

Statement of

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Good morning, Mr. Chairman. I am Tom Allegretti, President and CEO of the American Waterways Operators (AWO.) Thank you for holding this important hearing and for the support you have shown for our industry.

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.

Mr. Chairman, the members of AWO 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 (MTSA) 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.

The members of AWO have a number of serious concerns about the impact of the TWIC program on our industry and the men and women who work in it. First and foremost among these is that the process for obtaining a TWIC card will become a significant barrier to entry into the maritime industry for new hires, and this will exacerbate an existing shortage of personnel for our vessels. Second, we are concerned that requiring card readers on small vessels like tugboats and towboats will add no practical security value and should not be part of the forthcoming "TWIC 2" rulemaking on card readers. Third, we are concerned that continued delays in beginning the TWIC program may prevent mariners from obtaining their TWIC cards by the September 2008 deadline imposed by the January 25 final rule. If mariners are unable to obtain their cards in a timely manner, they will be unable to work, vessels will be unable to sail for lack of crew, and maritime commerce will suffer serious disruptions. Allow me to elaborate on each of these concerns.

Interim Work Authority for New Hires

The Department of Homeland Security's May 2006 notice of proposed rulemaking (NPRM) contemplated a TWIC enrollment process taking 30 to 60 days. In our comments on the NPRM, AWO expressed concern that such a time frame would "seriously impede the ability of companies to bring new mariners into the industry in a timely manner." AWO and many of the 2,000 other organizations and individuals commenting on the NPRM urged DHS to include an interim work authority provision in the final TWIC rule that would enable new hires in the industry to begin working immediately once they have passed an initial security screening.

AWO is enormously grateful that the Congress recognized these concerns, and as a result, a provision of the SAFE Port Act (P.L. 109-347), signed into law in October 2006, required the inclusion of an interim work authority provision in the final rule. The statute provides: "The regulations shall include a background check process to enable newly hired workers to begin working unless the Secretary makes an initial determination that the worker poses a security risk. Such process shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal government." This language embodied the request made by AWO in its comments on the NPRM and required a process to allow new hires to begin working following an initial security screening unless there is a determination that the worker poses a security risk.

Unfortunately, the January 25 final rule does not achieve the intent of the statute to avoid creating barriers to new hires entering the industry. The rule denies a new hire the ability to begin work until the expensive and burdensome application process for a TWIC has been completed. Under the process prescribed in the final rule, new applicants must first travel to a TWIC enrollment center to make application for a TWIC in person, as well as pay the TWIC enrollment fee of \$137, before undergoing an initial check against the terrorist watch list.

For many applicants, this trip to the TWIC enrollment center will not be quick, easy or inexpensive. Some applicants will have to travel significant distances, to an enrollment center that may be many hours away, in order to apply for their TWIC. This process creates a very high

barrier to entry for new entrants to the industry who are not even sure yet whether a career in the maritime industry is right for them.

Under the final rule, the “initial” security screening can only occur after the applicant has gone through the time and expense of completing his or her TWIC application at a TWIC enrollment center. At that point, the employer may enter the individual’s information into the Coast Guard’s Homeport website to obtain the results of the check against the terrorist watch list. The rule indicates that a response can be expected within 24 to 72 hours after enrollment is completed. The problem is that for new hires and their employers, the TWIC enrollment process is only one step in a larger process of coming to work in the maritime industry. The first thing a company does when a new hire makes application is put him or her through a drug screen. If he or she passes that test, the next step is a physical exam, followed by a reference check. In the real world, neither the applicant nor an employer will want to invest in a trip to a TWIC enrollment center until those steps are taken. What that means is that it could easily take more than a week before an applicant is ready to travel to an enrollment center and make application for a TWIC, and then wait an additional three days for the results of the terrorist watch list check to be available.

Mr. Chairman, we are concerned that requiring new applicants to undergo such a burdensome process will deter individuals from entering the maritime industry. AWO member companies provide excellent entry-level opportunities for high school graduates looking to begin a career in the marine industry as deckhands on our vessels. These men and women come to our industry with a need to begin earning a paycheck and providing for themselves and their families right away. Faced with the burdensome requirements surrounding the TWIC process, many will seek employment in another industry where the barriers to entry are not so high. Even without the TWIC rule, AWO members are struggling with a chronic shortage of personnel to man their vessels. We estimate that the annual turnover of entry-level personnel in the towing industry is 50 percent. New hires may find that they get seasick or homesick and choose not to continue with a maritime career. Companies must also evaluate an individual’s ability to perform on the job. Both the new hire and the company must come to the conclusion that a career as a working mariner is the right “fit” for the individual and the company before a long term commitment is

made. For many new hires, the first manifestation of that commitment is the trip to the TWIC enrollment center and the payment of the application fee. That commitment should not be required until both the company and the applicant have concluded that the individual will continue in the industry.

In this environment, we are very concerned that the burdensome requirements for obtaining a TWIC will exacerbate the current personnel shortage and could even force companies to tie up boats for lack of crewmembers to operate them. Such an outcome would have a negative impact on the ability of our industry to deliver the cargoes that are the building blocks of our national economy.

The legislative change discussed by Congressman Baker and Chairman Oberstar during markup of the Coast Guard authorization bill two weeks ago would go a long way toward solving this problem. This provision would allow a newly hired employee to work on board a towing vessel for up to 90 days before making application for a TWIC, provided that: the vessel is operated in compliance with all provisions of its Coast Guard-approved vessel security plan; the employee passes a pre-employment drug test as required by existing Coast Guard regulations; and, the employee passes a name-based security screen against the terrorist watch list. This is the same security screen, conducted by the same federal agency, that would be used to grant interim work authority under the current TWIC rule.

However, by requiring that the initial security screening be conducted electronically, this provision would spare newly hired employees the time and expense associated with traveling to an enrollment center to make application for a TWIC before they are certain that they intend to stay in the towing industry. It would also avoid bogging down the TWIC enrollment system with applicants who may conclude after one or two vessel tours that the maritime lifestyle is not for them. This is a significant benefit given TSA's increasingly high estimate of the number of workers who may be affected by the TWIC program, which has recently doubled from an estimated 750,000 workers to as many as 1.5 million. A new hire who intends to continue in the industry for more than 90 days would be required to obtain a TWIC following the process laid out in TSA regulations.

AWO very much appreciates Mr. Baker's introducing this amendment and Chairman Oberstar's support for including it in the manager's amendment when the Coast Guard authorization bill goes to the House floor this summer. We believe this provision will achieve the goals that Congress intended in the SAFE Port Act: raising the bar of safety and security in the industry without disrupting maritime commerce or imposing prohibitive barriers to entry on American workers in need of employment opportunities.

Mr. Chairman, the reality is that this provision represents a higher level of security than that which has existed in the five years since MTSA 2002 was enacted. The TWIC program has not yet been implemented anywhere. For the past four years, towing vessels have operated under Coast Guard-approved vessel security plans that include procedures for verifying crewmember identity and controlling access to vessels. Establishing an interim work authority provision for new hires that requires a check against the terrorist watch list before an individual can begin working on a towing vessel is a higher level of security than exists today.

It is worth emphasizing that under this provision:

- No vessel crewmember covered by the MTSA 2002 mandate will be exempted from the requirement to obtain a TWIC.
- Only new hires who successfully pass a security screen against the terrorist watch list will receive temporary interim work authority. This is the same security screen (conducted by the same federal agency) that is required under TSA's current interim work authority regulations for new hires;
- Only new hires who successfully pass a Coast Guard-mandated drug test will receive temporary interim work authority;
- The vessel on which a new hire is employed will be required to be in full compliance with all provisions of its Coast Guard-approved vessel security plan; and,

- A new hire who intends to continue in the industry for more than 90 days will be required to obtain a TWIC following the process laid out in TSA regulations.

Mr. Chairman, including this provision in the Coast Guard authorization bill will go a long way toward mitigating the human costs of the TWIC program without undermining our mutual goal of enhancing maritime safety and security.

### Card Readers on Towing Vessels

A second significant concern for the towing industry is the potential requirement for electronic TWIC card readers on towing vessels. The NPRM proposed requiring readers both at facilities and on vessels. There was no exemption for vessels with small crews, such as towing vessels. DHS subsequently announced that the card reader requirement would not be implemented as part of the initial TWIC rule but would be considered further as part of a separate rulemaking. This was a proper response to the deluge of negative comments about the card reader requirement, but the issue of card readers on towing vessels remains an open one.

Card readers are simply unnecessary for vessels with small crews, such as towing vessels. As AWO noted in its comments on the NPRM, crew sizes on tugboats and towboats typically range from four to ten mariners. In a typical U.S.-flagged towing vessel operation, every employee is known to management and fellow crewmembers. A stranger onboard the vessel is immediately obvious. Personal knowledge of fellow employees provides a higher security standard than reliance upon an electronic reader, no matter how sophisticated the technology employed. Access control procedures are already included as part of a Coast Guard-approved vessel security plan. Moreover, the validity of TWIC cards can be checked through means other than mandating computerized equipment on board each vessel to constantly communicate with a DHS database.

Mr. Chairman, even if card readers could be operated reliably in the severe marine environments where towing vessels routinely go – and that has not yet been demonstrated – there is simply no

need to require their installation on every towing vessel in order to ensure the security of those vessels, or to ensure the security of the maritime transportation system. The SAFE Port Act gives DHS the authority to limit the card reader requirement to vessels with more than a certain number of crew, to be determined by the agency. We suggest that, at a minimum, vessels with 12 or fewer crew members requiring a TWIC should not be required to have a card reader installed on board.

### Implementation Delay and Mariner Deadline

Mr. Chairman, our third concern is that with the continuing delay in beginning the TWIC enrollment process, mariners may not be able to obtain their TWIC cards in a timely manner. While the SAFE Port Act established a deadline of July 1, 2007, for the onset of enrollment in the top ten priority ports, DHS said earlier this year that it intended to begin issuing TWICs in the spring. That would have allowed nearly 18 months for enrollment centers around the country to come on line and ample opportunity for mariners to obtain their TWICs by the regulatory deadline of September 25, 2008. However, DHS recently announced that it would not meet the July 1 deadline, and projected that enrollment would commence in Wilmington, Delaware, in September or October. Even if that schedule holds true, there will be less than one year from the time enrollment begins in the first port in the country to the time all mariners are required to have a TWIC. AWO is very concerned that this increasingly compressed time frame will not allow adequate time for mariners across the country to obtain their TWICs. As the schedule continues to slip, the window for mariners is closing.

While the regulatory deadline of September 25, 2008, may seem like a long way off, for mariners it is getting closer all the time. With the time allowed to obtain a TWIC dwindling, and DHS estimates of the number of individual TWIC cards to be issued doubling, mariners are understandably concerned that the process may not allow them the opportunity to obtain their TWIC cards in a timely manner. Both DHS and Congress need to be prepared to extend the September 25, 2008, deadline to ensure that mariners can obtain TWICs, vessels can sail with the necessary crew, and vital maritime commerce can continue to flow smoothly.

Conclusion

Mr. Chairman, AWO members share the goal of increasing maritime security throughout the United States, but we continue to have serious concerns about the TWIC program and its impact on our industry and on the men and women who make their living in it – or who would like to have that opportunity in the future. Security is an important national goal, but it should never be our only goal. Providing employment opportunities for American workers and keeping the commerce of the nation flowing are also important to the health and vitality of our country. We believe it is possible – and necessary – to modify the TWIC program to achieve all of these goals simultaneously. Congress can lead the way by including a practical interim work authority provision in the Coast Guard authorization bill, sending a clear signal to DHS that card readers should not be required on vessels with small crews, and ensuring adequate lead time for mariners between the start of TWIC enrollment and the deadline for mariners to obtain TWICs.

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 the Department of Homeland Security, to ensure the security of our country while keeping mariners working, vessels moving, and the commerce of the United States flowing. Thank you.