#### The American Waterways Operators A Year of Patient Progress

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"Capacity is the measure of an association's ability to conduct work and get things done. In AWO, we define capacity not only as an effective and hardworking staff, but also as a more activist and engaged membership."

> Thomas A. Allegretti President & CEO The American Waterways Operators



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I would describe 2006, while filled with challenge, as a year of "*patient progress*" for the tugboat, towboat and barge industry. While our list of priorities and goals for the year was without doubt long and ambitious, we made progress on several issues of importance to us by methodically following our strategic game plan for those matters. Achievements included:

- Forward movement on *towing vessel inspection*. Although this is a marathon, not a sprint, the process is progressing on track. AWO continues to act as an honest broker and safety leader in working for an inspection program unique to towing vessels. We continue to keep our focus on our ultimate goal of raising the bar of safety for the entire industry.
- A victory in a landmark case in Massachusetts reaffirming the U.S. Supreme Court's decision on *federal preemption* the idea that federal regulations and statutes preempt state and local actions.
  When a Massachusetts judge ruled that state's 2004 oil spill statute "unconstitutional," the decision strengthened our ability to fight other state actions that, while possibly well intentioned, are misguided efforts to assert state authority in areas reserved for the federal government.
- Important changes to the *Transportation Worker Identification Credential (TWIC)* proposal. When the federal proposal initially issued on the TWIC was found to be deeply flawed, AWO deployed its



members in a grassroots effort, bringing to bear our resources in government affairs, legislative affairs and public affairs to significantly impact the policymaking process and achieve changes to the TWIC legislative proposal that would reduce its negative consequences on the tugboat, towboat and barge industry. Through the hard work and commitment of AWO members, we were successful in getting the Coast Guard and the U.S. Transportation Security Administration to take another look at the effectiveness and the practicality of the TWIC proposal and to consider its impacts on the industry. AWO continues to work with all levels of the Administration to ensure that the TWIC rule includes much-needed changes to avoid a negative impact on domestic commerce.

New authority for the U.S. Coast Guard to protect the integrity of the *Jones Act* by investigating questionable transactions involving "mortgagees"
– including foreign mortgagees – to ensure that



"We continue to keep our focus on our ultimate goal of raising the bar of safety for the entire industry."

Dale Sause Chairman of the Board The American Waterways Operators

### Chairman's Message

foreign vessel-owning interests are not able to acquire, own or control Jones Act companies or coastwise-qualified vessels through the subterfuge of a mortgage instrument.

- Successful negotiations with New York State to achieve a fair and practical method of calculating the state's *Petroleum Business Tax*. This was a longstanding issue of concern among members, and a patient, consistent effort to reach a mutually agreeable settlement yielded important results.
- Progress in a dialogue with the U.S. Coast Guard to mitigate *mariner licensing* issues that have a negative impact on the industry's vessel personnel shortage. AWO joined other maritime industry representatives in testifying before Congress to bring attention to the serious problems with the Coast Guard licensing system. The Coast Guard is now centralizing and reorganizing the mariner licensing and documentation program and has stated that fixing the system is one of its top priorities. AWO continues to be engaged in ensuring a satisfactory resolution to this issue.

We recognize that despite the progress made, there are aspects of these issues that remain a challenge for our industry in 2007 and beyond. Despite this, it is fitting that we pause at this time to look back at a year of patient progress toward a safer, more secure tugboat, towboat and barge industry.





The U.S. Department of Transportation has projected that the demand for commercial waterways transportation will more than double by 2025.

### Executive Committee



**Dale Sause** Chairman of the Board Sause Bros. Coos Bay, OR

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**Royce Wilken** Vice Chairman of the Board American River Transportation Co. Decatur, IL



**Steven P. Valerius** Immediate Past Chairman of the Board Kirby Inland Marine, LP Houston, TX





William Arnold MEMCO Barge Line Chesterfield, MO





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Charles H. King, Jr. Buffalo Marine Service, Inc. Houston, TX





H. Merritt Lane, III Canal Barge Company, Inc. New Orleans, LA





Jacksonville, FL

Charles F. Nalen

Crowley Maritime Corporation



Deane Orr CONSOL, Inc. Elizabeth, PA





John D. Roberts Florida Marine Transporters, Inc. Mandeville, LA



Christopher W. Roehrig Roehrig Maritime, LLC Glen Cove, NY











The capacity of one inland barge is equal to that of 15 rail cars or 60 semi-trailer trucks.

### **Board of Directors**

**Dale Sause** Chairman of the Board Sause Bros. Coos Bay, OR

Royce Wilken Vice Chairman of the Board American River Transportation Co. Decatur, IL

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George Wittich Weeks Marine, Inc. Cranford, NJ



2006 was a good year for America's tugboat, towboat and barge industry. Commercial market conditions were largely favorable, and the industry achieved important results on the public policy front as well. AWO members were gratified to witness good results in both markets.

The public policy results were the fruit of the hard, sustained work of AWO members. Members coalesced to actively project their concerns to decisionmakers in the Administration, the Congress, before the judiciary and in the states. Member participation in AWO's grassroots program and in our political activities again achieved new levels of success. AWO members demonstrated once again that the combination of their expertise, their activism and their passion is a powerful force for compelling logical government action.

The description of 2006 as a year of "patient progress" by Chairman Dale Sause is certainly accurate. Indeed, without extraordinary patience, there would have been little notable progress in 2006. Despite heightened levels of member advocacy, results on a number of fronts seemed to arrive in slow motion. The industry often felt like it was navigating upstream against a flood current in getting government decisionmakers to hear and absorb its views and concerns. At times, member patience with the slow pace of government action was strained to the breaking point. In no case was AWO member frustration more palpable than in the effort to fix the flawed Transportation Worker Identification Credential (TWIC) proposal issued by the Transportation Security Administration. In its original form, this proposal to issue TWIC cards to more than 700,000 American workers would have crippled the ability of tugboat and towboat companies to efficiently crew their boats and put new hires to work in a timely way. In a robust national economy where manpower is already in short supply, the new and unnecessary barriers created by this proposal would have seriously affected a company's ability to operate its vessels. The impact on the smooth flow of vital commodities that move domestically by water would have been devastating.

The barge and towing industry is aligned with and supports the overall direction and underlying principles of the Administration's program for homeland security and understands the imperative to make America safer from the new 21st century threats we now face. And, we have been gratified to hear senior Administration officials acknowledge that security threats are not the only danger that we face. We can harm ourselves as Americans by



taking actions in the name of security that will bankrupt our prosperity and liberty. Thus, we must focus our security measures carefully to target the most significant risks to the nation.



2006 Annual Report

"We understand that the waters swirling around and within the relationship between government and industry have changed."

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Thomas A. Allegretti () President & CEO The American Waterways Operators

A Congressional Budget Office study found that barging is the most energy efficient mode of bulk transportation.

## President's Report



on critical building blocks – the foundation of an industry's capacity, creativity and commitment. Capacity is the measure of an association's ability to conduct work and get things done. In AWO, we define capacity not only as an effective and hardworking staff, but also as a more activist and engaged membership. Our capacity today is stronger than it has ever been. The collateral benefit of this expanded capacity is a vastly enhanced creativity, an intellectual mix that improves programs through fresh thinking and innovation. The final part of this

Those common sense principles did not translate well into the regulatory text of the TWIC proposal. Unfortunately, the industry's concern that government decisionmakers were not listening deeply enough also proved to be well founded. As the year came to a close and the Administration's final rule was unveiled, we were disappointed to see that the crucial interim work authority provision for new hires still did not meet our industry's needs.

The TWIC proposal and the final rule are together a prominent example of how the dimensions of effective advocacy have changed in the post 9/11 world. Advocating industry views and concerns in the traditional manner no longer produces the results it once did. The homeland security stakes are too high for government decisionmakers to err on the side of accommodating what can be seen as constituent concerns.

Striving to achieve advocacy excellence, therefore, is more important than ever, and has taken on new urgency in AWO. We know that success lies in more than sound tactical plans, but must be based



foundation is commitment — the commitment of members and staff to the success of the organization, to the achievement of our mission, to the attainment of our vision and to getting results.

Knowing that we have this foundation in place as we

proceed to tackle the toughest issues that confront us gives us confidence that we will ultimately succeed, no matter how difficult the challenge or how swift the current against which we are navigating. We understand that the waters swirling around and within the relationship between government and industry have changed. We anticipate that results are harder to produce and we appreciate that patience is necessary. Smart organizations and industries can achieve steady forward movement by refusing to be daunted or derailed and by mustering all of their capacity, creativity and commitment in the pursuit of sound public policy.

America's tugboat, towboat and barge industry fully understands that it proceeds into 2007 with much unfinished business to complete. We are resolved to pursue it with vigor and a united front and to accelerate the pace of the results we must achieve.

More than 99.9997% of the oil moved by barges was delivered safely in 2004, the most recent year for which complete statistics are available.



Advocacy on behalf of the American tugboat, towboat and barge industry is AWO's core mission, and its main focus of action as it strives to inform public policymaking that affects the industry. The following are the top issues that required advocacy excellence in 2006.

#### Towing Vessel Inspection: Advancing Industry Safety

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AWO's top advocacy priority, working with the Coast Guard to promulgate ground-breaking new regulations to take safety, security and environmental stewardship in the towing industry to the next level, continued to move forward in 2006. In October, the congressionallyestablished Towing Safety Advisory Committee (TSAC) approved without dissent a comprehensive report making recommendations to the Coast Guard on the content of a new inspection regime for towing vessels to implement the requirements of the 2004 Coast Guard and Maritime Transportation Act. The TSAC report, which AWO strongly supports, recommends a modern, innovative approach that is based on a safety management system and leverages scarce Coast Guard oversight resources by risk-based targeting and the use of Coast Guard-approved third-party auditors.

#### **TWIC: Balancing Security and Commerce**

The Department of Homeland Security's (DHS) proposed Transportation Worker Identification Credential (TWIC) program was a major focus of AWO advocacy in 2006. AWO mounted an intensive, multi-pronged campaign to convince the Administration and Congress to make critical changes in the TWIC program to better balance the needs of security and commerce and avoid major disruptions to a critical sector of the nation's transportation system. The DHS decision to separate the rulemaking into two parts and congressional passage of the SAFE Port Act were encouraging signs that decisionmakers recognized the validity of industry concerns. As 2006 drew to a close, AWO continued to press for a practical, risk-based rule and pledged the association's assistance in working with DHS to address the inevitable challenges in implementing such a complex security program on an industry-wide scale.



2006 Annual Report

Waterways transportation contributes to the American quality of life by helping to reduce congestion on roads and rails.



#### Meeting the Vessel Personnel Challenge

Like many sectors of the U.S. economy, the tugboat, towboat and barge industry faces a significant challenge in recruiting and retaining the pool of qualified vessel personnel needed to keep industry operations afloat and growing. In 2006, AWO worked to sensitize the Coast Guard and Congress to the impact of government regulations and policies in exacerbating or alleviating the vessel personnel shortage, including the longstanding need to improve the efficiency of the Coast Guard's mariner credentialing system. Simultaneously, AWO pursued an industry self-help strategy, establishing a portal for job seekers on the AWO Web site and facilitating regional efforts by AWO member companies to address the problem through recruiting efforts, training programs and other initiatives.

#### Infrastructure Modernization: Pushing A National Economic Imperative

Even though the House and Senate both passed a Water Resources Development Act, the Congress was unable to complete action on this important legislation which has not been renewed since 2000. The WRDA legislation must now be reintroduced in the 110th Congress and AWO will work for several important provisions, including authorization for the Upper Mississippi River/Illinois Waterway Project. The Congress also failed to complete action on a number of appropriations bills, including the Energy and Water Development appropriation which provides funding for the U.S. Army Corps of Engineers. Completion of the Fiscal Year 2007 bill will provide almost \$400 million for priority capital improvement projects on the inland waterway system and funding for critical maintenance on this important infrastructure.

#### Ballast Water: Seeking a National Solution

AWO joined other maritime industry organizations in advocating a uniform federal approach to ballast water management that preempts state regulation of vessel operations, respects safety concerns and avoids unnecessary regulation. When industry-supported ballast water legislation failed to pass in the 109th Congress, AWO worked to meet the challenge posed by state-by-state attempts to legislate this complex environmental and operational issue. AWO also joined the U.S. government in a court case defending the Environmental Protection Agency's handling of ballast water and other vessel discharges under the Clean Water Act and urged the Coast Guard to sunset cumbersome



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reporting requirements for towing vessels operating in domestic waters. Pursuing an effective national approach to ballast water management will remain a priority for AWO and the maritime industry in 2007.

#### **Ensuring Missouri River Navigation**

During the summer of 2006, the U.S. Army Corps of Engineers strictly adhered to the new Master Manual governing the operation of the Missouri River as it shortened the navigation season by 44 days, the second shortest navigation season since the system was completed. Conversely, the Corps did not adhere to the Master Manual with regard to congressional direction and recent court decisions when it did not provide a reliable channel during the navigation season. For the fourth year in a row, the Corps' actions negatively impacted navigation on the Mississippi River. AWO continues to work with the Administration, the Corps, the U.S. Fish & Wildlife Service, Congress and stakeholder partners to ensure reliable navigation on both the Missouri and Mississippi rivers.

#### Strengthening the Jones Act

This year, the Coast Guard authorization bill granted new authority to the Coast Guard to require additional information from mortgagees of vessels, giving the Coast Guard the ability to more closely examine

Lock delays due to aged facilities cost hundreds of millions of dollars a year. Consumers ultimately bear these costs.

# Advocacy

questionable mortgage transactions involving foreign mortgage holders. During consideration of the Coast Guard authorization, the House committee rejected a provision that would have rolled back the lease financing reforms by indefinitely extending the "grandfather" clause for a company that relocated its headquarters outside the U.S. to avoid taxes. The Jones Act remains a priority for AWO and the rest of the domestic maritime industry. Unlike earlier challenges which sought to repeal the Jones Act in its entirety, more recent threats have been to parts of the Jones Act, including the U.S. ownership requirement, the U.S. build requirement or the U.S. crew requirement. The integrity of the Jones Act rests on each of these three provisions and should any part be weakened, the whole will be threatened. A critical challenge going forward will be to maintain broad support for the Jones Act and to turn back the challenges to any of the three requirements of the Act.

### Reaffirming Federal Preemption for Interstate Commerce

In July 2006, the U.S. District Court for Massachusetts ruled in favor of the U.S. Department of Justice in a lawsuit challenging several provisions of a Massachusetts oil spill law enacted in 2004. The District Court followed the ruling of the U.S. Supreme Court in the 2000 case of *U.S. v. Locke* in overturning every challenged provision of the Massachusetts legislation as invalid and unconstitutional. The Court found that the law was preempted by federal laws and regulations governing the same matters. The Commonwealth of Massachusetts is appealing the District Court decision, and the appeal to the U.S. Circuit Court of Appeals will be heard in 2007.

#### New York Petroleum Business Tax

In 2006, AWO successfully completed a longstanding effort to reach an industry-wide settlement of past tax liability for New York State's petroleum business tax and finalized a fair and practical method to calculate and file the PBT in the future. AWO and the New York Department of Tax and Finance reached an agreement to waive interest on past taxes for two years and limit penalties to a total of five percent on total taxes due. Past and future taxes will be calculated using a new methodology that applies a tollbooth concept to the PBT and will be incorporated into the state's revised tax forms.



The tugboat, towboat and barge industry comprises the largest segment of the U.S.-flag fleet.



AWO public affairs efforts are focused on informing policymakers, the media and the general public about the value that the industry brings to America's economy, environment, national security and quality of life.

#### **Congressional Outreach**

AWO held its most successful Capitol Hill "Barge-In" in 2006 during its spring convention. Members from



all across the country visited the offices of their members of Congress to brief them on the industry's most pressing issues. A record number of offices were visited by more AWO members than ever before.

AWO also continued its advocacy outreach to policymakers who are members of key congressional committees through its Congressional Education Program. Through this program, members of Congress are provided briefings on the industry's value to the nation, and the challenges faced by the industry today. The program also provides an opportunity to reinforce to the lawmakers the messages about the industry being conveyed in AWO's industry image campaign.

#### Industry Image Campaign

AWO continued an industry image campaign to educate policymakers on the industry's value to the nation. The campaign consists of print and radio advertising highlighting the economic, environmental, safety and national security benefits of the tugboat, towboat and barge industry. The print ads are placed in the most widely read newspaper on Capitol Hill and the radio ads run on two all-news and talk radio stations broadcasting in Washington.

#### Web Site Redesign

AWO launched a redesigned Web site, <u>www.american</u> <u>waterways.com</u>, in May. The new site is designed to present a more comprehensive picture of the tugboat, towboat and barge industry to policymakers, the media and the general public. A "Members Only" section is dedicated to providing AWO members with extensive information useful for their advocacy efforts. New features of the site include a vessels photo tour, an industry economic and safety statistics section, a press room, an industry jobs portal and a "What's New" section.

#### Public Relations – "Capital River Relief" Cleanup

AWO participated in the 3rd annual "Capital River Relief" project in Washington, D.C., a cleanup of the Potomac and Anacostia rivers in the nation's capital. Working with a coalition of government, association, environmental and corporate groups, AWO members once again volunteered for the high profile cleanup, demonstrating one part of AWO's commitment to environmental stewardship of the nation's waterways.

#### Safety Calendar

AWO produced an industry safety calendar as an advocacy tool that demonstrates the industry's commitment to safety. The theme of the 2006 calendar was "Safe Access," and each month contained safety messages

pertaining to the theme. The calendar features full color photos of vessels and industry operations, and is distributed to AWO members, government policymakers, the media and the general public. AWO's safety committees develop the theme and messages, and AWO members contribute the photos in a collaborative effort to develop this popular project and produce a calendar that effectively demonstrates AWO member companies' commitment to safety.

The American Waterways Operators was founded in 1944.

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AWO's commitment to safety is demonstrated through its Responsible Carrier Program, the AWO safety committees' work on best practices and by innovative programs like CEMS, developed as part of the work of the Coast Guard-AWO Safety Partnership.

#### AWO Responsible Carrier Program

The Responsible Carrier Program (RCP) is an audited safety and environmental "best practices" program that is mandatory for AWO membership. In 2006, AWO took significant steps to strengthen the value of the RCP with the addition of several new requirements to the RCP, including policies for a designated person ashore; personal hygiene; sanitation and safe food handling; and slip, trip and fall prevention. Also, a "Provisional Membership" category was added for companies that have not yet completed an AWO-certified third-party RCP audit.

The AWO Safety Committees continued their contributions to AWO's safety efforts by completing sample policies and procedures for bloodborne pathogens, hearing conservation, respiratory protection, fall arrest protection and inland trip planning. The Committees also developed lesson plans on line handling and making and breaking tow to assist members in the training of their crews.

#### Coast Guard-AWO Safety Partnership

The Coast Guard-AWO Safety Partnership is a public-private partnership that was established to improve vessel and personnel safety within the industry and enhance the protection of the environment along the nation's waterways. The Partnership provides a flexible mechanism for joint Coast Guard-industry action in a results-oriented, non-regulatory environment. Since its inception, the Coast Guard-AWO Safety Partnership has launched more than 25 quality action teams to address the most pressing safety issues. In recent collaborative efforts to improve industry safety working through the Safety Partnership, AWO and the Coast Guard continued to promote widespread implementation of the Crew Endurance Management



System (CEMS) throughout the tugboat, towboat and barge industry. The Coast Guard-AWO Safety Partnership also continued its

analysis of safety data, tracking crew fatalities, oil spills and vessel casualties to identify safety trends and develop strategies to improve safety performance.

#### Crew Endurance Management System

To measure the effectiveness of this effort, a demonstration project mandated by the Coast Guard Authorization Act of 2004 directed the Coast Guard to report to Congress on the results of the CEMS project. The results of the demonstration project were reported

Waterways transportation is the most environmentally-friendly mode of commercial transportation.



to Congress in March, and concluded that CEMS is effective, feasible and sustainable. If towing vessel crewmembers and their companies implement CEMS, over time the crew will become increasingly more alert and will make better decisions resulting in fewer accidents. AWO staff briefed a number of interested Congressional staff on the results of the project.

#### Reissue of the Coast Guard Atlantic Area Port Operations Hurricane Guidance

In 2006, the Coast Guard Atlantic Area Port Operations Hurricane Guidance was updated and reissued to include industry-proposed changes that strengthen the policy to prevent barges and their supporting tugs from being evicted from port in the face of a storm. Through the Coast Guard-AWO Safety Partnership, AWO suggested changes that were incorporated into the Guidance which emphasize pre-hurricane meetings between the Coast Guard and industry stakeholders, increased protections for inland barges and improved consistency of terminology throughout the policy.

#### Waterways Action Plan

The Waterways Action Plan is a comprehensive program for operators on the entire Western Rivers

transportation system that provides guidance on consistent and standardized reactions to high water, low water, ice and high velocity situations. The 18-month joint project to develop the plan involved the towing industry, the U.S. Coast Guard and the U.S. Army Corps of Engineers. The Waterways Action Plan is designed to take a large step forward in optimizing safety for the industry, the public and the valuable waterways infrastructure and was completed in 2006. This living document is now accessible electronically and updated as needed.

> "Since its inception, the Coast Guard-AWO Safety Partnership has launched more than 25 quality action teams to address the most pressing safety issues."



Tank barge spills declined by 78% between 1994 and 2004, the most recent year for which complete statistics are available.

### Economic Value

#### Near-Record High for Barge Traffic

The towing industry transported 818 million tons of cargo in 2004, the largest total volume since 1997 and just 2 millions short of the all-time high in 1997. After first reaching the 800-million ton mark in 1996, the industry has since moved an average of 809 million tons per year.





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#### Analysis of Important Commodities Moved by Barge

AWO conducted an analysis of the nation's natural resources moved by the towing industry. Barges move significant amounts of goods for these commodity groups, thereby demonstrating the inherent value of the industry to the nation's economic engine.



#### Barge Share of Traffic for Key Commodities, by Group



# Economic Value



Key State-to-State Flows of Petroleum Products by Barge

**Petroleum Products:** One of the more important commodities moved by barge is petroleum products. The towing industry moves about one-fifth of the petroleum products throughout the U.S.

#### Safety: Double Hull Tank Barges

The Oil Pollution Act of 1990 requires that all vessels carrying petroleum and petroleum products be double-hulled by 2015. The towing industry is well ahead of that target, with 81% of the tank barges already double-hulled.



Currently, 81% of tank barges carrying oil have full double hulls; by 2015 all tank barges carrying oil in U.S. waters will have double hulls.

### AWO 21 Strategic Plan

AWO 21 is AWO's strategic plan, affirming the values shared by AWO member companies and the organization's vision, mission and goals. The strategic plan is the blueprint that guides the Association's work.

#### Vision

The American Waterways Operators is the leading national advocate for, and promoter of, a safe, secure and environmentally responsible tugboat, towboat and barge industry.

#### Mission

The American Waterways Operators is the national trade association representing the owners and operators of tugboats, towboats and barges serving the waterborne commerce of the United States. Its mission is to promote continuous improvement in safety and environmental standards, the long-term economic soundness of the industry and the importance of waterborne commerce in the national transportation system.

#### Values

#### AWO Members:

• Recognize the fundamental responsibility to operate their companies in an ethical, safe, secure and environmentally-responsible manner that benefits their employees, their customers, the public and the environment.



- Embrace continuous improvement in safety and environmental performance and compliance with safety management systems such as the Responsible Carrier Program.
- Recognize that the waterways of the U.S. are a national asset and a shared resource requiring stewardship and improvement.



- Constructively engage the public policy process on matters that affect safety, security, the environment, the communities in which we operate and the economic soundness of the industry.
- Continue the industry heritage of cooperation, draw strength from member diversity and support initiatives that fortify the industry and foster achievement of its goals.

#### Goals

- 1. Be an effective and proactive advocate with the U.S. Congress.
- 2. Be an effective and proactive advocate with federal agencies.
- 3. Promote continuous improvement in industry safety, security and environmental performance.
- 4. Promote positive public awareness of the industry.
- 5. Influence state and regional initiatives that affect industry interests.
- 6. Inform the membership on public policy issues.
- 7. Ensure effective and efficient management and governance of the association.

"... the leading national advocate for, and promoter of, a safe, secure and environmentally responsible tugboat, towboat and barge industry."

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# AWO Staff







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#### The American Waterways Operators

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