

Statement of

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Before the
Committee on Small Business
United States House of Representatives
Washington, DC

September 27, 2006

Good afternoon, Mr. Chairman, I am George Leavell, Executive Vice President and one of the owners of Wepfer Marine in Memphis, Tennessee. I want to thank you for holding this hearing and for the concern you have shown for our industry.

Our company is a small harbor and fleeting operation servicing six ports on the Mississippi River. We operate approximately 20 boats. We also operate a small shipyard in Memphis providing maintenance and repair to inland towboats and barges and Coast Guard buoy tenders. We employ approximately 150 people on our vessels and in our shoreside facilities.

Wepfer Marine moves a variety of commodities up and down the river. These commodities include coal for the TVA Allen Steam Plant, which furnishes electricity to Memphis Light, Gas and Water. We also move chemical feedstocks for manufacturing; agricultural chemicals for the farmers in our area; outbound grain for export; steel for construction and manufacturing; and cement, gypsum, stone, sand and gravel for construction. We move petroleum products of all kinds, including jet fuel for the Memphis airport, diesel fuel for trucks and buses, gasoline, lube oil and asphalt for paving roads. Our company contributes in many ways to the economy of Memphis and the Mid-South region.

I am appearing before the committee today as a member of and on behalf of The American Waterways Operators. AWO is the national trade association for the tugboat, towboat, and barge industry. The industry AWO represents is the largest segment of the U.S.-flag domestic fleet and a vital part of America's transportation system. The industry safely and efficiently moves over 800 million tons of cargo each year with a fleet that consists of nearly 4,000 tugboats and towboats, and over 27,000 barges. Our industry employs more than 30,000 mariners as crewmembers on our vessels. Some of the companies in the towing industry are relatively large, but, according to the U.S. Army Corps of Engineers, over 90 percent of towing companies are actually smaller than Wepfer Marine.

Mr. Chairman, Wepfer Marine and the other members of The American Waterways Operators have been, and will continue to be, partners with Congress and the Department of Homeland Security in ensuring the security of our country. Immediately after the September 11, 2001

attacks, the members of AWO worked in cooperation with the Coast Guard to develop security plans for our vessels, even before they were required by the Maritime Transportation Security Act of 2002. We take security seriously, and we are proud of the fact that our vessels and their crews are considered to be the “eyes and ears” for the Coast Guard on our nation’s waterways.

Nevertheless, we have serious concerns with the proposed rule for the Transportation Worker Identification Credential (TWIC), as set out by the Transportation Security Administration (TSA) and the Coast Guard in the Notice of Proposed Rulemaking (NPRM) earlier this year. AWO has called the TWIC proposal in its current form a “blunt instrument” that will impose substantial hardships on mariners and the tugboat, towboat, and barge companies that employ them, establishing a complex, expensive, one-size-fits-all process that is simply not necessary to ensure high levels of vessel and maritime facility security. The burdens and delays that the proposed requirements will cause threaten to undermine our nation’s economic health and security by impeding the efficient flow of vital commodities by water throughout the domestic transportation system. AWO has urged that the proposal be substantially revised to establish more practical, cost-effective procedures that can be successfully implemented by the wide range of entities to which the TWIC regulations will apply, and not geared exclusively to large, complex, high-technology operations.

Mr. Chairman, our operation is certainly not large or complex or high tech. We employ about 150 employees in all of our operations, and only a handful of these have college degrees. Even without the TWIC rule, we are struggling with a chronic shortage of personnel to man our vessels. AWO estimates that the annual turnover of entry level personnel in the towing industry is 50 percent. From my experience, and my conversations with others in the industry, I believe that it is often higher than that.

My company, and companies like mine, provide entry level opportunities for high school graduates to begin a career in the marine industry as deckhands on our vessels and workers in our shipyard. Our applicants are typical of many Americans. They rely on each paycheck to pay their rent, mortgages, utilities, car payments, insurance, medical expenses and other routine bills. Missing one check can result in significant financial hardship. This is a risk that applicants

cannot take. I have personally witnessed potential employees decide to go elsewhere when faced with even slight delays in the hiring process. My company has been forced to tie up vessels when delays in issuing currently required Coast Guard documentation have blocked the availability of a full crew complement.

In this environment, we are very concerned that the requirements for obtaining a TWIC card will exacerbate the current personnel shortage and could even force companies like ours to tie up boats for lack of crewmembers to operate them. Such an outcome would have a very negative impact on our ability to deliver the commodities that are the building blocks of the economy in the Mid-South region in which we operate, and would have the same negative impact on the national economy by affecting hundreds of towing companies around the country that also deliver the goods that are essential to maintain America's economic vitality.

TSA and the Coast Guard have estimated a 30-60 day waiting period for the issuance of a TWIC card once an application has been made. In order to apply for a TWIC card, potential employees will be required to go to a TWIC "enrollment center" to make application and will also be required to pay a \$149 user fee at the time of application. They will then be required to return to the center when the processing of the card is complete. Faced with such a series of obstacles, many individuals will simply opt for employment elsewhere. Even if the TWIC processing time were to be reduced significantly -- say to a week or two -- many potential applicants will no doubt look elsewhere for employment.

To avoid this unacceptable outcome, AWO and many of the 2,000 other organizations and individuals commenting on the NPRM have suggested that the Department of Homeland Security include an interim work authority provision in the TWIC rule which would enable new hires in the industry to begin working immediately once they have completed the application process and passed an initial security screening. This initial screening process could function much like the background check currently utilized for firearms purchases, which provides an almost immediate response. A check against the federal government's terrorist watch list could also be included. Provided the initial screen turns up no disqualifying information, the applicant

could then be allowed to begin work and earn a paycheck pending the issuance of his or her TWIC card.

Mr. Chairman, one of our industry's major concerns with this rulemaking is its one-size-fits-all nature. Unlike other Administration-promulgated security regulations for the maritime industry, the TWIC proposal makes no distinctions based on operational risk or scale. Requirements developed with high-traffic, highly security-sensitive operations in mind (such as public ports) have been extended to small vessels and facilities with a very different risk profile. The risk posed by a towboat moving grain from Cottonwood Point, Missouri, is certainly not very high. Neither is the risk presented by small log tow moving forest products in the Pacific Northwest. This complex, expensive, one-size-fits-all approach is not necessary to ensure high levels of maritime security or to meet the TWIC mandate of the Maritime Transportation Security Act.

The Coast Guard has already recognized the need for and value of a more nuanced approach to maritime security in its vessel and facility security plan regulations, by allowing for the development and approval of Alternative Security Programs (ASPs). Alternative Security Programs such as the AWO ASP balance the imperatives of security and facilitation of commerce by tailoring a standard set of performance-based requirements to fit the risk profile and operational characteristics of a specific industry. The TWIC proposal, on the other hand, would require the same technology on a four-person inland towboat as at the gates of a major public port facility! This is unnecessary and unworkable. The TWIC rule should be modified to better reflect the risk profile and the operational realities of towing vessels, and the phase-in process for rolling out the new requirements should also be based on risk. We would argue that this kind of risk-based approach will actually lead to a higher level of security than attempting to do everything at once, which is likely to strain government and industry resources to the breaking point.

The TWIC proposal is not only cumbersome, it is costly, both for individuals employed in the towing industry and for the companies that employ them. One of the most significant costs would have come from the proposed requirement that card readers be placed on every vessel at a cost of approximately \$10,000 for each reader. The Department has subsequently announced

that the card reader requirement will not be implemented as part of the initial TWIC rule and will be considered further as part of a separate rulemaking. This is a proper response to the many comments that were received about the card reader requirement, but the issue has not been laid to rest yet. We understand that DHS still plans to proceed with some sort of proposal on card readers. When it does, we believe it is essential that such requirements not be imposed on towing vessels and small marine facilities.

The proposal also imposes substantial direct and indirect costs on the individuals who are required to obtain a TWIC card. Foremost is the cost of the card itself. For initial applicants, the user fee to be required with the application is estimated at \$149. This cost will be a burden on the typical entry level applicant. A \$149 out of pocket expense before these applicants even see their first paycheck may well force them to look elsewhere for employment.

On top of the direct costs imposed by the proposed rule, applicants also face substantial indirect costs. The most significant of these is the requirement to make two trips in person to the TWIC “enrollment center” to receive their cards. Even when there is an enrollment center nearby, the need to take time off to apply and return to pick up the card, and the cost of travel, are a significant factor. Moreover, in some areas and especially in some inland areas, the TWIC enrollment centers are not going to be situated nearby. The proposed rule would leave large distances between enrollment centers that would impose substantial travel time and expense on applicants. These direct and indirect costs would be a further deterrent to individuals considering employment in the towing industry.

Mr. Chairman, these problems with the proposed rule on the TWIC cards are very significant for small businesses like ours. They also have serious implications for companies throughout the towing industry and for the economy we serve. AWO has urged TSA and the Coast Guard to modify the proposed rule to address these problems. The following suggestions were echoed by virtually every maritime employer who submitted comments on the proposed rules:

- First, streamline TWIC processing and establish procedures that allow new crewmembers to work on an interim basis pending the issuance of a TWIC card;

- Second, reduce the financial and administrative burden associated with TWIC issuance;
- and,
- Third, eliminate the TWIC card reader requirements for towing vessels.

Only this last suggestion has been addressed at all, and that is only a temporary postponement of consideration of the card reader requirement.

Mr. Chairman, these changes must be incorporated into any final rule on the TWIC cards to avoid a severe negative impact on individual mariners and the towing companies that employ them. Failure to do so will have a significant negative impact on the ability of vessel operators to attract and retain the individuals necessary to crew their boats, and could force boats to be tied up for lack of crew. Ultimately, this will limit the ability of the towing industry to move the commodities necessary for our national commerce, and could undermine our national economy and economic health as well.

Mr. Chairman, I very much appreciate the opportunity to appear before you today. AWO and its member companies stand ready to work with this committee and with TSA and the Coast Guard to ensure the security of our country while keeping mariners working, vessels moving, and the commerce of the United States flowing. Thank you.