificates beginning on September 1. Among the pieces of information that must be provided on all future certificates are: the name of the course or program; the name of the training organization; and, a specific course code provided by the NMC. The NMC explains that a goal of these requirements is to “assist the mariner in meeting the regulatory requirements for a Merchant Mariner Credential.” To read the NMC’s announcement, including a complete listing of requirements for course providers, please click [here](#).

AWO continues to work with the NMC to improve the mariner credentialing process, and will meet with the new NMC’s new leadership later this summer. (The NMC change of command originally scheduled for June 23 has been postponed until July 21 due to Coast Guard activities in response to the Gulf oil release.) For further information, please contact Jennifer Carpenter or Benjamin Rogers at (703) 841-9300, extensions 260 or 264, respectively, or via email at [jcarpenter@vesselalliance.com](mailto:jcarpenter@vesselalliance.com) or [brogers@vesselalliance.com](mailto:brogers@vesselalliance.com).

## ASIAN CARP UPDATE:

### AWO CONVEYS IMPORTANCE OF NAVIGATION TO FEDERAL AGENCIES

AWO recently submitted three sets of comments to federal agencies regarding the issue of preserving navigation in the Chicago Area Waterways System (CAWS) in Illinois while protecting the Great Lakes ecosystem from the Asian carp. AWO emphasized that the two goals are not mutually exclusive, and that it is essential that the agencies include, inform and seek guidance from stakeholders on the far-reaching decisions that state and federal agencies are undertaking.



#### Comments to the Corps

On June 15, AWO submitted two sets of comments to the U.S. Army Corps of Engineers - Chicago District. The comments were written in response to the District’s June 3 release of two studies on how to proceed in protecting the Great Lakes from Asian carp. The interim reports included Interim Report III, “Modified Structures and Operations” and Interim Report IIIA, “Acoustic Bubble Barriers.”

Interim Report III is a draft report stating that the Corps decided against introducing a regular schedule of lock closures. AWO agrees with this decision. As stated in AWO’s comments, “random lock closures with no established protocol or notification to the industry will have a chilling impact on the industry and our customers.” AWO remains concerned, however, about the Corps’ statement that lock closures may still happen without advanced warning. In order to prevent lock closures with no opportunity for the industry to plan and make alternative arrangements, AWO requested that state and federal agencies develop a protocol which outlines the criteria used to justify closures, and provide stakeholders with a 30-day notice prior to any shutdown along with a timeline for the closure. To read AWO’s comments on Interim Report III, please click [here](#). To read Interim Report III in its entirety, please click [here](#).

Interim Report IIIA is a final report that describes the construction process of a demonstration acoustic bubble curtain with strobe lights (ABS) barrier near Brandon Road Lock and Dam in CAWS. AWO strongly supports ABS installation, as this technology holds great potential to deter the carp from advancing upstream while not interrupting the waterborne commerce that is so essential to the region. As the Corps plans to begin implementation of the demonstration ABS barrier in the coming months, AWO requested that Congress fund the barrier “fully and efficiently to ensure immediate construction and maintenance.” To read AWO’s comments on Interim Report IIIA, please click [here](#). To read Interim Report IIIA in its entirety, please click [here](#).

#### Comments to the Coast Guard

On June 12, AWO submitted comments to the U.S. Coast Guard in response to the agency’s May 11 publication of a temporary interim rule (TIR) for a 77-mile

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## AWO CONVEYS IMPORTANCE OF NAVIGATION TO FEDERAL AGENCIES

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safety zone from Brandon Road Lock and Dam to Lake Michigan. To read more about the TIR, please click here for an article from the May 21 edition of the *AWO Letter*. In its comments, AWO expressed concern about both the economic chilling effect that such a wide geographic zone and time, almost one year, will have on the towing industry and its customers, and the overreliance of the Asian Carp Regional Coordinating Committee (ACRCC) on eDNA samples in deciding when to institute waterway closures.

As it stated in its comments to the Corps, AWO suggested that actions taken by agencies that interrupt navigation without notification are damaging to the economy. Furthermore, notifications are necessary since the industry shares the ACRCC's goals "of providing environmental protection to our waterways and facilitating the movement of commerce." Recent lock closures and interruptions have been a direct response to positive eDNA hits, a technology that has not been peer-reviewed. As a result, AWO requested "that the Coast Guard and other agencies incorporate identification of Asian carp locations by sound, reliable and proven science, not the exclusive use of eDNA." To read AWO's comments on the TIR, please click [here](#).

For more information, please contact Lynn Muench at (314) 446-6474, or via email at [lmuench@vesselalliance.com](mailto:lmuench@vesselalliance.com). In AWO's Arlington office, the points of contact are Mary McCarthy and Benjamin Rogers. They can be reached at

(703) 841-9300, extensions 254 or 264, respectively, or via email at [mmccarthy@vesselalliance.com](mailto:mmccarthy@vesselalliance.com) or [brogers@vesselalliance.com](mailto:brogers@vesselalliance.com).

## Coast Guard finds HillerSAFE Fire Detection Systems Do Not Meet Regulations

### *PERKO Light Fixtures in Question*

On June 8, the U.S. Coast Guard issued a Marine Inspection Notice stating that examiners have found certain HillerSAFE fire and bilge flooding alarm systems installed on board towing vessels that do not meet the requirements of Subchapter C of the U.S. Code of Federal Regulations. As a result, vessels that are examined by Coast Guard officials as part of the Towing Vessel Bridging Program will not be issued a decal until the issue is resolved. HillerSAFE equipment was never approved by the Coast Guard nor listed by an independent testing laboratory. The Coast Guard will allow an automatic extension of 90 days for vessel owners, and owners can petition the Coast Guard for a one-year extension.

Coast Guard Headquarters has informed Coast Guard examiners that HillerSAFE systems aboard vessels that are working properly should not be removed. The Coast Guard is currently working with the company to test the detection systems. The testing process may take up to a year to complete. In the meantime, Bridging and Implementation Team (BAIT) Working Group #5 is discussing a method to allow temporary or interim decals to be given to vessels that currently contain HillerSAFE equipment, but do not have any infractions.

The Coast Guard is also examining whether or not PERKO light fixtures meet Coast Guard regulations.

To read the Marine Inspection Notice on HillerSAFE, please click [here](#). For more information, please contact Lynn Muench at (314) 446-6474, or via email at [lmuench@vesselalliance.com](mailto:lmuench@vesselalliance.com), or Benjamin Rogers at (703) 841-9300, extension 264, or via email at [brogers@vesselalliance.com](mailto:brogers@vesselalliance.com).

## Army Corps of Engineers Publishes Safety Guide for Dredged Munitions

The U.S. Army Corps of Engineers has published a brochure providing guidance to fishermen and dredgers on how to avoid and handle the unlikely event that a net or dredge could unearth munitions. To view the brochure, click [here](#).



## "River Warriors" Airs on Discovery Channel

### *Pilot Episode Features Living Lands & Water's River Cleanup Efforts*

A new reality television show featuring the mission of the Living Lands & Water (LL&W) organization and its founder, Chad Pregracke, began airing on the Discovery Channel on Thursday, June 10. The one hour pilot episode, called River Warriors, depicts life on the river aboard LL&W's cleanup barges, and the crew's hard work to help clean America's rivers.

AWO members value the importance of clean rivers, and have demonstrated that through sponsorship of LL&W's efforts and participation in several of the organization's Capital River Relief cleanups on the Potomac and Anacostia rivers. Some AWO members' towboats and barges are featured in the show, including those of JB Marine Service, Inc. and Inland

Marine Service. Check your local tv, cable, or Dish network listing for the correct air time for viewing the show in your time zone.

Want to See More? Let Discovery Channel Know!

Viewers' positive feedback will help the pilot go to series, so contact Discovery Channel and let them know how you liked the pilot episode of River Warriors!

Submit your comments online on the network's Web site by clicking [here](#).

You can also mail your comments to:

Discovery Communications  
Viewer Relations  
One Discovery Place, 5th Floor  
Silver Spring, MD 20910 ☘



## Register Today to Attend the 2010 Pacific Region Summer Meeting!



The Pacific Region Summer Meeting will be held Tuesday, July 27, 2010 at the Embassy Suites, Seattle-Bellevue Hotel in Bellevue, WA. The meeting will begin with coffee and registration at 7:30 a.m. From 8:00 a.m.-12:00 p.m., the business session will take place, followed by a one-hour lunch break. At 1:00 p.m., the meeting will reconvene with the key issues discussion session, an in-depth members only discussion session on timely issues facing the industry, ending at 5:00 p.m.

To register for this meeting, please click [here](#).

For further meeting information, please contact Ashley Smith at (703) 841-9300, extension 291, or via email at [asmith@vesselalliance.com](mailto:asmith@vesselalliance.com). ☘

## 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 24-25	Salyers Solutions, LLC Norfolk, VA	Jo Ann Salyers (Instructor) (504) 236-4962 <a href="mailto:salyers_solutions@hughes.net">salyers_solutions@hughes.net</a>
July 19-20	Salyers Solutions, LLC Newark, NJ	Jo Ann Salyers (Instructor) (504) 236-4962 <a href="mailto:salyers_solutions@hughes.net">salyers_solutions@hughes.net</a>
July 22-23	Salyers Solutions, LLC Tampa, FL	Jo Ann Salyers (Instructor) (504) 236-4962 <a href="mailto:salyers_solutions@hughes.net">salyers_solutions@hughes.net</a>

*(Additional classes can also be scheduled at your location.)*

*This press release was issued by AWO on June 10, 2010 in response to Congressional proposals to raise liability limits for oil spills.*

 **NewsRelease**

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FOR IMMEDIATE RELEASE  
June 10, 2010

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## **OPA 90 Oil Spill Prevention and Liability Regime for Tank Barges Working Well, AWO Testifies**

### *Lawmakers Acknowledge Vessels Present Lower Risk than Offshore Facilities*

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

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

The liability and financial responsibility provisions of OPA 90 have been an important contributor to this record. Vessel owners must demonstrate financial responsibility up

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### **OPA 90 Oil Spill Prevention and Liability Regime for Tank Barges Working Well, AWO Testifies**

to statutorily imposed limits that were raised by Congress in 2006 and by the Coast Guard in 2009 to keep up with inflation. Those limits can be breached in the event of gross negligence, willful misconduct, or the violation of applicable regulations. Today, liability limits for tank and non-tank vessels are two to three times higher than they were in 1990, and a regulatory mechanism is in place to continue to increase the limits as needed over time.

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

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

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

###

ATLANTIC REGION

## AWO Comments on No Discharge Zone Petition for Massachusetts Waters

On June 7, AWO submitted comments to the U.S. Environmental Protection Agency (EPA) on its receipt of a petition from the Commonwealth of Massachusetts to make the waters of Pleasant Bay/Chatham Harbor, MA a no-discharge zone



(NDZ). In its comments, AWO noted that, while tugboats and barges do not regularly transit the waters of Pleasant Bay/Chatham Harbor, it is critical for EPA to ensure that adequate facilities for the discharge of sewage from all types and sizes of vessels, both commercial and recreational, that transit the area are available when considering an NDZ designation application.

Commercial vessels have significantly different characteristics and operations than recreational vessels, which are most often the focus of NDZ applications, AWO pointed out in its comments, and commercial vessels often cannot access recreational vessel pumpout facilities such as marinas due to their:

- Larger size and draft;
- Larger storage tanks; and,
- Continuous operations, 24 hours a day, year-round.

AWO concluded its comments with a caution that not taking the needs of commercial vessel operations into account could require owners to pull their vessels out of state waters, thereby harming the local economy and environment.

To read AWO's comments, click [here](#). AWO plans on submitting similar comments for the petition for an NDZ for the waters of the Upper Shore, MA, on June 21. For more information, please contact Nicole deSibour or Mary McCarthy at (703) 841-9300, extension 292 or 254, respectively, or via email at [ndsibour@vesselalliance.com](mailto:ndsibour@vesselalliance.com) or [mmccarthy@vesselalliance.com](mailto:mmccarthy@vesselalliance.com).

PACIFIC REGION

## AWO Comments on Mandatory California State Prebooming Bill

On June 14, AWO requested in writing that the California Senate Environmental Quality Committee consider the safety, technical, legal and financial concerns surrounding AB 234, a bill currently being proposed by state Representative Jared Huffman (D-CA-6), that in part requires prebooming for all persistent oil transfers and bunkering services in state waters.



In its request, AWO also strongly stated its belief that California is legislating in an area outside of its constitutional authority, in reference to a recently proposed amendment that would require tank vessels, including tank barges, to equip high level oil alarms and overflow alarms. Since the U.S. Coast Guard has already issued similar regulations, such a requirement on interstate waterborne commerce is federally preempted.

AWO supported the California Department of Fish and Game in its public opposition to AB 234, instead suggesting that regulatory changes be pursued through the Office of Spill Prevention and Response (OSPR) in contrast to an expansive legislative approach. Under OSPR's proposed regulation, a transfer unit would be required to preboom during a transfer unless an annual drill is performed.

AWO requested a number of technical amendments to AB 234, urging the Committee to consider amendments that would allow industry to ensure its crewmembers remain safe, that any new laws are based on risk, and that there are no violations of federal authority under the U.S. Constitution.

Next week AB 234 will be considered before the Senate Natural Resources and Water Committee, and pending approval, will move on to the Senate Appropriations Committee. For a copy of AWO's comments, please click [here](#). For more information, please contact Jason Lewis at (253) 200-0945 or via email at [jlewis@vesselalliance.com](mailto:jlewis@vesselalliance.com) or Robert McCaw at (703) 841-9300, extension 279, or via email at [rmccaw@vesselalliance.com](mailto:rmccaw@vesselalliance.com).

PACIFIC REGION

## New CARB Harbor Craft Amendments Include Engines on Barges and Dredges

The California Air Resources Board (CARB) made amendments to its original harbor craft regulation introduced in September 2007. Most notably, the amendments set emissions standards for auxiliary engines on barges and propose compliance dates specific to barges. In keeping with the previous regulations, auxiliary engines on tugboats and towboats that operate a total of 300 hours or more per calendar year are still subject to the requirements laid forth in this regulation. However, as per the newest amendments, auxiliary engines on barges and dredges that operate for a total of 80 hours or more per calendar year are also subject to harbor craft regulations. The earliest date in which certain engines on barges and dredges must be tier 2 or tier 3 compliant is 2011, in contrast with auxiliary engines on tugboats and towboats, whose compliance schedules began in 2009.

In AWO's previous comments on the California harbor craft regulation, submitted to CARB in October 2007, the association requested that CARB redraft the compliance schedule to make it more flexible and, AWO believed, much more practical. There have been no changes made to the compliance schedule for engines on tugboats and towboats and the same concerns AWO expressed with regard to these types of engines now also apply to the proposed compliance schedules for engines on barges and dredges.

The Clean Air Act (CAA) gives California the right to adopt its own requirements for in-use off-road engines provided the U.S. Environmental Protection Agency (EPA) does not find

California's proposed amendments arbitrary and capricious. If that is the agency's finding, it will grant the state a CAA waiver and at that point all other states are entitled to adopt either EPA's standards or California's standards. AWO expects that EPA will issue CARB a waiver as early as this year. Given this, AWO is very concerned about the possible precedent onerous harbor craft regulations in California could set for industry operations throughout the Pacific Coast and, indeed, across the United States.

AWO will continue to work with CARB and will keep members assessed of any developments. To read the amendments, click [here](#). To read AWO's 2007 comments on the previous iteration of California harbor craft amendments, click [here](#). For more information, please contact Jason Lewis at (253) 200-0945 or via email at [jlewis@vesselalliance.com](mailto:jlewis@vesselalliance.com); or contact Brian Vahey at (703) 841-9300 extension 251, or via email at [bvahey@vesselalliance.com](mailto:bvahey@vesselalliance.com).

SOUTHERN REGION

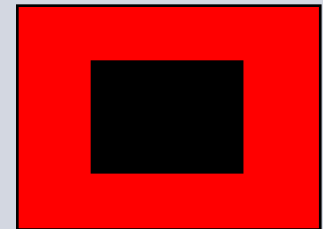
## Coast Guard Publishes Hurricane RNA for Sector New Orleans

On June 8, the U.S. Coast Guard published an interim rule and request for comments on the hurricane protection Regulated Navigation Area (RNA) for Sector New Orleans. The RNA prohibits vessels from certain areas within the Inner Harbor

Navigation Canal, Harvey Canal and Algiers Canal 24 hours in advance of certain wind and storm surge conditions unless those vessels have a Coast Guard waiver based on an approved fleeting plan. Transient vessels will not be allowed to seek safe haven within the RNA unless they have a pre-arranged agreement with a facility or a Coast Guard waiver. The Coast Guard plans on reevaluating the need for the RNA after the U.S. Army Corps of Engineers completes its flood and storm surge protection projects in the area, which are scheduled for June 2011.

The RNA was effective with actual notice for purposes of enforcement on May 21, and comments on the RNA are due July 8. AWO plans on submitting comments thanking the Coast Guard for working cooperatively with industry in the development of the RNA, for including the waiver provision, and committing to evaluate the need for the RNA after the completion of the Corps' projects.

For more information, please contact Mark Wright at (985) 674-3600 or via email at [mwright@vesselalliance.com](mailto:mwright@vesselalliance.com) or Mary McCarthy at (703) 841-9300, extension 254, or via email at [mmccarthy@vesselalliance.com](mailto:mmccarthy@vesselalliance.com).



SOUTHERN REGION

## TCEQ to Study Tank Barge Emissions in Texas Ozone Nonattainment Areas

On May 14, the Texas Commission on Environmental Quality (TCEQ) announced to industry its plans to undertake a study on tank barge emissions. The study is a “first pass” at evaluating the emissions contribution of tank barges in South Texas and how it factors into the State Implementation Plan (SIP). The study will focus specifically on the ozone nonattainment zones at Houston/Galveston/Brazoria, Beaumont/Port Arthur and Corpus Christi. TCEQ plans to complete its report by August 31, at which time their recommendations will be distributed to industry stakeholders and the U.S. Environmental Protection Agency.

In response, on June 3, the AWO Tank Barge Emissions Working Group convened via conference call to develop a plan to work proactively with TCEQ to ensure that the recommendations in the report are informed by the best possible science and industry knowledge. The working group plans to mobilize its expertise to offer any assistance TCEQ needs as it undertakes the weeks-long process of collecting information on tank barges operating in Texas nonattainment areas. On June 10, AWO led a coalition of working group members to a meeting with TCEQ in Austin to lay the initial groundwork on industry-agency collaboration for this study. For more information on the details of this meeting, see the Behind the Scenes story on page 17 of the newsletter.

Unlike recent tank barge emissions studies in Louisiana and Tennessee, TCEQ has outlined no plans to monitor emissions from barges or board barges for the purpose of inspection or use the findings of the study to implement any specific control measures. The AWO Barge Emissions Working Group will work with TCEQ throughout this process and keep members abreast of any developments.

If you have any questions about the TCEQ emissions study or the June 3 meeting in Austin, please contact Mark Wright at (985) 674-3600 or via email at [mwright@vesselalliance.com](mailto:mwright@vesselalliance.com).

MIDCONTINENT OFFICE

## Positions on MRRIC Available

On June 8, the U.S. Army Corps of Engineers announced that it is soliciting applications to fill vacant positions on the Missouri River Recovery Implementation Committee (MRRIC). MRRIC was formed by the Water Resources Development Act of 2007 to advise the Corps on a study of the Missouri River and its tributaries. The study will provide guidance to the Corps and other federal agencies on Missouri River recovery and mitigation activities. AWO serves on MRRIC. MRRIC is an important part of the strategy to maintain Missouri and Mississippi River navigation. Without vigilant monitoring, the threatened and endangered recovery strategies could devastate navigation on both rivers.

AWO members would be eligible to fill the following positions:

- Conservation districts
- Fish and wildlife
- Flood control
- Hydropower
- Irrigation
- Major tributaries
- Navigation
- Recreation
- Water quality
- Waterways industries



The deadline for applications is July 30. For more information, please see the meeting notice [here](#) or contact Mary S. Roth at (402) 995-2919.

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 via email at [mmccarthy@vesselalliance.com](mailto:mmccarthy@vesselalliance.com).



MIDCONTINENT OFFICE

## New Sector Ohio Valley Commander Installed

On June 15, RADM Mary E. Landry, Eighth District Commander, installed the new commander for Sector Ohio Valley. CAPT Hung M. Nguyen relinquished command to CAPT Larry W. Hewett.

CAPT Larry Hewett enlisted in the Coast Guard in 1984 and spent the majority of his career serving the marine safety, security and environmental response missions. He received his commission upon graduation from Officer Candidate School in 1989. From 2003-2005 he

was assigned to help stand up the Department of Homeland Security's Office of Legislative Affairs and served as the Department's Legislative Director for the Coast Guard and the U.S. Secret Service. This is his first assignment on the Western Rivers.

In July, CAPT Nguyen will report to District 14 in Hawaii as the Chief of Prevention. He will be commuting for the next few months to New Orleans as he completes the investigation of the Gulf of Mexico oil spill.



Captain Hewett

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