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Coast Guard Announces Public Meetings on Towing Vessel Inspection; AWO Members Urged to Attend



As the first step in implementing the new statute that adds towing vessels to the list of vessels subject to inspection, the Coast Guard has announced a series of public meetings to obtain public and industry comments on the forthcoming rulemaking process. To facilitate public and industry involvement, the four public meetings will be held in cities around the country in January and February. **AWO strongly urges all members to participate in the public meeting most convenient to them.**

All of the public meetings are scheduled from 9:00 a.m. to noon, but may close early if all business is finished. The meetings will be held as follows:

January 26
Nassif Building, Room 2230
400 Seventh Street, S.W.
Washington, D.C.

February 2
Ronald V. Dellums Federal Building
Third Floor, North Tower Auditorium
1301 Clay Street
Oakland, CA

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Coast Guard Announces Public Meetings on Towing Vessel Inspection

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February 10

Hale Boggs Federal Building
Basement Conference Room
500 Poydras Street
New Orleans, LA 70130

February 17

Robert A. Young Building
Room 2.308 and 2.206 Auditorium
1222 Spruce Street
St. Louis, MO

To facilitate entry at the meeting sites, individuals planning to attend the meetings should contact Scott Kuhaneck, USCG Domestic Vessel Compliance Division, at least two days before the meeting. Mr. Kuhaneck can be reached at tkuhaneck@comdt.uscg.mil or (202) 267-0240. **AWO will provide the Coast Guard with a list of members attending each meeting; AWO members who have RSVP'd to Jennifer Carpenter need not contact the Coast Guard directly.**

To focus public comments, the Coast Guard has posed seven questions on the scope and content of the forthcoming regulations. The questions, which were included in the December 30 *Federal Register* notice, are:

1. Towing vessels of a certain size (300 or more gross register tons) are already inspected vessels and are subject to a variety of existing requirements. Should the Coast Guard use any of these existing standards (or standards for other types of inspected vessels) for incorporation into the new regulations regarding the inspection of towing vessels? If so, which regulations or standards should be incorporated into these new regulations?
2. Title 46, United States Code, specifies the items covered with regard to inspected vessels including lifesaving, firefighting, hull, propulsion equipment, machinery and vessel equipment. However, the legislation that added towing vessels to the list of inspected vessels authorized that the Coast Guard may prescribe different standards for towing vessels than for other types of inspected vessels. What, if any, different standards should be considered with regard to inspected towing vessel requirements from other inspected vessels?
3. Towing vessels vary widely in terms of size, horsepower, areas of operation, and type of operation. Under what circumstances, if any, should a towing vessel be exempt from the requirements as an inspected vessel?
4. Should existing towing vessels be given time to implement requirements, be "grandfathered" altogether from them, or should this practice vary from requirement to requirement?

5. Should existing towing vessels be treated differently from towing vessels yet to be built?
6. The same act that requires inspection of towing vessels authorizes the Coast Guard to develop a safety management system appropriate for the towing vessels. If such a system is developed, should its use be required for all inspected towing vessels?
7. Examples of existing safety management systems include the international safety management (ISM) code and the American Waterways Operators Responsible Carrier Program. If a safety management system is used, what elements should be included in such a system?

The Coast Guard will accept written comments on these questions until March 23.

AWO members who are planning to attend one of the meetings should contact Jennifer Carpenter via email at jcarpenter@vesselalliance.com by January 12. Talking points will be distributed to AWO members via email by January 19.

DID YOU KNOW?

America's tugboat, towboat and barge industry, the safest, most economical and environmentally-friendly mode of cargo transportation, carries:

- 60% of U.S. grain exports, helping American farmers compete overseas;
- 20% of America's coal – enough to meet 10% of U.S. electricity needs;
- most of New England's home heating oil and gasoline.

www.americanwaterways.com

THE AMERICAN WATERWAYS OPERATORS
AMERICA'S TUG & BARGE INDUSTRY

OUR COMPASS ALWAYS POINTS TO SAFETY.

The graphic features a large question mark and images of tugboats and barges on a river. The AWO logo is visible in the background.

NTSB WITHDRAWS ANCHOR RELEASE RECOMMENDATION

Based on information provided by AWO and the Towing Safety Advisory Committee (TSAC), the National Transportation Safety Board (NTSB) has reconsidered its 1998 recommendation encouraging the development of remote anchor release systems for unmanned barges. This recommendation, issued in the aftermath of the 1996 *North Cape* incident, has been classified "Closed-Reconsidered." The NTSB revisited the recommendation in light of AWO's and TSAC's examination of the safety benefits and operational concerns associated with remote anchor release equipment.

In a series of letters to the NTSB last fall, AWO outlined industry experience with and concerns over remote anchor release devices for unmanned barges. AWO advised the NTSB of three principal industry concerns about this equipment. First, AWO noted that these devices are unreliable; in the industry's limited experience with their use, the anchors would often fail to deploy or retrieve from the remote control box, despite regular maintenance. Second, the devices require constant maintenance, and even with frequent testing and maintenance, still experience reliability problems. Third, the devices provide little potential benefit in light of current Coast Guard regulations and industry practices implemented since the *North Cape*



spill. The Coast Guard now requires either barge anchors or, where operational conditions make anchoring impractical, alternative retrieval systems, such as hook retrieval devices. AWO also noted that it is unaware of any U.S. barge operator that is currently using remote anchor release devices on unmanned barges.

In a December 22 letter, the NTSB informed AWO that it had reconsidered its recommendation. The Safety Board's letter stated, "While the Safety Board still believes in the concept of a remotely controlled anchoring device, in consideration of the AWO and TSAC investigation of the devices on unmanned barges, the Board agrees that this equipment may not be feasible at this time."

AWO appreciates the NTSB's consideration of the barge industry's concerns about the use of remote anchor release devices. AWO shares the NTSB's objective of improving transportation safety in the U.S. and is committed to working with the NTSB, the Coast Guard, and other government stakeholders to continually improve the safety of towing vessels and barges. ☘

Important Dates and Reminders *at a glance*

All contact persons can be reached by calling AWO's Arlington, VA office at (703) 841-9300 unless otherwise noted.

February 3: Midwest & Ohio Valley Regions Joint Annual Meeting, Nashville, TN. For more information, contact Marilyn Clark.

February 8-10: RCP auditor training. For more information, contact Kathy Rehak.

USCG Sets Random Drug Testing Rate for 2005

The Coast Guard has announced that the minimum random drug testing rate for marine employers for calendar year 2005 will remain at 50 percent of covered crewmembers. Data from 2003 shows that random drug testing of covered crewmembers resulted in positive test results 2.07 percent of the time. Because the Coast Guard has the authority to lower the random testing rate only if the industry-wide positive rate is less than one percent, the Coast Guard will maintain the minimum testing rate at 50 percent for the period from January 1, 2005, through December 31, 2005.

All marine employers are required to collect and maintain a record of drug testing program data for each calendar year. Marine employers must submit their 2004 Management Information System (MIS) reports with this data to the Coast Guard by March 15, 2005. Reports should be mailed to Commandant (G-MOA), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Room 2404, Washington, D.C. 20593-0001, or submitted electronically to www.uscg.mil/hq/g-m/moa/dapip.htm. ☘

Welcome
New Carrier Member!

Marine Express Inc.
2900 Main Street
Alameda, CA 94501

Rep.: Mr. Tom Kirsch, Port Captain

AWO Names Lewis as Pacific Region Vice President

On January 3, Jason Lewis joined AWO as Vice President - Pacific Region, to succeed Jerry McMahon, who has retired. The decision to hire Lewis was announced by AWO Pacific Region Chairman George Clark, Harley Marine Services.



Mr. Lewis was hired after an extensive selection process in which over 75 resumes were received at AWO headquarters. Personal interviews were conducted by AWO staff and Pacific Region board members to find the best candidate to advocate the Pacific Region's positions on local, regional and national issues. In his most recent position as legislative analyst and government affairs lobbyist for the Washington Retail Association, Mr. Lewis gained extensive experience analyzing proposed legislation and regulations and developing and implementing strategic action plans. In that position, he also performed grassroots lobbying and oversaw the association's Political Action Committee. Mr. Lewis has experience with the legislative process, having worked as a staffer in the Washington State Senate. He holds a Bachelor of Arts degree in political science from Central Washington University.

Mr. Lewis lives in Gig Harbor, Washington with his wife, Katrina, and their two children, Marissa and Michael.

The Pacific Region office will be relocated to Seattle.☘

109th Congress Convenes

On January 4, the 109th Congress convened in Washington, D.C. The first week was taken up with organizational activity: swearing-in of members, adoption of rules and making committee assignments.

At the end of the week, the Senate recessed for two weeks until the January 20 inauguration of President George W. Bush. The House of Representatives will remain in session with no votes scheduled. The President's State of the Union address to Congress has been tentatively scheduled for Wednesday, February 2.☘

2005 Safety Calendars Still on Sale

AWO is now taking orders for its 2005 AWO Safety Calendar. This year's theme focuses on Security Measures and Safety, and suggests awareness behaviors with regard to both safety and security. It features over a dozen beautiful, full-color photos -- all winners of AWO's third annual Safety Calendar Photo Contest.



Order forms can be found on the AWO Web site, www.americanwaterways.com under "Commitment to Safety." If you have any questions, please contact Traci Fischer at (703) 841-9300 or via email at tfischer@vesselalliance.com.☘

Towing Industry Leader Dies in Car Accident



Neil Diehl, 74, former chairman & CEO of Ingram Barge Company, former AWO member, and a leader in the barge and towing industry, was killed in a car accident on January 3 in Belle Meade, Tennessee.

Mr. Diehl served as chairman & chief executive officer of Ingram Barge Company from 1984 to 1995. Prior to joining Ingram Barge, he was president of Ohio Barge Line Inc. and Warrior and Gulf Navigation Co. in 1980, and joined Ingram Barge Co. when assets of Ohio Barge Line were sold to Ingram. He was a founding member and past chairman of DINAMO and an initial appointee to the Inland Waterways Users Board, on which he served from 1987 to 1992.

AWO President & CEO Tom Allegretti said of Mr. Diehl, "Neil was one of those extraordinary people that you meet only rarely in your life. He possessed the powerful combination of creative, long-term vision and sound, near-term decisiveness. He used those strengths many times to help our industry make difficult decisions that ultimately sustained us for the future."

Mr. Diehl was also lauded in the *Nashville Tennessean* by Martha R. Ingram, chairman of the board of Ingram Industries Inc., as "a brilliant businessman and a compassionate community leader." In a statement, Mrs. Ingram said, "He oversaw the growth of our barge company from a medium-sized company to one of the largest and quality-focused marine companies in the country. He later provided guidance and advice to our family and companies through service on the Ingram Industries board of directors, a position he held until early last year. He will be missed."☘

“Army Corps Advances Plan for New Locks on Mississippi”

WASHINGTON -- The Army Corps of Engineers has taken another step toward building new, longer locks on the upper Mississippi River and Illinois Waterway, despite government scientists’ statements that the construction is not justified.

The corps recommended spending \$1.79 billion to replace seven locks in a report to the secretary of the Army that will be reviewed and submitted to Congress. Legislators earlier this month approved several million dollars to design the project.

“In today’s economy, we have to take every opportunity to give our farmers the competitive edge of getting their products to market in the most efficient way possible,” Lieutenant General Carl Strock, commander of the Army Corps of Engineers, told reporters in a conference call.

Those who favor building the locks want a quicker trip for grain-laden barges to Gulf of Mexico ports. The Mississippi is the least expensive route for shipping many commodities, from corn and soybeans destined for export markets to coal, chemicals, and construction materials.

Opponents say grain exports probably will not increase enough to justify the construction. In two reports, most recently in

October, the National Research Council said the corps has not made a strong enough case for construction. The council is part of the National Academies, which includes the National Academy of Sciences.

Scott Faber, spokesman for the group Environmental Defense, said, “The corps is simply ignoring the fact that river traffic is already in decline.”

Strock said he is “confident that over time, our approach will enable us to overcome the concerns” of the research council.

The construction would replace older locks, or river gateways, that are half the size of a typical 1,200-foot barge. At many sites, barges must be unhinged, sent through the smaller locks in pieces, and lashed back together on the other side, which can take as long as two hours.

In addition to the construction, the corps’ plan would spend \$1.58 billion for ecosystem restoration.

The corps has pursued the construction for more than a decade, but the effort stalled in 2000 after a whistle-blower accused the corps of inventing its justification. ❧

This *Associated Press* story appeared in several major newspapers on December 17, 2004, including the *Boston Globe*, the *St. Louis Post-Dispatch*, and the *Baltimore Sun*. It was written by AP reporter Libby Quaid.

“Lawmakers OK Tug Escort Waiver for Buzzards Bay”

This article appeared in the December 29, 2004 *Cape Cod Times*. It is reprinted here in its entirety.

BOSTON - When the state Legislature passed a tough new law regulating oil shipping in Buzzards Bay this year, legislators refused to buckle to the threat of an industry lawsuit, or a warning by the U.S. Coast Guard that they were treading on federal jurisdiction.

One of the key parts of the law, which was signed by Gov. Mitt Romney last summer, required all oil tankers to have tug escorts through Buzzards Bay.

But this week, lawmakers had to acknowledge a potential problem: There might not be enough tugboats in Buzzards Bay to handle more than the usual number of oil tankers, particularly in bad weather.

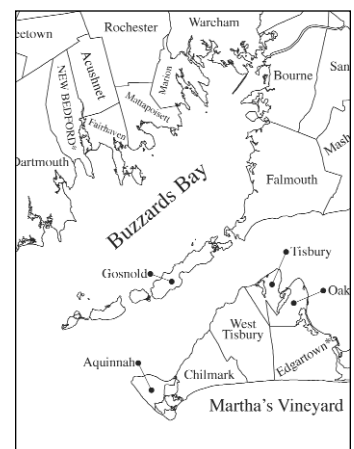
At the request of the state Department of Environmental Protection, they quickly enacted a change this week. Under the bill, DEP Commissioner Robert W. Gollodge Jr. could grant a one-time, emergency waiver to allow oil

tankers carrying at least 6,000 gallons of oil to share the same tug or have no tug escort at all.

State officials only envision the waiver being used in an extreme emergency, for instance, if tankers were backed up in bad weather, with hours before the next tug escort was available. The waiver would be granted on a case-by-case, one-time basis.

“We don’t want to prevent oil from getting to the Northeast during the dead of winter, and our bill had no escape valve at all,” said the sponsor, Rep. William Greene, D-Billerica, who chaired the commission that wrote the original Oil Spill Prevention Act. “... It will only be under the most stringent of conditions. It won’t be an everyday thing.”

Legislators were also concerned that it would be unsafe to leave barges and tankers waiting in line to enter Buzzards Bay in stormy seas.



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"Lawmakers OK Tug Escort Waiver for Buzzards Bay"

(continued from page 5)

But they were reluctant to change the law, which many viewed as the most significant piece of environmental legislation this session. It was enacted in response to the April 2003 Bouchard Transportation Co. fuel oil spill in Buzzards Bay.

The barge spilled up to 98,000 gallons of oil after drifting off course and striking a ledge.

It polluted 93 miles of shoreline, killed nearly 500 birds, and resulted in the temporary closure of 100,000 acres of shellfish beds.

Greene, Golledge, the Coalition for Buzzards Bay and members of the Buzzards Bay Oil Spill Commission from Cape Cod and New Bedford met in Greene's office last week. Several legislators said the group agreed that the change was reluctantly needed.

"We had to be convinced," said Rep. William Straus, D-Mattapoisett, who served on the commission that drafted the original bill. "There was initially some skepticism."

The group added another change to the law that would require all oil tankers to use the Coast Guard's recommended route through Buzzards Bay.

They also added a sunset clause: The emergency waiver on tug escorts would expire on July 1, 2006. The DEP would have to report to the Legislature on July 1, 2005, and again one year later, on how often the waiver had been granted.

In the meantime, Greene expects the fleet of private tugboats in Buzzards Bay to grow to meet the demand.

Typically, there are four tugboats available, which legislators said was enough to handle normal traffic. More tugboats are under construction.

"We all stated from the premise that the (original) bill was what we had in mind,"

said Rep. Eric Turkington, D-Falmouth, who served on the Buzzards Bay Oil Spill Commission.

"The commissioner made a pretty good argument, and the Coalition for Buzzards Bay was supportive. With the sunset (provision), I felt comfortable with it ... I don't think it could be described as a weakening of the bill. It was a tweak."

Susan Reid, the issues and policy director for the Coalition for Buzzards Bay,

expected the issuance of tug escort waivers to be rare.

The bill passed the House and Senate on Monday in "informal" session, when only a few legislators are present, and there is no roll call vote.

The bill was sent to Romney, who is expected to sign it. ♣

NOTE: Gov. Romney did sign the measure on December 30 -- see story below.

Atlantic Region

Massachusetts Modifies Oil Spill Law; Issues Emergency Regulations

On December 30, Massachusetts enacted a statute modifying the oil spill legislation passed last August. (See June 11 and August 6, 2004 AWO Letters.) On the heels of passage of the new statute, the Massachusetts Department of Environmental Protection (DEP) issued emergency regulations implementing a portion of the oil spill law and stating its intention to issue additional regulations.

The original legislation passed in August established, effective January 1, 2005, a requirement that all non-self-propelled tank vessels carrying 6,000 or more barrels of oil have a tug escort when transiting certain Massachusetts waters, primarily Buzzards Bay. The modification made on December 30 added a waiver provision, allowing the Massachusetts DEP Commissioner to waive the tug escort requirement for "exigent circumstances." Legislators were apparently concerned that there would not be enough escort tugs available for all tank barge transits of the area. (See story, page 5.)

The Massachusetts DEP immediately issued emergency regulations, effective

for a period of 90 days, which implement the tug escort requirement and the waiver provision. The guidance issued with the new regulations states that "DEP's intent is to expand 314 CMR 13.00 to regulate other areas under the Act that are the responsibility of DEP to administer and enforce." DEP also intends to hold a public hearing on extension of the regulations beyond the 90-day emergency period.

Prior to the enactment of the original legislation by the Massachusetts legislature, AWO expressed its concern that many of the provisions under consideration would be unconstitutional under the holding of the United States Supreme Court in the case of *U.S. v. Locke*, 529 U.S. 89 (2000). AWO continues to have those concerns as Massachusetts takes these steps toward establishing the dual regulatory system that the Supreme Court sought to avoid.

A copy of the statutes, the regulations and the accompanying guidance are available on the Massachusetts DEP Web site at

www.mass.gov/dep/bwsc/spillact.htm. ♣

Midcontinent Office**Missouri River
Annual Operating
Plan Released**

On December 15, the U.S. Army Corps of Engineers - Northwest Division released the Annual Operating Plan (AOP) for the Missouri River. In keeping with requests from AWO and the Coalition to Protect the Missouri River (CPR), the Corps released the plan well before January 1, 2005, to restore some reliability to the river. Unfortunately, in the press release the Corps pointed out that the plan is one where "water conservation is emphasized." "Water conservation" is a euphemism meaning that water will be stored in the upper basin reservoirs as a primary objective.

The Missouri River season will open on April 1 at the mouth of the river, but without a large runoff season, the season will be shortened by 27 to 61 days. The final decision on season shortening will be made on July 1, 2005, based on actual storage in the reservoirs.

Given that the new Biological Amendment declared such actions unnecessary, it is a surprise that the Corps will set releases from Gavins Point to benefit nesting least terns and piping plovers until late May or early June, and that after the nesting period, water will be "adjusted to meet downstream target flows."

The AOP is available on the Division's Web site at www.nwd.usace.army.mil. For more information, contact Lynn Muench at (314) 621-2929. ☘

Pacific Region**Pacific Region Members -- Mark Your Calendars!**

Wednesday, February 9

Jerry McMahon Retirement Event

6:00 p.m.
Union Square Grill
621 Union Street (7th & Union Streets)
Seattle, Washington
(206) 224-4321

The cost of this event will be divided among all attendees.

Thursday, February 10

2005 AWO Pacific Region Annual Meeting

Salty's on Alki
Alki Room
1936 Harbor Avenue S.W.
Seattle, Washington
Telephone: (206) 937-1600

8:00 a.m. Breakfast
8:30 a.m. – 12:00 p.m. Pacific Region Annual Meeting

\$25.00 meeting charge applied to all members.

Midcontinent Office**Inland and Great Lakes
Conferences Announced**

The Inland Waterways Navigation Conference will be held on March 15-17 at the Radisson Hotel Opryland in Nashville, Tennessee. Registration and further information can be found at www.inlandwaterwaysconference.com. This year participants are invited to free pre-conference events, such as "Homeland Security Train the Trainer."

The Great Lakes Marine Community Days will be held January 26 at the Sheraton Cleveland City Center in Cleveland, Ohio. The Admiral's Dinner will precede the event on the evening of January 25. Registration and further information can be found at www.uscg.mil/d9/wmw/marinesafety/mcd.htm.

For further questions, contact Lynn Muench at awo-midcontinent@sbcglobal.net or (314) 621-2929. ☘

**Register Now:
Midwest and Ohio Valley Annual Meeting**

The 2005 Midwest and Ohio Valley Joint Annual Meeting will be held on Thursday, February 3 from 8:00 a.m. to noon at the Embassy Suites Hotel - Airport in Nashville, Tennessee. A reception will precede the meeting on Wednesday, February 2, from 6:00-7:30 p.m., also at the Embassy Suites Hotel. The Inland Harbor Services group will hold its first meeting after the regional meeting from 1:30-3:30 p.m. on February 3.

The registration deadline for the meeting and sleeping rooms is January 12. To reserve a room, contact the Embassy Suites Hotel at (615) 871-0033 or (800) 362-2779 and ask for the American Waterways Operators rate of \$109.00. A full breakfast is included. All meeting information is available on the attached registration form or on the AWO Web site. For further information, contact Marilyn Clark at (703) 841-9300. ☘